



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

OFFICE OF PUBLIC AND INDIAN HOUSING

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 2022-10

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Expires: This notice remains in effect until amended, superseded, or rescinded.

Cross Reference: Pub. L. 90-448, approved August 1, 1968; FR-6085-F-03, FR-6085-N-02, FR-6231-D-01, FR-5121-N-12, PIH Notice 2007-09 issued April 10, 2007

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

TABLE OF CONTENTS

I. PURPOSE2

II. BACKGROUND2

III. APPLICABILITY3

IV. KEY TERMS7

V. TRANSITION PERIOD ACTIVITIES10

VI. REPORTING10

VII. CONTRACTING AND PROCUREMENT18

VIII. MONITORING AND COMPLIANCE21

IX. RECORDKEEPING22

X. COMPLAINTS.....24

XI. TRAINING.....25

XII. PAPERWORK REDUCTION ACT25

XIII. ADDITIONAL SECTION 3 INFORMATION25

APPENDIX26

I. PURPOSE

This notice provides guidance to public housing agencies and authorities (PHAs) on tracking and reporting compliance 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 assistance provided pursuant to section 1437g of Title 42, and modernization grants provided pursuant to section 1437l of Title 42.¹ 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. The new rule streamlined reporting requirements and provided program-specific oversight while simplifying the administrative burden by:

- Aligning with standard business practice of reporting labor hours (instead of total number of new hires under the previous rule) to promote sustained employment and career development for low- and very low-income workers;
- Establishing a \$200,000 threshold for Section 3 rehabilitation, construction and other public construction projects funded with housing and community development financial assistance, and establishing a \$100,000 threshold where the assistance is from HUD’s Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970², the Lead-Based Paint Poisoning Prevention Act³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992⁴;
- Identifying “Targeted Section 3 Workers” as described in the key terms of this notice, which also includes information on benchmarking and prioritization in Section VI (Reporting);

¹ [42 USC 1437 \(c\)](#); [42 USC 1437g](#); [42 USC 1437l \(repealed\)](#)

² 12 U.S.C. 1701z-1 or 1701z-2

³ 42 U.S.C 4801 et seq.

⁴ 42 U.S.C. 4851 et seq.

- Allowing small PHAs the option of qualitatively reporting and measuring Section 3 efforts toward benchmarks; and
- Integrating Section 3 into HUD’s ongoing program enforcement by adding compliance and oversight to regular program oversight activities.

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 implementation notice apply in whole, or in part, to Public and Indian Housing programs (PIH) including the Public Housing (PH) Operating and Capital Fund programs, Rental Assistance Demonstration (RAD), Choice Neighborhoods (CN), and mixed-finance developments under 24 CFR Section 905.604 ([24 CFR Section 905.604 p. 359](#)). Section 3 requirements also apply to properties that are recipients of Section 8 rental assistance if they are recipients of other Federal funding covered by the Section 3 statute, e.g., Community Development Block Grant (CDBG) funds and exceed the funding threshold set by HUD. Pre-development work conducted prior to a RAD conversion using pre-conversion public housing financial assistance is subject to Section 3 requirements.

The Section 3 final rule also applies to other HUD-funded projects receiving more than \$200,000 in housing and community development financial assistance, including but not limited to 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.

The following chart indicates how Section 3 applies or does not apply to PIH programs:

Table 1 – Applicability of Section 3 to PIH Programs

Applicable	Not Applicable
<ul style="list-style-type: none"> • Public Housing Capital Funds • Public Housing Operating Funds • Choice Neighborhoods • Public Housing Mixed-Finance Development • Rental Assistance Demonstration (RAD) – <i>Construction and Rehabilitation</i> <ul style="list-style-type: none"> ○ Predevelopment Costs for RAD pre-conversion work using covered PH funds ○ RAD Post-Conversion contractually obligated activities • Section 8 assisted properties or projects that also receive more than \$200,000 of other Section 3 covered funding, e.g., CDBG, HOME. 	<ul style="list-style-type: none"> • Section 8 Housing Choice Vouchers (HCV) • Section 8 Monthly Rental Assistance Payments including those under PBV and PBRA Contracts • RAD– <i>Section 8 Rental Assistance ONLY</i> • Material Supplies Contracts • Indian and Tribal Preferences

As indicated above, the following are descriptions for the PIH programs that are subject to Section 3 requirements:

Public Housing (PH) (Capital and Operating Funds) means public housing financial assistance as defined in the Section 3 final rule. This includes public housing development assistance under Section 5 of the U.S. Housing Act of 1937 (“the 1937 Act”), public housing Operating funds for operations and management under Section 9(e) of the 1937 Act, and Capital Funds for development, modernization, and management assistance under Section 9(d) of the 1937 Act.

Choice Neighborhoods (CN) programs have required grantees to comply with Section 3 requirements since Fiscal Year (FY) 2011. All projects, phases, or activities that receive HUD housing and community development financial assistance (HCD) exceeding the threshold of \$200,000, including but not limited to CN and CDBG, are subject to Section 3 requirements. Phases and activities unfunded by HUD financial assistance that are part of the CN Transformation Plan are not subject to Section 3 requirements.

On an annual basis, CN Grantees are required to report on projects, phases, or activities in the CNInform data reporting system. This tool contains Section 3 FAQs and guidance on which activities are subject to Section 3 metrics reporting via CNInform. CN Grantees and vendors were not required to amend grants already engaged in revitalization when the rule was published but were and are required to review draft contracts on or after November 30, 2020, to align with the new rule. Further information on CN reporting requirements is provided on the [CNInform Resource Page](#).

