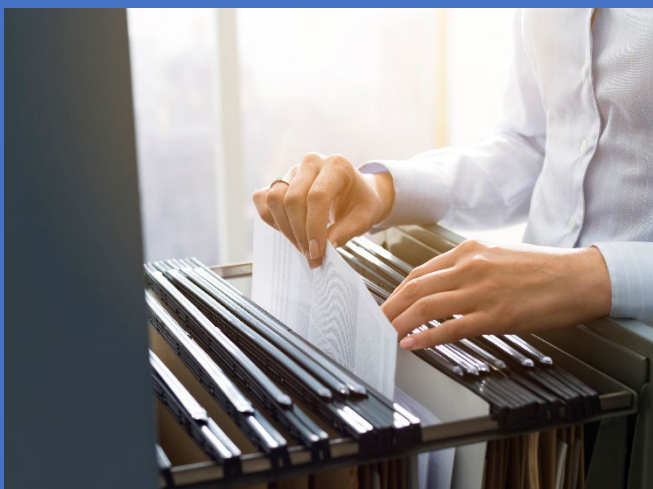




# SECTION 3 COMPLIANCE GUIDE



## Table of Contents

Section 3 Assistance.....	1
What is Section 3? .....	1
Key Definitions.....	1
<b>Section 3 Worker</b> .....	1
<b>Targeted Section 3 Worker</b> .....	1
<b>Section 3 Business Concern</b> .....	2
What are the Section 3 Benchmarks (Safe Harbor Benchmarks)?.....	2
What if the Safe Harbor Benchmarks Aren't Met? .....	3
What are the Recordkeeping Requirements? .....	3
<b>Section 3 Worker Records</b> .....	3
<b>Targeted Section 3 Worker Records</b> .....	3
What are the Reporting Requirements?.....	4
<b>Monthly reports shall include:</b> .....	4
<b>Professional Services</b> .....	5
<b>Good Faith Assessment</b> .....	5
<b>Annual Reporting</b> .....	5
Compliance Monitoring and Reviews.....	5
<b>Addressing Non-Compliance</b> .....	6
<b>Compliance Complaints</b> .....	6
In Summary.....	6
Appendix A: Sample Section 3 Worker and Targeted Section 3 Worker Certification Form.....	7
Appendix B: Sample Section 3 Business Concern Certification Form.....	8
Appendix C: Sample Section 3 Reporting Form .....	9

## Section 3 Assistance

The City of Dayton's Section 3 Coordinator is Jordan Bereda. Subrecipients, contractors, subcontractors, and others are encouraged to reach out via email with questions regarding Section 3 compliance.

Jordan Bereda, Community Development Specialist

[Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov)

## What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with Federal, State, and local laws and regulations, be 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.

Working on a Section 3 applicable project involves obligatory responsibilities for the contractor or subrecipient. In summary, the obligations of Section 3 for contractors and subrecipients are:

1. Provide outreach/training for Section 3 workers, and report on the outreach and training undertaken.
2. To the greatest extent feasible, hire and train Section 3 workers, and report on employees and new hires.
3. To the greatest extent feasible, contract with Section 3 Business Concerns, and report on contracts and subcontracts.

## Key Definitions

### Section 3 Worker

Any worker who currently fits, or when hired fit, at least one of the following categories, as documented within the past five years:

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

### Targeted Section 3 Worker

For housing and community development financial assistance programs:

1. A worker employed by a Section 3 Business Concern; or
2. A worker who currently fits, or when hired fit, at least one of the following categories, as documented within the past five years:
  - a. Living within one mile of the service area or the neighborhood of the project;
    - 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.

- b. A YouthBuild participant.

Section 3 workers and Targeted Section 3 workers must fill out a certification form (contractor may fill out on behalf of workers). Please contact the Section 3 Coordinator at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov) for a list of certified Section 3 Workers and Section 3 Businesses.

For the purposes of Section 3 worker eligibility, the City will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at: <https://www.huduser.gov/portal/datasets/il.html>.

### Section 3 Business Concern

Businesses that meet at least one of the following criteria, documented within the last six-month period:

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

Contractors and subcontractors should give Section 3 Business Concerns priority when awarding contracts and subcontracts.

Businesses may demonstrate Section 3 eligibility by submitting a Section 3 Business Concern Certification Form. Once verified, a Section 3 Business Concern maintains its Section 3 status for as long as it continues to meet the definition.

### What are the Section 3 Benchmarks (Safe Harbor Benchmarks)?

Under the Section 3 Final Rule, the housing rehabilitation, housing construction, and other public construction projects exceeding \$200,000 in HUD-funded assistance must comply with the Section 3 Safe Harbor Benchmarks. These include:

- Twenty-five (25) percent or more of the total number of labor hours on a Section 3 project are from Section 3 workers;
- Five (5) percent or more of the total number of labor hours on a Section 3 project are from Targeted Section 3 workers.

It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks was not feasible. By signing contracts where Section 3 applies, you are agreeing to comply with the requirements of Section 3.

It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 Workers and Targeted Section 3 Workers before any other person, when hiring additional employees is needed to complete proposed work to be performed with HUD funded projects.

## What if the Safe Harbor Benchmarks Aren't Met?

If a contractor, subcontractor, or sub-recipient is unable to meet the Section 3 Safe Harbor Benchmarks, they must provide evidence that they have made qualitative efforts to assist low- and very low-income persons with employment and training opportunities. These qualitative efforts may include:

1. Engagement in outreach efforts; could include but not limited to:
  - a. Outreach meetings;
  - b. Post flyers in public areas;
  - c. Job advertisement in paper, tv, radio, etc.;
  - d. Host or attend job fair
2. Postage at work site in conspicuous places where both employees and applicants for training and employment positions can see the notice. **(Required)**
  - a. Please note this is a requirement listed in the "Section 3" Clause of City of Dayton Agreements.
3. Send a notice to local Housing Authority alerting them of job opportunities **(Required)**
  - a. Greater Dayton Premier Management (GDPM) are the housing authority for the City of Dayton.
4. Provide training or apprenticeship opportunities.
5. Any other efforts made to assist low- and very low-income persons with employment or training opportunities.

**Any qualitative efforts made will need to be clearly documented in the monthly report and evidence will need to be provided.**

## What are the Recordkeeping Requirements?

Documentation must be maintained by both the City and the subrecipient, contractor, or subcontractor that employs the worker 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.

### Section 3 Worker Records

One of the following must be maintained:

1. A worker's self-certification that their income is below the income limit;
2. A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
3. 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;
4. 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
5. An employer's certification that the worker is employed by a Section 3 business concern.

### Targeted Section 3 Worker Records

One of the following must be maintained:

1. 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;
2. An employer's certification that the worker is employed by a Section 3 business concern; or
3. A worker's self-certification that the worker is a YouthBuild participant.

Sample certification forms for Section 3 Workers, Targeted Section 3 Workers, and Section 3 Business Concerns can be found in the Appendix of this document.

## What are the Reporting Requirements?

Contractors and sub-recipients working on Section 3 applicable projects are required to submit monthly reports to the Section 3 Coordinator. Monthly reports are due by the end of the first full business week of the subsequent month by using the Section 3 Monthly Reporting excel form (sample shown in Appendix). For example, a monthly report documenting labor hours for January will be due by the end of the first full business week of February.

Reports should be submitted to Jordan Bereda at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov).

### Monthly reports shall include:

1. Company information
  - a. Name of Project
  - b. Funding Source(s)
  - c. CT/Encumbrance
  - d. Reporting Period (Month and Year)
  - e. Contractor Name
  - f. Contractor Address
  - g. Contractor Phone Number
  - h. Contractor Email
  - i. Is the business a MBE or WBE?
  - j. Is the business a Section 3 Business Concern?
  - k. Type of Business (Corporation, Partnership, Sole Proprietorship, Joint Venture)
2. Employee information
  - a. Employee Name
  - b. Section 3 status (Section 3 Worker or Targeted Section 3 Worker)
  - c. Phone Number
  - d. Job Classification
  - e. Hire Date
  - f. Last Day of Work
  - g. Hourly Rate
  - h. Number of Hours Worked during Reporting Period
3. Reporting of Labor Hours
  - a. Total Number of Labor Hours Worked on the Project (both Section 3 and non-Section 3 worker hours)
  - b. Total Number of Labor Hours Worked by Section 3 Workers; and

- c. Total Number of Labor Hours Worked by Targeted Section 3 Workers.
- 4. Qualitative Efforts Made

### Professional Services

Subrecipients, Contractors, and subcontractors who report to recipients, may report labor hours by Section 3 workers and labor hours by Targeted Section 3 workers from professional services without including labor hours from professional services in the total number of labor hours worked. If a contract covers both professional services, the labor hours under the contract that are not from professional services must still be reported.

While HUD does not require reporting Section 3 labor hours for professional service contracts for non-construction services, the City may require a professional service contract or subcontract to report Section 3 labor hours.

**While Professional Service Labor Hours are not able to be included in the total hours on the project, any Professional Service Labor Hours worked by a Section 3 or Targeted Section 3 worker may be counted as Section 3 labor hours to help fulfill the benchmarks.**

### Good Faith Assessment

Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

If the subrecipient, contractor or subcontractor is requesting payroll funding to be covered, labor hours calculation must be shown to ensure compliance with Section 3. The Good Faith Assessment is a limited exception to be used by employers who do not have systems in place to track labor hours. This not a permanent exception and if in the future the contractor or subcontractor is required to track labor hours under a third-party authority or begins to voluntarily track labor hours, the exception would no longer apply.

