

LAKE COUNTY COMMUNITY DEVELOPMENT

SECTION 3 PLAN AND COMPLIANCE GUIDE

July 2022

INTRODUCTION

Lake County Community Development (LCCD) administers funds from federal sources for housing and community development activities. LCCD along with the Subrecipients of these funds must ensure compliance with all applicable requirements, including Section 3 of the Housing and Urban Development Act of 1968. This manual is provided as a user's guide and plan for Section 3 compliance.

Section 3 of the Housing and Urban Development Act of 1968 recognizes that employment, job training and contract opportunities are generated by U.S. Department of Housing and Urban Development (HUD) programs. Section 3 is a mandate to target these economic opportunities to lower income residents and businesses in jurisdictions where HUD is investing public resources. Through HUD regulations, participants in HUD's assistance programs (Subrecipients, contactors, and subcontractors) must demonstrate good faith efforts to meet regulatory requirements and to provide "to the greatest extent feasible" opportunities to Section 3 area residents and Section 3 business concerns. The Subrecipient can utilize this document as their Section 3 Plan pending compliance with all the required Section 3 provisions and conditions or incorporate this document into their plan accordingly.

Section 3 is intended to ensure that when employment or contracting opportunities are generated in a covered activity, preference must be given to low and very-low-income persons or business concerns residing in the community where the Section 3 project is located.

These guidelines and modifications are subject to change, this version supersedes and replaces any prior versions. Any questions please contact Community Development 847-377-2475 (communitydevelopment@lakecountyil.gov)

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I. Definitions:

Applicant: any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State unit of local government, public housing agency, Indian housing authority, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder. Property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Business concern: a business entity formed in accordance with State Law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Contractor: any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a section 3 covered project.

Housing and community development assistance: any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development: low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD YouthBuild programs: programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

JTPA: The Job Training Partnership Act [29 U.S.C. 1579(a)].

Labor Hours: the number of paid work hours worked by persons on a Section 3 project or persons employed with funds that include public housing financial assistance.

Low-income person: See the definition of "Section 3 Worker" in this section.

Metropolitan area: a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood area:

- 1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local governments as a neighborhood, village, or similar geographical designation.
- 2) 2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires: full-time employees for permanent, temporary, or seasonal employment opportunities.

Non-metropolitan county: any county outside of a metropolitan area.

Other HUD programs: HUD programs, other than HUD public and Indian Housing programs, that provide housing and community development assistance for “Section 3 covered projects,” as defined in this section.

Professional Services: amended to clarify that only non-construction services that require an advanced degree or professional licensing rather than all non-construction services, are excluded from Section 3.

Section 3 business concern: a business concern, as defined in this section – Businesses that meet of the following criteria (documented in the last 6 months):

- 1) At least 51% owned and controlled by low-income or very low-income persons.
- 2) Over 75% of labor hours performed for the business over prior 3-month period are performed by Section 3 Workers (low or very low-income persons)
- 3) At least 51% owned and controlled by current residents of public housing or Section 8 assisted housing.

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. 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 clause: the contract provisions set forth in 24CFR 75.

Section 3 covered activity: any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance:

- 1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act.
- 2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act.
- 3) Public and Indian moderation assistance provided pursuant to section 14 of the 1937 Act.
- 4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

- Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement); or
- Housing construction; or
- Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract: a contract or subcontract (including professional service contract) awarded by a grant Subrecipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. “Section 3 covered contracts” do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also 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. For example, a contract 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. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

Section 3 covered project: the construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 Worker: any worker who currently fits or when hired within the past five years fit at least one of the following categories, as document:

- 1) The worker’s income for the previous or annualized calendar year is below the income limit established by HUD.
- 2) The worker is employed by a Section 3 business concern.
- 3) The worker is a YouthBuild participant.

The Status of a Section 3 Worker shall not be negatively affected by a prior arrest or conviction. 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.

Subrecipient: any entity which receives Section 3 covered assistance, directly from HUD, or from another Subrecipient and includes, but is not limited to, any state, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private non-profit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Subrecipient also includes any successor, assignee, or Section 3 applies and does not include contractors.

