

# Section 3

## Background and Compliance

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# Office Hours

- **Questions & Answers** from last Office Hours held on April 5, 2023 will be sent out in the Office Hours Newsletter this Friday.
- The slide deck from today's training will be provided with the Newsletter.
- Next Office Hours scheduled for May 3<sup>rd</sup> will be live Q & A with no prior recap.



# CDBG-CV Expenditure Deadline

**HUD announced yesterday morning, April 18, 2023 that it has removed the 80% expenditure deadline requirement for CDBG-CV funds.** HCD anticipates being able to amend certain contracts to extend expenditure deadlines and is creating a process for this. HCD's HUD Field Office has advised the CDBG staff to await further guidance before proceeding. More direction will be coming soon.

Link to HUD announcement: [Federal Register: Notice of Change to an Expenditure Deadline Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants](#)



## What Is Section 3?

- Refers to Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u)
- Requires that economic opportunities generated by certain HUD assistance for housing and community development programs create opportunities for low- and very low-income persons
- The HUD Section 3 Final Rule became effective on November 30, 2020 and revises the act to **count labor hours** not hires.
- Reference:  
<https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-09cpdn.pdf>



# When Does Section 3 Apply?

## Applies **ONLY** to...

- Housing rehabilitation projects
- Housing construction projects
- Other public construction projects

## Generally, when...

- The **PROJECT** receives \$200,000 or more in funding
- \*Exceptions on next slide

**DOES NOT** apply to materials-only contracts or contracts that do not require any labor.



**It is key to understand how a “project” is defined.**



## Additionally...

### Section 3 also applies **when...**

- A project receives less than \$200,000 **but receives public housing financial assistance**
- A project receives more than \$100,000 of **Lead Hazard Control and Healthy Homes program funding**



### Take Care

### Section 3 applies **to...**

- **The entire project**, not just the HUD funded portion
- Projects with **funding provided by one or a combination of two or more** applicable HUD programs, when that project meets or exceeds the threshold



# Check Your Understanding

1. A \$300,000 food bank program is subject to Section 3.

T  F

Correct. Section 3 only applies to construction projects.

2. A project rehabilitating apartments receiving \$200,000 of HUD funds is subject to Section 3.

T  F

Correct. This is a rehabilitation project of \$200,000 or more.

