



Arizona
Department
of Housing

Section 3 Handbook

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Introduction

Section 3 of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain US Department of Housing and Urban Development (HUD) financial assistance expenditures, to the greatest extent feasible, to very-low and low-income persons residing in communities where the financial assistance is expended and to businesses that are controlled by or employ very-low and low-income persons. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the goal of Section 3 is to have the dual benefit of creating new or rehabilitated housing and facilities while providing opportunities for employment and training for the residents of these communities.

On September 29, 2020, HUD issued Federal Register Notice FR-6085-F-03 Enhancing and Streamlining the Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses, or the Section 3 Final Rule 24 CFR Part 75. The final rule made the following substantial changes to the Section 3 requirements:

1. Eliminated the new hire compliance standard in favor of an hours worked standard;
2. Eliminated the dollar value compliance standard for contracting with Section 3 businesses;
3. Renamed Section 3 residents to 1) Section 3 workers and 2) Targeted Section 3 workers, and specified certification criteria for each type of worker;
4. Redefined a Section 3 business;
5. Increased the threshold for a Section 3 contract to more than \$200,000 of federal financial assistance; and
6. Removed goals and added benchmarks.

On March 11, 2021, FR-7039-N-01 provided a 60-day Notice of Proposed Information Collection regarding Section 3 reporting. This notice indicates that an alternate report format is under development.

This handbook will be updated to incorporate report formats and other yet-to-be released HUD guidance as information becomes available.

Final Rule Compliance Timeline

Compliance with the final rule is determined by the date that a commitment of funds is made to the project:

1. Projects that received a commitment of funds before November 30, 2020 are required to follow the old rules (24 CFR Part 135).
2. Projects that received or will receive a commitment of funds between November 30, 2020 and June 30, 2021 must follow the new rules and maintain records of compliance but are not required to report under the new requirements.
3. Projects that receive a commitment of funds on or after July 1, 2021 must adhere to new tracking and reporting requirements.

Applicable Housing and Community Development Assistance Programs

The Section 3 rule establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. Housing and community development assistance programs include:

1. Community Development Block Grant (CDBG).
2. Emergency Solutions Grant (ESG).
3. HOME Investment Partnership Program (HOME).
4. Housing Opportunities for Persons with AIDS (HOPWA).
5. National Housing Trust Fund (NHTF).
6. Neighborhood Stabilization Program (NSP).
7. University Partnership Grants.
8. Economic Stimulus Funds.
9. 202/811 Grants.
10. Lead Hazard Control Grants.
11. Healthy Homes Production Grants.
12. Rental Assistance Demonstration (RAD).

Prioritization for employment and contracting in housing and community development programs places emphasis on residents of the neighborhood or service area in which the investment is being made. Separate requirements are in place for public housing assistance, which places an emphasis on public housing residents. *The requirements described in this handbook apply to the housing and community development programs listed above.*

Section 3 Project Threshold

The Section 3 requirements apply to the entirety of a housing rehabilitation, housing construction or other public construction project funded in whole or part with one of the above programs when the assistance exceeds a threshold of \$200,000. The project is a site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. HUD will adjust this threshold not less than once every five (5) years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. HUD may also adjust the threshold, regardless of the national construction cost factor, through Federal Register notice subject to public comment.

Provisions for Multiple Funding Sources

When a Section 3 project includes both public housing financial assistance and housing and community development financial assistance and the project is a Section 3 project *because the amount of housing and community development financial assistance exceeds \$200,000*, the Section 3 requirements described in this handbook for recipients of housing and community development financial assistance must be followed.

When a Section 3 project includes both public housing financial assistance and housing and community development financial assistance and the project is a Section 3 project *because the project includes public housing financial assistance and the amount of housing and community development financial assistance does not exceed \$200,000*, the Section 3 requirements for recipients of public housing financial assistance must be followed. Both the Public Housing Authority and the recipient must report on the project as a whole and identify the multiple associated recipients.

Definitions

The following terms are used throughout this handbook and should be referred to as necessary for clarification.

Term	Definition
Contractor	Any entity entering into a contract with a recipient or subrecipient to perform work in connection with a Section 3 project.
Labor hours	The number of paid hours worked by persons on a Section 3 project.

Term	Definition
Material supply / material only contract	Contract for the purchase of products and materials only (no labor), including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.
Professional services	Non-construction services that require an advanced degree or professional licensing, such as legal services and civil engineering.
Project	Site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.
Recipient	For the purposes of ADOH programs, any entity that receives directly from the State of Arizona HUD housing and community development assistance that funds Section 3 projects. This includes but is not limited to any local government, instrumentality, PHA, other public agency, or public or private nonprofit organization.
Section 3 Business	<p>A private or nonprofit business that, regardless of prior arrest or conviction of its owner(s) or employees:</p> <ol style="list-style-type: none"> 1. Meets all legal and technical requirements to perform the contract under consideration; and 2. Meets at least one of the following criteria: <ol style="list-style-type: none"> a. Is 51% or more owned and controlled by: <ol style="list-style-type: none"> i. Very-low or low-income persons; or ii. Current public housing residents or residents currently residing in Section-8 assisted housing. b. Over 75% of the labor hours performed over the prior three-month period were performed by Section 3 workers.
Section 3 Project	A housing rehabilitation, housing construction, and other public construction project, including demolition, that is funded in whole or part with HUD funding and the total amount of assistance to the project exceeds \$200,000 (Lead Hazard Control and Healthy Homes (LHCHH) assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold). Material only contracts are not included.