Public Housing Mixed-Finance Development is subject to the same requirements as housing developed by PHAs solely with public housing funds – and thus are subject to Section 3 requirements. This means the entirety of the development by the mixed-finance method of a project, regardless of whether the project is fully or partially assisted with public housing. Development is the process of constructing a project. Mixed-finance housing is the development or modernization of public housing (low-income) units defined under 24 CFR Section 905.604⁵— and owned in whole or in part by entities other than PHAs. Unlike multiple HUD-only funding sources noted in Subpart D of the Section 3 regulation, mixed-finance housing may be financed from public housing funds, private funding sources, or a combination of public housing assistance funds and private financing. Mixed-finance development may include 100 percent public housing units owned by an entity other than a PHA or may include both public housing and non-public housing units.

Rental Assistance Demonstration (RAD)⁶ means properties converting assistance from public housing to long term project-based Section 8 rental assistance (see Section 1.4.A.15 of the RAD Notice, REV 4 PIH Notice 2019-23). Generally, properties converted to Section 8 rental assistance through RAD are covered by the rules applicable to Section 8. Refer to the preamble and text of the final Section 3 rule at 85 Fed Reg. 61524, 61546, and 61558 (September 29, 2020) for more information. Section 3 does apply to properties that are recipients of Section 8 rental assistance when they are also recipients of housing and community development financial assistance such as CDBG or HOME funds exceeding the \$200,000 threshold for Section 3 projects undergoing housing rehabilitation, housing construction, and other public construction activities.

Work referred to in the RAD Conversion Commitment is subject to Section 3 requirements as it applies to “housing and community development financial assistance”⁷ at or above the \$200,000 threshold. Program participants are not required to amend contracts executed before November 30, 2020. Instead, participants engaged in RAD conversions closing on or after November 30, 2020, are required to review and align drafted contracts with the new rule. Further information is available on the [RAD Resource Desk](#).

Stated differently, a RAD transaction is a conversion at a moment in time, and after the property is converted, it is governed by Section 8 requirements. However, HUD has administratively applied Section 3 requirements for housing and community development activities (e.g., CDBG or HOME funding) and related regulations as an alternative requirement for housing rehabilitation or construction work required by conversion after the RAD Closing (during the RAD related construction period) -- even though not required by the RAD statute or the Section 3 statute.

Pre-development work conducted prior to the RAD conversion using pre-conversion public housing financial assistance⁸ is subject to Section 3 requirements. In addition, the RAD

⁵ [24 CFR 905.604 Mixed-Finance](#)

⁶ [Section 1.4.A.15 of H 2019-09 PIH 2019-23 \(RAD Notice Rev 4\) Issued 2019-09-05.docx \(radresource.net\)](#).

⁷ [24 CFR Part 75 Subpart C Housing and Community Development Assistance, p. 61565](#)

⁸ [24 CFR Part 75 Subpart B - PH Financial Assistance, p. 61563](#)

governing notice applies Section 3 requirements to contractually obligated activities that occur after the date of the RAD conversion. This means that RAD participants must undertake appropriate efforts to direct employment, training, and contracting opportunities arising as part of the conversion to low- and very low-income persons in accordance with the RAD governing notice. Priority for employment and other economic opportunities goes to residents of public housing or Section 8 assisted housing, except for transactions involving housing and community development financial assistance (e.g., CDBG or HOME), which provide opportunities to residents within the service area or the neighborhood of the project.

Section 8-assisted properties are those properties or projects that receive Section 8 project-based or tenant-based monthly rental assistance payments (not Section 3 covered). Such properties may also receive other funding such as CDBG or HOME for rehabilitation or construction activities. If a property receives over \$200,000 of CDBG or HOME funding, or other housing and community development financial assistance mentioned in the final rule, Subpart C Section 3 requirements apply.

*The following are descriptions of the PIH Programs in the above table that are **NOT** Subject to Section 3 Requirements*

Housing Choice Vouchers allow very low-income families to choose and lease or purchase safe, decent, and affordable privately-owned rental housing. They provide monthly Section 8 tenant-based rental assistance payments to landlords and are not subject to Section 3 requirements.

Section 8 Monthly Rental Assistance Payments provided under the **Project-Based Voucher (PBV)** and **Project-Based Assistance Housing Assistance Payment (HAP)** contracts are subsidy payments HUD makes to landlords and property owners on behalf of tenants and are not subject to Section 3 requirements.

With respect to the Section 8 programs identified above, the preamble to the final rule provides that:

"[t]he final rule applies Section 3 in a manner consistent with the statute. HUD has determined that monthly rental assistance payments, such as those provided under Section 8 project-based voucher or project-based rental assistance housing assistance payment contracts, are not covered by the statute."

Rental Assistance Demonstration (RAD) conversions, generally, do not use housing and community development financial assistance (e.g., CDBG and HOME), and thus would not be subjected to Section 3 requirements. Section 3 applicability is not triggered by receiving Section 8 rental assistance alone. As stated, HUD has not extended Section 3 applicability to properties that only receive Section 8 rental assistance. To do so would go beyond what the Section 3 statute intended.

Material supply contracts are for commodities purchases – meaning contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring,

concrete, pipes, toilets, sinks, carpets, and office supplies. They are not subject to Section 3 requirements.

Indian and Tribal preferences are contracts, subcontracts, grants, or subgrants subject to the Indian Self-Determination and Education Assistance Act or subject to tribal preference requirements as authorized under the Native American Housing Assistance and Self-Determination Act. They must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of Part 75.

Recipients of other HUD assistance and other Federal assistance that are not subject to Section 3 requirements are encouraged to support the objectives of Section 3 pursuant to 24 CFR section 75.3(d).

IV. KEY TERMS

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

Low-income person is a person with an income that meets the definition for low-income as defined in Section 3(b)(2) of the 1937 Act, typically established as 80 percent of the area median individual income and conforming to [HUD Income limits](#).

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

Public housing financial assistance funds include development assistance pursuant to Section 5 of the 1937 Act, Operating Funds⁹, Capital Funds¹⁰, public housing grant funds such as Resident Opportunities and Self-Sufficiency (ROSS) or Jobs Plus programs and the full extent of mixed-finance development as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance.

Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968, as amended ([12 U.S.C. 1701u](#)).

Section 3 business concern is a business that meets 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 is performed by Section 3 workers; or

⁹ Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act.

¹⁰ Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act.

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

***Section 3 business concerns are not exempt from meeting the specifications of the contract and may include non-profit organizations if they meet the criteria of the new rule. The Section 3 final rule does not require the contracting or subcontracting of a Section 3 business concern. Once a business is certified as a Section 3 business concern, it will retain that status if it continues to meet the definition. Status is determined at the time of hiring for each contract and is no different from any other definition. Section 3 business concern status¹¹ shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees. Currently, Section 3 business concerns self-certify their status to the funding recipient at the time of contracting. The timing is on a project-by-project basis.

Section 3 projects are housing rehabilitation and construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance (e.g., CDBG and HOME) when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from HUD’s Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970¹², the Lead-Based Paint Poisoning Prevention Act¹³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992¹⁴. The project is 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 Reporting Platform (S3R) is the successor system to the Section 3 Performance Evaluation and Registration System, or SPEARS formerly used for Section 3 compliance reporting by PHAs. PHAs and other recipients of public housing financial assistance subject to Section 3 requirement will be required to submit compliance reports via S3R when it becomes available for use.

Section 3 worker is any worker, for both public housing financial assistance and housing and community development assistance,¹⁵ 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 limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a [YouthBuild](#) participant.

¹¹ Please note that although a Section 3 business concern may not be negatively affected by a prior arrest or conviction of its owners(s) or employees, a household member may be evicted from his/her federally assisted housing for drug-related criminal activity, pursuant to Subpart I of 24 CFR Part 5. As a result of the employee no longer being a public housing resident or a Section 8 tenant, the business may no longer meet the definition of Section 3 business concern due to the reduced number of employees employed by the Section 3 business concern.

¹² 12 U.S.C. 1701z-1 or 1701z-2

¹³ 42 U.S.C 4801 et seq.

¹⁴ 42 U.S.C. 4851 et seq.

¹⁵ Subpart A, General Provisions of Section 3 Final Rule published September 29, 2020

“Service area” or the “neighborhood of the project” is 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, an area 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.

Targeted Section 3 worker is, in the context of public housing financial assistance means a Section 3 worker who is:

- 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 years¹⁶:
 - A resident of public housing or Section 8-assisted housing.
 - A resident of other projects managed by the PHA that is providing the assistance; or
 - A YouthBuild participant.

An employer may choose whether the worker is defined as a Section 3 worker for a five-year period at the time of the worker’s hire, or when the worker is first certified as meeting the Section 3 worker definition.

For reference (and by contrast)¹⁷, a Targeted Section 3 worker in the context of housing and community development financial assistance programs is a Section 3 worker who is:

- A worker who is 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
 - As defined in 24 CFR section 75.5; or
 - A YouthBuild participant.

NOTE: Individuals who have had a prior arrest or conviction are not excluded from the definition of Section 3 Worker or Targeted Section 3 Worker, whether working on projects or activities funded with public housing financial assistance (e.g., public housing Capital or Operating funds) or housing and community development financial assistance (e.g., CDBG/HOME). The status of Section 3 or Targeted Section 3 workers must not be negatively affected by a prior arrest or conviction. The Section 3 final rule does not require a Section 3 worker with a criminal history to be hired. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.¹⁸

Very low-income person is a person with an income that meets the definition for very

¹⁶ “This provides an option for employers to look back to the worker’s status at the time of original employment but does not require that an employer do so if the employer only wants to reference the employee’s current status.”

¹⁷ Targeted Section 3 Worker definitions for *Public Housing Financial Assistance* (Subpart B) and for *Housing and Community Development Assistance* (Subpart C) in the final Section 3 rule published September 29, 2020, 61563-61565, [Section 3 Final Rule Subparts B-C](#).

¹⁸ 61563, 24 CFR section 75.5 *Definitions*, [Section 3 Final Rule Subparts B-C](#).

low-income as defined in Section 3(b)(2) of the 1937 Act, as established at [HUD Income limits](#).

V. TRANSITION PERIOD ACTIVITIES

The new rule provided for a transition period between its effective date November 30, 2020, and the beginning of the first reporting period, July 1, 2021. First reports are due on August 29, 2022, from PHAs with fiscal years ending (FYE) June 30.

During the transition period, PHAs and employers were expected to have supported Section 3 goals and met statutory requirements, even though reporting was not required. In accordance with the new rule and the Office of Field Policy and Management (FPM) Frequently Asked Questions (FAQs)¹⁹ published on March 25, 2021, this means they should have:

- Made best efforts to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons, to tenants of public and assisted housing, and to businesses that provide economic opportunities to low- and very low-income persons.
- Ensured that new grants, commitments, and contracts entered during the transition period demonstrate compliance with the requirements of the new rule; and
- Maintained records on-site, so they are readily available and produced for HUD's review if requested (including for Section 3 projects with commitments made or that were completed during the transition period), showing their statutory regulatory, and contractual compliance with the new rule codified in Section 3 regulations at 24 CFR Part 75.

Additionally, during the transition period, the Department expected that PHAs and employers would have been preparing to report on their compliance with the new rule for funds committed on or after July 1, 2021, by:

- Planning and revising processes, systems, and documents;
- Updating policies and procedures for tracking labor hours;
- Reviewing, to the extent possible, all new and existing contracts to determine the need for modification to report labor hours;
- Updating internal reporting systems, processes, and procedures;
- Retaining documentation showing compliance with the new rule;
- Developing plans to brief tenants and contractors on the final rule; and
- Considering training and technical assistance needs.