3. An activity with two \$150,000 construction projects on sites with different owners is subject to Section 3.

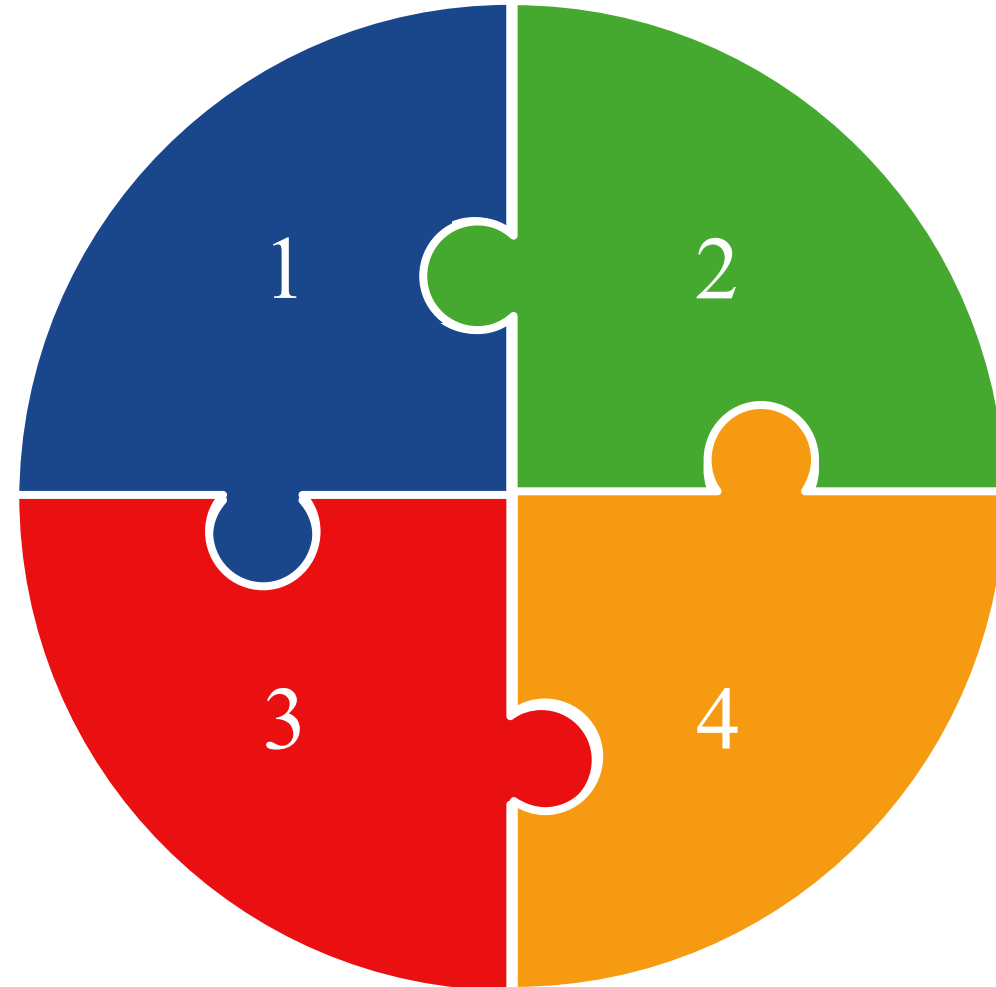
T  F

Correct. Each would be considered a separate project.

4. Section 3 applies to a \$350,000 construction materials purchase.

T  F

Correct. Materials-only construction projects are not subject to Section 3.







# What is a Section 3 Worker?

A Section 3 worker must meet **at least one** of the following criteria within a 5-year window, starting on or after 11/30/2020.

| Section 3 Qualifiers  | Who Must Certify/Confirm                     |
|---|--|
| <p><b>A low or very low-income resident</b><br/>(Based on HUD income limits applicable at worker's home address and an income of one)</p> | <p><b>Worker or employer</b> can certify</p> |
| <p><b>Employed by a Section 3 business concern</b> ★<br/>(Qualifications in 24 CFR 75.5.)</p>   | <p><b>Employer</b> must certify</p>          |
| <p><b>A YouthBuild participant</b> ★<br/>(Pre-apprenticeship program administered by U.S. DOL.)</p>                                       | <p>Worker can <b>self-certify</b></p>        |





# What is a Targeted Section 3 Worker? (1)

| <b>Section 3 Qualifiers</b><br><b><u>For Housing and Community Development Projects</u></b>   | <b>Who Must Certify/Confirm</b>   |
|---|---|
| <p><b>A low or very low-income resident AND</b><br/> <b>Lives within 1 mile radius of the project site</b> or within the allowed project service area within the 5-year window</p> <ul style="list-style-type: none"> <li>Extended to encompass a population of 5,000 people</li> </ul> | <p><b>Worker or employer</b> can certify income</p> <p><b>Employer</b> must confirm address</p> |
| <p><b>Employed by a Section 3 business concern</b> ★<br/>           (ALL employees of a Section 3 Business concern will be considered Targeted Section 3 workers. <b>No additional qualifier needed.</b>)</p>   | <p><b>Employer</b> must certify</p>   |
| <p><b>A YouthBuild participant</b> ★<br/>           (ALL YouthBuild participants are Targeted Section 3 workers. <b>No additional qualifier needed.</b>)</p>  | <p>Worker can <b>self-certify</b></p>   |