Term	Definition
Section 3 Worker	<p>Any worker, regardless of prior arrest or conviction, who:</p> <ol style="list-style-type: none"> 1. Meets the qualifications of the position being filled; and 2. Currently or at the time of hire within the past five (5) years has or had an income for the previous or annualized calendar year that is below the HUD very-low or low-income limit.
Project area	<p>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.</p>
Subcontractor	<p>Any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with a Section 3 project.</p>
Subrecipient	<p>An entity that receives a subaward from a recipient to carry out a Section 3 project.</p>
Targeted Section 3 Worker	<p>Any worker, regardless of prior arrest or conviction, who:</p> <ol style="list-style-type: none"> 1. Meets the qualifications of the position being filled; and 2. Currently or at the time of hire within the past five (5) years meets one of the following requirements: <ol style="list-style-type: none"> a. Resides within one mile of the work site or the radius of the work site that encompasses not less than 5,000 people according to the most recent US Census; or b. Is employed by a Section 3 business; or c. Is a YouthBuild participant.

Consistency with Other Cross-cutting Requirements

Section 3 is consistent with yet separate from and in addition to other laws governing procurement, equal employment opportunity, and Davis-Bacon. Compliance with Section 3 should not violate these or any other local, state or federal laws.

All contracts covered by Section 3 are required to comply with Executive Order 11246, which provides that no person shall be discriminated against on the basis of race, color, religion, sex,

sexual orientation, gender identity or national origin in all phases of employment during the performance of federally assisted construction contracts. Section 3 contains no racial, ethnic or gender preferences or goals.

Davis-Bacon and Related Acts (DBRA) requirements apply equally to all Section 3 projects and employees. (Refer to the *Labor Standards Handbook* for guidance on Davis-Bacon and prevailing wage requirements.) Apprentices and trainees may be hired for Section 3 covered projects only to the extent permitted under Department of Labor regulations and HUD policies. Approved apprenticeship and trainee programs include those approved by the Department of Labor's Office of Apprenticeship Training, Employer and Labor Services, a State Apprenticeship Agency or HUD. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with Section 3 regulations.

Recipient Requirements

To comply with the requirements of Section 3, recipients must:

1. **Implement procedures** to comply with the requirements of Section 3 by taking an active role in ensuring compliance. The first step is designing procedures to ensure that all parties (workers, businesses, contractors and sub-contractors) comply with Section 3.
2. **Facilitate the training and employment of Section 3** residents by connecting Section 3 residents to training and employment opportunities.
3. **Facilitate the award of contracts to Section 3 businesses** by linking developers and contractors with capable Section 3 businesses. Recipients may also direct Section 3 businesses to organizations that provide training and capacity building.
4. **Ensure subrecipient and contractor/subcontractor awareness** of Section 3 responsibilities and benchmarks by including specific Section 3 language in all solicitations and covered contracts.
5. **Ensure compliance and meeting of benchmarks** by regularly monitoring subrecipient and contractor compliance, penalizing non-compliance, providing incentives for good performance, and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
6. **Document compliance** by submitting reports that provide data on the number of labor hours worked on each Section 3 project (including those worked by the recipient, subrecipient, contractor and/or subcontractor(s)) and the number of Section 3 businesses contracted.

Prime Contractor Requirements

The prime contractor must:

1. Notify all subcontractors of their responsibilities under Section 3.
2. Refrain from contracting with subcontractors that have been found in violation of the regulations in 24 CFR 75.
3. Submit with the bid to the recipient (or subrecipient if applicable) for itself and any known subcontractor(s):
 - a. A permanent and project workforce breakdown form (S3B-2) that includes for each project workforce position:
 - i. Whether a position is filled or vacant;
 - ii. The name or unique employee identifier of permanent workforce members that will work on the project;
 - iii. Whether the worker meets the definition of a Section 3 or Targeted Section 3 worker;
 - iv. Job classification;
 - v. Estimated labor hours on the project;
 - vi. Whether the worker is paid hourly or salary; and
 - vii. For vacant project positions, the anticipated hire date.
4. Maintain records that document a good faith effort to utilize Section 3 workers and Targeted Section 3 workers as trainees and employees.
5. With each payroll, submit to the recipient (or subrecipient if applicable) for itself and any subcontractor(s):
 - a. Total hours worked by the contractor and by subcontractors;
 - b. Total hours worked by Section 3 workers;
 - c. Total hours worked by Targeted Section 3 workers; and
 - d. New subcontracts awarded and the required permanent and potential hire breakdowns for each, when applicable; and
 - e. Qualitative activities to reach out to Section 3 workers and Section 3 businesses, when applicable.

Subrecipient Requirements

Subrecipients must:

1. Notify all contractors of their responsibilities under Section 3.
2. Refrain from contracting with contractors that have been found in violation of the regulations in 24 CFR 75.
3. Provide to the recipient for itself, the prime contractor, and any subcontractor(s):
 - a. A permanent and project workforce breakdown form (S3B-2) that includes for each project workforce position:
 - i. Whether a position is filled or vacant;
 - ii. The name or unique employee identifier of permanent workforce members that will work on the project;
 - iii. Whether the worker meets the definition of a Section 3 or Targeted Section 3 worker;
 - iv. Job classification;
 - v. Estimated labor hours on the project;
 - vi. Whether the worker is paid hourly or salary; and
 - vii. For vacant project positions, the anticipated hire date.
4. Maintain records that document a good faith effort by the subrecipient, contractor, and any subcontractors to utilize Section 3 workers and Targeted Section 3 workers as trainees and employees.
5. Document compliance by submitting to the recipient reports of:
 - a. Total hours worked by the subrecipient, contractor, and subcontractor;
 - b. Total hours worked by Section 3 workers;
 - c. Total hours worked by Targeted Section 3 workers;
 - d. Contracts and subcontracts awarded; and
 - e. Qualitative activities to reach out to Section 3 workers and Section 3 businesses.

