

SECTION 3 CONTRACT REQUIREMENTS [24 CFR 75]

(For Grants/Projects Awarded ON or AFTER November 30, 2020)

Insertion of this document is required in all prime contracts and sub-contracts funded in whole or in part with U.S. Department of Housing and Urban Development (HUD) funds (including Community Development Block Grant (CDBG) projects) when the HUD/CDBG Award to the Grantee is greater than \$200,000 and the project includes construction activities.*

SECTION 3 TERMS OF CONTRACT

1. **Section 3 of the Housing and Urban Development Act of 1968:** The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3), [24 CFR 75](#). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. **Contractor Certification of Compliance:** The parties to this contract agree to comply with HUD's regulations in [24 CFR 75](#), which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the [24 CFR 75](#) regulations.
3. **Contract Language Requirement:** The contractor agrees to include this *Section 3 Contract Requirements* document in every sub-contract subject to compliance with regulations in [24 CFR 75](#), and agrees to take appropriate action, as provided in an applicable provision of the sub-contractor in this *Section 3 Contract Requirements* document, upon a finding that the sub-contractor is in violation of the regulations in [24 CFR 75](#). The contractor will not sub-contract with any sub-contractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in [24 CFR 75](#).
4. **Section 3 Definitions:** Definitions for key Section 3 terms per [24 CFR 75](#) are as follows:
 - Section 3 Worker:** An employee who *currently* fits, or fit at the time of hire if hired *on or after 11/30/2020*, at least one of the following categories:
 - (1) is employed by a Section 3 Business Concern; **or**
 - (2) is a low- or very low-income resident (i.e., a local person living within the Section 3 service area, with an *individual* annualized income currently as of the date of starting work on the project, or at the time of hire if hired *on or after 11/30/2020*, that is/was at or below the low-income (80%) threshold established by HUD for a Family of 1 for the county in which the person lives) [Note: The HUD income threshold must be from the [HUD Income Limits for the CDBG program](#) in effect currently in effect as of the date the worker started work on the project, or at the time of hire if hired *on or after 11/30/2020*]; **or**
 - (3) is/was a [YouthBuild](#).
 - Targeted Section 3 Worker:** A Section 3 Worker who:
 - (1) is employed by a Section 3 Business Concern, **or**
 - (2) currently fits, or fit at the time of hire if hired *on or after 11/30/2020* at least one of the following categories as documented:
 - (i.) lives/lived in the neighborhood or within the Section 3 service area of the project; **or**
 - (ii.) is/was a [YouthBuild](#).
 - Section 3 Business Concern:** A business that fits at least one of the following categories (as certified within the past 6 months):
 - (1) 51% or more owned by low- or very low-income persons; **or**
 - (2) 75% or more of the labor hours are performed by low- or very low-income persons; **or**
 - (3) 51% or more owned by current residents of public housing or Section 8-assisted housing.
 - Section 3 Service Area:** An area within one mile of the project's location (i.e., street address); **or** an area within a circle centered around the project site that encompasses 5,000 people [if less than 5,000 people live within a one mile radius of the project site].
7. **Contracting Requirements:** To the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, the Grantee, subrecipients, and prime contractors and sub-contractors for the HUD/CDBG funded project agree to ensure contracts and sub-contracts for work awarded in connection with the project are awarded to business concerns that provide economic opportunities to Section 3 Workers; and where feasible in the following order of priority: (1) Section 3 Business Concerns that provide economic opportunities to Section 3 Workers residing within the metropolitan area (or nonmetropolitan county) in which the HUD funded assistance is provided/in which the HUD/CDBG funded project is occurring; and (2) [YouthBuild](#) programs.
8. **Employment and Training Requirements:** To the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, the Grantee, subrecipients, and prime contractors and sub-contractors for the HUD/CDBG funded project agree to ensure employment and training opportunities generated in connection with the project are filled by Section 3 Workers; and where feasible, in the following order of priority: (1) low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the HUD/CDBG assistance is expended (i.e., in which the HUD/CDBG funded project is occurring); and (2) participants in [YouthBuild](#) programs.

* This language is **required to be included in prime contracts and sub-contracts for a project that are funded in whole or in part with HUD/CDBG funds, and the HUD/CDBG Award to the Grantee is greater than \$200,000, and the HUD/CDBG funds were awarded to the Grantee on 11/30/2020 or later, and the HUD/CDBG funded project includes construction activities (including new construction, rehabilitation, renovation, site demolition and/or clearance).** HUD/CDBG funded projects awarded on or after 11/30/2020, for which the HUD/CDBG funded Award is \$200,000 or less and/or for which there are no construction activities in the scope of work (e.g., Planning-only, Public Services-only, Housing Counseling-only, Financial Assistance-only [such as housing or economic development loans], etc.) are **not** subject to the Section 3 requirements of [24 CFR 75](#). Insertion of this Section 3 Contract Requirements document is **required for contracts funded in whole or in part with the HUD/CDBG funds and strongly recommended for ALL contracts, regardless of funding source for the specific contract, for a project that is subject to 24 CFR 75, to help avoid issues with compliance and reporting later in the project cycle in the event that the funding source for the contract changes.** All sub-contractors of a prime contractor that is funded in whole or in part with HUD/CDBG funding are subject to the same Section 3 requirements as the prime contractor.