Targeted Section 3 Worker: The proposed priorities are (1) Employed by a Section 3 business concern, or currently meets or when hired, met at least one of the following categories as documented with the past five years.; (2) Living within the service area of the neighborhood of the project; or (3) is a Youthbuild participant. Targeted Section workers will be low or very low-income workers residing within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached.

Targeted Section 3 Worker, Section 3 Workers, and Business Concerns are not guaranteed employment or contracting. Targeted Section 3 Workers must demonstrate that they can meet the qualifications for new employment opportunities. Section 3 Business concerns must submit evidence to the satisfaction of the Subrecipient that they are responsible for and have the ability to perform successfully under the terms and conditions of the proposed contract.

Section 8 assistance: assistance provided under section 8 of the 1937 Act (42 U.S.C 1437F) pursuant to 24 CFR Part 882, Subpart G.

Subcontractor: any entity (other than a person who is an employee of the contractor) which has contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the assistance or arising in connection with a Section 3 covered project. [59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

II. Purpose:

The purpose of the Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.170U)(Section 3) is to ensure that employment and economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons. The purpose of 24 CFR 75 is to establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met.

III. Applicability:

Federal funds administered through LCCD include: HOME Investment Partnership (HOME), Neighborhood Stabilization Program (NSP), Community Development Block Grant (CDBG) .

IV. Thresholds:

Section 3 requirements only apply when any of the following thresholds are reached:

A. *Subrecipient Threshold:*

A Subrecipient that receives community development or housing assistance covered by Section 3 for which the amount of assistance exceeds \$200,000.

B. *Contractor and subcontractor thresholds:*

Section 3 requirements apply to all contractors and subcontractors performing labor on federally funded projects.

C. *Professional service contracts* are covered under Section 3 provided that the work to be performed by the professional is for work generated by the expenditure of Section 3 covered assistance or for work arising in connection with a Section 3 project (e.g., housing rehabilitation, housing construction, or other public construction project).

V. Numerical Goals:

Federal regulations set goals to track and report labor hours worked by Targeted Section 3 workers, Section 3 workers, and contracts with Section 3 business concerns. Subrecipients of assistance have the responsibility of ensuring compliance over contractors and subcontractors.

Initial Section 3 Benchmarks:

- 1) 25% of total labor hours worked by Section 3 workers.
- 2) 5% of total labor hours worked by “Targeted Section 3 workers.”

** Benchmarks set by separate Federal Register notice, will be updated periodically.

VI. Reporting Labor Hours:

For housing and community development assistance, Subrecipients must report the following:

- The total number of labor hours worked.

- The total number of labor hours worked by Section 3 workers.
- The total number of labor hours worked by Targeted Section 3 workers.

Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 workers or Targeted Section 3 worker is established.

Additional reporting is required if Section 3 benchmarks are not met, HUD requires qualitative efforts to be explained to further describe outreach efforts made to comply with the Section 3 benchmarks.

Examples of qualitative efforts may include but are not limited to:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- 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.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

VII. Benchmark:

HUD also notes that not every contractor, subcontractor or Subrecipient must use Section 3 workers. A funds Subrecipient could meet its Section 3 benchmarks with one contract to a Section 3 business concern where the number of labor hours worked is 25% or more if all the labor hours worked by all workers on a Section 3 project while not using Section 3 workers for other work. The Subrecipient has flexibility in determining how to meet its benchmarks.

In establishing the Section 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.

Section 3 Benchmarks consist of the following:

- 1) 25% or more of all labor hours must be worked by Section 3 workers. Section 3 labor hours divided by number of labor hours.
- and
- 2) 5% or more of all labor hours must be worked by Targeted Section 3 workers. Targeted Section 3 labor hours divided by number of labor hours.

VIII. Requirements:

To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, Subrecipients shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the area in which the project is located.

IX. Responsibilities:

Subrecipients and Contractors are responsible to maintain Section 3 Compliance per 24 CFR 75. Subrecipients and contractors must notify contractors/subcontractors of their responsibilities under Section 3 including but not limited to incorporating the Section 3 Clause into contract/subcontract documents.

