



Section 3 Plan

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What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very low-income residents in connection with projects and activities in their neighborhoods.

The City of Boston is a recipient of HUD funding through its HOME Investment Partnership Assistance (HOME), Community Development Block Grant (CDBG), Housing Opportunities for Persons with AIDS (HOPWA), Emergency Shelter Grants (ESG), and Neighborhood Stimulus Program (NSP), HOME Investment Partnership Assistance American Rescue Plan (HOME- ARP), and Community Development Block Grant CARES Act (CDBG-CV) programs. Therefore, the City's allocation of the above funds trigger Section 3 requirements whenever the project creates the needs for new employment, contracting, or training opportunities.

Section 3 projects or activities involve housing construction, rehabilitation (including reduction and abatement of lead-based paint hazards), demolition, or other public construction. Section 3 is triggered when housing and community development financial assistance through HUD programs exceeds

\$200,000. When financial assistance through the Lead Hazard Control and Healthy Homes program exceeds a threshold of \$100,000, Section 3 is triggered for that project.

Economic Opportunities Available Under Section 3

Under Section 3, job training, employment, and contracts may be available. Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3. Some example opportunities include:

Accounting	Electrical	Marketing
Architecture	Elevator Construction	Painting
Appliance repair	Engineering	Payroll
Bookkeeping	Fencing	Plastering
Bricklaying	Florists	Plumbing

Carpentry	Heating	Printing/Purchasing
Carpet installation	Iron Works	Research
Catering	Janitorial	Surveying
Cement/Masonry	Landscaping	Tile setting
Computer/Information	Machine Operation	Transportation
Demolition	Manufacturing	Word Processing
Drywall		

Definitions

Contractor – any entity entering a contract with:

- A recipient to perform work in connection with the expenditure of federal financial assistance or for work in connection with a Section 3 project or
- A subrecipient for work in connection with a Section 3 project.

Construction – the creation of a new or replacement facility, the substantial rehabilitation of an existing facility, or the limited rehabilitation of an existing facility. This includes construction and/or rehabilitation of water and wastewater systems. The cost of acquiring new or replacement equipment may be included in the cost of construction.

Labor Hours – the number of paid hours worked by persons on a Section 3 project.

Low-income person – low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent of the area median individual income. HUD limits may be obtained from:

<https://www.huduser.gov/portal/datasets/il.html>.

Materials supply contract – a contract entered into solely for the purchase of products or material.

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

Recipient – any entity that receives directly from HUD public housing financial assistance or

housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 Business Concern – A business or non-profit business that meets at least one of the following criteria, documented within the last 6-month period:

- At least 51% owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the prior 3-month period are performed by Section 3 workers; or
- A business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Section 3 Project – any housing rehabilitation, housing construction, and other public construction project assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Section 3 Worker – any worker who currently fits, or up to 5 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 either low- or very low-income)
- The worker is employed by a Section 3 Business Concern
- The worker is a YouthBuild participant

Service area/neighborhood of the project – an area within 1 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.

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the

performance of work generated by the expenditure of Section 3 Covered Assistance or arising in connection with a Section 3 Covered Project.

Subrecipient – the local government or organization awarded HOME, CDBG, HOPWA, ESG or NSP funds for an activity. The subrecipient may commonly be referred to as the “grantee” or the “community” over the course of the activity.

Targeted Section 3 Worker – any worker who meets at least one of the following criteria:

- Is employed by a Section 3 Business Concern or
- Currently fits or when hired fit at least one of the following categories, as documented within the past 5 years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5
 - A YouthBuild participant

Very low-income person – very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 50 percent of the area median individual income. HUD income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>.

YouthBuild – a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school. The program was created under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226). More information can be found here: <https://www.dol.gov/agencies/eta/youth/youthbuild>.

Section 3 Compliance

HUD’s regulations for implementing Section 3 mandates can be found at 24 CFR Part 75. These administrative rules establish the requirements to be followed to ensure the objectives of Section 3 are met. Federal rules do not require grant recipients to contract or subcontract with a Section 3 business concern, nor do the rules require hiring of Section 3 workers. However, grant recipients must be able to demonstrate that, where possible, contracting, employment, and

training opportunities were made available to workers and businesses meeting Section 3 designation criteria.

Applicability and Threshold

Per 24 CFR § 75.3, Section 3 applicability is determined by meeting the requirements of three criteria:

1. The project is funded in whole or in part by HUD Community Planning (CPD) funding.
2. The funding is used for one of the following types of projects:
 - Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement)
 - Housing construction
 - Other public construction (includes, but not limited to, construction of buildings, facilities, and infrastructure such as water, wastewater system, roadways, and drainage). This only applies to publicly owned projects.
3. The total amount of the assistance cost of the project exceeds \$200,000, or \$100,000 for a lead-based paint project.
4. 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.