# What is a Targeted Section 3 Worker? (2)

| Section 3 Qualifiers<br>For Projects Receiving Public Housing Financial Assistance  | Who Must Certify/Confirm   |
|---|--|
| <p>A low or very low-income resident <b>AND</b><br/>Resident of public housing (within the 5-year window)</p>   | <p>Worker can <b>self-certify, or public housing authority</b> can certify</p> |
| <p>A low or very low-income resident <b>AND</b><br/>Resident of other public housing projects or Section 8-assisted housing (within the 5-year window)</p>  | <p>Worker can <b>self-certify, or public housing authority</b> can certify</p> |
| <p>Employed by a <b>Section 3 business concern</b> ★<br/>(<b>ALL</b> employees of a Section 3 Business concern will be considered Targeted Section 3 workers. <b>No additional qualifier needed.</b>)</p> | <p><b>Employer</b> must certify</p>  |
| <p>A <b>YouthBuild participant</b> ★<br/>(<b>ALL</b> YouthBuild participants are Targeted Section 3 workers. <b>No additional qualifier needed.</b>)</p>  | <p>Worker can <b>self-certify</b></p>  |



Select the **TRUE** statements about Section 3 and Targeted Section 3 Workers.

# Check Your Understanding

A person whose income was 60% AMI last year but is now 85% AMI can be a Section 3 worker

**TRUE**

Individuals must meet the income requirement within a 5-year window.

All Section 3 Business Concern hours count as Targeted Section 3 hours.

**TRUE**

No additional qualifier is needed for employees of a Section 3 Business Concern.

All Targeted Section 3 workers must live within the service area of the project.

**FALSE**

Any employees of Section 3 Businesses or YouthBuild participants qualify. Public housing residents may qualify.



## Targeted Section 3 Workers Count in All Categories

- Hours from all **Targeted** Section 3 Workers **should also be counted** as Section 3 Worker hours.
  - Targeted Section 3 workers are a **subset** of all Section 3 workers.  
Don't forget to count the donut hole!
- Both of these categories are also counted as part of All Worker hours.





# Safe Harbor Benchmarks

- New Section 3 requirements change tracking from new hires and contracts to **labor hours**.
- By project closeout, the Grantee should meet **2** safe harbor benchmarks:

**Section 3 Workers** make up at least **25%**  
of total project hours

**AND**

**Targeted Section 3 Workers** make up at least **5%**  
of total project hours



A Grantee is running a construction project for which the contractors have reported:

- 2,000 total labor hours
- 400 Section 3 labor hours
- 300 of those Section 3 hours are from workers who live within a mile of the project.

# Check Your Understanding

Grantee has 35% Section 3 hours and exceeded the 25% benchmark

**INCORRECT**

400 Section 3 hours already includes Targeted Section 3 hours so Grantee has 20%,

Grantee has 15% Targeted Section 3 hours and exceeded the 5% benchmark

**CORRECT!**

Grantee has 300 Targeted Section 3 hours. 300 divided by 2000 is 15%. Benchmark is 5%.

Grantee has 400 Section 3 hours and has met the Section 3 worker benchmark

**INCORRECT**

Grantee has 20% Section 3 participation but the benchmark is 25% .



# What if We Will Miss the Benchmarks?

- Grantees who anticipate that their projects will not hit these safe harbor benchmarks need to show **good faith efforts** to comply with Section 3 by engaging in other activities.
- These are referred to as **Qualitative Efforts**.

The screenshot shows a document header with the HUD logo and the title "CDBG - Section 3 Qualitative Efforts". Below the header is a "Section 3 Qualitative Efforts Description" section. It states that the form is required for projects funded on or after November 30, 2020, and whose labor hour benchmarks for Section 3 Workers (25% of a total project's hours) AND Targeted Section 3 Workers (5% of a total project's hours) are not anticipated to be met by the time of project closeout. Grantees should maintain records for HUD review to document any efforts checked.

Below the description are two input fields:

|                        |
|------------------------|
| Award/Contract Number: |
| Contractor/Grantee:    |

Below the fields is a list of qualitative efforts that may be undertaken to comply with Section 3, each with a checkbox:

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funding Targeted Workers
- Direct, on-the-job training including apprenticeships
- Indirect training such as arranging for contracting for, or paying tuition for, off-site training
- Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching)
- Outreach efforts to identify and secure bids from Section 3 business concerns
- Technical assistance to help Section 3 business concerns understand and bid on contracts

At the bottom left of the document is "Version 7/12/2022" and at the bottom right is the number "1".





