



SECTION 3 POLICIES AND PROCEDURES

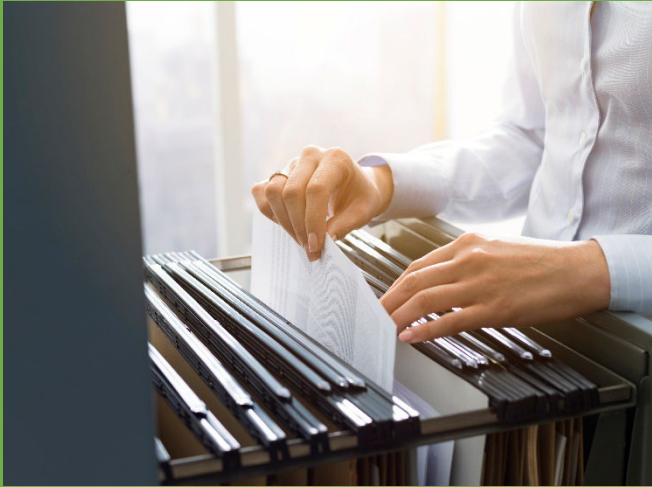


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Introduction

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.

Purpose of this Document

This plan outlines how the City of Dayton and its subrecipients, contractors, and subcontractors will comply with HUD's Section 3 requirements in the City of Dayton's HUD funded programs. The City of Dayton will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 Workers and Targeted Section 3 Workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

The City of Dayton may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

Applicability

For public housing financial assistance, all funding is covered, regardless of the amount of expenditure or size of a contract. This plan applies to development assistance, operating funds, capital funds, and all mixed-finance development.

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

For projects funded with Lead Hazard Control and Healthy Homes Programs, this plan applies to projects that exceed \$100,000.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that have public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.

Section 3 requirements do not apply to:

1. Material Supply Contracts
2. Indian and Tribal Preferences
3. Other HUD assistance and other Federal assistance not subject to Section 3. However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

Section 3 requirements apply to an entire project, regardless of whether the project is fully or partially assisted, as well as projects receiving funding from multiple sources, under HUD programs that provide housing and community development financial assistance.

Section 3 Coordinator

The City of Dayton's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the City of Dayton and its subrecipients, contractors, and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the City of Dayton's Section 3 Coordinator with questions regarding Section 3 compliance:

Jordan Bereda

Community Development Specialist 1

Jordan.Bereda@daytonohio.gov

Employment, Training, and Contracting Goals

Safe Harbor Compliance

The City of Dayton will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 Workers, Targeted Section 3 Workers, and Section 3 Business Concerns as outlined below in the Certification of Prioritization of Effort for Employment, Training, and Contracting section. After completion of the project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

Safe Harbor Benchmarks

The City of Dayton has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined in 24 CFR Part 75.19- for housing and community development financial assistance. The safe harbor benchmark goals are as follows:

- Twenty-five (25) percent or more of the total number of labor hours on a Section 3 project are from Section 3 workers;
 - $\text{Section 3 Labor Hours} / \text{Total Labor Hours} = 25\%$
- Five (5) percent or more of the total number of labor hours on a Section 3 project are from Targeted Section 3 workers.
 - $\text{Targeted Section 3 Labor Hours} / \text{Total Labor Hours} = 5\%$

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every

three years. Given that the Section 3 benchmarks are subject to change every three years or sooner, the City of Dayton will review and update the Section 3 Guide every year, as needed.

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.

Certification of Prioritization of Effort for Employment, Training, and Contracting Employment and Training

Under the City of Dayton's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 Workers within the metropolitan area (or nonmetropolitan county) in which the project is located in the priority order listed below:

1. Section 3 Workers residing within the service area or the neighborhood of the project, and
2. Participants in YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

Contracting

Under the City of Dayton's Section 3 Program, contractors and subcontractors must make their best efforts to award contracts and subcontracts to Business Concerns that provide economic opportunities to Section 3 Workers in the following order or priority:

1. Business Concerns that provide economic opportunities to Section 3 Workers residing within the service area or the neighborhood of the project; and
2. YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from the City of Dayton or its contractors/subcontractors for training, employment, or contracting opportunities generated by housing and community development financial assistance. To qualify as a Section 3 Worker, Targeted Section 3 Worker or a Section 3 Business Concern, each must self-certify that they meet the applicable criteria.

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.

Section 3 Worker and Targeted Section 3 Worker Certification

A Section 3 Worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR part 75. For the purposes of Section 3 Worker eligibility, the City of Dayton 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>.

Persons seeking the **Section 3 Worker** preference shall demonstrate that they meet one or more of the following criteria currently or when hired within the past five years, as documented:

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.