If a project does not meet all three of the above criteria, Section 3 is not applicable. Additionally,

Section 3 is determined at the project level, which “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”. If a local government or organization undertakes multiple projects that include federal funding, but are unrelated, Section 3 applicability is determined for each project.

Section 3 does not apply to all project types. The following types of projects are specifically exempt from complying with Section 3 requirements:

1. Contracts for materials.
2. Contracts for professional services (engineering, architecture, and non-construction services that require an advanced degree or professional licensing).
3. Procurement of equipment not related to housing rehabilitation, housing construction, or other public facilities construction, including fire trucks, ambulances, public service activities, DPA, ED, etc.

However, recipients who undertake projects that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

Employment, Training, and Contracting Requirements

For qualifying projects that receive federal assistance, Section 3 has requirements pertaining to employment and training. To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations (24 CFR §§ 75.9 & 75.19), recipients covered by this subpart shall ensure that employment and training opportunities 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.

Whenever possible, priority, in this order, for opportunities and training should be given to:

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

To the greatest extent feasible, and consistent with Federal, state, and local laws and regulations (24 CFR §§ 75.9 & 75.19), recipients covered in this subpart shall ensure contracts for work awarded for 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.

When feasible, priority, in this order, for contracting opportunities should be awarded to:

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

Subrecipients/Grantees receiving Federal funds passed through The City of Boston must include language applying Section 3 requirements in any agreement or contract for a Section 3 project.

Section 3 and Targeted Section 3 Workers

To meet the Section 3 reporting requirements, all workers at the project must be classified as one of 3 worker categories – report the most restrictive category that is appropriate for an individual worker:



All individuals performing applicable work / labor hours for the Federally funded project that do not meet one of the Section 3 designations are reported only under the “All Workers” category.

Criteria for Section 3 Worker Designation

To comply with Section 3 reporting requirements, the grant recipient must determine whether each individual performing construction or administrative work on the project meets the criteria

for a Section 3 Worker. A Section 3 Worker is any worker who currently, or when hired by the current employer within the past five years, fits at least one of the following categories:

- The worker's individual income for the previous or annualized calendar year is below the income limit published annually by HUD. NOTE: Income of family members other than the employee are excluded from this determination.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

Criteria for Targeted Section 3 Worker Designation

The Targeted Section 3 Worker is a worker that is:

- Employed by a Section 3 business.
- Currently fits or when hired fit in at least one of the following categories, as documented within the last five years:
 - Low- or very low-income worker living within the service area of the project. The service area is within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached.
 - A YouthBuild participant.

All Targeted Section 3 Workers are also considered Section 3 Workers. When comparing the two definitions above, the only difference between a Section 3 Worker and a Targeted Section 3 Worker lies in how close in proximity the worker resides to the Section 3 project.

The status of workers on the Section 3 project will be determined by one of the following methods:

1. Worker income self-certification: The use of certification forms provided to contractors and subcontractors working on the project. Each worker on the project must complete the provided certification form to be kept in the grant record for reference when tracking and aggregating labor hours worked. One form will be provided for a Section 3 Worker Certification and a Targeted Section 3 Worker Certification (Exhibit A).
2. Worker is employed by a Section 3 Business Concern: The contractor or subcontractor can provide documentation that it qualifies as a Section 3 Business Concern (Exhibit

- B). All employees of a qualifying business will be considered Section 3 Workers.
3. Worker self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing.
 4. Certification from a public housing authority (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.
 5. Worker is a YouthBuild participant: Verifiable documentation must be provided by the worker or the employer showing the worker is participating in a YouthBuild program.
 6. Employer wage records: The employer can provide certified documentation that the worker's income from that employer is below the income limit for the corresponding area median income when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.

Section 3 Service Area

To correctly identify Targeted Section 3 Workers, the grant recipient must first confirm the Section 3 Service Area. A Section 3 Service Area for a project is determined as follows:

- Identify the project site. For infrastructure projects, the project site is the area included in the Environmental Review project description. The center point of this project is the basis for the Section 3 Service Area.
- Identify a circle with a one-mile radius, with the project site central point as the origin.
- Calculate the population that resides within the one-mile circle. If it is less than 5,000 people (according to the most recent U.S. Census), then aggregate census block group geographies totaling a minimum of 5,000 persons that both:
 - Surrounds all components of the project site, AND
 - Most closely approximates a circle shape.

