



Section 3 Plan

A 1968 Housing and
Urban Development Act

CITY OF PASADENA

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Section 3 Policy and Guidelines

Background	2
General Policy Statement	2
Section 3 Applicability	2
Section 3 Coordinator	3
Safe Harbor Compliance, Benchmarks, Employment, Training, and Contracting Goals	3
1. Safe Harbor Compliance	3
2. Safe Harbor Benchmark	4
3. Employment and Training	4
4. Contracting	5
5. Section 3 Eligibility and Certification	6
6. Section 3 Worker and Targeted Section 3 Worker Certification	6
7. Section 3 Business Concern Certification	7
8. Projects Involving Multiple Sources of Funding	7
Section 3 Outreach	8
Outreach Efforts for Contracting	9
Responsibilities	9
Signage	11
Section 3 Provisions/Contract Language	11
Documentation Requirements	11
Record Maintenance and Documentation	12
Data Collection and Reporting	12
Monthly Reporting	12
Annual Reporting	12
Preference for Section 3 Business Concerns	12
Competitive Bids	14
Grievance Procedure for Section 3 Non-Compliance	15
Enforcement of Section 3 Requirements	15
Policy Definitions	16
Multiple Funding Sources Chart	19
Section 3 Regulations	20

Background

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968, (12U.S.C 1701u) that is regulated by the provisions of 24 CFR Part 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.

General Policy Statement

The City of Pasadena, hereinafter referred to as the “City”, will ensure that the above act and regulation requirements are adhered to for all Section 3 covered contracts. This policy is designed to provide economic opportunities, most importantly employment, generated by certain HUD financial assistance be directed to low- and very low-income persons residing in the Pasadena area, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Section 3 Applicability

For public housing financial assistance, all funding is covered, regardless of the amount of expenditure or size of a contract. This plan applies to development assistance, operating funds, capital funds, and all mixed-finance development.

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), 2) Indian and Tribal Preferences - § 75.3(c), and 3) 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.

Section 3 Coordinator

The City's Compliance Officer shall serve as the City's Section 3 Coordinator. The Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the City of Pasadena and its subrecipients, contractors and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the City's Section 3 Coordinator with questions regarding Section 3 compliance.

Safe Harbor Compliance, Benchmarks, Employment, Training, and Contracting Goals

The U.S. Department of Housing and Urban Development holds the City accountable for the monitoring and enforcement of Section 3 compliance requirements. Therefore, the Section 3 compliance remains a part of the agreements with each recipient/contractor.

1. Safe Harbor Compliance

A recipient or contractor 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. After completion of the project, contractors and subcontractors will be required to certify that they followed prioritization of effort requirements.

If the contractor and subcontractor do 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.

Ultimately, HUD will evaluate the City based on its ability to describe the efforts taken to meet the training, hiring, and contracting requirements and the impediments incurred despite actions taken. At a minimum, if recipients of Section 3 assistance are unable to meet their Section 3 training, hiring, and contracting goals, they should *sponsor or participate* in upward mobility

programs, hire eligible residents in trainee positions with regard to training and employment, or form Section 3 joint ventures with various local employment agencies.

2. Safe Harbor Benchmarks

Once the currency thresholds are exceeded, all recipients who undertake Section 3 covered projects or contracts, and are **not** a Section 3 Business Concern, are expected to meet or exceed the Section 3 benchmark requirements.

The City of Pasadena, in accordance to HUD regulations, has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements as outlined in 24 CFR Part 75.19 – for housing and community development financial assistance. The safe harbor benchmark goals are as follows:

- Twenty-five (25) percent or more of the total number of labor hours worked by all workers on Section 3 projects are Section 3 Workers; (Section 3 Labor Hours/Total Labor Hours = 25%); and
- 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, the City of Pasadena will review and update the Section 3 Plan every 3 years, as needed.

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 City are required to Certify they will comply with Section 3 requirements.