Persons seeking the **Targeted Section 3 Worker** preference shall demonstrate that they meet one or more of the following criteria:

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 (employer may fill out on behalf of workers). Please contact the Section 3 Coordinator at Jordan.Bereda@daytonohio.gov for a list of certified Section 3 Workers and Section 3 Businesses.

Certification Documentation Required

Documentation must be maintained by both the City of Dayton 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 Certification Documents

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 Certification Documents

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.

Section 3 Business Concern Certification

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, and can request a list of all Section 3 Business Concerns located in Dayton from the Section 3 Coordinator at Jordan.Bereda@daytonohio.gov. Businesses that seek Section 3 preference shall certify, or demonstrate to the City of Dayton, contractors or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Form.

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If the City of Dayton previously approved the Business Concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. **The Section 3 Business Certification Form will expire after three years.** Establishing a three year certification of eligibility period allows the City of Dayton the ability to assess contractor performance to ensure the business is striving to meet the required goals.

Assisting Contractors with Achieving Section 3 Goals

In an effort to assist contractors with meeting or exceeding the Section 3 goals, the City of Dayton will do the following:

1. Share Section 3 Policies and Procedures with contractors and subcontractors.
2. Share Section 3 Requirements Guide, Worker Certification Form, Business Certification Form, and Monthly Reporting excel form with contractors and subcontractors.
3. Provide Section 3 Technical Assistance to anyone in need of guidance.
4. Leverage the City of Dayton’s communication outlets (social media, website, etc.) to effectively communicate employment and contracting opportunities that arise.

Section 3 Outreach

Outreach Efforts for Employment and Training

In order to educate and inform workers and contractors, the City of Dayton’s Section 3 Coordinator will be available to provide technical assistance and training when needed. When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible:

1. Notify the Section 3 Coordinator when training opportunities are available.
2. Provide information/handouts about Section 3 training opportunities to potential Section 3 Workers and Targeted Section 3 Workers.

Contractors and subcontractors should employ several active strategies to notify Section 3 Workers and Targeted Section 3 Workers of Section 3 job opportunities, including:

1. Clearly indicating Section 3 eligibility on all job postings with the following statement: “This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and /or receive a Section 8 voucher”.

2. Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings.
3. Contacting local community organizations and provide them with job postings for Section 3 eligible applicants.
4. Contacting local housing authorities of job opportunities to inform to their residents.
5. Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - a. Advertising job opportunities via social media, including LinkedIn and Facebook.
 - b. Advertising job opportunities via flyer distributions and mass mailings and posting ads in common areas of housing developments and all public housing management offices.
 - c. Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

Outreach Efforts for Contracting

When contracting opportunities arise in connection with HUD programs, the City of Dayton will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

1. Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
2. Providing notice of contracting opportunities to known Section 3 Business Concerns. The notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
3. Connecting Section 3 Business Concerns with resources to support business development to assist in obtaining contracting opportunities. Contractors will also be encouraged to collaborate with the City of Dayton as subcontract opportunities arise in an effort to notify eligible Section 3 Business Concerns about the contracting opportunities.

Section 3 Contracting Policy and Procedure

The City of Dayton will incorporate Section 3 language in all agreements generated for use with HUD funding where Section 3 applies. This language contains requirements for making efforts to award contracts to Section 3 Business Concerns.

All Contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the City of Dayton be required to complete certifications, as appropriate. Such certification shall be adequately supported with appropriate documentation as referenced in the Section 3 Business Concern Certification Form.

Section 3 Provisions/Contract Language

The City of Dayton will include standard Section 3 language in all contracts to ensure compliance with regulations in 24 CFR Part 75. The City of Dayton will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis the Section 3 Coordinator will audit the City of Dayton's contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

In addition, contractors and subrecipients are required to include language in all Section 3 covered contracts and agreements for subcontractors to meet the requirements of 24 CFR Part 75.19.

For businesses, noncompliance with HUD's regulations in 24 CFR 75 may result in sanctions, termination of contract for default, and debarment or suspension from future HUD assisted contracts. 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.

Contract Language

The following is the Contract Language for all Contractors, Subrecipients, and Developers working on projects where Section 3 applies:

1. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR Part 75, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this contract and binding upon the City, [Contractor, Subrecipient, Developer] and any of the [Contractor, Subrecipient, Developer]'s subrecipients, contractors, and subcontractors. Failure to fulfill these requirements shall subject the City, [Contractor, Subrecipient, Developer] and any of the [Contractor, Subrecipient, Developer]'s subrecipients, contractors, and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. [Contractor, Subrecipient, Developer] certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

[Contractor, Subrecipient, Developer] agrees to comply with the "Section 3" requirements set forth above, and shall include the following language in all subcontracts executed for the program:

"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) and the regulations established at 24 CFR Part 75. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of 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."

The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, 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 75 regulations.

The [Contractor, Subrecipient, Developer] shall require itself and all subrecipients, contractors, and subcontractors to abide by the following regulations at 24 CFR Part 75.19:

To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the [Contractor, Subrecipient, Developer] shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the City of Dayton. Where feasible, priority for opportunities and training described above should be given to Section 3 workers residing within the service areas or the neighborhood of the project and participants in YouthBuild program.

To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the [Contractor, Subrecipient, Developer] shall ensure 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 City of Dayton. Where feasible, the contracting opportunities described above 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 YouthBuild programs.

The [Contractor, Subrecipient, Developer] will certify that any vacant employment positions, including training positions, that are filled (1) after the [Contractor, Subrecipient, Developer] is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the [Contractor, Subrecipient, Developer]'s obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

b. HUD Section 3 Safe Harbor Benchmarks

[Contractor, Subrecipient, Developer] agrees that the aspiration sub-contracting Safe Harbor Benchmarks for certified HUD Section 3 certified business sub-contracting and hiring goals will be:

Section 3 Worker Hours: Twenty-five percent (25%) of the total labor hours performed on this project must be performed by a Section 3 Worker.

Targeted Section 3 Worker Hours: Five percent (5%) of the total labor hours performed on this project must be performed by a Targeted Section 3 Worker.

c. Notifications

The [Contractor, Subrecipient, Developer] agrees to send to each labor organization or representative or workers with which the [Contractor, Subrecipient, Developer] 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. Subcontracts

The [Contractor, Subrecipient, Developer] agrees to include this Section 3 clause in every subcontract, 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 75, and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations. The [Contractor, Subrecipient, Developer] will not subcontract with any subcontractor where the [Contractor, Subrecipient, Developer] has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

Reporting Requirements

For Section 3 covered contracts, contractors must submit the Section 3 Performance and Summary Report to the City of Dayton's Section 3 Coordinator on a monthly basis, and the annual reporting requirement set forth in that form's instructions.

Monthly Reporting

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.

These reports will include the following information:

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
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.

Reporting on Projects with Multiple Funding Sources

For Section 3 projects that include public housing financial assistance and housing and community development financial assistance, the City of Dayton will report on the project as a whole and will identify the multiple associated recipients.

For projects assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds of \$200,000 and \$100,000 for Lead Hazard Control and Healthy Homes Programs (LHCHH), the City of Dayton will follow subpart C of Part 75 and will report to the applicable HUD program office, as prescribed by HUD. Note: LHCHH assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. HUD public housing financial assistance and HUD housing and community development financial assistance is not included in calculating whether the assistance exceeds the LHCHH \$100,000 threshold. Refer to the chart in the Appendix.

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.

Records that Need to be Maintained

The following are examples of records that should be maintained for a HUD compliance review:

1. Planning and Procedure Documents
 - a. Copies of signed Consolidated Plan or Public Housing Annual Plan certifications/assurances.
 - b. Annual Plans or other performance reports (i.e., Consolidated Plans, Action Plans, CAPERs, PHA Annual Plans, Budget document, etc.) to determine the beginning and end dates of the recipient's program or fiscal year and the dollar amount of covered projects/activities that were completed during the program or fiscal years under review.
 - c. Recipient procedures for monitoring subrecipients, developers, contractors, and subcontractors for compliance.
 - d. Descriptions of procedures used by the recipient, subrecipients, developers and contractors to verify the eligibility of Section 3 workers and businesses, to determine if these procedures are consistent with the regulation and to ensure that they do not create any undue burden to prospective beneficiaries.