Subcontractor Requirements

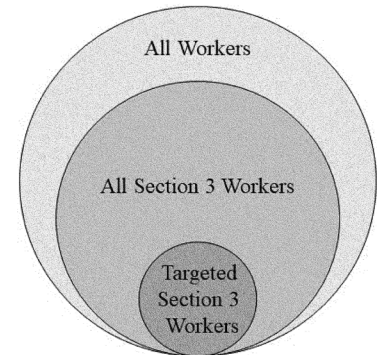
Subcontractors must:

1. Provide to the prime contractor:
 - a. A permanent and project workforce breakdown form (S3B-2) that includes for each project workforce position:
 - i. Whether a position is filled or vacant;
 - ii. The name or unique employee identifier of permanent workforce members that will work on the project;
 - iii. Whether the worker meets the definition of a Section 3 or Targeted Section 3 worker;
 - iv. Job classification;
 - v. Estimated labor hours on the project;
 - vi. Whether the worker is paid hourly or salary; and
 - vii. For vacant project positions, the anticipated hire date.
2. Maintain records that document a good faith effort to utilize Section 3 workers and Targeted Section 3 workers as trainees and employees.
3. Document compliance by submitting reports of:
 - a. Total hours worked;
 - b. Total hours worked by Section 3 workers;
 - c. Total hours worked by Targeted Section 3 workers; and
 - d. Qualitative activities to reach out to Section 3 workers.

Section 3 Benchmarks

The benchmarks for Section 3 projects are based on the total labor hours worked. Total labor hours worked includes those worked on the project by the recipient, subrecipient, prime contractor, and all subcontractors. Recipients have the option of including professional services hours in the labor hours. To meet the benchmarks, recipients, subrecipients and contractors/ subcontractors will likely need to provide:

1. Hiring preferences to Section 3 residents who meet the position qualifications to be considered for employment and/or training; and
2. Contracting preferences to Section 3 businesses.



Of the total labor hours worked by all workers on the Section 3 project:

1. Not less than 25% must be by Section 3 workers; and
2. Not less than 5% must be by Targeted Section 3 workers. Targeted Section 3 are a subset of Section 3 workers and are counted towards the 25% minimum.

When the Benchmarks are Not Met

When the Section 3 quantitative benchmarks are not met, the ADOH must report to HUD the qualitative actions taken by the ADOH, recipients, subrecipients, contractors and subcontractors to reach out to and hire Section 3 and Targeted Section 3 workers and contract with Section 3 businesses.

Documenting Section 3 Compliance

Each recipient must establish a Section 3 project file that includes:

1. Total labor hours worked, labor hours worked by Section 3 workers, and labor hours worked by Targeted Section 3 workers as collected from subrecipients and contractors;
2. Section 3 worker and Targeted Section 3 worker eligibility;
3. Section 3 business contracts;
4. Section 3 business eligibility; and
5. Qualitative activities to reach out to and support:
 - a. Section 3 workers to access economic opportunities or attain economic self-sufficiency; and
 - b. Section 3 businesses to access economic and contracting opportunities.

Recipients should also develop and maintain lists of certified Section 3 workers, Targeted Section 3 workers, and Section 3 businesses for use in future Section 3 projects.

Section 3 Worker Eligibility

Workers must currently or at the time of hire, if hired within the past five years, meet the criteria to be certified as a Section 3 worker through self-certification or employer certification using the forms in this handbook. Section 3 worker certifications must be maintained in the project file, and may also be retained in a separate file for future projects. All income certifications are based on HUD income charts. Acceptable forms of certification are:

1. Self-certification that the worker's income is below 80% AMI for their family size (Form S3C-1A); or
2. Employer certification that the worker's current income is below 80% AMI for their family size based on annualization on a full-time basis of the worker's wage rate (Form S3C-1B); or
3. If the employee was hired within the past five years, employer certification that the worker's income was below 80% AMI for their family size in the year of hire (Form S3C-1B).

Targeted Section 3 Worker Eligibility

Workers must currently or at the time of hire, if hired within the past five years, meet the criteria to be certified as a Targeted Section 3 worker through self-certification or employer certification using the forms in this handbook, which are also found on the ADOH website. Section 3 worker certifications must be maintained in the project file, and may also be retained in a separate file for future projects. Acceptable forms of certification are:

1. Self-certification that the worker is a YouthBuild participant (Form S3C-1C); or
2. Self-certification that the worker was hired within the past five years and was a YouthBuild participant at the time of hire (Form S3C-1C); or
3. Employer certification that the worker is employed by a Section 3 business (Form S3C-1D); or
4. Employer certification that the worker's residence is within one mile of the work site or within a radius of the work site that encompasses not fewer than 5,000 people according to the most recent US Census (Form S3C-1D).

Section 3 Businesses

Section 3 businesses must self-certify that they meet the definition of a Section 3 business by completing Form S3B-3 in this handbook. This form must be submitted by the bidder at the time of bid, if the bidder is claiming Section 3 Business preference. If the business is a subrecipient, the form may be submitted to the recipient within five days of notification of contract award. Section 3 business certifications must be maintained in the project file, and must also be retained in a separate file for future projects. Documentation supporting the self-certification must be requested and maintained by the recipient in the project and business files.

