

DIGITAL RESOURCE MANUAL: SECTION 3 101

SECTION 3

HUD funds tend to be one of the largest sources of federal investment in distressed communities and typically result in new employment, training, and contracting opportunities. Section 3 regulations are designed to direct those opportunities to local residents and businesses and while HUD has identified numeric goals specific to each of the three major target activities (hiring, training, and contracting), it is understood that situations don't always allow for those goals to be met. However, even if the specific numeric goals of Section 3 can't be achieved, responsible parties must report their good faith efforts to comply.



Key Point

A Section 3 plan and Coordinator, while not statutorily required, demonstrate good faith efforts to comply with Section 3 regulations that can be easily passed on to contractors and subcontractors.

Demonstrating good faith efforts for Section 3 regulations means showing what policies, procedures, and other general efforts are taken to reasonably incorporate Section 3 goals and practices into DR contract administration. Section 3 Plans are not required but can be useful for consolidating policies and procedures into a single document that can then be passed down to contractors and subcontractors. Below is a checklist of items that pertain to Section 3 compliance:




- Identify HUD Income Limits and your specific CDBG-DR Service Area;
- Identify your organization's Section 3 covered contracts;
- Develop policies and procedures clearly defining a commitment to Section 3 compliance and outlining compliance efforts, including reporting and recordkeeping;
- Enhance hiring and contracting materials to include language stating the economic opportunity is seeking qualified Section 3 residents or businesses;
- Record proof of posting to job boards and economic outreach sites, for all job and contract announcements; and
- Make Section 3 complaint information publically available.

If Section 3 numerical goals cannot be achieved, the reporting entity (subrecipient, contractor, or subcontractor) must demonstrate its good faith efforts to meet those goals. **Failure to achieve or demonstrate efforts to achieve Section 3 compliance may result in the inability to receive federal funds in the future.**

RESOURCE LIST

Below is a quick listing of resources that are accessible, relevant and valuable.

Icon  denotes the most relevant resources at the Section 3 101 level.

CDBG-DR Resources	Links
HUD.Gov Section 3 Overview 	https://www.hud.gov/section3
Sample Business Concern Form	https://www.hudexchange.info/resource/750/sample-section-3-certification-form-business-seeking-preference/
Sample Resident Certification Form 	https://www.hudexchange.info/resource/751/sample-section-3-certification-form-resident-seeking-preference/
Sample Section 3 Plan	https://www.hudexchange.info/resource/766/section-3-sample-plan-template/
Section 3 Regulations	https://www.hudexchange.info/resource/2615/section-3-of-the-housing-and-urban-development-act-of-1968/
Section 3 Requirements Flowchart	https://www.hudexchange.info/resource/764/section-3-requirements-flow-chart/
HUD Section 3 FAQ 	https://www.hud.gov/sites/documents/11SECFAQS.PDF
HUD Section 3 FAQ for Businesses	https://www.hud.gov/sites/documents/SEC3BIZFAQ.PDF
HUD Income Limits	https://www.huduser.gov/portal/datasets/il.html
HUD Section 3 Business Registry	https://portalapps.hud.gov/Sec3BusReg/BRegistry/What
Section 3 Clause	https://www.law.cornell.edu/cfr/text/24/135.38

PERTINENT CITATIONS

Federal

- 12 U.S.C. 1701u – Economic opportunities for low- and very low-income persons
- 24 CFR 135 – Section 3 Regulations

GLO CDBG-DR Guidance

- Section 3 Guidance



Key Point

HUD's published Section 3 FAQs provide user-friendly guides on common questions and more subtle nuances of Section 3.

Similar Regulations

HUB – Historically Underutilized Businesses (*TX-specific*)

- Promotes full and equal procurement opportunities for small, minority- and women-owned businesses. Companies interested in doing business with the state are encouraged to become HUB certified.

EEO – Equal Employment Opportunity

- The U.S. Equal Employment Opportunity Commission is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. It is illegal to discriminate against a person for complaining about discrimination, filing a charge of discrimination, or participating in an employment discrimination investigation or lawsuit.

DBRA – Davis Bacon and Related Acts

- The Davis Bacon Act of 1931 is a federal law that requires all on-site employees be paid fair wages, benefits, and overtime (also known as the “prevailing wage”) weekly while working on government-funded construction, alteration, or repair projects at a minimum threshold of \$2,000. A useful guide on the applicability of DBRA in the context of CDBG can be found in HUD’s [Making Davis Bacon Work guide](#).

WBE – Women Owned Business Enterprises

- A Woman-Owned Business Enterprise (WBE) is defined as one that is at least 51% owned, operated and controlled on a daily basis by one or more female American citizens.

DBE – Disadvantaged Business Enterprises

- DBEs are for-profit small business concerns where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations.
- African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can qualify on a case-by-case basis.

