

HACM Section 3 Summary Table of Contents

- I. What is Section 3?.....Page 2**
- II. Key Changes to the Section 3 Rule: A Summary Chart...Page 3**
- III. Applicability of Sec 3 to PHA Funds: No Threshold.....Page 4**
- IV. Timeline: When to Use Old Rule vs. New Rule.....Page 5**
 - a. Legacy Projects v. Transition Projects**

I. **What is Section 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing 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.

A. What Do “Best Efforts” and “to the Greatest Extent Feasible” Mean? “Best efforts” and “greatest extent feasible” are statutory terms, used in the statute in different contexts. As such, HUD uses both terms to track compliance, and there are many ways to interpret the language. Traditionally, HUD has used the terms interchangeably, as referenced in the statute, and will continue to be consistent with the statutory language. See 12 U.S.C. 1701u(b)-(d).

B. What Does “Section 3 Worker” Mean?

A Section 3 worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented: 1. The worker’s income for the previous or annualized calendar year is below the income limit established by; 2. The worker is employed by a Section 3 business concern or 3. The worker is a YouthBuild participant.

C. What Does “Targeted Section 3 Worker” Mean?

A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who: (1) is employed by a Section 3 business concern; or (2) currently fits or when hired fit at least one of the following categories, as documented within the past five years: (i) A resident of public housing or Section 8-assisted housing; (ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or (iii) A YouthBuild participant

D. What Does “Section 3 Business Concern” mean?

A Section 3 business concern is a business that meets 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.

E. How are low-income and very low-income determined?

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>.

II. Key Changes to the Section 3 Rule: A Summary Chart

Old Rule - 24 CFR Part 135	New Rule - 24 CFR Part 75
Focusing on sustained employment of low- and very low-income populations	
A new hire for a temporary, one-month job and a new hire for a permanent, year-round job counted the same, instead of placing more value on long-term employment.	Recognizes the greater value of the permanent job by focusing on labor hours instead of new hires creating an incentive for employers to invest in and retain their newly hired low-income workers
Crediting successful sustained employment in reporting benchmarks	
<p>Former Benchmarks:</p> <ul style="list-style-type: none"> • 30% of persons hired by Section 3 funding must be Section 3 residents • 10% of total funds for construction contracts awarded to Section 3 businesses • 3% of total funds for non-construction awarded to Section 3 businesses • No updates to these benchmarks 	<p>Final Rule Benchmark Notice:</p> <ul style="list-style-type: none"> • 25% of all labor hours must be performed by a Section 3 worker • 5% of all labor hours must be performed by Targeted Section 3 workers • Benchmark Notice should be updated by the Secretary every three years
Allowing varied outcomes for different geographies and activities	
<p>Section 3 residents are:</p> <ul style="list-style-type: none"> • Public housing residents • Low- and very-low income persons who live in the metropolitan area or non-metropolitan county where a HUD assisted project for housing or community development is located 	<p>Section 3 workers is:</p> <ul style="list-style-type: none"> • A worker whose income for the previous or annualized calendar year is below the income limit established by HUD • Employed by a Section 3 business concern • A YouthBuild participant.
Under the old rule, there is no distinction or prioritization of hiring Targeted Section 3 workers .	New rule emphasizes the priority hiring of Targeted Section 3 workers living in public or Section 8-assisted housing or within a 1 mile radius of the project site.
<p>Section 3 Business concern is:</p> <ul style="list-style-type: none"> • At least 51% owned by Section 3 residents, • At least 30% of employees are currently Section 3 residents, or were within first three years of employment • A business that subcontracts more than 25% of all subcontracts to a Section 3 business concern. 	<p>Section 3 business concerns are:</p> <ul style="list-style-type: none"> • At least 51% owned and controlled by low- or very low-income persons; • Businesses where Section 3 workers perform over 75% of the labor hours over a 3 month period; or • At least 51% owned and controlled by current public housing or Section 8-assisted housing residents.
Integrating Section 3 into the program offices	
Enforcement and compliance was performed by the Office of Fair Housing and Equal Opportunity.	Enforcement and compliance will be integrated into regular program office work.
Reducing reporting requirements for grantees who are meeting benchmarks	

III. Applicability of Sec 3 to PHA Funds: No Threshold

Applicability of Sec 3 to PHA Funds: No Threshold



PH

Applicable	Not Applicable
Public Housing Capital Funds	Section 8 Housing Choice Vouchers (HCV)
Public Housing Operating Funds	Section 8 Monthly Rental Assistance Payments including those under PBV and PBRA Contracts
Rental Assistance Demonstration (RAD) - Construction and Rehabilitation (MORE INFO ON NEXT SLIDES)	RAD– Section 8 Rental Assistance ONLY
Public Housing Mixed-Financed Development	Material Supplies Contract
Choice Neighborhoods	Indian and Tribal Preferences§ 75.3(c)
Section 8 assisted properties or projects that also receive more than \$200,000 of other Section covered funding (e.g., CDBG, HOME).	



HCD Funds (e.g., CDBG, HOME):

- Housing rehab, housing/public construction
- \$200k threshold

IV. Timeline: When to Use Old Rule vs. New Rule



Final Rule Timeline

Legacy Projects

Legacy Projects: Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020

Requirement:

- Adhere to the old rule (24 CFR Part 135)
- Expected to maintain records but will no longer be required to report Section 3 compliance to HUD in SPEARS.



Final Rule Timeline

Transition Period

Transition Period: Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021

Requirement:

- Adhere to the final rule (24 CFR Part 75)
- