

# **CONTRACTOR'S GUIDE TO SECTION 3**



*Cumberland Housing Group*

## What is Section 3 and How Does it Apply to You

*Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires Cumberland Housing Group to ensure that employment and other Economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very low-income persons.*

*The final rule took effect on November 30, 2020, and updates HUD's Section 3 regulations to create more effective incentives for employers to retain and invest in their low- and very low-income workers, streamline reporting requirements by aligning them with typical business practices, provide for program-specific oversight, and clarify the obligations of entities that are covered by Section 3.*

*The Section 3 program is triggered on public housing contracts regardless of the amount. Contractors and subcontractors that intend to bid on a contract with Cumberland Housing Group need to be aware of their responsibilities in order to be in compliance.*

*According to 24 CFR 75.13, recipients of public housing funds must meet or in the “best way feasible” try to meet the benchmarks:*

- ❖ *25 % or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Section 3 workers.*
- ❖ *5 % or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Targeted Section 3 workers.*
- ❖ *The 5% is included in the 25%.*



## *Employment/Training for Section 3 Workers:*

- 1) *To public housing residents*
- 2) *To Section 8-assisted housing residents*
- 3) *To participants in Youth Build programs*
- 4) *To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.*

## *Contracting for Section 3 Business Concerns:*

- 1) *To Section 3 business concerns that provide economic opportunities for residents of the public housing projects*
- 2) *To Section 3 business concerns that provide economic opportunities for residents of Section 8-assisted housing managed by the PHA*
- 3) *To Youth Build programs*
- 4) *To Section 3 business concerns that provide economic opportunities to Section 3 workers residing in the metropolitan area (or nonmetropolitan county) in which the assistance is provide.*

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**Contractor's must follow prioritization for employment, training, and contracting.**

# Know the Steps

## Pre-bid:

- ❑ *Read over Section 3 requirements for compliance and sign notice. Notice will be returned with the bid.*
- ❑ *Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of Cumberland Housing prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid. The Section 3 Business Concern Certification Form will expire after 3 years.*

## Pre-Contract start date:

- ❑ *Present a list, to the Section 3 Coordinator, of the number of total labor hours, Section 3 worker labor hours, and Targeted Section 3 worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, to include job descriptions and wage rates.*
- ❑ *Make sure Section 3 clause and Assurance of Compliance is included in contract and signed.*
- ❑ *Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the legal department will be contacted to ensure that the individuals are not involved in any legal proceedings against/with Cumberland Housing Group.*

## During Contract:

- ❑ *Contractors will be responsible for any OTJ training required. The Section 3 Coordinator may refer applicants to job readiness training but is not responsible for job training during the contract*
- ❑ *Complete monthly/cumulative compliance reports as required by Cumberland Housing Group.*
- ❑ *Fill out payroll report for all Workers/Targeted workers for Section 3 compliance records. This can be obtained through DBW if applicable to contract.*
- ❑ *Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants. Or, if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.*

# Reporting

**For Section 3 covered contracts, contractors and subcontractors are required to submit Section 3 performance and Summary Reports to Cumberland Housing Group's Section 3 Coordinator on a monthly and annual basis.**

Contractors are required to submit monthly activity reports by the 10<sup>th</sup> of each month

The monthly reporting requirement will be reviewed on a contract-to-contract basis. The Section 3 Coordinator will determine if monthly reporting will be required of the contractor before the start date of the project.

Monthly payroll reports will be required; DBW reports are acceptable if triggered by the contract. Since DBW reports are required weekly, the last report of each month during the contract will be reviewed for Section 3 compliance.

**Once the project is completed, contractors must submit a final Section 3 cumulative report for the program year.**

Upon completion of a project, Cumberland Housing Group's Section 3 Coordinator will conduct a final review of the project's overall performance and compliance.

Cumberland Housing Group's Section 3 Coordinator will submit the Section 3 data into the Section 3 Portal system to HUD within sixty days after March 30<sup>th</sup> of each fiscal year.

## WHAT HAS CHANGED:

The final rule has changed the reporting from how many new hires per Section 3 contract to the total number of labor hours worked with the public housing financial assistance in the fiscal year of Cumberland Housing Group.

For contractors and subcontractors that have not met the benchmark, they must show their qualitative efforts:

- ❖ Advertised to fill vacancies at the site, where work is taking place, in connection with this project.
- ❖ Placed signs/posters in prominent places at work site, and have taken photographs that this step was carried out.
- ❖ Distributed employment flyers to each of the residents at the work site developments
- ❖ Contacted employment referrals
- ❖ Contacted U.S. HUD State Office to identify any HUD Youth Build programs currently operating in Allegany County; then contacted these programs for referral
- ❖ Maintained a log of all applicants and indicated the reasons why Section 3 residents who applied were not hired
- ❖ Retained copies of any employment applications completed by public housing, Section 8 certificate or voucher holders or other Section 3 residents.
- ❖ Sent a notice about Section 3 training and employment requirements and opportunities to labor organizations or to worker representatives with whom our firm has a collective bargaining or other agreement.

## Definitions

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

**Contracts for materials**- Section 3 requirements do not apply to material supply contracts.

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

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

**Low-income person** – means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income.

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

**Section 3 Business Concern** – a business concern meeting at least one of the following criteria, documented within the last six- month period:

- 1) That is 51% percent or more owned by low- or very low-income persons; or
- 2) Over 75% of the labor hour performed for the business are performed by low- or very-low-income persons; or
- 3) It is a business at least 51% owned by current public housing residents or residents who currently live in Section 8 assisted housing.
- 4) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- 5) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of this contract.

**Section 3 Covered Assistance** –

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) public housing operating assistance provided pursuant to Section 9(e) of the 1937 Act;
- 3) public housing development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act; and
- 4) the entirety of a mixed-finance development project as described in 24CFR 905.604
- 5) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** – the contract provisions set forth in Section 24 CFR 75.

**Section 3 Covered Contracts** – a contract or subcontract awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

**Section 3 Covered Project** - housing rehabilitation, housing construction and other public construction projects that generally exceed a \$200,000 project threshold or any Section 3 project funding from HUD's Lead Hazard Control and Healthy Homes programs.

**Section 3 Resident** – a public housing resident or an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

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

- 1) Worker's individual income is below the low-income limit of 80% Area Median Income;
- 2) Worker is employed by a Section 3 business concern; or
- 3) Worker is a YouthBuild participant

**Section 3 Targeted Worker**- any worker who is employed by a Section 3 business concern or is a:

- 1) Resident of public housing or receives Section 8 assisted housing;
- 2) Resident of another project managed by the housing authority that is expending the assistance; or
- 3) A YouthBuild participant

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).