



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

OFFICE OF FIELD POLICY AND MANAGEMENT

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**Special Attention of:**  
Public Housing Agencies (PHAs)  
Directors of HUD Regional and  
Field Offices of Public Housing  
Public Housing Directors  
Resident Management Corporations

**Notice: PIH 2022-38/FPM-19-2022**

**Issued: December 20, 2022**

**Expires:** This notice remains in effect until amended, superseded, or rescinded.

Cross Reference: 24 CFR Part 75; Notice PIH 2022-10

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**SUBJECT: Reporting Supplement to the Implementation of the Final Rule on Section 3 Regulations - 24 CFR Part 75**

## **I. PURPOSE**

This notice provides supplementary guidance to [Notice PIH 2022-10](#) which was issued to public housing agencies and authorities (PHAs) on April 18, 2022. This notice also provides updated information on tracking and reporting to comply with the new requirements for Public Housing Financial Assistance as defined in the Section 3 Final Rule (“Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses”) published in the Federal Register on September 29, 2020. There may be limited instances where the applicability of Section 3 to Housing and Community Development Financial Assistance impacts Public and Indian Housing (PIH) projects as discussed within this notice.

## **II. BACKGROUND**

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 ([the Act](#)), requires PHAs, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons training, employment, and economic opportunities generated by development assistance provided pursuant to section 1437c of Title 42, Operating Fund and Capital Fund assistance provided pursuant to

section 1437g of Title 42. HUD must implement and enforce Section 3 in accordance with the Act.

The final rule on Section 3 regulations, at [24 CFR Part 75](#) (the new rule), was published on September 29, 2020, and became effective as of November 30, 2020. The new rule updated HUD's Section 3 regulations by reducing regulatory burden and by incentivizing employers to retain and invest in low- and very low-income workers.

HUD also published a companion Benchmark Notice, [85 FR 60907](#), titled "Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses." The Benchmark Notice establishes the current numeric goals for compliance with Section 3 requirements. HUD may adjust funding thresholds or establish new benchmarks (either a single nationwide benchmark or multiple benchmarks based on geography, type of assistance, or other variables) periodically as new information becomes available pursuant to the regulation at 24 CFR section 75.23(b)(1)(2) ([24 CFR Sections 75.23\(b\)\(1\) and \(b\)\(2\) p. 61565](#)). HUD must publish all updates in the Federal Register and all updates are subject to public comment.

If a recipient complies with the regulatory priorities regarding effort and meets the established outcome benchmarks, HUD will presume the recipient is following Section 3 requirements, absent evidence to the contrary.

### **III. APPLICABILITY**

The Section 3 final rule and this notice apply in whole, or in part, to Public and Indian Housing programs (PIH) including the Public Housing (PH) Operating and Capital Fund programs, and development work under [24 CFR 905 subpart F](#). Pre-development work conducted prior to a Rental Assistance Demonstration (RAD) conversion using pre-conversion public housing financial assistance is subject to Section 3 requirements.

The temporary change in reporting requirements communicated through this notice does not apply to housing and community development financial assistance funded programs and projects including but not limited to RAD (post-conversion), Choice Neighborhoods, Community Development Block Grant (CDBG), Housing Opportunities for Persons with AIDS (HOPWA), HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), Section 202 Direct Loans for the Elderly, and Section 811 Supportive Housing for Persons with Disabilities. However, Section 3 statutory, regulatory, and contractual requirements still apply to these programs.

### **IV. REPORTING**

Under the new rule, funding recipients will track total labor hours worked for all workers and for Section 3 Workers and Targeted Section 3 Workers for the applicable fiscal year. Under the previous rule (24 CFR Part 135), HUD required PHAs to track new Section 3 hires. Tracking new hires is no longer required. This change enables recipients to measure total actual employment and the proportion of the total employment performed by low- and very low-income workers.

## Section 3 Compliance Reporting

HUD's new rule provides for a compliance date of July 1, 2021, with public housing financial assistance recipients required to comply with reporting requirements starting with the recipient's first full fiscal year after July 1, 2021. This notice delays the Section 3 reporting and submission requirements for public housing financial assistance recipients until HUD provides further notification.

Per PIH Notice 2022-10, Section 3 Performance Evaluation and Registration System (SPEARS) is no longer used for Section 3 compliance reporting. Instead, PHAs will report in a successor system that is still in development and will not be available for PHAs in accordance with the reporting dates published in Section VI of [PIH 2022-10](#). ***Therefore, PHAs are not required to report on Section 3 labor hours or other Section 3 compliance efforts to HUD until further notice.*** HUD will provide further notification when and through what means reporting will be required with appropriate lead time to allow for reporting processes to be adjusted if necessary.

PHAs (including MTW agencies) and other public housing financial assistance recipients must retain on-site records of Section 3 activities and records demonstrating compliance with Section 3 and associated regulations during each reporting period. Recipients can utilize the published [Section 3 Utilization Tools](#) (HUD-4737, 4737A, 4737B, 4737C, 4737D) as aids to document Section 3 compliance activities. Public Housing financial assistance recipients should be prepared to produce those records to HUD upon request. It is recommended that PHAs retain records digitally to expedite any monitoring reviews. HUD may conduct periodic monitoring reviews of a recipient agency to determine compliance.

## V. RECORDKEEPING

PHAs must continue to follow recordkeeping requirements in accordance with the Section 3 final rule at 24 CFR § 75.31.<sup>1</sup> Recipients can utilize the published [Sample Section 3 Certification Forms](#) (HUD-4736, 4736A, 4736B, 4736C, 4736D) to aid in compliance with these recordkeeping requirements.

For more information about specific monitoring, compliance, and recordkeeping requirements for public housing financial assistance recipients, please consult Sections VIII-IX of [Notice PIH 2022-10](#).

## VI. PAPERWORK REDUCTION ACT

The information collection requirements contained in this notice are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et. Seq.). In accordance with the PRA, HUD may not conduct or sponsor, and a

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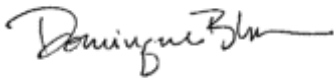
<sup>1</sup> [Federal Register/Vol. 85/No. 189/9-29-2020/pp. 61566 and 61567](#)

person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this notice, including OMB Control Number 2501-0040 for the forms HUD-4736, 4736A, 4736B, 4736C, 4736D, OMB Control Number 2501-0041 for the forms HUD-4737, 4737A, 4737B, 4737C, 4737D, and OMB Control Number 2501-0042 for form HUD-60002A, are OMB-approved.

## VII. ADDITIONAL SECTION 3 INFORMATION

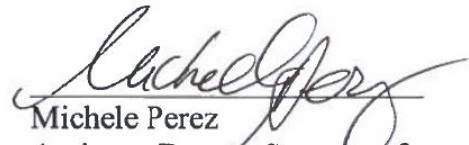
- [Section 3 Final Rule](#)
- [Section 3 Benchmark Notice](#)
- [Section 3 Program](#)
- [Section 3 Opportunity Portal](#)
- [Section 3 Business Registry](#)
- [Section 3 FAQs](#)
- [Understanding Section 3 Training](#)
- [HUD Income Limits](#)
- [NOFO Requirements 24 CFR Part 75.7, p. 61563](#)

Any questions concerning this notice should be directed to the Office of Field Policy and Management at [Section3@hud.gov](mailto:Section3@hud.gov).



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