



**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**  
**ARCHITECTURE AND CONSTRUCTION SERVICES DIVISION**

**SECTION 3 PLAN AND COMPLIANCE GUIDE**  
July 2021

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**INTRODUCTION**

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The Illinois Housing Development Authority (the Authority) administers funds from federal sources for housing development activities. The Authority and the recipients of these funds must ensure that all applicable requirements are followed. This manual is provided as a user's guide and plan for the "Section 3" requirements and includes the various forms that must be submitted for 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 designed to aid housing, urban planning, and community development. Section 3 is a mandate to target these economic opportunities flowing from the HUD assisted projects to lower income residents and businesses in those jurisdictions and areas where HUD is investing public resources. Through HUD regulations, participants in HUD's assistance programs (recipients, contractors, 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 recipient 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.

Essentially Section 3 is intended to ensure that when employment or contracting opportunities are generated in a covered activity which requires the employment of additional persons or the awarding of contract for work, 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 IHDA at 312-836-3200 ask to speak to Compliance Services Department.

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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 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 documents as a neighborhood, village, or similar geographical designation.
- 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.

**Recipient:** any entity which receives Section 3 covered assistance, directly from HUD or, from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, 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, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

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

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

At least 51% owned and controlled by low-income or very low-income persons.

- 1) 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).
- 2) 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 housing modernization 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 a professional service contract) awarded by a recipient 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 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 documented:

- 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. Please reference 24 CFR 75.5

**Targeted Section 3 Worker:** The proposed priorities are: (1) Residents within the service area or the neighborhood of the project, or (2) YouthBuild participants. 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.

**Targeted Section 3 Worker, Section 3 Workers, and Business Concerns** are not guaranteed employment or contracting. Targeted Section 3 Workers must demonstrate they can meet the qualifications for new employment opportunities. Section 3 Business concerns must submit evidence to the satisfaction of the Recipient that they are responsible firms 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 a 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:**

Section 3. The purpose of the Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to 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. Those responsible for the compliance of this provision can access it at Section 3 Regulation.

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. Additional program information can be found at the HUD's website for Section 3 (<https://www.hud.gov/section3>).

## **III. Applicability:**

Federal funds administered through the Authority includes HOME Investment Partnership (HOME), Risk Share (HUD insured), National Housing Trust Fund, Neighborhood Stabilization Program (NSP) which is funded through the Community Development Block Grant (CDBG) and included in the Housing and Community Development Act of 1974 as amended (HCDA), and Section 811.

Section 3 covered projects are those that involve construction, rehabilitation, or conversion (adaptive reuse) of housing. Also included under housing rehabilitation is the reduction and abatement of lead-based paint hazards. Section 3 assistance is not required for acquisition only or for routine maintenance repair and replacement activities.

## **IV. Thresholds:**

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

### ***A. Recipient threshold:***

A recipient 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 contractors and subcontractors performing work on the Section 3 covered project(s) for which the total amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

**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 numerical goals to track and report labor hours worked by Targeted Section 3 workers and Section 3 workers and, contracting with Section 3 business concerns on HUD assisted projects. Recipients of the assistance have the responsibility of ensuring compliance over the contractors and subcontractor. Good faith efforts by contractors and sub-contractors will help meet the following goals:

HUD wants to ensure employers are invested in keeping Section 3 workers employed, and that there is enough opportunity to build skills and experience so that Section 3 workers may develop self-sufficiency and compete for other jobs in the future. An employer may choose whether the workers are defined as Section 3 workers for that five-year period at the time of the workers' hire, or the date from which the workers are certified as meeting the Section 3 worker definition.

Section 3 does not require Recipients or Contractors to create training programs for low-and very-low income persons solely to comply with the regulations. However, where training opportunities exist in connection with Section 3 covered projects, they must, in part, be directed to Section 3 residents.

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:**

Track and report on labor hours rather than new hires, promote employee retention, consistent with existing business practices (i.e., Davis-Bacon and payroll systems)

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

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

Some 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.
- Held one or more job fairs.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.
- Provided training or apprenticeship opportunities.

Please reference 24 CFR 75.15

## **VII. Benchmark:**

HUD also notes that not every contractor, subcontractor or subrecipient must use Section 3 workers. A funds recipient 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 of all the labor hours worked by all workers on a Section 3 project while not using Section 3 workers for other work. The recipient has flexibility in determining how to meet its benchmarks.

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.

Section 3 Benchmarks will consist of the following 2 ratios:

- 1) 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.
- 2) 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.

Please reference 24 CFR 75.13.

### **VIII: Requirements:**

Hiring/Training –

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.

Please reference 24 CFR 75.19

### **IX. Responsibilities:**

Recipients and Contractors are responsible to maintain Section 3 Compliance per 24 CFR 75. Recipients and Contractors must notify contractors/subcontractors of their responsibilities under Section 3 including but 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 3 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.
4. Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum Numerical Goals set forth above in Section "V" above.