3. Employment and Training

To demonstrate compliance with the "greatest extent feasible" requirement of Section 3, contractors must provide training, employment and contracting opportunities generated from the expenditures of Section 3 covered assistance in order of priority, pursuant to § 75.19, 24 CFR Part 75:

- **First Priority** - Section 3 Workers residing in the service area or neighborhood in which the Section 3 covered project is located.
- **Second Priority**- Participants in HUD YouthBuild Programs in which the Section 3 covered assistance work is to be performed.

Also, the City will provide training and technical assistance per program guidelines that will include:

- Have informational handouts about Section 3 requirements and training readily available to the public.
- Attend training sessions and provide assistance for the group of residents referred by the local workforce centers, community colleges, Public Housing Authority, and Community groups, and those who attend job fairs, when available.
- Offer contracting opportunities to small businesses by certifying them as a Section 3 Business Concern. In order to be considered certified as a Section 3 Businesses Concern, businesses must qualify under one of the following three categories:
 1. A majority 51% or more ownership of business shall be held by low to very low-income residents;
 2. 75% or more labor hours are performed by low to very low-income residents over the prior three-month period; or
 3. 51% or more owned by current residents of public housing or Section 8 assisted housing.

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

4. Contracting

To exhibit the “greatest extent feasible”, contractors and subcontractors should procure services and contracting opportunities to satisfy the contracting benchmarks. To ensure compliance with the Section 3 requirements and maximize Section 3 participation, the City recommends the following:

- Advertise the contracting opportunity in the local newspaper, Workforce Solutions Center and WorkInTexas.com;
- Prepare and submit a bid tabulation and utilization plan that also includes the selected Section 3 Businesses to satisfy the contracting benchmarks.

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:

- Business concerns that provide economic opportunities to Section 3 Workers residing within the City of Pasadena or surrounding areas in which the neighborhood of the project; and
- YouthBuild Programs

5. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from the City 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 the City may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

6. Section 3 Worker and Targeted Section 3 Worker Certification

A Section 3 Worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75.

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 75.5; or
 - b.) A YouthBuild participant.

Section 3 Workers and Targeted Section 3 Workers who are seeking preference in training an employment must submit the Section 3 Worker and Targeted Section 3 Worker Certification Form. The Certification procedure will consist of the individual completing the required form, and providing documentation to support income and living requirements. Forms may be requested from the City's Section 3 Coordinator.

7. Section 3 Business Concern Certification

The City will encourage contractors and subcontractors 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 self-register in the HUD Business registry at <http://www.hud.gov/Sec3Biz>. Businesses may seek 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 9-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.

Businesses wishing to complete the certification process must complete the Business Concern Application and return it to the City's Section 3 coordinator with all required documentation supporting the status selected.

8. Projects Involving Multiple Sources of Funding

In cases where Section 3 covered projects include multiple sources of funds, including public housing assistance financial assistance and housing and community development assistance, the definition of the Targeted Section 3 Worker and priorities as outlined in subpart B of Part

75 must be followed. For housing and community development financial assistance, the City may follow either subpart B or subpart C of Part 75.

In cases where Section 3 covered projects include multiple housing and development funding sources (financial assistance) from single or multiple residents, the City will follow subpart C or Part 75.

Section 3 Outreach

In order to educate and inform workers and contractors, the City's Section 3 Coordinator will be prepared to 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 an annual 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 all of the following:

1. Indicating clearly Section 3 eligibility on all job postings with the following statement: "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. Including 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.
4. Contacting local community organizations and providing them with job postings for Section 3 eligible applicants.
5. Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including all of the following:
 - a. Advertising job opportunities via social media, including LinkedIn and Facebook;
 - b. Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices.