SECTION 3 CONTRACT REQUIREMENTS [24 CFR 75]

9. **Reporting Labor Hours:** The Grantee, subrecipients, *and* prime contractors and sub-contractors for the HUD/CDBG funded project agree to report all worker (see **exception** below)** labor hours on the project as follows: (1) the total number of labor hours worked on the project by each worker; (2) the total number of labor hours worked on the project by Section 3 Workers; and (3) the total number of labor hours worked on the project by Targeted Section 3 Workers. The labor hours reported shall include the total number of labor hours worked on the HUD/CDBG funded project by workers employed by the Grantee, subrecipients, their prime contractors and the sub-contractors of the project, during the reporting period specified by HUD and the State CDBG Program. The labor hours reported may be 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. [Note: Construction contractors required to maintain certified payroll records to meet federal labor standards requirements agree to report actual work hours as reported on the certified payroll records.]
- **Exception** for positions that **require** an advanced degree or a professional certification: Reporting of hours for positions requiring an advanced degree or a professional certification is not required, but the hours may be reported to demonstrate Section 3 "best efforts". The Grantee, prime contractors and sub-contractors may report the labor hours by Section 3 Workers and Targeted Section 3 Workers without including labor hours from employees covered by the exception in the total number of labor hours worked. If the contract covers both work completed by employees covered by the exception and other work completed by employees not covered by the exception, then the labor hours for the other work by employees not covered by the exception must be reported.
10. **Section 3 Goals/"Safe Harbor" Benchmarks:** The Grantee, subrecipients, *and* prime contractors and sub-contractors agree to strive to meet the "safe harbor" benchmarks (as established by the HUD Section 3 Final Rule ([24 CFR 75](#)), which established quantitative benchmarks and prioritized qualitative efforts for funding recipients to achieve to assist low- and very low-income persons with employment and training opportunities. The "safe harbor" benchmarks are to have: (1) 25% or more of all labor hours worked on the project be by Section 3 Workers; and (2) 5% or more of all labor hours worked on the project be by Targeted Section 3 Workers. If the "safe harbor" benchmarks are not met over the course of the project, then the Grantee *and* prime contractors and sub-contractors for the HUD/CDBG funded project agree to provide evidence of completing qualitative efforts to assist low- and very low-income persons with employment and training opportunities. Supporting documentation of these completed efforts must also be maintained in the Grantee's and contractors' project files, to be made available upon request for monitoring purposes.
11. **Demonstrating Best Efforts:** When the Section 3 benchmarks are not met, the Grantee *and* prime contractors and sub-contractors for the HUD/CDBG funded project agree to demonstrate and report qualitative efforts made in an attempt to meet the benchmarks, which may include but are not limited to the following:
- (1) Engage in outreach efforts to generate job applicants who are Targeted Section 3 Workers.
 - (2) Provide training or apprenticeship opportunities.
 - (3) Provide technical assistance to help Section 3 Workers compete for jobs (e.g., resume assistance, coaching, etc.).
 - (4) Provide or connect 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) Hold one or more job fairs.
 - (6) Provide or refer Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care, etc.).
 - (7) Provide assistance to Section 3 Workers to apply for and/or attend community college, a four-year educational institution, or vocational/technical training.
 - (8) Assist Section 3 Workers to obtain financial literacy training and/or coaching.
 - (9) Engage in outreach efforts to identify and secure bids from Section 3 Business Concerns.
 - (10) Provide technical assistance to help Section 3 Business Concerns understand and bid on contracts.
 - (11) Divide contracts into smaller jobs to facilitate participation by Section 3 Business Concerns.
 - (12) Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business Concerns.
 - (13) Promote use of business registries designed to create opportunities for disadvantaged and small businesses.
 - (14) Conduct outreach, engagement, or referrals with the [State one-stop Supplier Diversity Program system](#) as defined in [Section 121\(e\)\(2\) of the Workforce Innovation and Opportunity Act](#).
12. **Recordkeeping & Reporting:** The Grantee, subrecipients, *and* prime contractors and sub-contractors for the HUD/CDBG funded project agree to maintain all records demonstrating compliance with [24 CFR 75](#), including contracting information and documents, Section 3 Business Concern Certification forms, Section 3 Employee Income Certifications, and worker labor hours; *and* provide data and reporting documents as requested and required by the State CDBG Program and/or HUD. Grantee, subrecipient, and contractor records may be monitored for compliance by the State CDBG Program and/or HUD.
13. **Non-Compliance:** Non-compliance with HUD's regulations in [24 CFR 75](#) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
14. **Indian Housing Assistance Project Specifications:** For work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the [Indian Self-Determination and Education Assistance Act \(25 U.S.C. 46\)](#) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii) preference in the award of contracts and sub-contracts shall be given to Indian organizations and Indian-Owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

SECTION 3 DOCUMENTATION & RECORDKEEPING SUMMARY

(For Grants/Projects Awarded On or After 11/30/2020)

Grantees and Contractors for projects subject to the Section 3 requirements of [24 CFR 75](#) are subject to the Section 3 documentation and recordkeeping requirements, as summarized below. The "Employer" refers to a Grantee or Contractor. The "Grantee" refers to the direct recipient of the HUD/CDBG award and their grant subrecipient(s) (i.e., the organization(s) on which behalf the Grantee submitted the grant application), if applicable; and "Contractors" refer to prime contractors and sub-contractors (all tiers) for construction and/or non-construction activities and/or services.