Qualitative Activities

In addition to labor hours reports, recipients, subrecipients, contractors and subcontractors must document activities intended to facilitate the meeting of benchmarks, including:

1. For Section 3 Workers and Targeted Workers:
 - a. Outreach to generate job applicants.
 - b. Providing training or apprenticeship programs.
 - c. Providing or connecting Section 3 workers with:
 - i. Employment search, readiness, support and placement programs, such as resume assistance, coaching, interview preparation, how to find job opportunities, job placement services, interview clothing, test fees, transportation, childcare, financial literacy training, etc.
 - ii. Assistance applying for or attending community college, four-year educational institution, or vocational/technical training.
 - iii. Financial literacy training and/or coaching.
 - d. Holding one or more job fairs.
 - e. Other activities to reach out to and support Section 3 workers to access economic opportunities or attain economic self-sufficiency.
2. For Section 3 Businesses:
 - a. Outreach efforts to identify and secure bids from qualified Section 3 businesses.
 - b. Providing technical assistance to Section 3 business to help them understand and bid on contracts.
 - c. Dividing contracts into smaller jobs to facilitate participation by Section 3 businesses.
 - d. Providing bonding assistance, guarantees, or other efforts to support viable bids.

- e. Promoting the use of business registries to create opportunities for disadvantaged and small businesses.
- f. Providing outreach, engagement, or referrals with workforce investment agencies, small business development centers, etc.
- g. Other activities to reach out to and support Section 3 businesses to access economic and contracting opportunities.

Examples of Other Section 3 Qualitative Activities

The following are examples of other qualitative activities that may be undertaken by recipients to demonstrate efforts to meet Section 3 benchmarks:

1. Establish contact with the local PHA as a resource for:
 - a. Notifying potentially-eligible Section 2 workers and Targeted Section 3 workers of employment opportunities.
 - b. Identifying PHA resident owned businesses that may qualify as Section 3 businesses.
2. Develop “first source” hiring agreements with organizations representing Section 3 workers.
3. Establish a training program for Section 3 residents in the building trades.
4. Advertise training and employment opportunities by distributing flyers to occupied residences in the service area of the project. The flyers should indicate a central contact point where interested persons can leave resumes or other information.
5. Post flyers in public buildings and other heavy traffic areas within the service area of the project (i.e., grocery stores, laundromats, social service centers, etc.).
6. Contact resident councils, organizations and management corporations and HUD Youthbuild programs for their assistance in notifying residents of training and employment opportunities.
7. Sponsor a job information meeting in the service area of the project.
8. Establish a single location in the project area where job applications will be received and delivered to the contractor.
9. Conduct job interviews at a location within the project area.
10. Establish a relationship with the local Workforce Investment Act entity, a JOBS program or any community-based organization serving LMI persons. The recipient would agree to notify the organization of upcoming projects that may provide jobs or contracting opportunities for LMI persons and the entity would then publicize this information. This

entity could also be a central contact point for those residents and businesses that are interested in upcoming projects.

11. Employ a job coordinator or contract with a business to assist in matching eligible and qualified Section 3 residents with available training and employment positions.
12. Maintain a file of and provide notice of employment and contracting opportunities to:
 - a. Eligible qualified Section 3 residents for possible future employment; and
 - b. Eligible Section 3 businesses.
13. Contact business assistance agencies, minority contractors' associations, and community organizations to inform them of contracting opportunities and request their assistance identifying Section 3 businesses that may be interested in submitting bids.
14. Advertise contracting opportunities by posting notices in the project area.
15. Coordinate pre-bid meetings where Section 3 businesses are informed of upcoming contracting opportunities.
16. Arrange solicitations, times for bid presentations, quantities, specifications and delivery schedules in ways to facilitate the participation of Section 3 businesses.
17. Advertise contracting opportunities through local trade associations.
18. Encourage financial institutions to provide no or low interest loans for working capital or other business needs under the Community Reinvestment Act (CRA).
19. Actively support the development and maintenance of business incubators that assist Section 3 businesses.

ADOH Qualitative Activities

To facilitate the meeting of benchmarks, the ADOH will provide CDBG technical assistance resources to rural Councils of Government to network with and disseminate information regarding Section 3 to:

1. Regional and local workforce solutions, including those that assist with employment search, readiness, support and placement; and assistance applying for or attending institutions of higher learning and vocational/technical training;
2. Community Action Agencies and other nonprofit organizations that assist with transportation, childcare, clothing, and other basic services that support engagement with employment opportunities or provide financial literacy counseling; and
3. Small Business Development Centers, SCORE, and other regional and local small business assistance programs.

Section 3 Outreach Activity Sample Forms

A sample employment and training notice and a sample employment survey are included under Reports and Forms.

The sample Section 3 Employment and Training Notice is a way to help Section 3 residents become aware of potential job opportunities to be provided through a Section 3 covered project. This or a similar notice should be posted in prominent locations throughout the community such as public housing, locations where people apply for assisted housing, social service and community agencies that serve LMI persons, and the recipient's administrative and personnel offices. Posting and distribution of this notice is a qualitative activity that should be reported.

The sample employment survey may be used by recipients to work with the local PHA, social service agencies, or employment and training programs to determine if there may be qualified persons with the necessary skills to become part of a project workforce. Distribution and collection of the survey is a qualitative activity that should be reported, if conducted.

Section 3 Compliance Reports

All Section 3 compliance reports are found on the ADOH website at <https://housing.az.gov/documents-links/handbooks>. Report forms are in a Microsoft Excel format and divided into two types:

1. Section 3 Recipient Report Form (S3R-1R) for use by recipients and subrecipients; and
2. Section 3 Contractor Report Form (S3R-1C) for use by contractors and subcontractors.

