Section 3

NE NAHRO FALL CONFERENCE

SEPTEMBER 13, 2023

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What is Section 3?

Provision of the Housing and Urban Development Act of 1968.

"to ensure that employment and other economic opportunities that are created by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low-income persons."

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24 CFR Part 75

Notice PIH 2022-38/FPM-19-2022

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

Notice PIH 2022-10

- **Implementation of the Final Rule on Section 3 Regulations – 24 CFR Part 75**

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Purpose of Section 3

❖Through grants and annual funding allocations, HUD creates thousands of jobs that range from construction to professional services (accounting, engineering).

❖The purpose of Section 3 is to provide jobs, training and contracting opportunities for low- and very-low-income persons and businesses that substantially employ them through HUD grants and funding.

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Section 3 is NOT

- **Race or gender specific.**
  - Focuses on income and location eligibility.
- **An entitlement program for eligible individuals & businesses.**
  - It is a compliance program that provides job training and contract opportunities.
- **Section 3 is NOT optional.**
  - It is the law for agencies/businesses that receive certain HUD funding.

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Who does Section 3 apply to?

Public Housing Financial Assistance

- Development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act).
- Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act.
- Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act.
- The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in subsections (i) through (iii).

ALL PUBLIC HOUSING FINANCIAL ASSISTANCE

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Who does Section 3 apply to?

ALL Public Housing Authorities regardless of size.

There are NO thresholds or limits for Public Housing Financial Assistance – ALL $$$ is subject to Section 3.

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Economic Development

Fosters local economic development, neighborhood improvement, and individual self-sufficiency through:

- ❖Job training opportunities
- ❖Employment opportunities
- ❖Contracting opportunities

Opportunities are targeted to low- and very-low-income workers in connection with their communities and neighborhoods.

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Economic Development

Low-Income Level

- 80% or below the Area Median Income (AMI) of an area for an individual.

Very-Low-Income Level

- 50% or below the Area Median Income (AMI) of an area for an individual.

Focus is on income and location, NOT race, gender, or minority status.

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Area Median Income

Income Limits | HUD USER

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

Same income limits used for public housing eligibility.

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FY 2023 Income Limits Documentation System

HUD.gov HUD User Home Data Sets Fair Market Rents Section 8 Income Limits MTSP Income Limits HUD LIHTC Database

FY 2023 Income Limits Summary

FY 2023 Income Limit Area	Median Family Income (Click for More Detail)	FY 2023 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	
Colfax County, NE	$80,600	Very Low (50%) Income Limits ($) (Click for More Detail)	29,150	33,300	37,450	**41,600**	44,950	48,300	51,600	54,
		Extremely Low Income Limits ($)* (Click for More Detail)	17,500	20,000	24,860	**30,000**	35,140	40,280	45,420	50,
		Low (80%) Income Limits ($) (Click for More Detail)	46,600	53,250	59,900	**66,550**	71,900	77,200	82,550	87,

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Benchmarks

This sessions is only dealing with PUBLIC HOUSING FINANCIAL ASSISTANCE!!

Note: Housing and Community Development Financial Assistance benchmarks are the same.

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Benchmarks

❖Twenty-five (25) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Section 3 workers;

Section 3 Labor Hours/Total Labor Hours = 25%

AND

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Benchmarks

❖Five (5) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Targeted Section 3 workers, as defined at 24 CFR Part 75.11.

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

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Benchmarks

- Benchmarks don't apply to new hires only.
- A current PHA staff member that qualifies as a Section 3 resident can be counted!
  - They will need to certify as a Section 3 or Targeted Section 3 Worker.
  - Can report on both salaried and hourly workers that qualify.

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Key Terms

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Key Terms

Low-Income Level

- ❖80% or below the Area Median Income (AMI) of an area for **<u>an individual</u>.**

Very-Low-Income Level

- ❖50% or below the Area Median Income (AMI) of an area for **<u>an individual</u>.**

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		Low (80%) Income Limits ($) Click for More Detail	46,600	53,250	59,900	**66,550**	71,900	77,200	82,550	87,

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Key Terms

Section 3 Worker

- Any worker who currently fits or when hired within the past five years fit at least one of the following:
  - 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.

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Key Terms

Section 3 Worker

- Not negatively affected by a prior arrest or conviction.
- Not required to hire someone just because they meet the definition.
  - **Must meet the qualifications of the position to be filled.**

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Key Terms

Targeted Section 3 Worker

- ❖Is employed by a Section 3 business concern; or
- ❖Currently fits or when hired fit at least one of the following categories within the past five years:
  - ❖Resident of public housing or Section 8 housing;

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Key Terms

Targeted Section 3 Worker

- ❖Resident of **other** public housing projects or Section 8 assisted housing managed by the PHA
- ❖A YouthBuild participant
- ❖Are not excluded because of a prior arrest or conviction
- ❖**Must meet the qualifications of the position to be filled.**

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Key Terms

Section 3 Business Concern

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

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Key Terms

Section 3 Business Concern

- Not negatively affected by a prior arrest or conviction.
- Not required to hire someone just because they meet the definition.
  - **Must meet the qualifications of the position to be filled.**

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Key Terms

YouthBuild

- Community-based pre-apprenticeship program providing job training and educational opportunities to at-risk youth 16-24 who have previously dropped out of school.

https://www.dol.gov/agencies/eta/youth/youthbuild

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Reporting & Records

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SMALL PHA – Labor Hour Opt Out

Small PHAs (fewer than 250 units) have the option of:

- ❖tracking and reporting labor hours, or
- ❖reporting on qualitative efforts.

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SAFE HARBOR

You will be considered to have complied with the Section 3 requirements and met the safe harbor, if you certify that you have followed the required prioritization of effort and met or exceed the Section 3 benchmarks.

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SAFE HARBOR

If you have **NOT** met the benchmark requirements but **can** provide evidence that you have made **qualitative efforts** to assist low- and very low-income persons with employment and training opportunities, you will be considered in compliance with the safe harbor.

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Recordkeeping

- ✓Section 3 HUD Compliance Review Checklist (on HUD Exchange)
- ✓**Records**
  - ✓Planning & Procedure Documents
    - ✓Annual Plans, procedures used to verify eligibility, etc.

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Recordkeeping

- ✓ **Records**
  - ✓ Procurement & Contract Documents
    - ✓ Bid solicitations, contracts, pre-construction minutes, list of section 3 business that received contacts, etc
  - ✓ Business & Worker Records
    - ✓ Labor hour records, list of Section 3 workers and targeted workers, correspondence, etc.

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Recordkeeping

- ✓ **Records**
  - ✓ Outreach Documents
    - ✓ Evidence of outreach efforts (how you told people), evidence of notifications to contractors about their obligations, evidence that contractors posted signs regarding job openings at job site.
  - ✓ Other Documents
    - ✓ Information about complaints (if any), how complaints were resolved, other things to demonstrate compliance, etc.

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Recordkeeping

- ✓ **Forms**
  - ✓ HUD FORM 4736D
    Section 3 Worker Self-Certification Form
  - ✓ HUD FORM 4736B
    Section 3 Employer Certification Form
  - ✓ HUD FORM 4736
    Section 3 Public Housing/Section 8 Certification Form

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Recordkeeping

- ✓ **Forms**
  - ✓ Section 3 Business Concern Certification for Contracting (sample on HUD Exchange)
  - ✓ HUD FORM 4737A
    Section 3 Utilization Tracker: Section 3 Labor Hours
  - ✓ HUD FORM 4737
    Section 3 Utilization Tracker: Business Labor Hours

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Recordkeeping

HUD doesn't prescribe a specific form for evidence.

Records and documentation should be maintained for a minimum of three (3) years.

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Recordkeeping

Qualitative Efforts Part § 75.15 (b),

Included but are not limited to:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

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Recordkeeping

(5) Held one or more 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, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns. (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts

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Recordkeeping

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

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Reporting

Annual Reporting – 60 days after the Fiscal Year End.

Coincides with submission of FDS.

Small PHAs **MUST ELECT** to report on Section 3 labor hours or qualitative reporting.

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Reporting

PHAs may report on Section 3 or Targeted Section 3 workers for five (5) years from when their certification is established.

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Reporting

Sample Tool HUD-60002A only for reference.

Will report in a manner consistent with reporting requirements for the HUD program.

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Section 3 Guidebook

Search

- Welcome
- Background
- Key Regulatory Provisions
- Section 3 in Action
- Program Specific

Reporting Systems

The timing and manner of reporting depends on the HUD program from which the recipient received funding.

Office	Reporting System	Features
PIH	Newly developed Section 3 reporting portal	PHAs will report in a newly developed Section 3 reporting system that is still in development and will not be available for PHAs in accordance with the reporting dates published in Section VI of PIH 2022-10. Per Notice PIH 2022-38/FPM-19-2022, PHAs are not required to report on Section 3 labor hours or other Section 3 compliance efforts to HUD until further notice. HUD will provide further notification when and through what means reporting will be required with appropriate lead time to allow for reporting processes to be adjusted if necessary. However, PHAs must continue to follow recordkeeping requirements in accordance with the Section 3 final rule at 24 CFR § 75.31 and should be prepared to produce those records to HUD upon request.

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Section 3 Plan

PURPOSE

❖Outline how to comply with HUD Section 3 requirements.

❖Need to review and/or amend plan as needed to ensure compliance with HUD's requirements, update for compliance with Section 3 guidance and outreach.

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Section 3 Plan

Let's Write Your Plan

(Using the Sample Section 3 Plan from HUD)

- [recipient/grantee] = Your Housing Authority
- [HUD funded program] = Public Housing program (whatever program you receive funds for)
- Section 3 coordinator = the person at your HA assigned the responsibility = Executive Director

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Section 3 Plan

Safe Harbor Benchmarks

Your assistance is either:

1. 24 CFR Part 75.9 – Public Housing
2. 24 CFR Part 75.19 – Housing and Community Development

Your assistance will determine your benchmarks.

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Section 3 Plan

Priority – Employment and Training

1. Residents of public housing project where the funding is expended.
2. Residents of other public housing projects or Section 8.

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Section 3 Plan

Priority – Employment and Training

3. Participants in YouthBuild programs, and
4. To low- and very low-income persons residing within the metropolitan area (or non-metropolitan county) where the funds are spent.

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Section 3 Plan

Priority – Contracting

1. Section 3 business concerns that provide economic opportunities for residents of public housing projects for which the assistance is provided;
2. 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 assistance;

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Section 3 Plan

Priority – Contracting

3. YouthBuild programs; and
4. 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.

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Section 3 Plan

Eligibility and Certifications

- Section 3 Worker, Targeted Section 3 Worker or a Section 3 Business Concern must self-certify that they meet the applicable criteria.
- Misrepresentation and/or false reporting may terminate contracts by default and be barred from ongoing and future contracting opportunities.

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Section 3 Plan

Eligibility and Certifications

- Each PHA should establish a certification procedure with step-by-step guidance for Section 3 Workers and Section 3 Targeted Workers.
- Section 3 Business should be encouraged to register on the HUD Business Registry:

https://www.hud.gov/Sec3Biz

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Section 3 Plan

Section 3 Business Certifications

- Section 3 Businesses must demonstrate that it meets one or more of the following:
  1. At least 51 percent of the business is owned and controlled by low- or very low-income persons; or

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Section 3 Plan

Section 3 Business Certifications

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

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Section 3 Plan

Section 3 Business Certifications

- Certification must be submitted at the time of bid/proposal unless:
  - Previously approved to be Section 3 certified, and
  - The certification has not expired.

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Section 3 Plan

Assisting Contractors with Meeting Section 3 Goals And Outreach Efforts for Employment and Training

Be careful with what you put in these sections.

You have to do what your policy/plan says you're going to do!!

This is where you're going to get your qualitative efforts to reporting on.

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Section 3 Plan

Contracting Policy & Procedures

- Procurement Handbook - (HUD 7460.8 REV-2)
  - Sample Procurement Policy – page a-14 & a-15
  - Need to identify Section 3 in your procurement policy

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Section 3 Plan

Provisions & Contract Language

- Section 3 needs to be in ALL contracts.
  - HUD-5370-EZ – Section 13
  - HUD-5370 – Section 40
  - HUD-5370-C – Section 22

USE HUD GENERAL CONIDTIONS FOR CONTRACTS

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Section 3 Plan

Reporting Requirements

- Contractors submit monthly activity reports to the PHA.
  - Set a date the reports are due.
- Upon completion of the contract, contractor should submit a cumulative report.
- PHA will submit an annual report to HUD, using the required reporting system.

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Section 3 Plan

Complaints

- Should be filed in writing, must contain the name of the complainant and a description of the allegation. Must report within XX days of becoming aware of the violation.
- PHA will do an informal investigation and provide a written response within XX days.

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Section 3 Plan

Complaints

- If complainant not satisfied with the outcome, they can file the complaint with the local HUD Field Office for further review.

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HUD Exchange	**Everything in this presentation is on HUD Exchange!** **Google: Section 3 HUD Exchange**

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HUD Exchange

- Searchable FAQs
- Online Guidebook
- Tools – sample plan, forms, etc.
- Training Modules & Tutorials

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Best Practices

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Best Practices

- Put in all procurement and contracting documents.
- Document efforts.
- Don’t hire unless they have the ability/capacity to do the work.

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Best Practices

- Make sure you do the reporting!!!
- Don't put things in the plan to make it look good.
- Not optional!

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Any Questions?

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Thank You!

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