MBE – Minority Owned Business Enterprises

The minimum requirements to qualify as a MBE are:

- A for-profit business located in the United States;
- 51% owned, operated, capitalized and controlled by a member(s) of a *presumed group* identified below, who is the top executive officer responsible for managing daily operations with a technical expertise in the firm’s primary business;
- Legal residents (green card holders) are accepted by most MBE programs administered by a city, county and state.

Generally speaking, a member(s) of a *presumed group* includes:

- Black American: any Black racial group originating in Africa;
- Hispanic: origins in Mexico, Puerto Rico, Cuba, Central and South American, or other Spanish or Portuguese cultures;
 - Native American: a Native of Alaska or Hawaii, or certified member of a federal or state recognized Indian Tribe;
 - Asian Pacific: origins in the Pacific Islands, China, Taiwan, Korea, Japan, Thailand, Burma, Cambodia, Vietnam, Malaysia, Indonesia, Singapore or Philippines;
 - Subcontinent Asian: origins in India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

GLOSSARY

HUD has many existing resources in place to help understand CDBG-DR laws, regulations and practices. Below is a quick listing of relevant terms and phrases.

<i>Contractor</i>	Any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or work in connection with a Section 3 covered contract.
<i>Employment Opportunities</i>	Employment opportunities arising in connection with a Section 3 Covered Project, as described in 24 CFR 135.3(a)(2), including management and administrative jobs connected with a Section 3 Covered Project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialists, payroll clerk, etc.
<i>First Source Hiring</i>	First source hiring ordinances, contract clauses, and related agreements seek to provide meaningful employment opportunities to residents living within communities most directly impacted by local development projects. First source hiring initiatives seek to ensure that local residents receive a fair share of the economic benefits of public development projects.
<i>Grantee</i>	A unit of local government which is an applicant for Section 3 Covered Assistance or has been awarded Section 3 Covered Assistance in excess of \$200,000.
<i>HUD</i>	The Department of Housing and Urban Development, including its field offices to which authority has been delegated to perform functions under this part.
<i>Low-Income</i>	Individuals and families whose incomes does not exceed 80% of the median income for the area. The HUD Secretary can make adjustments for smaller and larger families or make exceptions to the income ceilings that are either higher or lower than 80% of the median for the area. Local income levels can be obtained online at: http://www.huduser.org/DATASETS/il.html .
<i>New Hire</i>	Full-time employees for permanent, temporary, or seasonal employment created as a <u>direct</u> result of the expenditure of Section 3 covered financial assistance.
<i>Section 3</i>	Section 3 of the Housing and Urban Development Act of 1968 as found at 12 U.S.C. 1701u.
<i>Section 3 Business Concern</i>	A business that meets the following criteria: (1) Is 51% or more owned by Section 3 resident(s); or (2) whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents,

or during the three years of the date of first employment with the business concern were Section 3 residents; or (3) any business concern that commits to subcontract over 25% of the total dollar award of all their subcontracts to Section 3 Business Concerns that meet the qualifications set forth in (1) or (2) of this definition.

<i>Section 3 Coordinator</i>	The individual specific to each entity responsible for Section 3 compliance.
<i>Section 3 Contract Clause</i>	The contract provisions that bind parties to attempt, to the “greatest extent feasible”, to adhere to the Section 3 requirements as set forth in Section 24 CFR 135.38.
<i>Section 3 Covered Contracts</i>	<p>A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for construction or related work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.</p> <p>Section 3 covered contracts do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. Professional services related to construction are counted as Section 3 covered contracts.</p>
<i>Section 3 Plan</i>	A comprehensive document that identifies the goals, objectives, and actions that will be implemented by awardees and/or contractors and subcontractors to ensure compliance with the requirements of 24 CFR 135. The plan identifies a list of strategies to be adopted for compliance with the stated employment, training and contracting goals.
<i>Section 3 Policy</i>	To ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing.
<i>Section 3 Project Area</i>	A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.
<i>Section 3 Regulations</i>	The regulations found at 24 CFR Part 135 which govern the application of 12 U.S.C. 1701u.
<i>Section 3 Requirements</i>	The employment, training, and contracting opportunities imposed by 24 CFR 135 upon Recipients and Covered Contractors.
<i>Section 3 Resident</i>	A public housing resident or an individual receiving Section 8 Housing assistance, or an individual who resides in the metropolitan area or non-

metropolitan county in which assistance is expended and whose income does not exceed 80% (low income) of the median for the area with adjustments.

Section 3 Service Area The geographical area in which persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

Step-Up Employment Program A "Step-Up" employment program is a new national program developed by HUD with the cooperation of the Department of Labor and the National Association of Housing and Redevelopment Officials (NAHRO) to provide job and job training opportunities on HUD-assisted construction to residents of public housing and other low-income people.

Subcontractor Any entity which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance or arising in connection with a Section 3 covered project.

Subrecipient The recipient of GLO CDBG-DR funds subject to the provisions of Section 3.

Very Low-Income Families (including single persons) whose incomes do not exceed 50% of the median income for the area. The HUD Secretary can adjust for smaller and larger families or may establish income ceilings that are higher or lower than 50% of the median for the area. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>