Section 3 Reporting Requirements Summary

Entity	Labor Hours	Contracts and Subcontracts	Qualitative Activities
Recipient	Section 3 Recipient Report Forms Labor Hours – Tab 2 With each performance report and with final payment request to ADOH.	Section 3 Recipient Report Forms Section 3 Businesses – Tab 3 With each performance report and with final payment request to ADOH.	Section 3 Recipient Report Forms Qualitative Activities – Tab 4 With each performance report and with final payment request to ADOH.
Subrecipient	Section 3 Recipient Report Forms Labor Hours – Tab 2 With each performance report and with final payment request to recipient.	Section 3 Recipient Report Forms Section 3 Businesses – Tab 3 With each performance report and with final payment request to recipient.	Section 3 Recipient Report Forms Qualitative Activities – Tab 4 With each performance report and with final payment request to recipient.
Contractor	Section 3 Contractor Report Forms Labor Hours – Tab 2 (may use alternate format with similar content) With each payroll to recipient / subrecipient.	Section 3 Contractor Report Forms Subcontracts – Tab 3 With each payroll to recipient / subrecipient when subcontracts are awarded and with final payment request to recipient / subrecipient.	Section 3 Contractor Report Forms Qualitative Activities – Tab 4 With each payroll to recipient / subrecipient and with final payment request to recipient / subrecipient.
Subcontractor	Section 3 Contractor Report Forms Labor Hours – Tab 2 (may use alternate format with similar content) With each payroll to contractor.	Not applicable.	Section 3 Contractor Report Forms Qualitative Activities – Tab 4 With each payroll to recipient / subrecipient and with final draw to contractor.

Labor Hours Report

Labor hours reports must include total labor hours, Section 3 worker labor hours, and Targeted Section 3 labor hours for the project, and be based on:

1. Actual hours as recorded in a time and attendance tracking system; or
2. A “good faith estimate” of labor hours of an employee informed by an existing salary or time and attendance-based payroll system when no system is in place to track actual labor hours.

Professional Services Labor Hours

A recipient, subrecipient, or contractor may count as Section 3 labor hours and Targeted Section 3 labor hours any work performed by Section 3 workers and Targeted Section 3 workers in the professional services context while not counting total labor hours performed. This in effect provides a bonus for recipients who choose to report Section 3 hours in the professional services context.

Exceptions to Section 3 and Targeted Section 3 Worker Labor Hours Reporting

Recipients, subrecipients and contractors have the option to require labor hours worked by Section 3 workers and Targeted Section 3 workers not be reported by any subcontractor or other entity that is a party to the Section 3 project when it is determined that the benchmark will be met by one or more other entities. A written waiver of the requirements must be in the agreement. For example:

- If the recipient enters into a contract with a contractor that is a Section 3 business and the contractor’s employees will perform at least 25% of the total labor hours on the project, the Section 3 business will report total labor hours worked, labor hours worked by Section 3 workers, and labor hours worked by Targeted Section 3 workers; all other entities may report only total labor hours.
- If a contractor enters into a subcontract with a Section 3 business and the subcontractor’s employees will perform at least 25% of the total labor hours on the project, the Section 3 subcontractor will report total labor hours worked, labor hours worked by Section 3 workers, and labor hours worked by Targeted Section 3 workers; all other entities may report only total labor hours

Section 3 Business Report

The Section 3 statute requires that *to the greatest extent feasible*, and consistent with existing Federal, state, and local laws and regulations, recipients, subrecipients and contractors must ensure contracts and subcontractors for work awarded in connection with Section 3 projects are provided to Section 3 businesses that provide economic opportunities to:

1. Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located; and
2. Where feasible, to:
 - a. Workers residing within the project area; and
 - b. YouthBuild participants.

HUD defines *to the greatest extent feasible* as making every effort to comply with the regulatory requirements of Section 3.

While there is no benchmark for contracting with Section 3 businesses, labor hours worked by employees of Section 3 businesses count towards the Targeted Section 3 worker benchmark. By providing preference to and contracting with Section 3 businesses, recipients demonstrate compliance with the “greatest extent feasible” requirement while taking steps to meet labor hours benchmarks.

Recipients, subrecipients and contractors must report all contracts and subcontracts entered into on a Section 3 project. These reports also ensure that Section 3 businesses are documented for future contracting opportunities. Section 3 Business reports must include:

1. Name, address, contact information, and Federal Identification number for each contractor; and
2. Whether the contractor is a Section 3 business and the criteria that certifies the business as such.
3. For each contractor and subcontractor:
 - a. Name, address, contact information, and Federal Identification number;
 - b. Whether the business is a Section 3 business;
 - c. The trade, service, or supply provided by each; and
 - d. The award date and dollar amount of each contract.

Qualitative Activities Report

Recipients, subrecipients, contractors and subcontractors must report all qualitative activities taken to engage Section 3 and Targeted Section 3 workers, and if applicable Section 3 businesses. Section 3 Qualitative Activities reports must indicate what, if any, activities were taken.

Section 3 Compliance and the Procurement Process

To comply with the Section 3 requirements, recipients must:

1. Include the Section 3 Clause in all Section 3 covered RFPs, RFQs, bids, and contracts.
2. Document Section 3 requirements were discussed at the pre-construction conference and, if held, at the pre-bid conference.
3. Include in all RFPs, RFQs, and bids must contain a requirement that the bidder:
4. Indicate if it wishes to receive preference as a Section 3 business, and if it does submit a self-certification and any requested supporting documentation.
5. Certify that Section 3 information will be included in all subcontracts.
6. Agrees to utilize in its procurement and employment process the HUD Registry of Section 3 Businesses, or a list of Section 3 businesses and residents provided by the recipient.
7. Agrees to submit a labor hours report with each payroll and a final report with its final draw, unless notified that more frequent reports are required.