X. Examples of Efforts made to direct employment and other economic opportunities:

1. Targeted recruitment of Section 3 area workers for training and employment positions by taking such steps as:
 - Advertising in local media,
 - Prominently placing a notice of commitments under Section at the project site or other places where applications for training and employment are taken,
 - Contacting local job training centers, employment service agencies and community organizations,
 - Developing on-the-job training opportunities or participating in job training programs,
 - Contacting assisted housing resident councils and resident management corporations.
2. Keeping a list of Section 3 area workers who apply on their own or by referral for available positions.
3. Selection of Section 3 area workers for training and employment positions.

HUD considers Subrecipients of covered funding to be in compliance with Section 3 if they meet the minimum Numerical Goals set forth in Section “V” above. Absent evidence to the contrary, HUD requires Subrecipients/contractors/subcontractors provide evidence that it has made qualitative efforts to provide low and very low-income persons with employment and training opportunities. Subrecipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable LCCD to make a compliance determination. Subrecipients that submit Section 3 reports containing all zeros, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3.

XI. Subrecipient’s Records and Reports:

Subrecipients 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. Records are to be retained for 3-5 years.

XII. Components of Section 3 Exhibits:

All exhibits are to be completed at the beginning of the Project.

- Exhibit A – Business Concern Certification for Contracting
- Exhibit B – Section 3 Worker & Targeted Section 3 Worker Self-Certification
- Exhibit C – Section 3 Clause

Section 3 Clause – (EXHIBIT C) Inserted into all Section 3 covered contracts and Acknowledged by the Subrecipient and Contractor.



Section 3 Exhibit A Business Concern Certification for Contracting

Instructions: To be completed at beginning of Project or Trade. Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

1. Business Name, Address & FEIN	2. Business Owner Name, Phone & Email	3. Project Name & GRANT #
	4. Business Contact Name:	5. Contact Phone
6. Type of Business	7. Company Owned By:	8. Ethnicity
9. Section 3 Business Concern	9a. Business Concern criteria documented within the last six months:	
10. Person Completing Form	11. Date Submitted:	

	Total Needed for the Project	Section 3 Workers	Targeted Section 3 Workers
Professionals			
Office/Clerical			
Construction Trades			

Lower Tier Subcontractors		
Company Name	Company Address	Contact Name, Phone & Email

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to Lake County Community Development may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Signature

Title

Information regarding Section 3 Business concerns can be found at www.HUD.gov 24 CFR 75.

*Section 3 Worker: 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) YouthBuild participant.

**Targeted Section 3 Worker: 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 5 years: i) A resident of public housing; or ii) A resident of other public housing projects or Section 8-assisted housing; or iii) A YouthBuild participant. Targeted Section 3 workers would be low- or very-low income workers residing within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached.

Section 3 Exhibit B

Section 3 Worker & Targeted Section 3 Worker Self-Certification

The purpose of HUD's Section 3 program is to provide employment, training and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. Your response is confidential and has no effect on your employment.

1. Business Name and Address	2. Project Name	3. Project #
	4. Business Contact and Phone #:	5. Date of Hire
6. Employees Name	7. Employee Address:	8. Resident of Public Housing
9. Employee Ethnicity	10. Date Submitted:	

Select the amount of individual income employee believes they will earn on an annual basis:

- Less than \$10,000
- \$10,001 - \$20,000
- \$20,001 - \$30,000
- \$30,001 - \$40,000
- \$40,001 - \$50,000
- \$50,001 - \$60,000
- More than \$60,000

Select One:

I Qualify as a

- Section 3 Worker
- Targeted Section 3 Worker

The undersigned certifies that the above statements are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Name

Employee Signature

Section 3 Exhibit C

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the "Section 3 Clause"):

- A. 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). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by 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.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 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 part 75 regulations.
- C. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75.
- D. Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19.
- E. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The undersigned agrees to comply with the Section 3 Guidelines as referenced by HUD regulations in 24 CFR part 75 as amended.

Project Name

Printed Name

Signature