- c. Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

Outreach Efforts for Contracting

When contracting opportunities arise in connection with federally funded projects, the City 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 Request for Proposals (RFPs), procurement documents, bid offerings and contracts.
2. Coordinate mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. The Section 3 Coordinator will participate in these meetings to explain and answer questions related to Section 3 policy.
3. Advertise contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information.
4. Coordinate with the prime contractor to publicize contracting opportunities for small businesses.
5. Coordinate with the City's Economic Development Corporation department and all other business assistance agencies and contractor associations to inform them of contracting opportunities and request their assistance in identifying Section 3 Business Concerns. This could include local community development organizations, business development organizations (Chamber of Commerce), and minority contracting associations.
6. 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 City as subcontract opportunities arise in an effort to notify eligible Section 3 Business Concerns about contracting opportunities.

Responsibilities

A recipient that receives community development or housing assistance covered federal funding, bears the responsibility to comply with Section 3 in its own operations. Responsibilities may include but are not limited to:

- a. Notifying Section 3 Workers about employment and training opportunities and businesses about contracts generated by Section 3 covered assistance;

- b. Facilitating the training and employment of Section 3 Workers and the award of contracts to Section 3 Business Concerns;
- c. Notifying potential contractors of the Section 3 objectives and ways in which each contractor can assist the subcontractor to meet its safe harbor benchmark goals; and
- d. Documenting the action that the contractor and/or subcontractor take to comply with the Section 3 requirements, the results of the actions, and impediments, if any.

Recipients bear the responsibility to “ensure compliance” of contractors and subcontractors.

This means that a recipient must:

- a. Incorporate the Section 3 Clause into contract documents;
- b. Meet and discuss the Section 3 requirements and responsibilities with potential developers/contractors/subcontractors prior to commencement of work, providing additional technical assistance when needed;
- c. Conduct compliance reviews consisting of detailed analysis and evaluation of the contractor’s compliance with Section 3 requirements;
- d. Notify contractors of non-compliance and cooperate with HUD in directing instruction to obtaining compliance of regulation 24 CFR Part 75;
- e. Refrain from entering into contracts with contractors that are in violation of the regulations in 24 CFR Part 75;
- f. Respond to complaints made to the recipient by Section 3 Workers or Business concerns that the contractor or subcontractor, is not in compliance with 24 CFR Part 75.

The performance of each contractor and/or subcontractor is evaluated during and at the completion of construction work. High performance is expected for future funding consideration.

Please Note: This policy does not require the employment of Section 3 Workers or contractors who do not meet the qualifications for the position(s) to be filled, or who cannot fulfill the contract requirements. The Section 3 requirements only apply to construction contractors who install materials and/or equipment. Therefore, contractors who only furnish materials or supplies through Section 3 covered assistance are exempt. Once the construction cost of a project meets the minimum threshold established by HUD, the entire construction work within the particular project will be subject to the Section 3 requirements, regardless of additional source(s) of funds involved.

Signage

Section 3 signage should be posted at the construction sites. Signage must be large enough to be visible from the street. The sign must:

- Identify the name of the project;
- State that the facility/project is a HUD Section 3 Project; and
- Include contact information (name, telephone number, fax, and e-mail, if any).

Section 3 Provisions/Contract Language

The City will include standard Section 3 language in all of its contracts to ensure compliance with regulations in 24 CFR Part 75. The City will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis, the Section 3 Coordinator will audit the City's contractors for compliance with minimum Section 3 requirements.

In addition, contractors and subrecipients are required to include all Section 3 covered contracts or agreements for subcontractors to meet the requirements of 24 CFR Part 75.9 (for public housing assistance) or 24 CFR Part 75.19 (for housing and community development financial assistance).

Documentation Requirements

All contractors and/or subcontractors with a contract are required to submit a completed Section 3 Compliance Packet to the City Compliance Officer or designee for review and approval. Review comments will be made available to the contractor and/or subcontractor within ten (10) business days of the receipt of the documents. In completing the Compliance Packet, the contractor and/or subcontractor will have provided the following information:

1. Identification of the project area.
2. Certification of compliance to the Section 3 policy and regulations (24 CFR part 75).
3. Agreement to following preference rules and complete competitive bidding and to meet the benchmark goals by providing training, employment, and contracting opportunities to Section 3 workers and businesses.
4. Specific information about the current workforce.
5. Firm commitment to include as part of all bids, the Bid Tabulation and Section 3 Utilization Plan (once approved by the City).