*Recipients 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 the Department to make a compliance determination. Recipients 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. Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.*

### **XI. Recipient's Records and Reports:**

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.

Records are to be retained for 3-5 years.

Please reference 24 CFR 75.31

## **XII. Components of Section 3 Exhibits:**

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

- Exhibit A – Work Force Breakdown
- Exhibit B – Section 3 Clause
- Exhibit C – Income Certification for Section 3 Residents

Section 3 Clause - (EXHIBIT B) Inserted into all Section 3 covered contracts and Acknowledged by the Recipient and Contractor.

Program Income Limits - The area specific income limits shall be utilized in determining the low-income eligibility for employment, training and contracting activities. The limits shall be provided to all Section 3 eligible parties (recipient, contractor, subcontractor, and business concerns.)

## **XIII. Reference Websites:**

HUD Federal Regulation –

<https://www.ecfr.gov/cgi-bin/text-idx?SID=569b66a547528bf6c5c47f75b825cb94&mc=true&node=pt24.1.75&rgn=div5>

HUD FAQ's - <https://portal.hud.gov/hudportal/documents/huddoc?id=sec3bizfaq.pdf>

HUD Program Income Limits - <http://www.huduser.org/portal/datasets/il.html>

HUD Section 3 - <http://www.hud.gov/Section3>



# ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## Section 3 - Exhibit A

### WORK FORCE BREAKDOWN

To be completed at beginning of Project or Trade

1. Business Name and Address: (choose one from the dropdown menu)		2. Project Name:		3. IHDA Project No.	
		4. Business Contact & Phone (include area code):		5. Dollar Amount of Contract:	
6. Type of Business: (choose one from the dropdown menu)		7. Company Owned by: (choose one from the dropdown menu)		8. Ethnicity:(choose one from the dropdown menu)	
9. Section 3 Business Concern:(choose from the dropdown menu)		9a. Business Concern criteria documented within the last six months:(choose one from the dropdown menu)			
10. Person Completing Form:			10. Date Submitted:		11. Reporting Period:
<b>Employment and Training</b>					
		Total Estimated Positions Needed for the Project	Total Number of Positions Occupied by:		
			Section 3 Workers *	Targeted Section 3 Workers **	
Professionals					
Technicians					
Office/Clerical					
NAME Construction Trades used:					
Trade (specify):					
Trade (specify):					
Trade (specify):					
Trade (specify):					
Trade (specify):					
Other (specify):					
<b>Lower Tier/Subcontractors</b>		Dollar Amount of Contract			
Trade (specify):					
Trade (specify):					
Trade (specify):					

I certify that the information provided on this form is true and may be subjected to verification by responsible local and federal agencies. Please be aware that there is a penalty for falsifying information. The undersigned agrees to comply with the Section 3 Guidelines as referenced by HUD regulations in 24 CFR part 135 as amended.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**\* Section 3 Worker** is 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) 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.

**\*\* Targeted Section 3** The proposed priorities are: (1) Residents within the service area or the neighborhood of the project, or (2) YouthBuild participants. 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.



# ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## EXHIBIT B 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 24CFR part 75 as amended.

Recipient	Date	Contractor	Date
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# ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## Section 3 - Exhibit C

### INCOME CERTIFICATION FOR SECTION 3 RESIDENTS

To be completed by Section 3 employees

1. Business Name and Address:	2. Project Name:	3. IHDA Project No.
	4. Business Contact & Phone (include area code):	5. Dollar Amount of Contract:
6. Employees Name	7. Employee Address	8. Employee Phone
9. Section 3 or Targeted Section 3 Employee	10. Employee Ethnicity	11. Date Submitted

Your cooperation in filling out this form is requested in order to determine whether you qualify as a Section 3 employee or owner of a Section 3-business concern. The purpose of Section 3 of the Housing and Urban Development Act of 1968 is to ensure that employment and economic opportunities generated by HUD financial assistance is directed, wherever feasible, to lower income persons. The program Income Limits for this project shall be utilized in determining the low income eligibility for employment, training and contracting activities. The limits shall be provided to all Section 3 eligible parties (Recipient, Contractor, subcontractor and business concerns). Please ensure income is below the 80% Median Area Income of the current year, per the HUD website link at <http://www.huduser.org/DATASETS/il.html>

#### Family Size/Income Limit

Employee Type	Total Number of Persons in Your Household	Total Annual Income (Employee Only)
		(Total annual income means all funds (salaries, dividends, interest, etc) received by the employee during the year, before taxes)
Business Owner/Professional		
Technicians		
Office/Clerical		
Construction Trade (specify trade):		

\*The information that you provide will be held in strict confidence. Only summary data will be kept. Please return the completed survey to your employer.

The undersigned certifies that he/she completed the above and further certifies compliance with all Federal, State, and Local EEO requirements.

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Signature

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution, see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.