

SECTION 3

POLICY

COBB COUNTY

CDBG PROGRAM OFFICE



Revised 2021

COBB COUNTY SECTION 3 POLICY

Background:

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. This provision was updated in 1992 under 24 CFR Part 135. The final rule was published on September 28, 2020 and went into effect on November 30, 2020, which is outlined under 24 CFR Part 75. The changes in the final rule improve the effectiveness of Section 3, streamline some processes that have not yielded significant benefits, and encourage HUD grantees to focus on sustained employment for low- and very low-income individuals.

Purpose:

Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing within the community where the project is located.

To ensure that economic opportunities generated from HUD funds for housing and community development, using best efforts to the greatest extent feasible, will be directed to:

- ❖ Low and very low-income persons - particularly those receiving assistance for housing,
- ❖ Low and very low-income workers of the community in which the Section 3 funds are spent, and
- ❖ Businesses that provide economic opportunities to these persons.

Reasonable efforts must be made to recruit, target, and direct economic opportunities to Section 3 Workers, Targeted Section 3 Workers and Section 3 business concerns. These efforts are expected to re-direct job and contracting opportunities to these workers and businesses rather than creating new jobs and contracts.

Cobb County's Policy Statement:

It is the policy of Cobb County herein described as the "County", to ensure that Equal Employment Opportunities be provided for all employees and applicants for employment regardless of race, color, religion, sex, national, origin, handicap, or economic status; and that through the award of contracts to contractors, subcontractors, vendors, and suppliers, the County will ensure that employment and business opportunities be created for residents of CDBG eligible income areas, residents in low and moderate-income census tracts and block groups, and other qualified low and very low-income persons residing in Cobb County. This will be a continuous policy throughout all HUD funded programs in the County receiving federal grant assistance. The County intends to uphold its obligation to contractors, subcontractors, and vendors and incorporate practical initiatives of providing full-time

permanent employment opportunities as well as business opportunities to low and moderate-income persons and other Section 3 eligible persons.

Section 3 Benchmarks:

The final rule incorporated a change from tracking the number of Section 3 qualified new hires in public housing financial assistance and Section 3 projects, to tracking the total labor hours worked. The final rule at 24 CFR 75.25(a) requires grantees to report the following hours for Section 3 projects:

1. The total number of labor hours worked by all workers;
2. The total number of labor hours worked by Section 3 workers; and
3. The total number of labor hours worked by Targeted Section 3 workers.

The benchmark notice establishes the current benchmarks that are applicable for a Section 3 project where the total amount of HUD assistance to the project exceeds a threshold of \$200,000.

The current Section 3 benchmarks are:

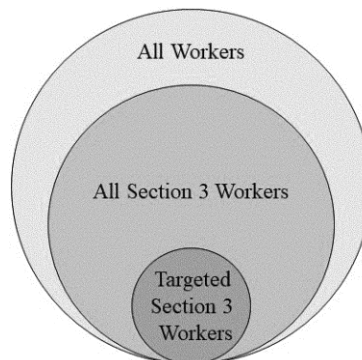
1. Benchmark 1: Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Section 3 workers

➤ Section 3 Labor Hours/Total Labor Hours = 25%

AND

2. Benchmark 2: Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Targeted Section 3 workers

➤ Targeted Section 3 Labor Hours/Total Labor Hours = 5%



The Section 3 benchmarks are minimum numerical targets that must be reached in order for the County to consider a recipient in compliance. Recipients are required to make efforts to the greatest extent feasible to achieve the annual benchmarks for employment and contracting. If an agency fails to fully meet the Section 3 benchmarks, they must be prepared to demonstrate the efforts taken in an attempt to meet those benchmarks.

The County will ensure every effort to achieve the benchmarks of Section 3 and shall provide equal responsibility to its contractors, vendors, and suppliers to implement aggressive compliance efforts. The County will also evaluate contractors' compliance towards achieving the goals of the Section 3 Policy and ensure a system of sanctions against contractors, vendors, or suppliers for non-compliance and initiate punitive steps to address any such concerns.

Contractor Requirements:

All contractors submitting bids/proposals to the County shall be required to complete certification, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions as required by this Section. Such certification shall be supported with adequate evidence to support representation made. The certifications required to be submitted with the bid/proposal consist of the following:

- ❖ Certification of Bidder Regarding Section 3 and Segregated Facilities;
- ❖ Bidder Section 3 Plan Format;
- ❖ Bidder's Proposed Section 3 Contracts/Subcontracts Report;
- ❖ Bidder's Section 3 Estimated New Hires Report;
- ❖ Contractor Section 3 Labor Hours Report;
- ❖ Contractor Section 3 Business Utilization Report;
- ❖ Contractor Certification of Efforts to Fully Comply with Section 3 Employment and Training Provisions.