6. Provide the Permanent Employee List and Request for Contractor Clearance for each contractor and subcontractor.
7. Firm commitment to conduct aggressive outreach and notification to potential Section 3 Workers and businesses of hiring opportunities using site signage, flyers, etc.

The City Compliance Officer requests specific workforce plan analysis for hiring and training Section 3 eligible workers and for engaging Section 3 Certified Business Concerns. Additionally, the Compliance Officer requests a firm commitment to provide identified area employment agencies of job availabilities from the established job pool of Section 3 residents.

Record Maintenance and Documentation

All Section 3 projects are required to maintain comprehensive documentation of their Section 3 outreach efforts and implementation activities, and must be able to have all documents available for review by City and/or HUD officials.

Data Collection and Reporting

Monthly and annual reports are collected, processed and distributed by the contractor's Section 3 Coordinator. Data collection and reports can be e-mailed, mailed, or hand-delivered to the City Compliance Officer at:

City of Pasadena - City Hall
1149 Ellsworth Drive, Pasadena, TX 77506
Attn: Michelle Wilson

Monthly Reporting

The City requires the submittal of assigned monthly activity reports to the City Compliance Officer by the 10th day of each month during the construction cycle.

Annual Reporting

Once a project is completed, the City Compliance Officer will conduct a final review of the project's overall performance and compliance. The City Compliance Officer will complete a final Section 3 cumulative report for the program year.

Preference for Section 3 Business Concerns

A Section 3 Business Concern is a business that meets one of the following criteria:

Project Name

City of Pasadena, TX Section 3 Policy and Guidelines

1. A majority 51% or more ownership of business shall be held by low to very-low-income residents;
2. 75% or more labor hours are performed by low to very-low-income residents over the prior three-month period; or
3. 51% or more owned by current residents of public housing or Section 8 assisted housing.

The City will accept Section 3 Business Concerns and Section 3 Workers that have been certified by the City of Houston and Harris County, and have registered with the U.S. Department of Housing and Urban Development Section 3 Business Registry.

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

Businesses that seek Section 3 preference shall certify, or demonstrate to the City of Pasadena, contractors and sub-contractors, that they meet the definitions provided above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification form.

Section 3 Business Concern Certification forms must be submitted at the time of bid/proposal. If the City previously approved the Business Concern to be Section 3 certified, then certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date.

Preference shall be awarded to Section 3 Business Concerns according to the following system:

- Where the Section 3 Covered Contract is to be awarded based upon the lowest responsible price, the contract shall be awarded to the qualified Section 3 Business Concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 Business Concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.
- Where the Section 3 Covered Contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for Section 3 Business Concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and

all other factors specified in the rating system.

Competitive Bids

Procurement by Sealed Bids (Invitations for Bids):

Preference in the award of Section 3 Covered Contracts that are awarded under a sealed bid process may be provided as follows:

Bids shall be solicited from all businesses (Section 3 Business Concerns, and non-Section 3 Business Concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking and with the lowest responsive bid:

- Bids shall be solicited from all businesses (Section 3 Business Concerns and non-Section 3 Business Concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsive bid if that bid:
 - a. Is within the maximum total contract price established in the City's budget for the specific project for which bids are being taken; and
 - b. Is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:
 - X = lesser of:
 - When the lowest responsive bid is less than \$100,000 10% of that bid or \$9,000
 - When the lowest responsive bid is:
 - At least \$100,000, but less than \$200,000..... 9% of that bid or \$16,000
 - At least \$200,000, but less than \$300,000.....8% of that bid or \$21,000
 - At least \$300,000, but less than \$400,000.....7% of that bid or \$24,000
 - At least \$400,000, but less than \$500,000.....6% of that bid or \$25,000
 - At least \$500,000, but less than \$1 million.....5% of that bid or \$40,000
 - At least \$1 million, but less than \$2 million.....4% of that bid or \$60,000
 - At least \$2 million, but less than \$4 million.....3% of that bid or \$80,000
 - At least \$4 million, but less than \$7 million.....2% of that bid or \$105,000
 - \$7 million or more, 5% of the lowest responsive bid, with no dollar limit.
- If no responsive bid by a Section 3 Business Concern meets the requirements of paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.
- In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

