



COMMUNITY DEVELOPMENT DEPARTMENT

SECTION 3 HANDBOOK

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Introduction

Section 3 is the legislative directive from the U.S. Department of Housing and Urban Development (HUD) for providing economic opportunity that is generated by HUD-funded projects to low- and very low-income workers (regardless of race or gender). Section 3 also provides contracting preference to businesses that substantially employ low-income workers or are owned by low-income owners.

On July 1, 2021, HUD's revised Section 3 rule took effect. The revised rule eliminates the "new hire" compliance standard in favor of an "hours worked" standard by replacing 24 CFR Part 135 with 24 CFR Part 75.

Section 3 is activated when construction and rehabilitation projects receive more than \$200,000 of federal Housing and Community Development financial assistance or \$100,000 from the Lead Hazard Control and Healthy Homes Program. Recipients or contractors are not required to hire Section 3 Workers or award contracts to Section 3 businesses other than what is needed to complete a covered project. The recipient and its contractors are required to submit Section 3 report information.

As a condition of receiving HUD housing and community development program funds, recipients must certify they will comply with the requirements of Section 3. HUD has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

These guidelines have been prepared to provide information and guidance to Section 3 recipients on how the City of Grand Rapids (the City) will administer the Section 3 regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and regulations. It is a summary of the pertinent provisions and focuses on the requirements imposed on the developer, general contractor, and subcontractor receiving the requisite amount of Section 3 funds. Developers, general contractors, and subcontractors bear the responsibility to familiarize themselves with the Section 3 Act and regulations prior to accepting Section 3 covered assistance.

Policy Statement

The City shall provide opportunities to low- and very low-income people living in the Grand Rapids-Wyoming Metropolitan Statistical Area and to businesses meeting the definition of "Section 3 Business Concern." Accordingly, the City shall implement policies and procedures to ensure Section 3, when required, is followed for all contracts where labor and/or professional services are provided.

This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It applies to contractors who install materials or equipment (see the definition of "Section 3 Contractor" below). Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the

entire project or activity is subject to Section 3 requirements. Nothing in this policy shall be construed to require the employment or contracting of Section 3 Workers or contractors who do not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

Successful compliance with the Section 3 Act and regulations by the developer and/or general contractor will be a factor in determining future awards of Section 3 covered projects.

According to the Section 3 regulations, located at 24 CFR Part 75, Section 3 recipients are required to provide employment and contracting opportunities to Section 3 Workers or Section 3 Business Concerns. Recipients comply with Section 3 by ensuring that the developers, general contractors, and subcontractors receiving Section 3 Covered Assistance comply with the Section 3 Act.

To Whom and What Does Section 3 Apply?

The following definitions are intended to describe the differences between “recipient” and “contractor.”

Section 3 Recipients. The City of Grand Rapids is a Section 3 recipient because it receives more than \$200,000 in Section 3 covered federal Housing and Community Development funds and because it funds Section 3 Projects. In addition to the City, any entity that receives more than \$200,000 in Housing and Community Development funding from the City for a housing rehabilitation, housing construction, or other public construction project or that receives more than \$100,000 from the Lead Hazard Control and Healthy Homes Program for a lead project is a recipient.

A Section 3 recipient has the responsibility to comply with Section 3 in its own operations and to ensure the compliance of its Section 3 contractors and subcontractors.

Section 3 Projects and Activities. A Section 3 Project or Activity includes:

- 1) Housing rehabilitation, housing construction, demolition, and other public construction (e.g. streets, sidewalks, sewers, community centers, etc.)
- 2) The site or sites together with any building(s) and improvements on the site(s) that are *under common ownership, management, and financing*
- 3) A project that receives more than \$200,000 of HUD Housing and Community Development (HCD) financial assistance (if the financial assistance comes from Lead Hazard Control and Healthy Homes, then the project is Section 3 if more than \$100,000 is received)

Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials. Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the entire project or activity is subject to Section 3 requirements.

Section 3 Programs

The following are examples of federal housing and community development programs with construction activities that require Section 3 compliance if the amount of funding is over the threshold:

CDBG Program

Current Partners

- City of Grand Rapids Housing Rehabilitation
- City of Grand Rapids Engineering Department
- Various contractors (fencing, concrete, etc.)

Lead Hazard Control Program

Current Partners

- City of Grand Rapids Housing Rehabilitation
- Various sole proprietors and small businesses

HOME Program

Current Partners

- Various nonprofit developers
- Various for-profit developers
- City of Grand Rapids Housing Rehabilitation

Intended Beneficiaries of Section 3

For the federal housing and community development programs listed above, the intended beneficiaries of Section 3 are three-fold.

Section 3 Workers. A Section 3 Worker is, or when hired in the past five years was:**

- A low- or very low-income individual; or*
- A YouthBuild participant; or
- Someone employed by a Section 3 Business Concern

*Low-income means under 80% of area median income for one person. Use individual worker's income and not total household income.

**If worker was hired prior to 11/30/2020, then income as of hire date cannot be used and only current income can be used.

Targeted Section 3 Workers. A Targeted Section 3 Worker is:

- Someone employed by a Section 3 Business Concern; or
- A Section 3 Worker who currently fits, or when hired fit, one of the following definitions as documented in the previous five years:
 - Living within the service area of the neighborhood of the project (i.e. within one mile of the project); or
 - A YouthBuild participant

Section 3 Business Concerns. A Section 3 Business Concern is, documented within the last six-month period:

- 51% or more owned/controlled by low- or very low-income persons; or
- 51% or more owned/controlled by current residents of public housing or Section 8 residents; or
- > 75% of the business' labor hours performed over the prior three-month period are performed by Section 3 Workers

ALL labor hours performed by a Section 3 Business Concern count as BOTH regular Section 3 Labor hours AND Targeted Section 3 labor hours.

Preferences for Employment and Training Opportunities

All developers, general contractors, and subcontractors undertaking Section 3 covered projects and activities are expected to meet the Section 3 requirements. A concerted effort shall be made to meet the goals set forth below by employing Section 3 Workers and Section 3 Business Concerns.

Numerical Goals

The City of Grand Rapids has established numerical goals that comply with Section 3 regulations and priorities, consistent with those set by the federal government. These goals and priorities serve as a tool for ensuring the City's effectiveness in fulfilling its commitment to the economic well being of its citizens as well as for monitoring compliance with HUD requirements.

The City of Grand Rapids' Minimum Numerical Goals are as follows:

- 25% of the aggregate total labor hours spent on each project will be completed by Section 3 Workers (this is also a HUD goal).
- 5% of aggregate total labor hours spent on each project will be completed by Targeted Section 3 Workers (this is also a HUD goal).
- 10% of the total dollar amount of all Section 3 covered construction contracts will be awarded to Section 3 Business Concerns.
- 3% of the total dollar amount of all covered non-construction contracts will be awarded to Section 3 Business Concern. This includes all Professional Services like work provided by architects, surveyors, planners, lawyers, etc.

Contractors and Developers are required to utilize Section 3 Workers and Section 3 Business Concerns, *to the greatest extent feasible*, on all construction-related Section 3 projects receiving funding from HUD. The above numerical goals must be explicitly set forth in all Section 3 Plans.

Formal Section 3 Plan

Prior to entering into an Agreement with the City, the general contractor or developer shall submit a comprehensive Section 3 Plan that includes Section 3 goals and strategies that will be implemented to meet those goals. The plan shall be signed by the general contractor or developer, as applicable, and submitted to the City of Grand Rapids Community Development Department for review and approval.

All Section 3 Plans submitted to the City of Grand Rapids must include a breakdown of job categories needed for the Section 3 covered project, an estimate of total labor hours needed by job category, an estimate of total labor hours that will be provided by known Section 3 Workers, and an estimate of the labor hours that will be provided by known Targeted Section 3 Workers. Remember, Section 3 Business Concern labor hours count as BOTH Section 3 Worker hours and Targeted Section 3 Worker hours.

A Section 3 Plan template is available on the Community Development Department's website (www.grcd.info) and will be provided upon request.

Upon receipt of the Section 3 Plan, Community Development Department staff will review the Plan and either approve or disapprove of the document. Suggested modifications will be included with any disapproval of a Section 3 Plan in order to assist the general contractor or developer. After the Section 3 Plan is approved, it shall be made a part of the construction documents and be reviewed regularly to assess its implementation and the attainment of the Section 3 goals. As subcontracts in excess of \$200,000 are awarded (\$100,000 for lead), those Subcontractors will be required to submit their own Section 3 Plan for City review and approval.