### Annual Reporting

Once a project is completed, contractors must submit a final Section 3 cumulative report for the program year. Upon the completion of a project, the Section 3 Coordinator will conduct a final review of the project's overall performance and compliance. The Section 3 Coordinator will submit the Section 3 project data to HUD annually.

### Compliance Monitoring and Reviews

The Section 3 Coordinator will conduct regular compliance reviews, which consist of comprehensive analysis and evaluation of recipient's or contractor's compliance with Section 3. Since the source of these funds is HUD, federal officials maintain the right and responsibility to conduct Section 3 compliance reviews, which may involve any and all Section 3 projects funded by the City.

Where noncompliance is found with contractors or sub-recipient's subcontractors, notification will be sent to the contractor or sub-recipient who will be responsible for ensuring compliance from their subcontractor. **A finding of noncompliance by the City or HUD may result in termination of contract or loss of future contracting opportunities.**

## Addressing Non-Compliance

If the contract is a multi-year contract the City or HUD holds the right to terminate the contract after the first year due to non-compliance. If the contract is for one year, noncompliance will be documented and has the potential to hinder future contract opportunities.

## Compliance Complaints

Any Section 3 Worker or Business may file a complaint alleging noncompliance with Section 3 by a contractor, subcontractor, developer and/or sub-recipient. Complaints may be made to HUD Detroit Field Office Point of Contact:

Daniel Huyck

McNamara Federal Building

477 Michigan Ave, Floor 16, Detroit, MI 48226

Or at the phone number: (313)234-7327

## In Summary

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance and the total amount of funding exceeds \$200,000. The threshold is \$100,000 for projects receiving assistance from Lead Hazard and Healthy Homes programs.

The following Safe Harbor Benchmarks should be met in order to comply with Section 3 requirements:

1. 25% or more of the total number of labor hours on a Section 3 project are from Section 3 Workers;
2. 5% or more of the total number of labor hours on a Section 3 project are from Targeted Section 3 Workers.

If they aren't met, then qualitative efforts must be made to be compliant.

Contractors and sub-recipients must comply with Section 3 requirements. This responsibility includes:

1. Notifying subcontractors of their responsibilities under Section 3 including, but not limited to, incorporation of the Section 3 Clause in subcontract documents;
2. Refraining from contracting with subcontractors as to whom they have received notice or have knowledge that the subcontractors have been found in violation of the requirements of 24 CFR Part 135;
3. Submitting monthly Section 3 reports using the Monthly Reporting excel form to [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov).
4. Maintaining records that document a good faith effort to utilize Section 3 Workers, Targeted Section 3 Workers, and Business Concerns. This is required of both the contractor and subcontractor;
5. Maintaining records of employee Section 3 Worker or Targeted Section 3 Worker status. As well as Section 3 Business Concern status if applicable.

# Appendix A: Sample Section 3 Worker and Targeted Section 3 Worker Certification Form

## Section 3 Worker and Targeted Section 3 Worker Certification Form

The Section 3 Worker Certification is used to determine an individual's Section 3 status. It should be completed by:

1. Residents seeking status as a Section 3 Worker or Targeted Section 3 Worker;
2. Workers (or contractors on behalf of workers) working on City of Dayton projects to determine Section 3 status;
3. Workers employed by a business seeking Section 3 Business certification.

For a list of registered workers and businesses in the Dayton area please email the Section 3 Coordinator at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov).

This form is not required as a condition of employment and may be completed by the worker or employer.

### INSTRUCTIONS

Enter/select the appropriate information to confirm Section 3 Worker or Targeted Section 3 Worker status. Please submit this document to Jordan Bereda via email at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov).

### Section 3 Worker/Targeted Section 3 Worker Certification Form

<b>Name</b>						
<b>Address</b>						
<b>City</b>		<b>County</b>		<b>State</b>		<b>Zip Code</b>
<b>Telephone Number</b>		<b>Email</b>				

<b>Contractor Name</b>			
<b>Section 3 Business</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Worker's Hire Date</b>			

### ANNUAL INCOME

I certify that I make (or when hired within the past five years made) less than \$52,050.

### WORKER/RESIDENT STATUS

If answer is yes to any of the following please check the corresponding box and list dates as needed.

- Current or former YouthBuild participant      If former, what month and year were you last a participant?
- Are you a current resident of the City of Dayton?
- Are you living within one mile of the service area or the neighborhood of the project?

### SECTION 3 WORKER STATUS

Are you certifying as a Section 3 Worker or a Targeted Section 3 Worker?

