

Maricopa County
Section 3 Plan
DRAFT



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1. Overview of Section 3 Requirements

A. What Is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain 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.

B. Purpose Of This Document

This plan outlines how Maricopa County Human Services Department, Housing and Community Development Division (HCD) and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements in implementing HCD's HUD funded programs, covered by Section 3. HCD will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

HCD may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

C. Applicability

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

For projects funded with Lead and Hazard Control and Healthy Homes Programs, this plan applies to projects that exceed \$100,000.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.

Section 3 requirements **do not** apply to: 1) Material Supply Contracts - § 75.3(b) and other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

2. Section 3 Implementation

HCD's Community Development Project Coordinator will serve as the central point of contact for Section 3 compliance. HCD will engage its subrecipients, contractors and subcontractors supporting the Section 3 program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the respective HCD's Project Coordinator with questions regarding Section 3 compliance.

3. Employment, Training, and Contracting Goals

A. Safe Harbor Compliance

HCD funded project will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in Section C. After completion of the project, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. Safe Harbor Benchmarks

HCD and funded partners have established employment and training goals that subrecipients, contractors, and subcontractors should meet to comply with Section 3 requirements outlined in [24 CFR Part 75.19 - for housing and community development financial assistance]. The safe harbor benchmark goals are as follows:

- 1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 Workers;

Section 3 Labor Hours/Total Labor Hours = 25%

And

- 2) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

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

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, HCD will review and update the Section 3 Plan annually and to align the review with Annual Action Plan planning process and CAPER timeline.

It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to the HCD funded projects are required to certify that they will comply with the requirements of Section 3.

C. Certification Of Prioritization of Effort for Employment, Training, and Contracting

Employment And Training

Under the HCD's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

Provide employment and training opportunities to Section 3 workers within Maricopa County

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

Contractors and subcontractors will be required to sign two separate certifications that they will and have made best efforts to follow the prioritization of effort requirements: prior to the beginning work and after work is completed.

Contracting

Under HCD's Section 3 Program, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order or priority:

- 1) Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which assistance is located in the following order of priority, if feasible:
 - a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - b) YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

4. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from HCD or its contractors/subcontractors for training, employment, or contracting opportunities generated by housing and community development financial assistance. To qualify as a Section 3 worker, Targeted Section 3 Worker or a Section 3 business concern, each must self-certify that they meet the applicable criteria.

Businesses who misrepresent themselves as Section 3 business concerns and report false information to HCD may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

A. Section 3 Worker and Targeted Section 3 Worker Certification

A Section 3 worker seeking certification shall submit self-certification documentation (the Section 3 and Targeted Section 3 Worker Certification Form) to the recipient contractor or subcontractor, that they area Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, individual income rather than family/household income is used to determine eligibility. The income limits are determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>.

Persons seeking the Section 3 worker preference shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant.

Persons seeking the Targeted Section 3 worker preference shall demonstrate that it meets one or more of the following criteria:

- 1) Employed by a Section 3 business concern or
- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5;or
 - b) A YouthBuild participant.

Projects Involving Multiple Sources Of Funding

In cases where Section 3 covered projects include multiple housing and development funding sources (financial assistance) from single or multiple recipients, HCD will follow subpart C of Part 75. Refer to chart in [Appendix B](#).

Public housing: In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance and housing and community development assistance, the public housing authority must follow the definition of Targeted Section 3 worker and priorities as outlined in subpart B of Part 75. For housing and community development financial assistance, HCD may follow either subpart B or subpart C of Part 75.

B. Section 3 Business Concern Certification

HCD shall encourage funded partners and awarded contractors to make best efforts to award contracts and subcontracts to Section 3 Business Concerns.

Businesses that believe they meet the Section 3 Business requirements may, and are encouraged to, self-register in the HUD Business registry: <http://www.hud.gov/Sec3Biz>. A business may seek a Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- 1) At least 51 percent of the business is owned and controlled by low- or very low-income persons; or

- 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.

A business seeking Section 3 preference shall submit documentation (the "Section 3 Business Concern Certification Form") to HCD certifying that they meet the requirements of the definitions above.

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If HCD previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 3 months. Establishing a 3-month certification of eligibility period allows HCD the ability to assess contractor performance to ensure the business is striving to meet the required goals.

5. Assisting Contractors with Achieving Section 3 Goals

HCD will assist contractors with meeting or exceeding the Section 3 goals, by:

- 1) sharing this Section 3 Handbook with contractors and subcontractors and explain policies and procedures.
- 2) requiring contractors interested in submitting a bid/offer/proposal to attend pre-bid meeting.
- 3) requiring contractors to sign the Section 3 Plan at a pre-construction conference.
- 4) reviewing Section 3 benchmarks and prioritization of efforts with contractors and subcontractors to ensure that the goals are understood. Note: it is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 workers and Targeted Section 3 workers (per the prioritization of effort outlined in Section #3) before any other person, when hiring additional employees needed to complete the project.
- 5) requiring, at the time of bid, the contractor to present a list of the number of total labor hours, Section 3 worker labor hours, and Targeted Section 3 worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, including job descriptions and wage rates.
- 6) informing contractors about the HUD Section 3 Opportunity portal <https://hudapps.hud.gov/OpportunityPortal/>.
- 7) requiring contractors to notify the HCD Project Coordinator of their interests regarding employment of Section 3 workers prior to hiring.
- 8) encouraging local business to register on the HUD Business Registry and direct contractors to the HUD Section 3 Business Registry <https://www.hud.gov/section3businessregistry>.
- 9) leveraging HCD 's communication outlets (social media, website, etc.) to effectively communicate employment and contracting opportunities that arise.
- 10) requiring contractors to submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award.