Criteria for Section 3 Business Designation

The Section 3 Final Rule has changed the definition of a Section 3 Business Concern to meet one of the following criteria, documented within the past 6 months:

- It is at least 51% owned and controlled by low- or very low-income persons;

- Over 75% of the labor hours performed for the business over the previous three-month period are performed by Section 3 Workers; or
- It is a business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Contractors or subcontractors who wish to be identified as a Section 3 Business must complete the Section 3 Business Self-Certification form and provide requested backup documentation.

Section 3 Business status will be reported once for each contract for services. Once a business is determined to be a Section 3 Business, the designation will remain in effect for the life of the contract for services. Records supporting this status must be made available upon request to the City of Boston, HUD, or other state and federal authorized officials. Please redact personally identifiable information (PII) from payroll records prior to releasing any documentation under this requirement.

For construction contractor certified payroll reports, HUD requires the first payroll on which each employee appears to include the employee's name and an individually identifying number. Afterward, the identifying number does not need to be reported unless it is necessary to distinguish between employees.

NOTE: Section 3 Businesses may only be selected in accordance with procurement standards including price, ability, and willingness to comply with program requirements to be considered the lowest responsible bidders on contracting opportunities. Grant recipients should make every effort to ensure that Section 3 Businesses are able to effectively participate in the opportunity. Contractors and others should direct their efforts to award subcontracting opportunities generated from the expenditure of housing and community development financial assistance to Section 3 Businesses.

Establishing Section 3 Status	
A Section 3 Business Concern Status	A Section 3 Worker Status
Businesses verify their status as a Section 3 Business Concern at the time the contract is awarded. Documentation proving status must be provided within 6 months.	Workers are established as Section 3 Workers or Targeted Section 3 Workers at either the date of initial hire/contract or Employee Certification date.
Once verified, a Section 3 Business Concern maintains its Section 3 status for as long as it continues to meet the definition. (24 CFR § 75.5)	Established Section 3 Workers or Targeted Section 3 Workers may count their labor hours for five years from the date used to establish their status.*
Section 3 defer to local, state, and other federal rules and regulations. (24 CFR §§ 75.9 & 75.19)	Workers may re-establish their status as a Section 3 Worker or Targeted Section 3 Worker at the end of the five-year period.
* Do not look back prior to the effective date of the New Rule, November 30, 2020.	

Determining Income Levels

Low income is defined as 80% or below the median income of that area. Very low income is defined as 50% or below the median income of that area. Please see Exhibit H for the current Section 3 income levels.

Benchmarks and Minimum Numerical Goals

HUD has established benchmarks for labor hours worked for both Section 3 Workers and Targeted Section 3 Workers for qualifying Section 3 projects as part of the revised Section 3 rule:

- **Section 3 Workers = 25% of total labor hours**
- **Targeted Section 3 Workers = 5% of total labor hours**

Targeted Section 3 Workers are a subset of Section 3 Workers and any labor hours counted toward the total for Targeted Section 3 Workers will also count toward the total for Section 3 Workers.

HUD and The City of Boston consider all subrecipients who meet or exceed both benchmarks for Section 3 Workers and Targeted Section Workers to be in compliance. If a subrecipient is unable to meet the benchmarks, the subrecipient must report on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such **qualitative efforts** may, for example, include but are not limited to the following:

1. Engaged in outreach efforts to generate job applicants who are Targeted Section 3 Workers.
2. Provided technical assistance to help Section 3 Workers compete for jobs (resume assistance, coaching, etc.).
3. Provided training or apprenticeship opportunities.
4. Directed Section 3 Workers to obtain financial literacy training and/or coaching.
5. Connected Section 3 Workers with assistance in seeking employment by helping them prepare for interviews, connecting residents to job placement services, or pointing them towards job fairs.
6. Provided or referred Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
7. Engaged in outreach efforts to identify and secure bids from Section 3 Business Concerns.
8. Hosted job fairs.
9. Divided contracts into smaller jobs to facilitate participation by Section 3 Business Concerns.
10. Provided technical assistance to help Section 3 Business Concerns understand and bid on contracts.
11. Provided application assistance for attendance at a community college, a four-year educational institution, or vocational/technical training.
12. Provided bonding assistance, guarantees, or other efforts to support viable bids from Section 3 Business Concerns.
13. Contacted business assistance agencies, minority contractors' associations, and community organizations to inform them of contracting opportunities and request their assistance in identifying Section 3 Business Concerns.
14. Provided written notice to all known Section 3 Business Concerns of the contracting opportunities. The notice should be in sufficient time to allow Section 3 Business Concerns to respond to the bid invitation or request for proposal.