VI. REPORTING

¹⁹ [Section 3 FAQs](#)

Now that the transition period has concluded, PHAs and other grantees are required to report Section 3 activities to HUD. The first Section 3 reports are due 60 days after the end of the first full fiscal year following the reporting implementation date of July 1, 2021. Thus, PHAs with first full fiscal years ending (FYE) June 30, 2022, will be the first to report, with those reports due no later than August 29, 2022. The table below displays the first Section 3 reporting dates, and the reporting periods those first reports will cover, for each group of PHAs by Fiscal Year End (FYE) date.

Table 1 - Section 3 Compliance Reporting - 1st Full FY After 7/1/21 Reporting Implementation Date

1ST FYE prior to 7/1/21 reporting effective date (starts with 6/30 PHAs)	1ST Reporting Period Begins (1 st FYB on or after 7/1/21)	1ST Reporting Period Ends (1 st full FYE after 7/1/21)	1ST Reports are Due (60 days after 1 st full FYE after 7/1/21)
6/30/21	7/1/21	6/30/22	8/29/22
9/30/21	10/1/21	9/30/22	11/29/22
12/31/21	1/1/22	12/31/22	3/1/23
3/31/22	4/1/22	3/31/23	5/30/23

In addition to reporting, pursuant to 24 CFR section 75.31, PHAs must also retain on-site records of Section 3 activities during each reporting period and must produce such records if HUD requests that information at a future date.

Under the new rule, funding recipients will track and report total labor hours worked for all workers and for Section 3 Workers and Targeted Section 3 Workers for the applicable reporting fiscal year. Under the previous rule (24 CFR Part 135), HUD required PHAs to track new 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.

PHAs that do not meet quantitative benchmarks for labor hours are required to report qualitative efforts and activities to comply with Section 3 objectives. Pursuant to 24 CFR 75.15(d), small PHAs with fewer than 250 public housing units may opt to report qualitative efforts as a first option.

A. S3R and Section 3 Compliance Reporting Systems

PHAs and other recipients of public housing financial assistance subject to Section 3 requirements historically submitted Section 3 compliance information through HUD’s legacy Section 3 Performance Evaluation and Registration System (SPEARS). SPEARS is no longer used for Section 3 compliance reporting. Instead, PHAs will report under the new rule in a successor system called S3R. The regulation requires each grantee to report on Section 3 compliance per the reporting requirements for each applicable program. In instances where there are multiple funding sources, grantees must collect and report the same data across programs for consistency.

It is HUD's expectation that PHAs (including MTW agencies) and other public housing financial assistance recipients will continue to retain Section 3 compliance records until the reporting system is available. Funding recipients should be prepared to produce those records if HUD requests it. HUD will provide further notification when the S3R system is available for use.

In instances where there are multiple funding sources, grantees must collect and report the same data across programs for consistency. Thus, PIH grantees report Section 3 compliance information related to Housing and Community Development financial assistance for HUD's Community Planning and Development programs to the Integrated Disbursement and Information System (IDIS) or Disaster Recovery Grant Reporting (DRGR) system. Recipients of funding from other HUD programs use their specific reporting systems.

The new rule states that for non-MTW agencies, reporting will initially remain at the grant or individual program level, but HUD may explore agency-level reporting to streamline or simplify the process. PHAs must continue to report by separate funding source or in the aggregate for MTW agencies.

The HUD FPM is authorized²⁰ to manage Section 3 evaluation and reporting. Additionally, FPM will administer Section 3 Technical Assistance funds and coordinate and offer best practices to external stakeholders.

B. Labor Hour Reporting

PHAs report annually:

- 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.

Labor hours for Section 3 workers and Targeted Section 3 workers may be counted for five years from when their Section 3 status is established by the employer, given that employment is maintained with the same employer.

1. **Section 3 Workers including PHA Staff.** Section 3 or Targeted Section 3 workers may be employed by a contractor or subcontractor to work on PHA projects funded by public housing financial assistance or Section 3 projects funded by housing and community development financial assistance. In addition, PHA employees who meet the definition for Section 3 or Targeted Section 3 workers at the time they are hired or certified as Section 3 or Targeted Section 3 eligible workers will also count toward the Section 3 or Targeted Section 3 worker labor hours. The certification date must be on or after the effective date of the new rule, November 30, 2020.
2. **Duration for Counting Labor Hours.** The Section 3 and Targeted Section 3 worker labor hours may be counted by the PHA for up to five-years from the certification or hire date. An employer may choose whether the workers are defined as Section 3

²⁰ Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and its attendant regulations.

workers for a five-year period at the time of the workers' hire, or when the workers are first certified as meeting the Section 3 worker definition.

Labor hours must be counted as follows depending on the funding source:

- The labor performed on a Section 3 project for housing and community development financial assistance, or
- For all labor hours performed within the fiscal year for public housing financial assistance.

3. **Qualification of Section 3 Workers.** As established in the Section 3 final rule at 24 CFR 75.31 and 24 CFR 75.5, and clarified in the preamble,²¹ the qualification of a Section 3 worker takes place at either the date of the Section 3 covered activity or the date of initial hire by the employer, if hired within the past five years. Labor hours of an employee who is low- or very low-income at hire will continue to count for five years even if that person moves into a new, more advanced position with the same employer. HUD anticipates that employees with five years of experience with that same employer would be advancing in the business and would eventually need to be replaced by a new, presumably low- or very low-income entry-level employee.

Section 3 worker for both public housing financial assistance and housing and community development assistance means 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 limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

The definition of Targeted Section 3 Worker for both public housing financial assistance and housing and community development financial assistance has the following common elements:

- A worker employed by a Section 3 business concern; or is
- A YouthBuild participant.