ADOH will monitor for Section 3 compliance in its desk and on-site monitoring procedures. Recipients, subrecipients and contractors are also subject to HUD monitoring. If a recipient, subrecipient or contractor is contacted by HUD for a compliance review, it must notify ADOH within two (2) working days.

Section 3 Procurement Preferences

Recipients, subrecipients and contractors may preferentially award Section 3 covered contracts to Section 3 businesses. A business seeking to qualify for Section 3 contracting preference may be requested to provide evidence of Section 3 qualifications and bears the responsibility of providing evidence of compliance. The business must demonstrate to the awarding party its ability to perform successfully under the terms of the proposed contract. The business' past record in complying with public policy requirements (including Section 3) may be considered as part of the award determination. Each recipient, subrecipient and/or contractor should check with its legal counsel before instituting any preference action and have legal counsel provide a written opinion. If no Section 3 business meets the requirements, the contract should be awarded to a responsible bidder with the lowest bid.

Small Purchases

When a Section 3 covered contract is to be awarded based upon the lowest price, the contract may be awarded to a qualified Section 3 business with the lowest quotation, if it is reasonable and no more than ten percent (10%) higher than the quotation of the lowest quotation from

any other qualified source. If no quotation by a qualified Section 3 business is within ten percent (10%) of the lowest otherwise qualified bidder, then the award should be made to the lowest bidder.

Sealed Bids

An award may be made to the qualified Section 3 business with the highest priority ranking and lowest quotation if that bid:

1. Is within the maximum contract amount established by the contracting party; and
2. Is not more than “X” higher than the total bid price of a non-Section 3 business. “X” is determined in the table below. “X” is the lesser of the two (2) figures provided in the table.

When the lowest responsive bid is:	X = lesser of:
Less than \$100,000	10% of that bid or \$9,000
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	1 1/2% of the lowest responsive bid, with no dollar limit

Requests For Proposals or Qualifications (RFP or RFQ)

The RFP/RFQ evaluation factors may include a preference by assigning a percentage of the rating points for business that are Section 3 businesses. The evaluation for preference of Section 3 businesses may establish an order of priority ranking as described for sealed bids. The contract should be awarded to the responsible firm (either Section 3 or non-Section 3 business) whose proposal is determined the most advantageous when considering price (if an RFP) and all other factors specified in the RFP/RFQ.

Complaints

Complaints alleging non-compliance with Section 3 regulations may be filed at the HUD program office responsible for the financial assistance to the Section 3 project or to the local HUD field office. Complaints must be received no later than 180 days from the date of the action or omission upon which the complaint is based. However, the Assistant Secretary may extend the time for filing a complaint for “good cause shown”.

San Francisco Regional Office
One Sansome Street, Suite 1200
San Francisco, CA 94104
Phone: (415) 489-6400
Fax: (415) 489-6419
TTY: (800) 877-8339

Phoenix Field Office
One North Central Avenue, Suite 600
Phoenix, AZ 85004
Phone: (602) 379-7100
Fax: (602) 379-3985
TTY: (602) 379-7181

Forms and Reports

The appendices include the following sample and required Section 3 forms. All forms may be accessed at the ADOH website <https://housing.az.gov/documents-links/handbooks>.

1. Section 3 and Targeted Section 3 Worker Certification Forms (Forms S3C-1A through S3C-1D, as applicable):
 - a. Must be maintained in the project record and utilized to identify potential workers for future projects.
 - b. The certification is valid for five years from the date of hire.
2. Section 3 Business Self-Certification (Form S3B-3):
 - a. Must be maintained in the project record and utilized to identify potential businesses for future projects.
 - b. The certification must be verified with each contract.
3. Section 3 Recipient Report Forms (S3R-1R) are in spreadsheet format.
4. Section 3 Contractor Report Forms (S3R-1C) are in spreadsheet format.
5. Sample Employment and Training Notice (Form S3P-1).
6. Sample Employment Survey (Form S3P-2).
7. Section 3 Procurement – Contractor Assurances (S3B-1) must be attached to each bid.
8. The Permanent and Project Workforce Breakdown form (S3B-2) is in spreadsheet format and must be attached to each bid.
9. Section 3 Clause
 - a. Must be included in each RFP, RFQ, bid and contract.

JOBS! JOBS! JOBS!

Section 3 Notice – Employment and Training Positions Available (Form S3P-1)

Name: *[recipient or contractor/sub-contractor]*

Project: *[describe project]*

Project Area: *[one-mile radius or larger if fewer than 5,000 people within one mile radius]*

To comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended by the Housing and Community Development Act of 1992, and implementing regulations, *[name of recipient, contractor or sub-contractor]* hereby notifies all labor organizations or representatives of workers with whom it has a collective bargaining agreement or other understanding and all employees or applicants for training and employment that it will **give preference in filling new positions and in all training opportunities to persons who meet the requirements stated below.** *All persons must meet the minimum qualifications of the position to be considered for employment/training.*

1. Resides within the project area *[describe]*; or
2. Has an income for the previous or annualized calendar year that is below the HUD very-low or low-income limit; or
3. Is employed by a Section 3 business; OR
4. Is a YouthBuild participant.

It is the responsibility of the applicant to document his/her status in any of the categories described above.

[Contractor/sub-contractor] will be accepting applications for the following positions on *[date]* at *[location]*:

Positions that will be available:

<u>Title</u>	<u>Number</u>	<u>Minimum Qualifications</u>
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Training and apprenticeship positions that will be available:

<u>Title</u>	<u>Number</u>	<u>Minimum Qualifications</u>
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For further information, including requests relating to accessibility needs, please contact:

[Name]

[Address]

[Phone Number, TTY, E-mail]

[Recipient should consult with the ADOH to determine if this notice should be posted in languages other than English.]