Grievance Procedure for Section 3 Non-Compliance

Written complaint must contain:

- Valid name, address and contact information of the person filing the complaint;
- Valid name, address, and contact information of the contractor/subcontractor the concern is levied against;
- Dates and description of acts or omissions in alleged violation of Section 3; and
- Statement of corrective action(s) sought, (i.e. training, employment or contracts).

When a complaint is filed, the City Compliance Officer will be responsible for investigating the issue internally or may refer the concern to the HUD Field Office, if necessary.

Enforcement of the Section 3 Requirements

The overall compliance of the contract/project will be evaluated by the City Compliance Officer. Regular assessments of the project's status and compliance will be provided, allowing opportunity for correction pending moments of non-compliance. However, continuous violations and failure to comply with the Section 3 may result in:

- Sanction and debarment;
- Suspension; or
- Limited denial of participation.

To ensure that the contractor will satisfy all legal and contractual obligations, including but not limited to Section 3 requirements, the City has the right to withhold payments until the Contractor meets compliance requirements, and contractual terms are completed to the satisfaction of the City.

When initial review of potential new HUD funded projects commence, record and reports of continuous violators will be submitted as recommendation of NO future HUD funding.

Project Name

City of Pasadena Policy Definitions

Definitions

The City incorporates into this policy the definitions contained in § 75.5 of 24 CFR Part 75.

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in [24 CFR part 5](#). The following definitions also apply to this part:

1937 Act means the United States Housing Act of 1937, [42 U.S.C. 1437](#) *et seq.*

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.

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 mean 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 [§ 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
 - (iii) 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.

Project Name

City of Pasadena Policy Definitions

(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.

Section 3 project means a project defined in [§ 75.3\(a\)\(2\)](#).

Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 ([12 U.S.C. 1701z-1](#) or [1701z-2](#)), the Lead-Based Paint Poisoning Prevention Act ([42 U.S.C. 4801 et seq.](#)); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 ([42 U.S.C. 4851 et seq.](#)). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

(ii) The Secretary must update the thresholds provided in [paragraph \(a\)\(2\)\(i\)](#) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) **Contracts for materials.** Section 3 requirements do not apply to material supply contracts.

(c) **Indian and Tribal preferences.** Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5307\(b\)](#)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act ([25 U.S.C. 4111\(k\)](#)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) **Other HUD assistance and other Federal assistance.** Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

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.

(iii) The worker is a YouthBuild participant.

Project Name

City of Pasadena Policy Definitions

(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 [§§ 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.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act ([29 U.S.C. 3226](#)).

Multiple Funding Sources - Chart

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

24 CFR PART 75 - ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Source: 85 FR 61562, Sept. 29, 2020, unless otherwise noted.

Subpart A - General Provisions

§ 75.1 Purpose.

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 ([12 U.S.C. 1701u](#)) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

§ 75.3 Applicability.

(a) **General applicability.** Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) **Public housing financial assistance.** Public housing financial assistance means:

- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
- (iv) 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 [paragraphs \(a\)\(1\)\(i\)](#) through [\(iii\)](#) of this section.

(2) **Section 3 projects.**

- (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 ([12 U.S.C. 1701z-1](#) or [1701z-2](#)), the Lead-Based Paint Poisoning Prevention Act ([42 U.S.C 4801 et seq.](#)); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 ([42 U.S.C. 4851 et seq.](#)). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.
- (ii) The Secretary must update the thresholds provided in [paragraph \(a\)\(2\)\(i\)](#) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

Project Name

City of Pasadena - Section 3 Regulations

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) **Contracts for materials.** Section 3 requirements do not apply to material supply contracts.