15. Used the services and assistance of the U.S. Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce (<http://www.mbda.gov/>)

Reporting

For Section 3 covered contracts, contractors must submit the Section 3 Labor Hours Tracking Form (Exhibit F) on a quarterly basis, and the Section 3 Year-End Report annually. The information required includes:

- The total number of labor hours worked
- The total number of labor hours worked by Section 3 Workers
- The total number of labor hours worked by Targeted Section 3 Workers
- The percentage of labor hours worked by Section 3 Workers
- The percentage of labor hours worked by Targeted Section 3 Workers
- If benchmarks are unmet, qualitative efforts and explanation of those efforts

1. Quarterly Reporting

- a. Contractors are required to submit a quarterly labor hours report (Exhibit F) to the MOH staff contact for your project within 10 days following the last day of the quarter.

2. Annual Reporting

- a. Once a year, contractors must submit a final Section 3 cumulative report for the program year (Exhibit G). This report is due **July 10**. If the contractor or subcontractor portion of work on the project ends before **July 10**, the report should be submitted after work is completed.
- b. Upon completion of a project, The City's Section 3 Coordinator will conduct a final review of the project's overall performance and compliance
- c. The City will submit the Section 3 data to HUD for the reporting period.

City's Responsibilities

The City will undertake the following activities:

1. Design and implement procedures to comply with the requirements of Section 3. Create forms and manuals to maintain and verify compliance. Ensure contractor and subcontractor awareness of and compliance with Section 3 benchmarks and responsibilities.
2. Verify Section 3 Workers, Targeted Section 3 Workers, and Section 3 Business Concerns (Exhibits A and B).
3. Facilitate compliance among developers and contractors through pre-construction meetings.
4. Provide contractors with resources to locate certified Section 3 Workers and Section 3 Businesses.
5. Incorporate Section 3 Clause (Exhibit D) into all contracts.
6. Review funding applications for Section 3 applicability, capacity, and appropriate planning.
7. Prior to award of construction contract, require submittal of Pre-Award Compliance Certification (Exhibit E) and current staff list from all contractors scheduled for project.
8. Check scheduled contractors and subcontractors against the federal Debarment list (www.sam.gov).
9. Collect Section 3 Compliance Reports/Quarterly Labor Hours Tracking Form (Exhibit F) from all Section 3 Covered Projects.
10. Submit annual Section 3 Annual Summary Report (Exhibit G) to HUD for each program (CDBG, HOME, ESG and NSP) with annual CAPER.
11. Document files for compliance efforts, including records of job vacancies, solicitation for bids or proposals, selection materials, and contracts.

Subrecipient – Developer – Contractor – Subcontractor Responsibilities

Section 3 applies to all projects that are receiving federal funding in excess of \$200,000 (or \$100,000 for lead-abatement projects). Subrecipients, developers, contractors, or subcontractors that receive contracts with federal funding are required to comply with the Section 3 regulations in the same manner as the City. Subrecipients, developers, contractors, and subcontractors are

responsible for communicating Section 3 information and regulations to everyone involved in the project.

Responsibilities of the subrecipient/developer/contractor/subcontractor include the following:

1. Notification of Section 3 opportunity shall be advertised with one or more of the following:
 - Boston Herald, or similar publication
 - Job training and placement agencies
 - Previously funded affordable housing sites
 - Local union halls
 - List of certified Section 3 Workers and Section 3 Businesses
 - Small business development agencies
2. Incorporate Section 3 Clause (Exhibit D) into all contracts.
3. Ensure subcontractors are aware of Section 3 requirements and responsibilities.
4. Certify Section 3 Workers, Targeted Section 3 Workers, and Section 3 Business Concerns (Exhibits A and B).
5. Attend pre-construction meetings with the City.
6. Prior to award of construction contract, submit Pre-Award Compliance Certification (Exhibit E) and current staff list for Prime Contractor to the City of Boston.
7. Submit Section 3 labor hours tracking (Exhibit F) to the City of Boston.
8. Document files for compliance efforts including records of job vacancies, solicitation for bids or proposals, selection materials, and contracts. Maintain records for a minimum of five years.
9. All contractors must report the qualitative efforts pursued such as engaging in outreach efforts to generate Section 3 Workers, providing training or apprenticeship opportunities, engaging in outreach efforts to identify and secure bids from Section 3 business concerns, and promoting the use of business registries designed to create opportunities for disadvantaged and small businesses.