- 1) **Section 3 Requirements [24 CFR 75] contract language insertion (Attachment 6-B(2)):** If the project is subject to the Section 3 requirements of [24 CFR 75](#), then this must be included in all prime contracts and subcontracts funded in whole or in part with HUD/CDBG funds. When HUD/CDBG funding will cover the costs (in whole or in part) for a prime contractor's work, then all subcontracts of that prime contract are also considered to be funded (in whole or in part) with the HUD/CDBG funds and therefore subject to the same Section 3 requirements as the prime contractor.
- 2) **Section 3 Employee Income Certification forms (Attachment 9-K(2)):** Employers (i.e., Grantees, Subrecipients, and Contractors) must complete Part A and Part C of the form for all of their employees** working on the project upon the employee starting work on the project, basing responses on the wages the employer pays the employee (annualized) and address information the employer has on file for the employee. Part B of the form is optional (not required) for the employer to provide to an employee to complete and sign to collect income and public housing status data at the time of the employee's hire date *if hired on or after 11/30/2020*.
- 3) **Labor Hours Tracking:** The labor hours worked by all employees** who work on the HUD/CDBG funded project must be tracked and reported semi-annually on the Contractor's *Individual Contractor Section 3 Report (Attachment 9-M)* or similar document and on the Grantee's *CDBG Data Report (Attachment 9-C)*.

****Exception:** An exception is allowed for Employees in positions that **require** an advanced degree or professional certification. It is *optional* (not required) for the Employer to complete the Section 3 Employee Income Certification form for these Employees and to track their labor hours on the project. If the employee may qualify as a Section 3 Worker, then it is beneficial to have complete the Certification form and to track their hours to help the Employer meet the Section 3 "safe harbor" benchmarks.

- 4) **Section 3 Business Concern Certification forms (Attachment 9-L):** All Employers (excluding non-profit organizations) must complete this form at the time of contracting or starting work on the project. The Grantee must maintain the completed forms (along with the *Section 3 Employee Income Certification* forms collected from the Contractor) in the project file.
- 5) **Individual Contractor Section 3 Report (Attachment 9-M):** All Employers must complete this form or a similar type of reporting form with the same information each semi-annual reporting period in which they worked on the project (the semi-annual reporting periods are April 1 – September 30, and October 1 – March 31 each year); and the Grantee must maintain them in the project file.
- 6) **CDBG Data Report (Attachment 9-C):** The Grantee must complete this form, reporting all Section 3 data from the Grantee, Subrecipients, and Contractors (data from the Attachment 9-K(2), 9-L, and 9-M forms); and submit it to DEHCR by the due dates specified in the Grant Agreement – Attachment A – Time Table, and in Chapter 9: Reporting of the [CDBG Implementation Handbook](#).
- 7) **Achieving Section 3 Goals/"Safe Harbor" Benchmarks:** Grantees, Subrecipients, and Contractors must strive to meet the HUD Section 3 "safe harbor" benchmarks for assisting low- and very low-income persons with employment and training opportunities, which are to:
 - have 25% or more of all labor hours worked on the project be by Section 3 Workers; and
 - have 5% or more of all labor hours worked on the project be by Targeted Section 3 Workers.
 To accomplish this, Grantees, Subrecipients, and Contractors must, to the greatest extent feasible, award contracts to Section 3 Business Concerns and [YouthBuild](#) programs; and fill employment and training opportunities generated in connection with the project with low- and very low-income persons (i.e., Section 3 Workers and Targeted Section 3 Workers).
- 8) **"Best Efforts" Reporting:** If the "safe harbor" benchmarks are not met over the course of the project, then the Grantee, Subrecipient, *and* Contractors for the project must provide evidence of completing qualitative "best efforts" to assist low- and very low-income persons with employment and training opportunities. "Best efforts" examples are listed on page 2 of this *Section 3 Requirements [24 CFR 75]* document (**Attachment 6-B(2)**), the *CDBG Data Report (Attachment 9-C)*, and the *Individual Contractor Section 3 Report (Attachment 9-M)*. Efforts must be reported by the Grantee on the *CDBG Data Report (Attachment 9-C)*; and reported by the Contractor on the *Individual Contractor Section 3 Report (Attachment 9-M)* or similar document with the same information.

NOTE: The "Attachment" documents listed in this document refer to "attachments" that appear within Chapter 6 and Chapter 9 of the [CDBG Implementation Handbook](#) and that are linked under the "Chapter Attachments/Fillable Forms" section of the [CDBG Implementation Handbook website](#).