(c) **Indian and Tribal preferences.** Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5307\(b\)](#)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act ([25 U.S.C. 4111\(k\)](#)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) **Other HUD assistance and other Federal assistance.** Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

§ 75.5 Definitions.

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in [24 CFR part 5](#). The following definitions also apply to this part:

1937 Act means the United States Housing Act of 1937, [42 U.S.C. 1437 et seq.](#)

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.

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 [§ 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.

Project Name

City of Pasadena - Section 3 Regulations

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
 - (iii) 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.

Section 3 project means a project defined in [§ 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.
 - (iii) 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.

Project Name

City of Pasadena - Section 3 Regulations

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 [§§ 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.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act ([29 U.S.C. 3226](#)).

§ 75.7 Requirements applicable to HUD NOFAs for Section 3 covered programs.

All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by [§ 75.3](#) will include notice that this part is applicable to the funding and may include, as appropriate for the specific NOFA, points or bonus points for the quality of Section 3 plans.

Subpart B - Additional Provisions for Public Housing Financial Assistance

§ 75.9 Requirements.

(a) Employment and training.

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in [paragraph \(a\)\(1\)](#) of this section in the following order of priority:

(i) To residents of the public housing projects for which the public housing financial assistance is expended;

(ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;

(iii) To participants in YouthBuild programs; and

(iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) Contracting.

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

Project Name

City of Pasadena - Section 3 Regulations

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in [paragraph \(b\)\(1\)](#) of this section in the following order of priority:

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

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

(iii) To YouthBuild programs; and

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

§ 75.11 Targeted Section 3 worker for public housing financial assistance.

(a) **Targeted Section 3 worker.** A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

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

(i) A resident of public housing or Section 8-assisted housing;

(ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

(iii) A YouthBuild participant.

(b) [Reserved]

§ 75.13 Section 3 safe harbor.

(a) **General.** PHAs and other recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary, if they:

(1) Certify that they have followed the prioritization of effort in [§ 75.9](#); and

(2) Meet or exceed the applicable Section 3 benchmarks as described in [paragraph \(b\)](#) of this section.

(b) **Establishing benchmarks.**

(1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the Federal Register. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the type of public housing financial assistance, or other variables. HUD will update the benchmarks through a document published in the Federal Register, subject to public comment, not

less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of PHAs and other recipients meeting benchmarks, as well as other metrics reported pursuant to [§ 75.15](#) as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per [§ 75.15\(a\)\(4\)](#).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

(ii) The number of labor hours worked by Targeted Section 3 workers, as defined in [§ 75.11\(a\)](#), divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

§ 75.15 Reporting.

(a) Reporting of labor hours.

(1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to [§ 75.31](#).

(3) The labor hours reported under [paragraph \(a\)\(1\)](#) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to [paragraph \(a\)\(4\)](#) of this section, to report.

(4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under [paragraph \(a\)\(1\)\(ii\)](#) of this section, and labor hours by Targeted Section 3 workers, under [paragraph \(a\)\(1\)\(iii\)](#) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under [paragraph \(a\)\(1\)\(i\)](#) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) **Additional reporting if Section 3 benchmarks are not met.** If the PHA's or other recipient's reporting under [paragraph \(a\)](#) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in [§ 75.13](#), the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. 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 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.
- (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.
- (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.

(c) **Reporting frequency.** Unless otherwise provided, PHAs or other recipients must report annually to HUD under [paragraph \(a\)](#) of this section, and, where required, under [paragraph \(b\)](#) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

(d) **Reporting by Small PHAs.** Small PHAs may elect not to report under [paragraph \(a\)](#) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in [paragraph \(b\)](#) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.17 Contract provisions.