Section 3 Resources & Toolkit: [Section 3 Resources and Tools - HUD Exchange](#)

Complaints

Per §75.33, complaints alleging failure of compliance with Section 3 may report to the HUD program office responsible for the Section 3 project (<https://hud.gov>), or to the local HUD field office.

Region I HUD Local Field Office

Boston Regional Office

10 Causeway Street, Third Floor

Boston, MA 02222

617-994-8206

Erika.Koizumi@hud.gov

HUD Washington

Assistant Secretary, Fair Housing and Equal Opportunity

Office of Economic Opportunity

Room 5100, Dept. of

HUD 451 Seventh Street,

SW Washington, DC

20410

202-708-1112

City of Boston Section 3 Contact

Any questions about the City of Boston Section 3 Plan can be directed to the following staff member:

Tina Griffith, Assistant Director of Compliance, Mayor's Office of Housing
tina.griffith@boston.gov

Exhibits

Exhibit A – [Section 3 Worker Self-Certification](#)

Exhibit B – [Section 3 Business Self-Certification](#)

Exhibit C – [Section 3 Business Owner Certification](#)

Exhibit D – [Section 3 Clause](#)

Exhibit E – [Section 3 Pre-Award Compliance Certification](#)

Exhibit F – [Section 3 Quarterly Labor Hours Tracking Form](#)

Exhibit G – [Section 3 Annual Summary Report](#)

Exhibit H – [Income Limits](#) *please download & zoom in

FAQs

How can I find Section 3 business concerns in my area?

Section 3 business concerns can be found on the Section 3 Business Registry available on the Section 3 Registry website. You can also contact the City for a list of Section 3 businesses on file.

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

No. A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership, or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration.

What recordkeeping responsibilities do contractors and subcontractors have if they receive Section 3 covered contracts?

Contractors and subcontractors should maintain and provide any documentation that will assist the City in demonstrating Section 3 compliance to HUD including documentation that shows hours worked by all workers, Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. Examples of documentation can be found in 24 CFR § 75.31

(https://www.ecfr.gov/cgi-bin/retrieveECFR?n=pt24.1.75#se24.1.75_131).

What if my company does not meet all benchmark goals for employment or contracting?

If reporting indicates the company has not met the Section 3 benchmarks, the company should report on the qualitative nature of its activities such as those listed on pages 9-10 of this manual.

Can a nonprofit organization be considered a business concern for the purposes of Section 3? Yes. A nonprofit organization can be a business concern. Nonprofit organizations must meet the criteria of a Section 3 business concern as defined in 24 CFR § 75.5 in order to receive Section 3 preference.

Can contracting with a Minority Business Enterprise (MBE) or a Women Business Enterprise (WBE) count towards Section 3 benchmarks?

It depends. Section 3 is race and gender neutral. Only Minority Business Enterprises (MBEs)/Women Business Enterprises (WBE) that meet the eligibility criteria as a Section 3 business concern set forth in the regulation can be counted towards the Section 3 labor hour calculation.

Do Section 3 requirements apply to material only contracts?

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

Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals and Section 3 business concerns must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

What documentation must be maintained by contractors and subcontractors certifying that low- and very low-income individuals and business concerns meet the regulatory definitions under Section 3?

There are many ways a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR Part 75. Please see pages 6-8 of this manual.

Will there be changes to the benchmark requirements?

The Secretary of HUD is required in the Benchmark Notice published in the Federal Register to review and update the Benchmarks by Federal Register no less frequently than once every three years.

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

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local, or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3 if the amount of HUD funding for the project exceeds \$200,000 (or \$100,000 for a lead-abatement project).

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

Developers, contractors, and subcontractors are required, to the greatest extent feasible, to direct employment opportunities to low- and very low-income persons, including seasonal and temporary opportunities. Benchmark goals include the calculation of all Section 3 Worker and Targeted Section 3 Worker labor hours as a percentage of all labor hours worked on a project. Developers, contractors, and subcontractors are encouraged to provide long-term employment to ensure that they meet the benchmark goals.

Are all public housing residents considered Section 3 Workers regardless of their income?

No. To qualify as a Section 3 Worker, an individual must meet one of the following criteria:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant.

Do the benchmark requirements only count toward new hires?

No. The rule does not apply to only new hires, but if someone is currently on staff and qualifies as a Section 3 resident under 24 CFR part 135, they will need to recertify as either a Section 3 Worker or a Targeted Section 3 Worker under 24 CFR part 75.