The difference between Targeted Section 3 Worker for public housing financial assistance and housing and community development financial assistance is as indicated on next page:

A worker who currently fits or when hired fit at least one of the following categories, as documented within the past 5 years:

²¹ [Federal Register/Vol. 85, No. 189/9-29-2020/p. 61539](https://www.federalregister.gov/documents/2020/09/29/2020-18999)

- Living within the service area or the neighborhood of the project, as defined in as defined in 24 CFR section 75.5, Subpart C (for housing and community development financial assistance); or
- A resident of public housing or Section 8-assisted housing (for public housing financial assistance);
- A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance (for public housing financial assistance).

Note that the preamble to the new final rule²² clarifies, that consistent with the statute, the Targeted Section 3 worker definition for public housing financial assistance should focus on the categories as listed (public housing projects and Section 8 assisted housing). The preamble states that to be inclusive of residents in other housing assisted by the PHA and residents of housing in the property management portfolio of the PHA, both categories have been included in the regulation in place of the term “managed by the PHA.” Both types of residents would count as Section 3 workers for purposes of Targeted Section 3 workers for public housing financial assistance.

The language in 24 CFR section 75.11(a)(2)(ii), Subpart B refers to:

“A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance...” In the context of the preamble text, this means the other housing assisted by the PHA (HUD-assisted housing programs) and conversion projects (in the property management portfolio of the PHA).”

4. **Professional Services**. Labor hours for Section 3 and Targeted Section 3 workers may include hours from professional services that require specialized and advanced degrees and licensing, i.e., architects and engineers. However, pursuant to 24 CFR 75.15(a)(4), it is not required for PHAs to include the labor hours worked for professional services jobs in the total labor hours worked on the project. Other professional service categories may include, but are not limited to, financial managers, accountants, and auditors. Professional service firms may employ Section 3 qualified workers. As noted in the preamble to the final Section 3 rule:

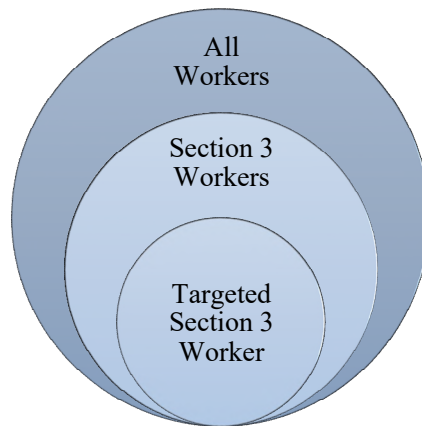
“Recipients may count as Section 3 labor and as Targeted Section 3 labor hours any work performed by a Section 3 worker or a Targeted Section 3 worker (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hours in the professional services context. As referenced in the comments, vendors can sometimes create opportunities in the professional services context, and HUD seeks to reward this behavior.”

²² [Federal Register/Vol. 85/No. 189/9-29-2020/p. 61536](https://www.federalregister.gov/documents/2020/09/29/2020-18999)

5. **Good Faith Assessment of Labor Hours.** The rule at 24 CFR section 75.15(a)(5) permits a temporary exception for contractors and sub-contractors that have not been subject to reporting for labor hours and are not currently operationally set-up for this tracking to submit good faith assessment of the labor hours for full-time and part-time Section 3 workers based on time and attendance records.²³

6. **Benchmark Ratios for Section 3 Compliance.** This three-circle graphic below represents a construct for measuring workers. The largest outer circle represents all workers. The next smaller inner circle represents Section 3 workers, and the smallest innermost circle represents Targeted Section 3 workers.

Figure 1: Measuring Workers for Section 3



There are two benchmark ratios.

Ratio 1: Section 3 Workers to All Workers. The first ratio shows the relationship of labor hours between Section 3 workers and all workers funded by public housing financial assistance (Section 3 worker labor hours ÷ Total of all worker labor hours).

Ratio 2: Targeted Section 3 Workers to All Workers. The second ratio shows the relationship of Targeted Section 3 workers and all workers funded by public housing financial assistance (Targeted Section 3 worker labor hours ÷ Total of all worker labor hours).

PHAs adopting a Central Office Cost Center (COCC) model²⁴ may include labor hours of Section 3 and Targeted Section 3 workers in the numerator of the benchmark calculations when their wages are paid from COCC revenues and where the labor hours are attributable to public housing financial assistance. If necessary, HUD may provide additional guidance at a future date on counting labor hours from positions funded out of a COCC.

²³ [Federal Register/Vol. 85/No. 189/9-29-2020/p. 61559](https://www.federalregister.gov/documents/2020/09/29/2020-18999)

²⁴ [PIH Notice 2007-9 Updated Changes to Financial Management and Reporting for PHAs under Operating Rule and Supplement; https://www.federalregister.gov/documents/2007/04/17/E7-7218/public-housing-operating-fund-program-guidance-on-implementation-of-asset-management.](https://www.federalregister.gov/documents/2007/04/17/E7-7218/public-housing-operating-fund-program-guidance-on-implementation-of-asset-management)

For both benchmarks and per 24 CFR section 75.15(a)(4), the total of all worker labor hours (denominator) is the “total number of labor hours worked by all workers funded by public housing financial assistance” during the PHA or recipient fiscal year and excludes hours from professional services. All workers funded by public housing financial assistance include all PHA positions funded with capital and operating funds.

The safe harbor for achieving the first ratio is 25 percent or $\text{Section 3 worker labor hours} \div \text{PH worker labor hours} = 25 \text{ percent or more}$. The safe harbor for achieving the second ratio is five percent or $\text{Targeted Section 3 worker labor hours} \div \text{PH worker labor hours} = \text{five percent or more}$.

