

CITY OF DEARBORN

Section 3 Final Rule and Addendum to Contract Documents

What is Section 3 and the Purpose?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U. S. C. 1701u) that is regulated by the new provisions of 24 CFR 75. Section 3 regulations ensure employment and other economic development 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 and to business concerns which provide economic opportunities to low-income persons.

Key Changes to the New Section 3 Rule

Former Benchmarks:	Final Rule Benchmark Notice:
30% of persons hired by Section 3 funding must be Section 3 residents	25% of all labor hours must be performed by a Section 3 worker
10% of total funds for construction contracts awarded to Section 3 businesses	5% of all labor hours must be performed by Targeted Section 3 workers
3% of total funds for non-construction awarded to Section 3 businesses	Benchmark Notice should be updated by Secretary every three years
No updates to these benchmarks	

Covered HUD Section 3 Programs

Community Development Block Grant (CDBG)
HOME Investment Partnership (HOME)
Neighborhood Stabilization Program (NSP)
Economic Development Initiative / Brownfield Economic Development Initiative
Public Housing (PH)

Defining a Section 3 Project

Site or sites together with any building and improvements located on the site(s) that are under common ownership, management, and financing.

- Section 3 applies to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

Defining a Section 3 Worker

- A Section 3 Worker is any worker who **currently fits**, or **when hired within the past five years** fit, at least one of the following categories, as documented:

- A low or very low-income worker
- Employed by a Section 3 business concern
- A Youthbuild participant

Targeted Section 3 Worker

- Employed by a Section 3 business concern
- Currently fits or when hired fit at least one of the following categories as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance
 - A YouthBuild participant
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5

Section 3 Service Area Defined

- A. *Service Area* = an area within one mile of the Section 3 project
or
- B. If less than 5,000 people live within one mile of Section 3 project,
Then, *Service Area* = an area within a circle centered around the Section 3 project site that encompasses 5,000 people

Redefining Section 3 Business Concerns

A Section 3 Business Concern is:

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

What are the HUD Low-Income and Very Low-Income Limits?

HUD 2024 Adjusted Income Limits (as of **June 15, 2024** subject to change without notice):

Detroit-Warren, MI HUD Metro Income Limits	
30% AMI Limits	\$20,150
50% AMI Limits	\$33,600
60% AMI Limits	\$40,320
80% AMI Limits	\$53,700
A worker cannot exceed this amount	

A Section 3 Worker is any worker who currently fits, or when hired within the past five years fit, at least one of the section 3 worker categories, as documented above under Defining a Section 3 worker. **The five-year period for a worker cannot begin before November 30, 2020, effective date of the final rule.**

What is Youthbuild?

Academic and occupational skills training program serving youth ages 16-24 who have dropped-out of high school, or previously dropped-out and re-enrolled.

Applicability and Thresholds

Housing and Community Development Financial Assistance

Applicability	Threshold
Housing Rehab	Threshold is met if the total amount of housing and community development assistance exceeds \$200,000
Housing Construction	
Street and Sewer Infrastructure	

Lead Threshold

Threshold is met if amount of Office of Lead Hazard Control and Healthy Homes assistance exceeds \$100,000.

Safe Harbor Provisions and Benchmarks

A safe Harbor is a provision of a statute or a regulation that specifies that certain conduct will be deemed not to violate a given rule.

Safe Harbor Compliance Check

Complied with safe harbor if:

- Met or exceeded the Section 3 benchmarks and
- Followed the required prioritization of effort

Certification of Prioritization of Effort

To the greatest extent feasible, employment and training efforts were made to seek:

- Section 3 workers residing within the service area or neighborhood of the project
- Participants in YouthBuild programs

To the greatest extent feasible, contracting efforts were made to seek:

- Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project
- Participants in YouthBuild programs

What if a recipient can't meet the quantitative benchmarks plus prioritization of effort?

Provide evidence that they have made **qualitative** efforts to assist low and very low-income persons with employment and training opportunities.

What is a Labor Hour?

Hours worked by all workers employed on a Section 3 Project.

Benchmarks

- 25% or more of all labor hours must be worked by Section 3 Workers
- 5% or more of all labor hours must be worked by Targeted Section 3 Workers

Section 3 Worker Benchmarks

$$\frac{\text{Total Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

Certification: For a Section Worker

One of the following certifications must be maintained:

1. A worker's self-certification stating that their income is below the income limit;
2. A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
3. 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;
4. 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
5. An employer's certification that the worker is employed by a Section 3 business concern.

Certification: For a Targeted Section Worker (HCD Assistance –Subpart)

1. *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;

or

2. An employer's certification that the worker is employed by a Section 3 business concern;
or
3. A worker's self-certification that the worker is a YouthBuild participant.

Certification: Section 3 Business Concern

To qualify as a Section 3 Business, **one** of the following must be documented (within the last six-month period):

1. 51% or more owned and controlled by low or very-low income persons
or
2. Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers
or
3. 51% or more owned and controlled by current residents of public housing or Section 8-assisted housing

Certification: Section 3 Business Concern

- Business concerns may self-certify to claim eligibility
- Business concerns bidding on a Section 3 project should submit certification **during** the bidding or contracting process
- Section 3 status should be **verified before awarding** contracts or subcontracts to businesses that self-certified
- A Section 3 Business Concern will retain status for as long as it continues to meet the definition
- Eligible Section 3 Business Concerns are responsible for maintaining records that verify eligibility

Contract Provisions

- ✓ Must include Section 3 application language in contracts and agreements.
- ✓ Require contractors to include Section 3 application language in subcontracts and sub-agreements.
- ✓ Require all contractors and subcontractors to meet the 'prioritization of efforts' requirements, regardless of whether Section 3 language is included in contracts.
- ✓ Must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.
- ✓ Must also require subrecipients, contractors, and subcontractors to meet the prioritization requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts

Tracking Compliance with Contractor

Below lists the process and procedures for tracking contractor and sub-contractor compliance.

1. Each Contractor bidding on a Section 3 project will be required to submit a Recruiting Summary during the bidding process identifying “to the greatest extent feasible” what measures they took to recruit and hire “qualified” Section 3 Workers and Targeted Section 3 Workers.
2. Each Contractor must submit in writing with their bidding information any eligible and qualified Section 3 Workers or Targeted Workers
3. Each Contractor must submit a Section 3 Worker and Targeted Section 3 Worker Self-Certification Form (form provided by City of Dearborn)
4. **This requirement is the same for ALL Sub-contractors that are hired during the course of Section 3 Projects. It is the responsibility of the Contractor to retrieve the Section 3 compliance information before the Sub-contractor start working on the project.**

Required reporting of total labor hours and Section 3 labor hours.

5. Contractors must track Section 3 compliance by:
 - Identifying and tracking total labor hours worked on project
 - Identifying and tracking Section 3 labor hours worked on project
 - Identifying and tracking Targeted Section 3 labor hours worked on project