

Escambia County

CDBG — DR Section 3 Plan

DRAFT





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Section 3

Overview

HUD requires that CDBG-DR/MIT/ MIT funded programs comply with Section 3 requirements. Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes economic opportunities for low-income individuals and businesses residing in areas where HUD financial assistance is provided for housing and community development projects. As of November 30, 2020, CDBG-DR/MIT programs are required to adhere to the reporting and compliance requirements outlined in [CPD Notice 21-09](#) and [24 CFR Part 75](#).

Applicability

Section 3 requirements apply to all CDBG-DR/MIT funded housing rehabilitation, reconstruction, elevation or new construction, and any other public construction project that has a total project cost of \$200,000 or more. The project includes the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. Section 3 applies to the entire project even when the CDBG-DR/MIT funds are only a portion of the total funding.

In accordance with 24 CFR 75.3(b), Section 3 requirements do not apply to material supply contracts.

Benchmarks

Escambia County and their contractors will make every effort to comply with HUD benchmarks when undertaking applicable projects to satisfy Section 3 requirements. Escambia County and their contractors will be considered in compliance with requirements of HUD's Section 3 final rule if Escambia County and their contractors certifies that prioritization efforts in 24 CFR Part 75.19 have been followed, and Escambia County and their contractors have met or exceeded the following Section 3 benchmarks:

- 25% of total labor hours are performed by a Section 3 worker
- 5% of total labor hours are performed by Targeted Section 3 workers

In addition to the benchmarks above to the greatest extent feasible, Escambia County, shall ensure the following:

- Contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located;
- Where feasible, priority for contracting opportunities should be given to Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and to YouthBuild programs;
- Employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located; and

- Where feasible, priority opportunities and training should be given to Section 3 workers within the service area or the neighborhood of the project and to YouthBuild programs.

Section 3 Worker

A Section 3 worker is defined as any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit¹ established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 Worker

A 'Targeted' Section 3 worker for housing and community development financial assistance is defined as a worker that is a Section 3 worker who is also:

- A worker employed by a section 3 business concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing;
 - A resident of the other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - A Youthbuild participant.

Section 3 Business Concern

A Section 3 business concern is defined as a business concern meeting at least one of the following criteria, documented within the last six-month period:

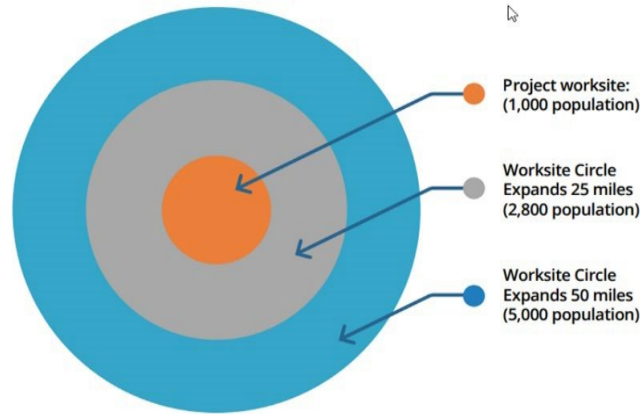
- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

¹ The one-person household income limit is used to determine income eligibility. Income limits are available at <https://www.huduser.gov/portal/datasets/il.html>

Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Service area or the neighborhood of the project means 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.



Procurement

All procurements issued by Escambia County that include funding covered by 24 CFR 75.3 will include notice that Section 3 is applicable to the funding and may include, as appropriate for the specific procurement, points for the quality of a proposed plan to achieve Section 3 benchmarks.

Contracting

Escambia County must include language in any agreements or contracts to apply Section 3 to all contractors and subcontractors.

Escambia County and their contractors must require all subcontractors to meet the requirements of 24 CFR Part 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Sample Section 3 contract language can be provided upon request.

Reporting

Escambia County and their contractors will report monthly, in a tracking form prescribed by Escambia County below, the total number of labor hours worked, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers.

File Name	Escambia County Section 3 Tracking Report (HUD-4737A)
https://myescambia.com/sallyrecoverygrant	https://myescambia.com/sallyrecoverygrant

Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to 21 CFR 75.31.

The labor hours reported must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any employees of the County, contractors, and subcontractors that the employer is required or elects to report. None of the listed parties will include labor hours from professional services in the total labor hours worked. If a contract covers professional services and other work, reporters must include the labor hours under the contract that are not from professional services unless the professional services are performed by a Section 3 worker, in which case the hours are counted in the percentage but not the total hours.

Escambia County and their contractors will report on labor hours for any employees or subcontractors on the employer's good faith assessment of labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll system, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

Qualitative Efforts

If Section 3 benchmarks are not met, Escambia County and their contractors must report quarterly on the qualitative nature of all Section 3 compliance activities. Such qualitative efforts may include, but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

Recordkeeping

Escambia County must maintain documentation, and ensure that the contractor or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

- For a worker to qualify as a Section 3 worker, one of the following must be maintained:
 - A worker's self-certification that their income is below the income limit from the prior calendar year;
 - A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
 - An employer's certification that the worker is employed by a Section 3 business concern.
- For a worker to qualify as a Targeted Section 3 worker the following must be maintained:
 - An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
 - An employer's certification that the worker is employed by a Section 3 business concern; or
 - A worker's self-certification that the worker is a YouthBuild participant.

Escambia County and their contractors must maintain all Section 3 records related to CDBG-DR/MIT for a minimum of 5 years after grant closeout.

Contractor Procedure

Escambia County and their contractors will implement the following steps to comply with HUD Section 3 requirements.

1. Develop a Section 3 Plan (**optional**). While the final rule does not require recipients to have Section 3 plans, a Section 3 plan can serve as a guide for the community ensuring that the Section 3 requirements are properly implemented and communicated. The development of a Section 3 plan is optional.
2. Identify a Section 3 Coordinator.
3. Facilitate training of staff and stakeholders on Section 3 goals and requirements.
4. Incorporate Section 3 language in procurement activities.
5. For each project identify the service area or the neighborhood of the project as defined in 24 CFR 75.5. Service areas can be defined using the NEPAAssist tool, which can be found at <https://www.epa.gov/nepa/nepassist>, or similar GIS tools.
6. Review contracts and agreements to ensure that Section 3 contract provisions have been included in all agreements and contracts for Section 3 projects.
7. At a preconstruction conference inform the contractor of the contractor's Section 3 responsibilities, Section 3 Benchmark goals, and Section 3 reporting requirements. Provide the contractor with Section 3 certification forms, tracking templates, and report forms.
8. On a quarterly basis, review Escambia County and their contractors Section 3 reports to determine progress toward meeting Section 3 Benchmarks. Provide additional assistance as required to assist contractors in achieving Section 3 labor hour goals.
9. If reporting indicates that the reporters are not meeting the Section 3 Benchmarks, require reporters to provide documentation of the qualitative efforts listed in 24 CFR 75.25(b) they have undertaken.
10. Escambia County and their contractors should obtain any Section 3 worker or Section 3 Targeted worker labor hours from professional services during the reporting period.
11. Complete and submit required Section 3 reports to Escambia County Project Managers on a timely basis.
12. Promptly report all Section 3 complaints or potential violations of Section 3 requirements to Escambia County.
13. Maintain Section 3 reports, certification forms, and related documents in accordance with Escambia County record retention requirements.

Contact

Escambia County's Governmental Liaison is responsible for ensuring compliance with HUD CDBG-DR/MIT funding.

To connect with the Governmental Liaison regarding these efforts, please contact:

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