Table 3 - Safe Harbor Calculations to Meet Section 3 Benchmarks

Example for First Ratio <i>(Section 3 worker hours ÷ by Total worker hours)</i>	Below Benchmark	Achieved Benchmark
Section 3 worker hours	10,400	12,800
Total worker hours	52,000	52,000
	20%	25%

Example for Second Ratio <i>(Targeted Section 3 worker hours ÷ by Total worker hours)</i>	Below Benchmark	Achieved Benchmark
Targeted Section 3 worker hours	520	2,800
Total worker hours	52,000	52,000
	1%	5%

The benchmarks’ safe harbor provision permits PHAs and other recipients to certify to the prioritization of effort in 24 CFR section 75.9 and HUD will consider a PHA in compliance with Section 3 requirements if it meets or exceeds the Section 3 benchmarks described above, absent evidence to the contrary. The prioritization of effort requires that PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

The order of priority is:

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

In addition, PHAs and other recipients, and their contractors and subcontractors, must make their best efforts in the following order of priority:

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

NOTE: The same benchmark metrics also apply for Section 3 projects. The 25 percent threshold for Section 3 labor hours includes the five percent of labor hours worked by Targeted Section 3 workers.

B. Qualitative Reporting

1. **Qualitative Reporting for Unmet Section 3 Benchmarks.** PHAs, including small PHAs, that do not meet the Section 3 benchmarks for reporting labor hours, as described in 24 CFR section 75.13, must instead submit qualitative reports of their efforts to comply with Section 3 requirements. In these instances, PHAs or other recipients must report in a form prescribed by HUD on the qualitative nature of their Section 3 compliance activities, along with those of their contractors and subcontractors. Records of Section 3 compliance must be retained and made available to HUD upon request.
2. **Qualitative Reporting for Small PHAs.** The new rule provides administrative relief for PHAs with fewer than 250 public housing units. These PHAs have the option to: 1) only report on Section 3 qualitative efforts, foregoing the requirement to track labor hours for Section 3 Workers and Targeted Section 3 Workers, or 2) report labor hours normally like larger PHAs but then still be required to, as previously indicated, report qualitative efforts if benchmarks are not met as described in 24 CFR section 75.13 for labor hours reporting.

PHAs are not required to submit documentation to substantiate qualitative efforts. However, PHAs must maintain records of Section 3 statutory, regulatory, and contractual compliance on-site and provide them to HUD, if requested. Examples of qualitative Section 3 activities to be reported may include the following: 1) outreach, 2) technical assistance, 3) job or work readiness and training, and 4) coordination activities. The following list is not exhaustive:

- Outreach
 - To generate job applicants who are Targeted Section 3 Workers.
 - To identify and secure bids from Section 3 business concerns.
 - Engagement, or referrals with the State one-stop system as defined in Section 121(e)(2) of the [Workforce Innovation and Opportunity Act](#).
 - One or more job fairs conducted.

- Technical Assistance
 - To help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
 - To apply for or attend community college, a four-year educational institution, or vocational and technical training.
 - To obtain financial literacy training or coaching.
 - To help Section 3 business concerns understand and bid on contracts.
- Readiness and training
 - Assistance in seeking employment such as resume drafting, interview preparation and finding job opportunities connecting residents to job placement services.
 - Referrals or provision of services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
 - Training or apprenticeship opportunities provided.
- Coordination
 - Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
 - Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
 - Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

VII. CONTRACTING AND PROCUREMENT

As of November 30, 2020, the Section 3 regulations codified at 24 CFR Part 135 (the previous rule) were no longer in effect and no longer applicable to new grants, commitments, contracts, or projects.

Existing contracts for public housing financial assistance executed (or projects with assistance or fund commitments) prior to November 30, 2020, were (and, if applicable, still are) required to adhere to the requirements of the previous rule. PHAs and other recipients were not required to change or alter contracts in place prior to the new rule’s effective date. PHAs were to continue to maintain records demonstrating statutory, regulatory, and contractual compliance with Section 3 (as defined by the previous rule) during the transition period of the new rule but were not required during that period to report Section 3 compliance to HUD in the SPEARS. If any such contracts still exist, PHAs are to report them in accordance with the compliance reporting schedule in Table 2 on page 11 using the Section 3 Reporting platform “S3R” as it becomes available, or any other method required by HUD.

PHAs and other recipients of public housing financial assistance must include a “Section 3 clause” or language that apply the Section 3 requirements to contractors and subcontractors in contracts awarded after November 30, 2020. Contractors and subcontractors must also meet the requirements of either 24 CFR sections 75.9, 75.17 or 75.27 as applicable. These are

requirements under *Additional Provisions for Public Housing and Housing and Community Development Financial Assistance*.²⁵

If the new rule requirement for reporting labor hours was missing from the original bid package and the package was issued before November 30, 2020, PHAs and other recipients were not required to re-bid the contract. Contracts executed after November 30, 2020, were to comply with the new rule even when the bid package may not have included the new Section 3 requirements. Additionally, all recipients, as part of their transition activities, were to correct any information that was not up to date in post-December 1, 2020, bid packages and inform bidders of the latest changes to Section 3 requirements and provide guidance to all recipients that bid packages communicated after December 1, 2020, must reference the new requirements.

Public Housing Example of Section 3 Contract Clauses. Sample Section 3 contracting language is provided in the [Appendix](#). The final rule indicates that contract language must be customized based on the contract and program and further states that recipients of federal financial assistance are in the best position to know what language is appropriate to include in contracts based on each context. HUD believes that recipients are in the best position to determine what contract language is appropriate. However, the rule and HUD's response to commenters' requests for standard contract language state that HUD would undertake discussions of what constitute contracting best practices.

General Conditions for Construction Contracts found in form HUD-5370 Series.

Notwithstanding the Section 3 final rule's position that recipients of public housing or community development assistance must customize their contracts, HUD continues to make the form HUD-5370 form series – *General Conditions for Construction Contracts for Public Housing* available for PHAs to use in providing language and clauses for contracts.

