

State of Utah

Housing and Community Development (HCD)

Section 3 Plan

Purpose

The purpose of the Utah HCD Section 3 Plan is to ensure that employment and other economic opportunities generated by certain HCD financial assistance be, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, 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.

Section 3 FAQ's

How does Section 3 promote self- sufficiency?

Section 3 is a starting point to obtain job training, employment and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency.

Federal, state and local programs

Advocacy groups

Community and faith-based organizations

How does Section 3 promote homeownership?

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities they have begun the first step to self-sufficiency.

Remember, "It doesn't have to be fields of dreams". Homeownership is achievable. For more information visit our [HUD website](#).

Who are Section 3 residents?

Section 3 residents are:

Public housing residents or

Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below [HUD's income limits](#).

Determining Income Levels

Low income is defined as 80% or below the median income of that area.

What is a Section 3 business concern?

A business that:

Is 51 percent or more owned by Section 3 residents;

Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or

Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

What programs are covered?

Section 3 applies to HUD-funded Public and Indian Housing assistance for development, operating, and modernization expenditures.

Section 3 also applies to certain HUD-funded Housing and Community Development projects that complete housing rehabilitation, housing construction, and other public construction.

What types of economic opportunities are available under Section 3?

Job training

Employment

Contracts

Section 3 Compliance¹

- I. Utah HCD shall ensure compliance with the statutory and regulatory requirements of Section 3 in its own operations, and those of covered contractors. As part of our responsibility HCD will do the following:
 1. **Inform recipients** to whom funds are distributed of the requirements;
 - a. Contracts involving HOME dollars currently have the following clause under the heading “other federal requirements records”: “Documentation of actions undertaken to meet the requirements of 24 CFR Part 135 which implements Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)”
 - b. Contracts involving CDBG dollars currently have the following clause: “I certify that if this project triggers Section 3 regulations, I will comply with and report per the regulations set forth at 24 CFR Part 135 that implement Section 3 of the Housing and Urban Development act of 1968 (12 U.S.C. 1701u)”
 - c. All other HUD funding contracts will follow CDBG guidelines.
 2. **Assist recipients** and their contractors in meeting the requirements and objectives;

¹ A grantee’s combined investment in excess of \$200,000 of HCD funding into projects arising in connection with *housing construction, demolition, rehabilitation, or other public construction* makes the requirements of Section 3 applicable. If covered contractors receive awards that exceed \$100,000 for the construction and rehabilitation activities listed above, responsibility for Section 3 compliance is shared by the grantee with that firm (with the exception of the submission of the Section 3 Annual report, HUD Form 60002), which must be submitted by the grantee.

If no contractor receives an award exceeding \$100,000, responsibility for complying with the requirements of Section 3 stays with the recipient.

- a. Currently HCD instructs contract recipients as to how they are to declare Section 3 outcomes. As part of this process, recipients must self-certify and document their compliance before close out and before the project is posted into IDIS.
 3. **Monitor the performance** of recipients with respect to the requirements and objectives
 - a. During the construction of a project using HOME dollars, a HOME inspector will review compliance with Section 3 standards at the various check-up meetings; and
 4. **Submit annual summary reports** in accordance with 24 CFR Part 135.90
 - a. Both the HOME and CDBG programs are required to annually complete and submit HUD form 60002.
- II. To ensure that, to the greatest extent possible, contracts for work are awarded to business concerns located or owned in substantial part by persons residing in the Section 3 covered area, as required by Section 3 of the Housing and Development Act of 1968, Utah HCD has developed and hereby adopts the following plan:
1. The Section 3 plan shall apply to housing rehabilitation, housing construction, and other public construction, for which the amount of the federal (HUD) assistance provided to the recipient, exceeds \$200,000.
 2. In accordance with state procurement code, the recipient will publicly advertise contracting opportunities that provide general information about the work to be contracted and where to obtain additional information.
 3. Should a need exist to hire any additional personnel; the prime contractor selected will make reasonable efforts to hire section 3 residents who are qualified for the needed trade, and meet the proper geographical low income definition.
- III. Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for **NEW** employment or contracting opportunities that are created during the expenditure of covered assistance. This responsibility includes:
1. Implementing procedures to notify Section 3 residents about employment opportunities and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance;
 2. Notifying potential contractors for Section 3 covered activities of the requirements and incorporating the Section 3 clause set forth in 24 CFR Part 135.38 into covered solicitations and contracts;
 3. Facilitating the employment of Section 3 residents and the award of contracts to Section 3 business concerns;
 4. Assisting and actively cooperating with HCD in obtaining the compliance of contractors and subcontractors; and
 5. Documenting actions taken to comply with Section 3.

Section 3 Website

I. Purpose

The Section 3 website has been created to further “to the greatest extent feasible” the hiring of Section 3 businesses.

II. Registration

1. The State of Utah will issue a onetime mass notification to licensed Utah contractors of the existence of the Utah State Section 3 online registry, and encourage them to review the Section 3 business requirements and, should they qualify, register as a Section 3 business.
2. Information submitted through the online registry will be reviewed by HCD after which the contractor's information will become available for download. This registry is openly available to the public.
3. Entitlement jurisdictions will be notified of the existence of the Section 3 registry and will be encouraged to review its contents.

III. Consideration

1. In the process of a recipient soliciting proposals for contracts involving HUD funding, registered Section 3 businesses that are located in the MSA or County in which the work is to be completed may be notified directly of the contract, and are encouraged to bid.
2. Section 3 registration does not imply preference. As directed by state law, and in the interest of maximizing the utility of the taxpayers' dollars, **the state and its funding recipients will continue to award contracts to the lowest responsible bidder.**

Definitions:

Grantee refers to the State of Utah,

Recipient refers to the entity designated as a recipient of HUD funded grant assistance through the State of Utah.

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

Section 3 Covered Project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

Section 3 Covered Assistance includes:

1. Public and Indian Housing Operating Subsidy; Capital Funds; or Modernization assistance; and
2. Housing and community development assistance expended for housing rehabilitation, housing construction, or other public construction.

Section 3 business concern is a business that can provide evidence that they meet one of the following criteria:

1. 51 percent or more owned by Section 3 residents; or
2. At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire*; or

3. Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications above.

Section 3 resident refers to a public housing resident or a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended.

For more information regarding Section 3 please refer to <http://portal.hud.gov/hudportal/documents/huddoc?id=11secfaqs.pdf>

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 135, 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 135 regulations.

C. 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, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, 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 135. 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 135.

E. 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 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).