



## SECTION 3

Responsible Personnel or Unit: IEDA Section 3 Coordinator

### Overview

This chapter describes Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] and its applicability to HUD-funded projects.

Section 3 is HUD's legislative directive for ensuring that economic opportunities resulting from HUD financial assistance, including employment, job training, and contracting are, to the greatest extent feasible, directed to low- and very low-income persons. The regulations seek to ensure that public housing residents and low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created.

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

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

A **Targeted Section 3 Worker** is defined as a Section 3 worker who fits one of the following categories:

- a worker employed by a Section 3 business concern; or
- a worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
- Living within one mile of the project, or if fewer than 5,000 people live within one mile of the project, within a circle centered on the project that is sufficient to encompass a population of 5,000 people;
- a YouthBuild participant

A **Section 3 Business Concern** is defined as a business which fits one or more of the following categories:

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

Section 3 requires that subrecipients 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.

However, subrecipients are not required to hire or enter into contracts with Section 3 workers or businesses simply to meet the Section 3 goals—anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.





## When Section 3 Applies

Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e. roads, sewers, community centers, etc. Section 3 applies to HUD-funded projects when:

- The subrecipient has contracted with subcontractors for services, housing and/or public construction activities and the eligible HUD-funded assistance exceeds \$200,000.
- The subrecipient has contracted with subcontractors for HUD Lead Hazard Control and Healthy Homes programs exceeding \$100,000.
- Examples of HUD assistance in which Section 3 applies include but are not limited to the following:
  - Community Development Block Grants (CDBG)
  - HOME Investment Partnership Assistance (HOME)
  - Housing Opportunities for Persons with AIDS (HOPWA)
  - Emergency Solutions Grants (ESG)

Even if HUD assistance is only a portion of the project cost, Section 3 requirements apply to the entire project once the assistance meets the threshold. Section 3 requirements do not apply to materials-only contracts.

## Compliance with Section 3

Each subrecipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors/subcontractors. This responsibility includes but may not be necessarily limited to:

Implementing procedures designed to notify Section 3 residents about training and employment opportunities

Notifying potential contractors for Section 3 covered projects of the requirements of this part, and incorporating compliance with Section 3 language in all solicitations and contracts.

Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 businesses

Estimating the number of labor hours utilized per project, and the projected number of labor hours to be worked by Section 3 workers.

Assisting and actively cooperating with HUD in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the subrecipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 75.

Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

## Procurement & Bid Documents

HUD-funded assistance subrecipients must include Section 3 language in all procurement and bid documents. The required language to be included in these documents can be found in the CDBG Management Guide. In addition to the required language, subrecipients must include the “Intent to Comply with Section 3” form with all RFPs.





Contractors responding to bids must submit with their bid documents a signed copy of the “Intent to Comply with Section 3” form. This form will be used to collect information that subrecipients should use when reviewing responses to ensure compliance with Section 3 requirements.

### Selecting Contractors with Section 3

In addition to certifying new employees’ level of income, Section 3 requires subrecipients make an effort to the “greatest extent feasible” to facilitate contracts to Section 3 businesses. By “greatest extent feasible,” HUD means that subrecipients carrying out Section 3 projects should make every effort within their disposal to meet the regulatory requirements. This may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 workers and businesses for these types of economic opportunities.

While Iowa procurement procedures require subrecipients select the lowest responsible bidder when under a competitive sealed bid process, subrecipients may give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited.

In order to give preference to Section 3 businesses during the contract awarding process, subrecipients must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals. The “Intent to Comply With Section 3” form that will be provided with procurement documents and submitted by bidders will capture this information.

Remember, to be considered a Section 3 business, the business must meet the definition by satisfying one of the following requirements:

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

Section 3 businesses must be given priority in contracting for work, to the greatest extent feasible. Subrecipients should use the following order of priority:

1st: Section 3 business concerns that provide economic opportunities for section 3 workers residing within the service area or neighborhood in which the section 3 project is located; and

2nd: Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

3rd: Other section 3 business concerns.

It is important to note that Section 3 requirements at 24 CFR 75 provides only preference for contracts and subcontracts to Section 3 businesses; Eligible businesses must demonstrate that





they are responsible and are able to perform successfully under the terms and conditions of proposed contracts.

### Hiring & Training with Section 3

Subrecipients and their contractors/subcontractors are required to give hiring and training preference to Section 3 workers, to the greatest extent feasible, when employment and training opportunities result from a HUD-funded project.

When a subrecipient or contractor/subcontractor has identified that a new employment or training opportunity will result from the normal completion of the HUD-funded construction and/or rehabilitation projects, the HUD-funding grant administrator should work with that entity to assist with advertising the opportunity to Section 3 residents.

Notices of employment/training opportunities must be sent to the Iowa Chapter of the National Association of Housing and Redevelopment Officials (NAHRO). Notices should be sent to the NAHRO Chapter President. Contact information can be found here: <http://www.ianahro.org/contactus.cfm>

NAHRO will share the notice with public housing authorities, in an effort to help reach Section 3 businesses. A sample notice for employment/training opportunities is provided in Appendix 8 of the CDBG Management Guide.