6. Section 3 Outreach

A. Outreach Efforts for Training and Employment

HCD will provide training and technical assistance on a regular basis per program guidelines. When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible:

- 1) Notify the Section 3 Coordinator when training opportunities are available
- 2) Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
- 3) Conduct training for Section 3 workers and Section 3 businesses

Contractors and subcontractors should employ several active strategies to notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities, including:

- 1) Clearly indicating Section 3 eligibility on all job postings with the following statements: "This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 voucher".
- 2) Adding the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- 3) Establishing a current list of Section 3 eligible applicants

B. Outreach Efforts for Contracting

When contracting opportunities arise in connection with HUD funded projects, HCD will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

- 1) Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
- 2) Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. The project coordinator or a funding partner will participate in these meetings to explain and answer questions related to Section 3 policy.
- 3) Providing written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
- 4) Coordinating with the prime contractor to consider publicizing contracting opportunities for small businesses.
- 5) Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.). Contractors will also be encouraged to collaborate with the HCD as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

7. Section 3 Contracting Policy and Procedure

HCD will work with its funded partners to incorporate Section 3 into existing Procurement Policies and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding.

8. Section 3 Provisions/Contract Language

HCD and its funded partners will include standard Section 3 language in all of its contracts to ensure compliance with regulations in 24 CFR Part 75. HCD and its funded partners will take appropriate actions against a contractor found to be in violation of 24 CFR Part 75. On a periodic basis the HCD Project Coordinator or a HCD staff member will audit contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

In addition, contractors and funding partners are required to include language in all Section 3 covered contracts or agreements for subcontractors to meet the requirements of 24 CFR Part 75.19.

For contractors and subcontractors, 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.

9. Reporting Requirements

For Section 3 covered contracts, contractors must submit the Section 3 Performance and Summary Report to HCD Project Coordinator when submitting an invoice for payment while the project is under construction, and the annual reporting requirement set forth in that form's instructions.

A. Weekly Reporting

- 1) Contractors are required to submit activity reports to HCD or designated funded partner when submitting payment requests. The reporting to be outlined during the pre-construction meeting.

B. Annual Reporting

- 1) Once a project is completed, contractors must submit a final Section 3 Cumulative Report for the project program year.
- 2) Upon the completion of a project, the HCD Project Coordinator will conduct a final review of the project's overall performance and compliance.
- 3) The HCD Project Coordinator will submit required Section 3 data to HUD. The project will also be reported with the Consolidated Annual Performance and Evaluation Report.

C. Reporting On Projects With Multiple Funding Sources

- 1) For Section 3 projects that include public housing financial assistance and housing and community development financial assistance, the PHA and HCD will report on the project as a whole and will identify the multiple associated recipients.

- 2) For projects assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds of \$200,000 and \$100,000 for Lead Hazard Control and Healthy Homes Programs (LHCHH), HCD will follow subpart C of Part 75 and will report to the applicable HUD program office, as prescribed by HUD. Note: LHCHH assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. HUD public housing financial assistance and HUD housing and community development financial assistance is not included in calculating whether the assistance exceeds the LHCHH \$100,000 threshold. Refer to chart in [Appendix B](#).

10. Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, HCD encourages submittal of such complaints to its Project Coordinator as follows:

- 1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75.
- 2) Complaints must be filed within 15 calendar days after the complainant becomes aware of the alleged violation.
- 3) An investigation will be conducted if complaint is found to be valid. HCD will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- 4) HCD will provide written documentation detailing the findings of the investigation. HCD will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than 45 days after the filing of complaint. If complainants wish to have their concerns considered outside of HCD a complaint may be filed with:

The HUD program offices responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office can be found through the HUD website: www.hud.gov/.

Complainants may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.

11. Appendices

Appendix A: Definitions

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low-and Very Low-Income Persons:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq. activities related to Public Housing*

Contractor means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of 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 means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means 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 means assistance as defined in 24 CFR Part 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means 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 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) 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.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Project Coordinator is the HCD staff member responsible for administering the HOME, CDBG, Lead Hazard Safety/Healthy Homes, and Emergency Solutions Grant programs.

Section 3 project means a project defined in 24 CFR Part 75.3(a)(2).

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means 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, 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.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in 24 CFR Part 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI). *YouthBuild programs* refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Appendix B: Multiple Funding Sources - Chart

TYPE OF FINANCIAL ASSISTANCE	DEFINITIONS *TARGETED SECTION 3 WORKER	THRESHOLDS	PRIORITIZATION	REPORTING
Public Housing and Housing and Community Development	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>None</p> <p>*Any amount of PH assistance triggers Section 3</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p> <p>Both - Must report on project as a whole and identify the multiple associated recipients</p>
<p>Multiple Sources of Housing and Community Development <i>(single or multiple recipients)</i></p>	<p>Must follow subpart C of Part 75</p>	<p>Exceeds \$200,000 for Section 3 projects</p> <p>*LHCHHP exceeds \$100,000</p>	<p>Must follow subpart C of Part 75</p>	<p>Must follow subpart C of Part 75</p> <p>Must report on project as a whole and identify the multiple associated recipients</p> <p>Must report to the applicable HUD program office, as prescribed by HUD</p>