The Community Development Department shall be provided with copies of bid documents, construction contracts, and any other related documentation upon request.

Components of a Section 3 Plan

The Section 3 Plan must contain specific information, including but not limited to the following:

- a) Statement from the Section 3 contractor or subcontractor certifying it intends to comply with the Section 3 Act and regulations, as well as the City of Grand Rapids Section 3 Handbook;
- b) Statement from the Section 3 contractor and each subcontractor certifying they are aware of the goals and agree to work together to meet these goals;
- c) Name and contact information of the Section 3 contractor or subcontractor's Section 3 coordinator (either official or designated);
- d) Identification of the Section 3 project area (the neighborhood where the work will be performed).
- e) Section 3 contractor or subcontractor's current workforce and additional workforce necessitated by the Section 3 covered project;
- f) Section 3 employment, training, and contracting opportunity goals;

- g) Specific strategies for notifying Section 3 Workers of Section 3 goals and specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- h) Commitment to inform all subcontractors of the Section 3 Plan;
- i) Commitment to prepare and submit to the City of Grand Rapids Community Development Department Section 3 reports;
- j) Commitment to include the Section 3 Clause in all construction contracts. The Section 3 Clause (Attachment A) specifies the requirements for contractors hired for Section 3 covered projects. Failure to comply with the general conditions outlined in the clause may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-funded contracts.
- k) Commitment to conduct aggressive outreach and notification campaigns to Section 3 Workers and Section 3 Business Concerns regarding Section 3 goals, including the usage of site signage, flyers, etc.

Implementation Strategies for Employment, Training, and Contracting

To comply with the Section 3 Act and the Section 3 Regulations, the Section 3 contractor or subcontractor, as applicable, shall implement an aggressive campaign to encourage participation of Section 3 Workers and Section 3 Business Concerns. Some strategies to implement this campaign include the following:

- a) Publish in a local newspaper a notice of the potential employment opportunities for Section 3 Workers and potential contracting opportunities for Section 3 Workers and Section 3 Business Concerns. Written notices must be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- b) Post in a prominent location at the Section 3 covered project site a notice of the potential employment opportunities for Section 3 Workers and potential contracting opportunities for Section 3 Business Concerns.
- c) Submit letters or flyers to the residents of the Section 3 covered project advising them of the employment and contracting opportunities for the Section 3 covered project (applies to projects where there are existing residents);
- d) Provide the residents of the Section 3 covered project and the surrounding area with information on how to become certified as a Section 3 Worker or a Section 3 Business Concern;
- e) Provide the Grand Rapids Housing Commission with flyers, notices, and other information related to the Section 3 employment and contracting opportunities for the Section 3 covered project;
- f) Provide information to residents of a Section 3 covered project and the surrounding area regarding established job training programs located within the Section 3 covered project area;

- g) Provide minority and women-focused labor and trade organizations with notice of Section 3 contracting opportunities as well as job postings;
- h) Contact the following groups that have been identified as instrumental in assisting Section 3 target groups regarding employment, training, or contracting opportunities.

Organization Name	Phone	Address
Bethany Christian Services Refugee and Immigrant Employment, Youth Services	(616) 224-7550	901 Eastern Ave. NE Grand Rapids, MI 49503
Goodwill Industries Training, Job Placement, Support Services	(616) 532-4200	3777 Sparks Drive SE Grand Rapids, MI 49546
Grand Rapids Housing Commission Job Postings for Public Housing Residents	(616) 235-2600	1420 Fuller Avenue SE Grand Rapids, MI 49507
Jubilee Jobs Job Postings & Placement	(616) 774-9944	935 Baxter St. SE Grand Rapids, MI 49506
Michigan Works! Job Placement, Training	(616) 336-4460 (616) 336-4040	215 Straight Ave NW 121 Franklin SE, Suite 120
Urban League Job Placement, Training	(616) 245-2207	745 Eastern Ave. SE Grand Rapids, MI 49503

Section 3 Certifications

Section 3 Worker. Any person seeking Section 3 preference in hiring and training shall complete the Community Development Department’s Section 3 Worker Certification. The individual seeking Section 3 preference shall provide adequate documentation regarding permanent residency and income.

Section 3 Business Concern. Any business seeking Section 3 preference shall complete the Community Development Department’s Certification for Business Concerns Seeking Section 3 Preference in Contracting. This is a self-certification, and Section 3 business concerns ultimately bear the responsibility of maintaining their Section 3 status and complying with all related HUD regulations.