These forms set forth general contract clauses to be inserted into contracts in accordance with the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* and Section 3 requirements under the sub-heading *Training and Employment Opportunities for Residents in the Project Area* (Section 3, HUD Act of 1968; 24 CFR 75). The Section 3 clauses under this sub-heading are essentially the same as the Section 3 clauses in the sample contract language that appears in the Appendix to this notice. The only differences are that the Appendix adds the following:

- Section 3 final rule contracting provision requirements in 24 CFR sections 75.9,75.1, 75.27.
- The prioritization of best efforts as applicable to Section 3 business concerns.
- The prioritization of best efforts as applicable to Section 3 Workers.
- Certifications that vacant positions were not filled by persons other than those persons such opportunities are to be directed to as required by the Section 3 regulations.

²⁵ [Federal Register/Vol. 85/No. 189/9-29-2020/pp. 61563 and 61565](#)

Section 3 clauses must be written into forms containing other general conditions for public housing contracts. The type of 5370 form used depends on the size and type of the contract. Public Housing forms containing general contract conditions and provisions are given in the following table and may be revised and subsequently approved by OMB under the Paperwork Reduction Act of 1995²⁶:

Table 4 – Form HUD-5370 Series – Contract Provisions

Form	Name	Section 3 Requirements
5370 EZ	General Contract Conditions for Small Construction/Development Contracts	Item 13
5370	General Conditions for Construction Contracts – Public Housing Programs	Item 40
5370 C	General Contract Conditions for Non-Construction Contracts	Item 22

PIH Procurement Handbook. This section notes that Section 3 requirements and 2 CFR part 200 requirements, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (last amended in 2020) apply for procurements. Section 5.10 of the procurement handbook (7460.8, REV-2) identifies the form HUD-5370 series which contains the mandatory clauses, including Section 3 requirements, for inclusion in contract-related documents for construction and maintenance contracts as discussed elsewhere in this notice. These clauses can be incorporated by attachment, reference, or through other documents.

Prohibitions on Use of Funds to Charge Compliance Fees. There is no provision within the Section 3 regulations to support collection of funds from developers or contractors for them to maintain Section 3 compliance. In fact, PHAs and recipients are prohibited from soliciting, requiring, accepting, or using funds obtained from developers or contractors as a form of Section 3 compliance, training, or implementation.²⁷

For example, it is prohibited for a PHA to take three percent of total contract proceeds from every agency contractor, regardless of related hiring, contracting, or labor hours. This prohibition exists because collecting funds from contractors may create a situation where contractors are given an unfair advantage to win contracts based on the amount of funds they have provided and may violate contract rules. Requiring PHA staff to obtain funds in this manner is prohibited, especially when it is a requirement for a contractor to keep its contracts.

²⁶ 44 U.S.C. 3501 et. Seq.

²⁷ Section 75.9 contracting order of prioritization under "Economic Opportunities" does not support collecting or using funds for Section 3 compliance, training, or implementation.

VIII. MONITORING AND COMPLIANCE

Recipients, contractors, and subcontractors of public housing financial assistance must comply with both Section 3 regulations at 24 CFR Part 75, and with *public housing financial assistance* program regulations and requirements that include Section 3 compliance. PIH staff will review a recipient's fulfillment of these responsibilities using existing monitoring processes which may include remote and on-site monitoring. Additionally, PIH will review a PHA's annual Section 3 report for adherence to submission timelines and compliance with Section 3. PIH may also initiate a compliance review if a pattern of complaints implies systemic problems. HUD reserves the right to undertake further compliance reviews at its discretion.

When undertaking reviews, HUD will look for evidence of compliance that includes, but is not limited to the following:

1. Section 3 and Targeted Section 3 workers are connected to training and employment opportunities;
2. Developers and contractors are linked with capable Section 3 business concerns and, when necessary, directed to capacity-building training;
3. Procedures are designed to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 requirements and maintain records documenting that compliance;
4. Contractors and subcontractors are aware of, and are in compliance with Section 3 requirements;
5. The hiring and subcontracting needs of contractors are assessed;
6. Regular monitoring of contractor compliance occurs;
7. There is active cooperation with the HUD Secretary to obtain contractor compliance which includes penalizing non-compliance;
8. Good performance is incentivized; and
9. Entering contracts with any contractor that previously failed to comply with Section 3 requirements is avoided.

Records recipients must maintain for programmatic and Section 3 compliance reviews include, but are not limited to:

1. Copies of signed Consolidated Plan, Public Housing Five-Year Plan, or Annual Plan certifications/ assurances.
2. Procurement records to identify the dollar amount of each covered contract awarded during the time span under review.
3. Copies of bid solicitations that reference Section 3 applicability.
4. Contract documents that include a "Section 3 clause" or language that applies the Section 3 requirements to contractors and subcontractors in the contracts awarded. (*See Appendix*)
5. Minutes, sign-in sheets, agendas, or other relevant evidence from pre-construction meetings, to determine if Section 3 requirements were discussed with prospective bidders.

6. Labor hour records of recipients and contractors, to determine the percentage of Section 3 workers and Targeted Section 3 workers in comparison to total labor hours.
7. Descriptions of procedures used by the recipient, subrecipients, developers and contractors to verify the eligibility of Section 3 workers and businesses.
8. Lists of Section 3 workers and businesses maintained by the recipient.
9. Evidence of outreach efforts to determine how Section 3 workers or businesses were targeted or recruited for employment, training, or contracting opportunities.
10. Lists of Section 3 business concerns that received contracts/subcontracts during the period under review. This information should include name of contractor, address, telephone number, email address, contract amount, date awarded, and services provided.
11. Lists of Section 3 workers or Targeted Section 3 workers employed by the recipient and its contractors during the period under review. This information should include the name of each low- or very low-income individual, address, telephone number, date hired, position, and status (employed, terminated, etc.).
12. Evidence that developers, contractors, or subcontractors notified local labor unions about their Section 3 obligations.
13. Evidence that developers, contractors, or subcontractors posted signs regarding job vacancies and subcontracting opportunities at the job site.
14. Recipient procedures for monitoring subrecipients, developers, contractors, and subcontractors for compliance.
15. Correspondence or other records from Section 3 workers and businesses regarding training, employment, or contracting opportunities to determine how those inquiries were addressed or resolved.