# Grantee Record Keeping Responsibilities

- **Maintain** separate records for all **projects** that are required to comply with Section 3
- **Maintain or ensure** that their subrecipients or contractors/subcontractors maintain records in support of the Section 3 reporting

## Types of Records to Retain

- Payroll/hour records
- Section 3 Business Concern verification
- Section 3/ Targeted Section 3 Worker certifications/verifications
- Project service area map



# Key Steps



## Gather Project Information

- Project location information
- 80% AMI (varies by worker address)

## Individual Worker Certification

- Either workers or employers may certify
- Confirm addresses if qualifying as Targeted Section 3 based on income

## Verify Section 3 Business Concerns

- Consider using Section 3 Business Self-Certification form in addition to HUD site check

## Create Reporting Buckets

- All Labor Hours
- Section 3 Hours
- Targeted Section 3 Hours

## Track Progress

- Review progress on safe harbor benchmarks
- Monitor contractors, subcontractor, subrecipients
- Consider qualitative efforts

## Report to CA HCD

- Once at closeout
- CA HCD may review during monitoring



# Grantee Reporting Responsibilities

- Grantees are required to report Section 3 results **once**, at closeout.
- Closeout reports submitted to the CA HCD, must reflect values rolled up to the **award/activity** level

|  | Hours | Percent of Total Labor Hours | Safe Harbor Benchmark Met? (Y/N) |
|--|-------|------------------------------|----------------------------------|
| <b>Total Labor Hours to Date:</b>              |       |                              |                                  |
| <b>Total Section 3 Labor Hours to Date:</b>    |       |                              |                                  |
| <b>Targeted Section 3 Labor Hours to Date:</b> |       |                              |                                  |



# What Verification Responsibilities Do We Have?

- For Total Hours
  - Create/Maintain a log or list of all employees working on the project to document all hours
- For Section 3:
  - Ensure your own Section 3 employees claiming individual status (income based on household of one) have been certified (self or employer)
    - Monitor to ensure any contractor is doing the same
  - Verify Section 3 Business Concerns you use
    - Business can self-certify and/or register on HUD site:  
<https://hudapps.hud.gov/OpportunityPortal/>



# What Verification Responsibilities Do We Have?

- Targeted Section 3:
  - Identify Service Area:  
<https://hud.maps.arcgis.com/apps/webappviewer/index.html?id=1d27b42dd64e4684ba74fe5bd00f9755>
  - Verify address is within service area for all workers claiming status based on income
    - Monitor to ensure any contractor is doing the same
- Don't wait until the end for Qualitative Efforts
- Monitor recordkeeping for all contractors



# Tools to Help

Grantees can use their own tools or systems for Section 3 tracking and verification, but CA HCD has some tools that may help.

CDBG – Section 3 Business Self-Certification

### Section 3 Business Self-Certification

|  |  |  |
|--|--|--|
| Business Name:   |  |  |
| Business Address:  |  |  |
| County or Metropolitan Service Area (MSA) Where Business is Located: |  |  |
| Business Services (list):  |  |  |

Please read the following statements and **check all that apply to your business.**

- Fifty-one percent (51%) or more of the business is owned by low- or very low-income persons.
- Seventy-five percent (75%) of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers.
- At least fifty-one percent (51%) owned and controlled by current residents of public housing or Section 8-assisted housing
- None of the above apply to this business.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

|                                 |           |      |
|---------------------------------|-----------|------|
|                                 |           |      |
| Printed or Typed Name and Title | Signature | Date |

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CDBG – Section 3 Worker/Employer-Certification

### Section 3 Worker/Employer Certification

|                     |            |         |
|---------------------|------------|---------|
| Name:               |            |         |
| Permanent Address:  |            |         |
| I am a resident of: | Community: | County: |

#### Section 1: Worker Self-Certification

Please read the following statements and **check all that apply to you currently or during the time period beginning November 30, 2020.**