Certifications for Section 3 preference for business concerns must be submitted to the Community Development Department prior to the submission of bids for review. Business concerns shall provide any additional documentation upon request.

Section 3 Compliance and Monitoring

The City of Grand Rapids Community Development Department is available to provide technical support to developers, general contractors, and subcontractors participating in the development of Section 3 covered projects.

Developers, general contractors, and subcontractors are required to retain copies of all outreach attempts, copies of all responses to notices published in the paper and posted publicly, copies of all responses to bid invitations, and any other relevant information. This information shall be provided to the Community Development Department upon request.

The City of Grand Rapids Community Development Department may conduct on-site reviews of the Section 3 covered project to determine whether the developer, general contractor, or subcontractor is complying with its approved Section 3 Plan.

In the event the City of Grand Rapids Community Development Department determines that the developer, general contractor, or subcontractor is not meeting its contracting opportunity goals as set out in the approved Section 3 Plan, the respective party will be provided with a written notice of non-compliance. The notice will require the respective party to meet with Community Development staff to determine if best efforts were used to meet Section 3 requirements and if further outreach attempts are necessary to meet Section 3 goals.

Definitions

- **Low-Income** — Income that does not exceed 80% of the Area Median Income (AMI) as determined by HUD.
- **Very low-income** – Income that is at or below 50% of AMI.
- **Metropolitan Area**—The Grand Rapids-Wyoming Metropolitan Statistical Area, consisting of Kent, Allegan, Barry, and Newaygo counties.
- **Section 3 Business Concern**—Any business entity formed in accordance with State law, and which is licensed under State, County, or municipal law to engage in Section 3 covered activities; AND was documented within the last six-month period as:
 - 51% or more owned/controlled by low- or very low-income persons; or
 - 51% or more owned/controlled by current residents of public housing or Section 8 residents; or
 - > 75% of labor hours performed over prior three-month period are performed by Section 3 Workers
- **Section 3 Contractor** – Any entity that contracts to perform work generated by the expenditure of Section 3 covered assistance or for work in connection with a Section 3 covered project.
- **Section 3 Recipient** – An entity that receives Section 3 covered financial assistance directly from HUD or an entity that receives more than \$200,000 in federal housing and community development funding from the City for a construction related project or activity (or more than \$100,000 in lead funding).
- **Section 3 Worker** - For the purposes of this Plan, a Section 3 Worker is, or when hired in the past five years was:
 - A low- or very low-income individual; or
 - A YouthBuild participant; or
 - Someone employed by a Section 3 Business Concern
- **Targeted Section 3 Worker** - A Targeted Section 3 Worker is:
 - Someone employed by a Section 3 Business Concern; or

- A Section 3 Worker who currently fits one of the following definitions, as documented in the previous five years:
 - Living within the service area of the neighborhood of the project (i.e. within one mile of the project); or
 - A YouthBuild participant

ALL Targeted Section 3 Workers are also regular Section 3 Workers, but not all Section 3 Workers are Targeted Section 3 Workers.

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

Attachment A – Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the “Section 3 Clause”).

Note: The term “Agreement” shall also mean “Contract,” and the term “Subrecipient” shall also mean “Contractor” or “Assisted Entity,” as applicable.

Section 3 Clause

- A. The work to be performed under this Agreement 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). The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.
- B. 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 Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- C. The contractor agrees to report total labor hours, Section 3 Worker hours, Targeted Section 3 Worker hours, and Section 3 outreach/marketing efforts consistent with the requirements of 24 CFR Part 75.
- D. The contractor agrees to send to each labor organization or representative of workers with which the Subrecipient has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Subrecipient's commitments under this Section 3 Clause. The notice shall describe the Section 3 preference, the availability of employment, apprenticeship, and training opportunities, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin. The contractor shall post copies of the notice in conspicuous places at the work site where it is visible to both employees and potential applicants.
- E. The contractor agrees to include this Section 3 Clause in every contract subject to compliance with the regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the contract or in this Section 3 Clause, upon discovery of any violation of the regulations in 24 CFR Part 75. The Subrecipient shall not contract with any contractor where the Subrecipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 75.
- F. 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.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that, to the greatest extent feasible, preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).