Notices of employment/training opportunities must also be posted to HUD's Opportunity Portal (<https://hudapps.hud.gov/OpportunityPortal>). This portal may also be used by businesses seeking Section 3 workers for open employment opportunities.

Remember, subrecipients are required to document affirmative steps made to meet Section 3 benchmarks when Section 3 requirements are triggered.

When giving hiring and training preference to Section 3 workers, subrecipients and contractor/subcontractors should use the following order of priority:

- 1st: Section 3 workers residing in the service area or neighborhood in which the section 3 project is located.
- 2nd: Participants in HUD Youthbuild programs
- 3rd: Other section 3 residents.

### Section 3 Benchmarks

Federal regulations establish numerical benchmarks for employment/training for Section 3 residents and contracts to Section 3 businesses.

Subrecipients, their contractors, and subcontractors will be considered to have complied with Section 3 requirements when:

- Twenty five percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers, as defined herein; and





- At least five percent of the total number of labor hours worked by all workers are Targeted Section 3 workers
- A subrecipient that has not met the numerical goals must demonstrate that it complied with the order of priority outlined herein and explain why it was not feasible to meet the established numerical goals set forth in this section. Please refer to “Reporting requirements/ reporting forms” for more information.

Note: It is important to document efforts made to comply with Section 3. Subrecipient files should contain any memos, correspondence, advertisements, etc. illustrating attempts to meet Section 3 goals (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). IEDA staff will review this documentation during the project on-site monitoring visit.

## Penalties for Non-Compliance

Subrecipients of HUD funding have the responsibility of complying with Section 3 regulations and ensuring compliance among its contractors and subcontractors. Federal code established penalties for Section 3 violations and non-compliance. (See 75.33(c))

Communities and contractors found in noncompliance with Section 3 requirements may result in:

- Sanctions from HUD
- Termination of contract for HUD funds
- Debarment or suspension from future HUD assisted contracts
- Non-compliance with Section 3 can impact a community’s ability to receive HUD funding in the future.

The State of Iowa may not enter into a contract with any entity when the state has knowledge that the entity has been found in violation of the Section 3 regulations.

## Reporting Requirements & Forms

To report Section 3 data, subrecipients must analyze the number of labor hours worked on a Section 3 project, how many labor hours were worked by Section 3 Workers, and how many labor hours were worked by Targeted Section 3 Workers. Even if no labor hours were worked by Section 3 or Targeted Section 3 workers, this information must be reported to IEDA | IFA.

For all Section 3 projects employing Section 3 workers or Targeted Section 3 workers, the subrecipient/contractor must maintain self-certification forms indicating the Section 3 status of the worker. If the worker’s household income is less than 80% of area median income, they are considered a Section 3 worker. Income limits by County are available under “Subrecipient Income Requirements and Census Information” on IEDA’s CDBG Management Guide website: <https://www.iowaeda.com/cdbg/management-guide/>

Other certifications of Section 3 workers include certification from a PHA that the worker is a participant in one of its programs; certification from an employer that the worker’s income from the employer is within the income limits if annualized; certification from an employer that the worker is employed by a Section 3 business concern. Please use the appropriate Certification Forms, found in the appendix to this chapter.

To report Section 3 data to IEDA, subrecipients will report at project closeout through IowaGrants. This will be due by December 31<sup>st</sup> of each year. As part of this report, subrecipients will need to





report Section 3 accomplishments and/or provide a detailed explanation of why Section 3 goals were not met. Such an explanation should discuss qualitative efforts taken to comply with Section 3 and any impediments the subrecipient experienced in meeting Section 3 goals.

### **Section 3 Business Registry/Opportunity Portal**

The Section 3 Business Registry and Opportunity Portal are two online registries that connect residents to training and employment opportunities and businesses to contracting opportunities. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses.

Section 3 workers are encouraged to use the Opportunity Portal to identify businesses that may have HUD- funded employment opportunities available. Section 3 businesses are encouraged to post their training, employment and contracting opportunities to the Opportunity Portal.

HUD-funding subrecipients should utilize HUD's Section 3 Business Registry and Opportunity Portal to find Section 3 businesses that may be able to participate in the HUD-funded project. Subrecipients can search through HUD's Section 3 registry here:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness>

Businesses may register as a Section 3 Business through HUD's website here:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

The Opportunity Portal can be accessed through HUD's website here:

<https://hudapps.hud.gov/OpportunityPortal/>

It is important to note that Section 3 businesses and Section 3 workers are not entitled to receive contracts or employment opportunities simply by being listed in HUD's Section 3 Business Registry database or Opportunity Portal.

### **Additional Section 3 Resources**

More information, resources, and templates can be found on the IEDA CDBG Management Guide:

[CDBG Management Guide | Iowa Economic Development Authority \(iowaeda.com\)](https://www.iowaeda.com/CDBG-Management-Guide)

More information and resources on Section 3 can be found on HUD's Section 3 website here:

[Section 3 - Economic Opportunities | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/section3)