2. Procurement and Contract Documents
 - a. Procurement records, to identify the dollar amount of each covered contract awarded during the time span under review.
 - b. Copies of bid solicitations, to ensure that they include a Section 3 clause in contracts awarded.
 - c. Minutes, sign-in sheets, agendas, or other relevant evidence from pre-construction meetings, to determine if Section 3 requirements were discussed with prospective bidders. (g) Plans for meeting or exceeding benchmarks by recipients and contractors (i.e., contractors' proposals or business utilization plan).
 - d. Lists of Section 3 business concerns that received contracts/subcontracts during the period under review. This information should include: name of contractor; address; telephone number; email address; contract amount; date awarded; and services provided.
3. Business and Worker Records
 - a. Labor hour records of recipients and contractors, to determine the percentage of Section 3 workers and Targeted Section 3 workers in comparison to total labor hours.
 - b. Lists of Section 3 workers and businesses maintained by the recipient, to determine the extent to which the recipient is attempting to provide economic opportunities to prospective beneficiaries.
 - c. Lists of Section 3 workers or Targeted Section 3 workers employed by the recipient and/or its contractors during the period under review. This information should include: name of low- or very low-income individual; address; telephone number; date hired; position; and current status (employed, terminated, etc.)
 - d. Correspondence or other records from Section 3 workers and business regarding training, employment or contracting opportunities (including Section 3 grievances), to determine how those inquiries were addressed or resolved.
4. Outreach Documents
 - a. Evidence of outreach efforts, to determine how Section 3 workers or businesses were targeted or recruited for employment, training, or contracting opportunities.
 - b. Evidence that developers, contractors, or subcontractors notified local labor unions about their Section 3 obligations.
 - c. Evidence that developers, contractors, or subcontractors posted signs regarding job vacancies and/or subcontracting opportunities at the job site.
5. Other Documents
 - a. Other specific information related to Section 3 complaints that are currently pending HUD investigation.
 - b. Other specific information related to steps taken by the recipient to address previous findings from Section 3 compliance reviews or other HUD monitoring reviews.
 - c. Other relevant data that may demonstrate Section 3 compliance by the recipient.

Section 3 Complaint Procedure

Internal Complaints

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Dayton encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filled in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75.
2. Complaints must be filled within 30 calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The City of Dayton will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The City of Dayton will provide written documentation detailing the findings of the investigation. The City of Dayton will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than 90 days after filing of the complaint. If complainants wish to have their concerns considered outside of the City of Dayton, follow the instructions listed below.

Outside 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

Complainants may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainants rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: www.dol.gov/ofccp/.

Appendix A: Definitions

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR Part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low- and Very Low-Income Persons:

- **1937 Act-** the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.* *activities related to Public Housing.*
- **Contractor-** means any entity entering into a contract with:
 - A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
 - A subrecipient for work in connection with a Section 3 project.
- **Labor Hours-** 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-** 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.
- **Material supply contracts-** contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.
- **Professional services-** non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.
- **Public housing financial assistance-**
 - Development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act);
 - Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
 - Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
 - The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined above.
- **Public housing project-** The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C. 1437f of the 1937 Act (section 8). The term “public housing” includes dwelling units in a mixed-finance project that are assisted by a public housing agency with public housing capital assistance or Operating Fund assistance. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvement of any such housing.
- **Recipient-** any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but

not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

- **Section 3-** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)
- **Section 3 Business Concern-**
 - 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.
 - 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.
- **Section 3 Coordinator-** person tasked with overseeing all Section 3 responsibilities for the PHA/CD office.
- **Section 3 Project-** housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Section 501 or 502 of the Housing and Urban Development Act of 1970; and the Residential Lead-Based Paint Hazard Reduction Act of 1992. The project is 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 Worker-**
 - 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 limit 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.
 - Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.
- **Section 8-assisted housing-** housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.
- **Service area or the neighborhood of the project-** 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.

- **Small PHA**- a public housing authority that manages or operates fewer than 250 public housing units.
- **Subcontractor**- any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.
- **Subrecipient**- a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- **Targeted Section 3 worker**-
 - 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:
 - 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.
 - A YouthBuild participant.
- **Very low-income person**- the definition of this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).
- **YouthBuild programs**- YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Appendix B: Multiple Funding Sources- Chart

TYPE OF FINANCIAL ASSISTANCE	DEFINITIONS *TARGETED SECTION 3 WORKER	THRESHOLDS	PRIORITIZATION	REPORTING
Public Housing and Housing and Community Development	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>None</p> <p>*Any amount of PH assistance triggers Section 3</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p> <p>Both - Must report on project as a whole and identify the multiple associated recipients</p>
<p>Multiple Sources of Housing and Community Development <i>(single or multiple recipients)</i></p>	<p>Must follow subpart C of Part 75</p>	<p>Exceeds \$200,000 for Section 3 projects</p> <p>*LHCHHP exceeds \$100,000</p>	<p>Must follow subpart C of Part 75</p>	<p>Must follow subpart C of Part 75</p> <p>Must report on project as a whole and identify the multiple associated recipients</p> <p>Must report to the applicable HUD program office, as prescribed by HUD</p>

Appendix C: 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.

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.

Section 3 Worker/Targeted Section 3 Worker Certification Form

Name					
Address					
City		County		State	Zip Code
Telephone Number		Email			

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

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.

Name	
Signature	
Date	

Appendix D: 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.

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. 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 E: 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	Section 3 Hours Report					
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):					

	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. Please also include evidence of your efforts when submitting this report.				
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					