Prior to the award of any contract the contractor shall enter into negotiations with the County for the purpose of incorporating into the contract a provision for a specific number of Section 3 workers and Targeted Section 3 workers to be trained or employed on the contract. Such resulting provision shall obligate the contractor toward achieving the benchmarks listed above and shall be based on a detailed workforce analysis to be complied by the contractor and submitted to the County prior to award of contract.

Section 3 Preference:

The County will act in accordance with all Section 3 regulations and require contractors and subcontractors (including professional service contractors) to direct their efforts towards awarding contracts to Section 3 business concerns in the following order of priority:

1. Category 1
Business concerns that are 51% or more owned by residents of the housing development(s) for which work is performed, or whose fulltime, permanent workforce includes 30% of these persons as employees.
2. Category 2
Business concerns that are 51% or more owned by residents of Public housing developments other than the development(s) for which work is

performed, or whose fulltime, permanent workforce includes 30% of these persons as employee(s).

Certification Opportunities:

Cobb County will provide certification assistance for individuals and business concerns seeking recognition as a Section 3 worker or Section 3 business as defined in this Section 3 Policy. Any individual or business seeking Section 3 preferences in the awarding of contracts or purchase agreements shall complete appropriate certification procedures and provide documentation as evidence of eligibility for preference under Section 3. An individual or business may apply for certification as a Section 3 worker or Section 3 business concern either prior to bidding for County work or during the bidding process. Any business concern that submits certification for preference after recipient of bid will not be considered eligible for Section 3 preference in the evaluation of that specific bid award. Certification for Section 3 preference for business concerns must be received by the County prior to the submission of bids or along with the bid. Certification for eligibility as a Section 3 worker may be made at any time.

HUD's Section 3 Business Registry is a listing of firms that have self-certified as meeting one of the regulatory definitions of a Section 3 business and are included in a searchable online database that can be used by agencies, developers, contractors, and others to facilitate the award of certain HUD-funded contracts. The database can also be used by Section 3 workers to identify businesses that may have HUD-funded employment opportunities. This registry is a helpful tool to assist recipients of HUD funding (e.g., Public Housing Agencies, local units of government, property owners, etc.), developers, and others locate Section 3 businesses within their community.

HUD's Section 3 Opportunity Portal is intended to help streamline the Section 3 certification process. The site is to be used by either Section 3 Workers, Targeted Workers or Employers. Section 3 Workers may use the site to Search for Jobs and post their profile/employment history for companies to search. Employers may use the site for posting job/contract opportunities or search for eligible workers to fill positions.

<https://hudapps.hud.gov/OpportunityPortal/>

Section 3 Complaints:

Complaints alleging failure of compliance with Section 3 regulations may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, www.hud.gov/.

Monitoring:

The County will monitor Section 3 compliance on an ongoing project basis. Community Planning and Development (CPD) representatives in HUD field offices will monitor the County for Section 3 compliance as part of the existing CPD onsite or remote monitoring process.

Definitions:

- **Department or HUD** shall mean the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.
- **Contractor** shall mean any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.
- **Employment Opportunities** shall mean any opportunity generated by Section 3 covered assistance generated by the expenditure of Section 3 covered public and Indian housing assistance (to include: operating assistance, development assistance, and modernization assistance).
- **Housing Development** shall mean low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations listed in 24 CFR Chapter IX.
- **New hires** shall mean full-time employees for permanent, temporary or seasonal employment opportunities.
- **Recipient** shall mean any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency, or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.
- **Service Area** shall mean the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.
- **Section 3** shall mean Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).
- **Labor hours** shall mean 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.
- **Section 3 Covered Project** shall involve 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** shall mean:
 - ❖ Public and Indian housing development, operating or capital funds; **or**
 - ❖ Other housing assistance and community development assistance expended for housing rehabilitation, housing construction or other public construction projects, such as: CDBG, HOME, 202/811, Lead-Based Paint Abatement, etc.

- **Section 3 Business Concerns** shall mean businesses that can provide evidence that they meet one of the following:
 1. 51% or more owned and controlled by low or very low-income persons; **or**
 2. 51% or more owned and controlled by PH residents or HCV participants; **or**
 3. 75% labor hours performed on construction are performed by low or very low-income persons.
- **Section 3 Worker** shall mean:
 1. A worker whose annual income is below HUD income limits; or
 2. A worker who is employed by a Section 3 business concern; or
 3. A current Youthbuild participant.
- **Targeted Section 3 Worker** shall mean:
 1. A worker employed by a Section 3 business concern; or
 2. A worker who resides in a public housing project or Section 8-assisted housing; or
 3. A resident of other projects managed by the PHA that is expending assistance; or
 4. A current YouthBuild participant.