- Section 3 Worker       Targeted Section 3 Worker

This form was completed by the:       Worker       Employer

I affirm and hereby certify, under penalty of the law, that the information completed within this document is true and accurate to the best of my knowledge and belief.

<b>Name</b>	
<b>Signature</b>	
<b>Date</b>	

## Appendix B: Sample Section 3 Business Concern Certification Form

### Section 3 Business Concern Certification Form

The Section 3 Business Certification Form should be completed for a business seeking Section 3 status and preference for contracting opportunities. Supporting documentation may be requested to confirm Section 3 business status. For list of registered workers and businesses in the Dayton area please email the Section 3 Coordinator at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov).

#### INSTRUCTIONS

Enter the following information and select the criteria that applies to your business to certify your Section 3 Business Concern status. Please submit this document to Jordan Bereda via email at [Jordan.Bereda@daytonohio.gov](mailto:Jordan.Bereda@daytonohio.gov). Please note: To maintain Section 3 Business Concern status this form will need to be submitted annually.

Section 3 Business Certification Form					
Business Name					
Business Address					
City		State		Zip Code	
Name of Business Owner					
Telephone Number of Business Owner					
Email Address of Business Owner					
Website Address					

Type of Business (select from the following options):

Corporation
  Partnership
  Sole Proprietorship
  Joint Venture

Name of Preferred Contact	
Phone Number of Preferred Contact	

Select ONE of the Section 3 business qualifying definitions below as documented by company records within the last six-month period. *\*Supporting documents may be required to confirm status.*

- At least 51 percent of the business is owned and controlled by low- or very low-income persons. *(Persons making less than \$52,050 qualify)*
- At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers *(persons making less than \$52,050 during previous or annualized calendar year, employed by a Section 3 Business Concern, or A YouthBuild participant)*.

#### Business Concern Affirmation

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 Business Concerns and report false information to the City of Dayton may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name			
Signature		Date	

## Appendix C: Sample Section 3 Reporting Form

A	B	C
1	After completion, please save the file as "Project Name-Date-Section 3-Reporting" and send it to Jordan.Bereda@daytonohio.gov.	
2	Company Information	
3	Name of Project	
4	Funding Source(s)	
5	CT/Encumbrance	
6	Reporting Period (Month and Year)	
7	Contractor Name	
8	Contractor Address	
9	Contractor Phone #	
10	Contractor Email	
11	Is the business a MBE or WBE? Y/N, please list which/both	
12	Section 3 Business Concern (Yes/No)	
13	Type of Business (Corporation, Partnership, Sole Proprietorship, Joint Venture)	
14	By signing below, I certify that the information in this document is true to the best of my knowledge. This information will be used to ensure compliance with the Department of Housing and Urban Development Section 3 requirements.	
15		
16		
17	X	
18		
19		
20		
21		
22		

A	B	C	D	E	F	G	H	I	J	
1	Section 3 Worker/Targeted Worker Information									
2	Section 3 Business Concern?			Yes	No					
3	Employee Name	Are they a Section 3 Worker? (Y/N)	Are they a Targeted Section 3 Worker? (Y/N)	Phone #	Job Classification	Hire Date	Last Day of Work	Hourly Rate (\$)	# of Hrs worked during reporting period	
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										
25										
26										
27										
28										
29										
30										
31	Cumulative Project Labor Hours:								0.00	
32										

	A	B	C	D	E	F
1	<b>Section 3 Hours Report</b>					
2		Hours*	Calculated Percentage	Safe Harbor Benchmarks	Benchmark Met (Y/N)	
3	Total Labor Hours worked for project (include both Section 3 and non-Section 3 worker hours)					
4	Section 3 Worker Hours for project			0.25	Yes	
5	Section 3 Targeted Worker Hours for project			0.05	Yes	
6	<i>*Supporting documents such as, salary-based or time and attendance-based records may be requested to ensure accuracy</i>					
7	Reporting Period (Month/Year):					
8						

	A	B	C	D	E
1	If Section 3 labor hour benchmarks (Safe Harbor benchmarks) are not met, please provide description of your best efforts at hiring Section 3 workers and Section 3 targeted workers. <b>Please also include evidence of your efforts when submitting this report.</b>				
2	Put an X next to all that apply	Qualitative Effort	# of Section 3 workers reached	# of targeted Section 3 workers reached	
3		Engaged in outreach efforts (such as, outreach meetings, post flyers in public areas, job advertisement in paper or tv or radio, and host or attend job fairs.			
4		Postage at work site in conspicuous places where both employees and applicants for training and employment positions can see the notice.			
5		Sent a notice to local Housing Authority alerting them of job opportunities (Greater Dayton Premier Management (GDPM) for City of Dayton).			
6		Provided training or apprenticeship opportunities.			
7		Other, Please list below:			
8					
9					
10					
11					
12					
13					
14					
15					
16					