Sample Employment Survey (Form S3P-2)

NOTE: Consult the ADOH to determine if this form should be translated into another language.

The [recipient] anticipates receiving federal housing and community development funds from the State of Arizona Department of Housing to undertake activities to improve the community. As a result of this funding, the [recipient] will be hiring additional staff and/or contractors in the near future to do various types of construction and related work. The [recipient] and/or contractors will be employing people with various types and ranges of skills. If you are interested in this type of employment, please complete the form on the reverse side and return it to the address indicated below. This form also asks whether you would be interested in training in any of these occupations and any special work-related needs you may have. You may be notified at a later date as to any further action you must take to be considered for employment, training or work-related services.

If you have further questions or special accessibility needs, please contact [name] at [phone number or TTY].

Return this form to: [recipient name and address]

Name	
Address	
City, State, Zip Code	
Phone Number	
E-mail Address	

Please indicate any services you would need to enable you to accept employment or participate in job training:

√	
	Child care
	Transportation
	Clothing
	English as a second language
	Other:

Please indicate office skills that you have:

√	
	Typing. Words per minute:
	Filing
	Software programs (list):
	Other:
	Other:

Please indicate construction skills that you may have or would like training for in the table on the following page.

Job Category	I would like training in this area ✓	Length of Experience			
		0 – 3 Months ✓	4 – 6 months ✓	7 months – 1 year ✓	More than 1 year ✓
Plumbing					
Carpentry					
Roofing					
Painting					
Interior					
Exterior					
Sewer					
Landscaping					
Sprinklers					
Plants					
Lawns					
Tree Pruning					
Tree Cutting					
Stump Removal					
Drywall					
Tile Flooring					
Carpet Laying					
Insulation					
Brick Layer					
Electrician					
Residential					
Commercial					
Laborer					
Cement Mason					

Section 3 Worker Self-Certification Form (S3C-1A)

A Section 3 Worker seeking preference in training and employment shall certify or submit evidence to the recipient, contractor, or subcontractor that the person is a Section 3 Worker, as defined in Section 24 CRF 75.

Name of Worker _____

√	
	I have reviewed the HUD income chart for my family size. My income for the previous year is below 80% of the median income for my family size.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Signature

Date

Section 3 Worker Employer Certification Form (S3C-1B)

An employer of a Section 3 Worker seeking preference in training and employment shall certify and maintain evidence the worker is a Section 3 Worker as defined in Section 24 CRF 75.

Name of Employee _____

√	
	I have reviewed the HUD income chart for the current year. The employee named above has an income that is currently below 80 percent of the median income for their family size based on my calculation of what the employee's wage rate would translate to if annualized on a full-time basis.
	The employee was hired within the past five (5) years. I have reviewed the HUD income chart for the year the employee named above was hired. At the time of hire, the employee named above had an income that was below 80 percent of the median income for their family size.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Employer Name _____

Employer Representative Name _____

Signature of Employer Representative _____

Date _____

Targeted Section 3 Worker Self-Certification Form (S3C-1C)

A Section 3 Worker seeking the preference in training and employment shall certify or submit evidence to the recipient, contractor, or subcontractor that the person is a Section 3 Worker, as defined in Section 24 CRF 75.

Name of Worker _____

√	
	I am a YouthBuild participant.
	I was hired within the past five years and at the time of my hire was a YouthBuild participant.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Signature

Date

Targeted Section 3 Worker Employer Certification Form (S3C-1D)

An employer of a Section 3 Worker seeking the preference in training and employment shall certify and maintain evidence the worker is a Section 3 Worker as defined in Section 24 CRF 75.

Name of Employee _____

√	
	The employee named above resides within the project area as defined in the bid documents.
	The employee named above was hired within the past five years. At the time of hire, the employee resided within the project area as defined in the bid documents.
	I have certified this business as a Section 3 business and the employee is part of the business's permanent workforce.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Employer Name _____

Employer Representative Name _____

Signature of Employer Representative _____

Date _____

THIS DOCUMENT AND A COMPLETE PERMANENT AND PROJECT WORKFORCE BREAKDOWN SPREADSHEET (FORM S3B-1) **MUST BE SUBMITTED BY THE BIDDER WITH THE BID DOCUMENTS**

Section 3 Assurances (Form S3B-1)

Name of Official Representative	
Business/Contractor Name	
Project Name or Bid Number	

I, the undersigned, as official representative of the above-named business/contractor hereby certify that:

1. A complete permanent and project workforce breakdown form (S3B-2) has been submitted with this bid for the above-named business/contractor and each subcontractor that is known to be a party to this project.
2. The above-named business will comply with Section 3 requirements, to include recordkeeping and reporting, and will cause any subcontractor to comply with Section 3 requirements, to include recordkeeping and reporting, for the above-named project
3. The above-named business/contractor will make, and cause any subcontractor to make every attempt to hire qualified Section 3 and Targeted Section 3 workers for any unfilled positions.
4. The above-named business/contractor will make every attempt to hire subcontractors that are Section 3 businesses.
5. I understand that failure to comply may result, in whole or in part, in contract cancellation, termination or suspension.

Signature

Date

Permanent and Project Workforce Breakdown (Form S3B-2)

Permanent and Project Workforce Breakdown Form S3B-2 is available in spreadsheet format on the ADOH website at <https://housing.az.gov/documents-links/handbooks>.