(a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.

(b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

(c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of [§ 75.9](#), regardless of whether Section 3 language is included in contracts.

Subpart C - Additional Provisions for Housing and Community Development Financial Assistance

§ 75.19 Requirements.

(a) **Employment and training.**

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising 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.

(2) Where feasible, priority for opportunities and training described in [paragraph \(a\)\(1\)](#) of this section should be given to:

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

(b) **Contracting.**

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with 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.

(2) Where feasible, priority for contracting opportunities described in [paragraph \(b\)\(1\)](#) of this section should be given to:

- (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
- (ii) YouthBuild programs.

§ 75.21 Targeted Section 3 worker for housing and community development financial assistance.

Project Name

City of Pasadena - Section 3 Regulations

(a) **Targeted Section 3 worker.** A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern; or
- (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in [§ 75.5](#); or
 - (ii) A YouthBuild participant.

(b) [Reserved]

§ 75.23 Section 3 safe harbor.

(a) **General.** Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

- (1) Certify that they have followed the prioritization of effort in [§ 75.19](#); and
- (2) Meet or exceed the applicable Section 3 benchmark as described in [paragraph \(b\)](#) of this section.

(b) **Establishing benchmarks.**

(1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the Federal Register. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the Federal Register, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to [§ 75.25](#) as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per [§ 75.25\(a\)\(4\)](#).

(3) Section 3 benchmarks will consist of the following two ratios:

- (i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.
- (ii) The number of labor hours worked by Targeted Section 3 workers as defined in [§ 75.21\(a\)](#), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

§ 75.25 Reporting.

(a) Reporting of labor hours.

(1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

- (i) The total number of labor hours worked;
- (ii) The total number of labor hours worked by Section 3 workers; and
- (iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to [§ 75.31](#).

(3) The labor hours reported under [paragraph \(a\)\(1\)](#) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to [paragraph \(a\)\(4\)](#) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under [paragraph \(a\)\(1\)\(ii\)](#) of this section, and labor hours by Targeted Section 3 workers, under [paragraph \(a\)\(1\)\(iii\)](#) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under [paragraph \(a\)\(1\)\(i\)](#) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) Additional reporting if Section 3 benchmarks are not met. If the recipient's reporting under [paragraph \(a\)](#) of this section indicates that the recipient has not met the Section 3 benchmarks described in [§ 75.23](#), the recipient must report in a form prescribed by HUD 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 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.
- (5) Held one or more job fairs.

Project Name

City of Pasadena - Section 3 Regulations

- (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.
- (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.

(c) **Reporting frequency.** Unless otherwise provided, recipients must report annually to HUD under [paragraph \(a\)](#) of this section, and, where required, under [paragraph \(b\)](#) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.27 Contract provisions.

- (a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.
- (b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of [§ 75.19](#), regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Subpart D - Provisions for Multiple Funding Sources, Recordkeeping, and Compliance

§ 75.29 Multiple funding sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to [§ 75.3\(a\)\(1\)](#) and [\(2\)](#), the recipient must follow [subpart B of this part](#) for the public housing financial assistance and may follow either [subpart B](#) or [C of this part](#) for the housing and community development financial assistance. For such a project, the following applies:

- (1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either [subpart B](#) or [C of this part](#); and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

- (i) The total number of labor hours worked on the project;
- (ii) The total number of labor hours worked by Section 3 workers on the project; and
- (iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in [§ 75.3\(a\)\(2\)](#), the recipient or recipients must follow [subpart C of this part](#), and must report to the applicable HUD program office, as prescribed by HUD.

§ 75.31 Recordkeeping.

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

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

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under [subpart B of this part](#):

- (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under [subpart C of this part](#):

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in [paragraph \(b\)](#) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with [2 CFR part 200](#).

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

§ 75.33 Compliance.

(a) **Records of compliance.** Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in [2 CFR part 200](#).

(b) **Complaints.** Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) **Monitoring.** HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.