- My individual annual income was at or below 80% Area Median Income (AMI) figure for a household of 1 for the county or area in which I live. (Table at the end of this form provides annual 80% limits for each county.)
- I am or was a YouthBuild participant (within a 5-year window beginning on or after November 30, 2020). Start (MM/DD/YYYY): \_\_\_\_\_ End (MM/DD/YYYY): \_\_\_\_\_
- I am or was a resident of public housing (within a 5-year window beginning on or after November 30, 2020). Start (MM/DD/YYYY): \_\_\_\_\_ End (MM/DD/YYYY): \_\_\_\_\_
- I am or was a resident of other public housing projects or Section 8-assisted housing (within a 5-year window beginning on or after November 30, 2020). Start (MM/DD/YYYY): \_\_\_\_\_ End (MM/DD/YYYY): \_\_\_\_\_
- None of the above apply to me.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

|                       |           |      |
|-----------------------|-----------|------|
|                       |           |      |
| Printed or Typed Name | Signature | Date |

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CDBG – Section 3

### Section 2: Employer Certification

Employer Name: \_\_\_\_\_

Please read the following statements and **check all that apply or during the 5-year window from when you are first certified cannot begin before November 30, 2020.**

- The employee listed on page one of this form is employed by a Section 3 Business concern.
- (For Housing and Community Development projects) Lives within the project service area as defined by the Grantee. (Employers should obtain a map of the project service area from the Grantee.)
  - Typically, this is a 1-mile radius of the project site or is within the allowed project service area (within the 5-year window).
  - If fewer than 5,000 people live within one mile of the project site, the area is extended to a circle centered on the project site that encompasses a population of 5,000 people according to the recent census.
- None of the above apply.

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. Any false statements made knowingly and willfully may subject the signer to penalties under Section 1010 of Title 18 of the United States Code.

|                                 |           |      |
|---------------------------------|-----------|------|
|                                 |           |      |
| Printed or Typed Name and Title | Signature | Date |

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CDBG – Section 3 Worker/Employer-Certification

| County                 | 80% Area Median Income (AMI) for a Household of 1 |
|------------------------|---|
| Orange County          | 75,900  |
| Placer County          | 56,750  |
| Plumas County          | 45,750  |
| Riverside County       | 49,300  |
| Sacramento County      | 56,750  |
| San Benito County      | 49,300  |
| San Bernardino County  | 72,900  |
| San Diego County       | 104,400   |
| San Francisco County   | 46,350  |
| San Joaquin County     | 61,250  |
| San Luis Obispo County | 104,400   |
| San Mateo County       | 78,350  |
| Santa Barbara County   | 92,250  |
| Santa Clara County     | 87,350  |
| Santa Cruz County      | 44,450  |
| Shasta County          | 50,400  |
| Sierra County          | 43,650  |
| Siskiyou County        | 60,800  |
| Solano County          | 66,550  |
| Sonoma County          | 44,650  |
| Stanislaus County      | 43,650  |
| Sutter County          | 43,650  |
| Tehama County          | 43,650  |
| Trinity County         | 43,650  |
| Tulare County          | 46,800  |
| Tuolumne County        | 70,250  |
| Ventura County         | 55,550  |
| Yolo County            | 43,650  |
| Yuba County            | 43,650  |

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# Questions?

A Step-by-Step Guide to Section 3 Compliance is available from CA HCD.



Ask your Grant Administrator or HCD Representative.





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# Join Team HCD

HCD values diversity at all levels of the department and is committed to fostering an environment in which employees from a variety of backgrounds, cultures, and personal experiences are welcomed and can thrive. We believe the diversity of our employees and their unique ideas inspire innovative solutions to complex housing challenges.

**Join us and help improve the lives of all Californians.**

## **To find jobs at HCD:**

Visit: [jobs.ca.gov](https://jobs.ca.gov) and click “Advanced Job Search.”

- Search for California Department of Housing and Community Development

## **New to state service? Don't worry.**

You can view the step-by-step process on [jobs.ca.gov](https://jobs.ca.gov).