Form S3B-2 collects information necessary to identify existing and planned Section 3 workers by job classification and requires the bidder:

1. Enter an employee identifier or indicate if a position is vacant;
2. Select a position classification from a dropdown menu;
3. Indicate if the position is part of the permanent workforce;
4. Provide the total estimated labor hours the employee will work on the project;
5. Indicate if the employee is a Section 3 worker or Targeted Section 3 worker;
6. Indicate if the employee is paid hourly or salary; and
7. Enter an approximate date of hire if the position is vacant.

Section 3 Business Self-Certification Form (S3B-3)

A Section 3 Business shall certify and provide evidence the business is a Section 3 Business as defined in Section 24 CRF 75.

Business Name _____
 Address _____
 City, State, Zip Code _____
 Federal ID Number _____
 Contact Person _____

√	
	The business named above is 51% or more owned and controlled by very-low or low-income persons.
	The business named above is 51% or more owned and controlled by public housing residents or residents currently residing in Section-8 assisted housing.
	Over 75% of the labor hours worked during the past three months by employees of the business named above were performed by employees who are very-low or low-income, or YouthBuild participants.

I hereby certify that:

1. The undersigned has the legal authority to make these certifications on behalf of the named business.
2. Documentation exists to verify the basis for this self-certification.
3. Documentation will be made available to the recipient, the State of Arizona, the US Department of Housing and Urban Development, or their designated representatives during normal business hours upon request.
4. I am aware that both I and the business named above are liable for civil or criminal penalties for willful falsification of any information provided in this document.

Name of Person Completing Form _____
 Title of Person Completing Form _____
 Signature _____
 Date _____

THIS CLAUSE MUST BE INCLUDED IN ALL SECTION 3 COVERED RFPs, RFQs, BIDS AND CONTRACTS

Section 3 Clause

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 the 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 in the project area.

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.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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 in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

The contractor will certify that any vacant employment positions, including training positions, that are filled: 1) after the contractor is selected but before the contract is executed; and 2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

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.

Section 3 Recipient Report Form (S3R-1R)

The Section 3 Recipient Report Form (S3R-1R) is available in spreadsheet format on the ADOH website at <https://housing.az.gov/documents-links/handbooks>. Recipients/subrecipients should consult their ADOH contract to determine the frequency of required performance reporting, which may be bi-monthly or quarterly.

Form S3R-1R includes four tabs and instructions for reporting by recipients to the ADOH and by subrecipients to recipients (who will then compile information for reporting to the ADOH).

Tab 1 – Complete this Tab First: collects recipient/subrecipient information, the ADOH Contract Number and Activity Name and/or Number, and the beginning and ending dates of the reporting period. This information is carried forward to Tabs 2, 3, and 4. Tab 1 also requires recipients / subrecipients answer seven (7) yes or no questions and provides further instructions on completing Tabs 2, 3, and/or 4.

Tab 2 – Labor Hours: must be completed when any project partner (recipient, subrecipient, contractor or subcontractor) performs labor hours during the reporting period. This form collects information regarding total labor hours worked, total labor hours worked by Section 3 workers and Targeted Section 3 workers, and professional services labor hours if the recipient or subrecipient elects to include professional services labor hours in the report. Section 3 totals and percentages are automatically calculated.

Tab 3 – Section 3 Businesses: must be completed when one or more contracts or subcontracts are awarded by any project partner during the reporting period. This form collects the Entity Name, Federal ID Number, Address, type of awardee (subrecipient, contractor or subcontractor), type of contract (trade, service, professional service or supply), whether the contracted entity is a Section 3 Business, the date of the contract, and the dollar amount of the contract.

Tab 4 – Qualitative Activities: must be completed when one or more employees were hired for the project workforce by any project partner, and/or if one or more subcontracts were awarded during the reporting period. This form allows recipients/subrecipients to select yes or no from a dropdown menu for specified qualitative activities. Recipients/subrecipients may also describe qualitative activities not specified.

Section 3 Contractor Report Form (S3R-1C)

The Section 3 Contractor Report Form (S3R-1C) is available in spreadsheet format on the ADOH website at <https://housing.az.gov/documents-links/handbooks>. Contractors/subcontractors must submit this form to the recipient/subrecipient for each payroll period.

Form S3R-1C includes four tabs and instructions for reporting by contractors to recipients/subrecipients and by subcontractors to contractors.

Tab 1 – Complete this Tab First: collects contractor/subcontractor information, the ADOH Contract Number and Activity Name and/or Number, and the beginning and ending dates of the payroll period. This information is carried forward to Tabs 2, 3, and 4. Tab 1 also requires contractors/subcontractors answer three (3) yes or no questions and provides further instructions on completing Tabs 2, 3, and/or 4.

Tab 2 – Labor Hours: must be completed with each payroll when any labor hours are worked by the contractor and/or subcontractor(s). This form collects information regarding each employee working on the project, whether they are a Section 3 or Targeted Section 3 worker, and the total project labor hours worked during the reporting period. Section 3 totals and percentages are automatically calculated.

Tab 3 – Subcontracts: must be completed when one or more subcontracts are awarded by any contractor during the reporting period. This form collects the Subcontractor Name, Federal ID Number, Address, type of contract (trade, service, professional service, or supply), whether the contracted entity is a Section 3 Business, the date of the contract, and the dollar amount of the contract.

Tab 4 – Qualitative Activities: must be completed when one or more employees were hired for the project workforce by a contractor/subcontractor, and/or if one or more subcontracts were awarded during the reporting period. This form allows contractors/subcontractors to select yes or no from a dropdown menu for specified qualitative activities. Contractors/subcontractors may also describe qualitative activities not specified.