Noncompliance is triggered when a PHA or other funding recipient does not report timely or submits a report that does not demonstrate qualitative efforts or fails to show that required benchmarks were met. It could also be triggered by a lack of records retained during a remote or on-site monitoring review or by HUD's investigation of a complaint that shows a recipient did not meet requirements of the new rule.

Remedies for noncompliance. If, after written notice of noncompliance from HUD to a funding recipient of noncompliance, and following a time for remediation, the recipient does not come into compliance, HUD may take appropriate remedies or impose sanctions, consistent with the laws and regulations of the program relating to the violation. Remedies for noncompliance may include contract amendment, a procurement review threshold to ensure Section 3 requirements are adequately applied, or by requiring a corrective action plan that would lead the PHA to comply with Section 3 requirements.

IX. RECORDKEEPING

PHAs must follow recordkeeping requirements in accordance with the Section 3 final rule at 24 CFR section 75.31.²⁸ These Section 3 compliance recordkeeping requirements can be found at 24 CFR section 75.31(a) and (b) as follows (slightly reformatted, but regulatory text retained):

²⁸ [Federal Register/Vol. 85/No. 189/9-29-2020/pp. 61566 and 61567](https://www.federalregister.gov/documents/2020/09/29/61566-61567)

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

Documentation Verifying Section 3 and Targeted Section 3 Worker Qualifications

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

1. For Section 3 worker qualifications, one of the following must be maintained:

Worker Self-Certifications

- A worker’s self-certification that their income is below the income limit from the prior calendar year;
- A worker’s self-certification²⁹ of participation in a means-tested program such as public housing or Section 8- assisted housing;

PHA/Owner Certifications

- 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 is below the income limit when based on an employer’s calculation of what the worker’s wage rate would be if annualized on a full-time basis; or
- An employer’s certification that the worker is employed by a Section 3 business concern.

2. For Targeted Section 3 worker qualifications under subpart B (Public Housing Financial Assistance), one of the following must be maintained:

Worker Self-Certifications

- A worker’s self-certification of participation in public housing or Section 8- assisted housing programs;
- A worker’s certification that the worker is a YouthBuild participant.

²⁹ See FPM Section 3 guidebook for sample self-certification form. [Section-3-and-Targeted-Section-3-Worker-Self-Certification-Sample-Form.docx \(live.com\)](#)

PHA/Owner Certifications

- 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 is employed by a Section 3 business concern; or

3. For Targeted Section 3 worker qualifications under subpart C (Housing and Community Development Financial Assistance), one of the following must be maintained:

Worker Self-Certifications

- A worker’s self-certification that the worker is a YouthBuild participant.

Employer Certifications

- 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 certification that the worker is a YouthBuild participant.”

Documentation must be maintained for as long as specified by record retention requirements in applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR Part 200.

A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when the certification as a Section 3 worker or Targeted Section 3 worker is established.

X. COMPLAINTS

Section 3 complaints alleging failure of compliance with 24 CFR Part 75 regarding public housing financial assistance must be submitted to the local HUD field office or directly to the responsible program office. Local offices can be found through the following link:

[Public Housing Field Offices](#)

When a complaint is received, staff in the appropriate field office will gather facts. If the facts indicate that a Section 3 violation may have occurred, the field office will notify the involved PHA, request a written response, and work with the PHA or other recipient toward a resolution. Field office staff must provide PIH’s Section 3 Coordinator, in the Office of Field Operations (OFO), a copy of any complaints received. OFO will track complaints and outcomes.

XI. TRAINING

HUD's Office of Field Policy and Management has training materials which includes the differences between the previous rule (24 CFR Part 135) and current final rule (24 CFR Part 75). These materials are available online:

- [Section 3 FAQs](#)
- [Understanding Section 3 Training](#)
- [Section 3 Guidebook: Welcome - HUD Exchange](#)

Additional training material may be provided relating to the PHAs' responsibilities under the final rule, including data and documentation to ensure compliance.

XII. 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 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 2577-0157 for the form HUD-5370 series are OMB-approved or pending under the PRA.

XIII. 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 Hector D. Garza, (Hector.D.Garza@hud.gov), Program Analyst, HUD Office of Public and Indian Housing, Office of Policy, Program, and Legislative Initiatives.

_____/ s /_____
Dominique Blom
General Deputy Assistant Secretary for
Public and Indian Housing

Sample Section 3 Contract Clause (“Section 3 Clause”)

Section 3 contract language must be customized depending upon the contract and the program. HUD provides this sample language but has determined that the PHA or Recipient is in the best position to determine what contract language is appropriate for each context. A *Section 3 Clause* needs to be included in all contracts subject to Section 3 of the Housing and Urban Development Act of 1937, as amended and 24 CFR Part 75. See especially regulatory contracting provision requirements in 24 CFR sections 75.9, 75.17 and 5.27, as applicable. Please note this sample may only be used for public housing contracts.

A. Authority. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3) and 24 CFR Part 75. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. Contracting, Contract Certification and Compliance. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations. Specifically, contracts must be:

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

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts in the following order of priority:

(a) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

(b) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;

(c) To YouthBuild programs; and

(d) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

C. Notice. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the

contractor's commitments under this **Section 3 Clause** and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. Subcontracts. The contractor agrees to include this **Section 3 Clause** in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this **Section 3 Clause** upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

E. Employment and Training Opportunities. The contractor will certify that any vacant employment positions, including training positions, that are filled: after the contractor is selected but before the contract is executed, and with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Specifically, the contract shall be consistent with existing Federal, State, and local laws and regulations. PHAs or other recipients receiving public housing financial assistance, as well as their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers. These best efforts must apply to the Section 3 workers in the following order of priority:

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

F. Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.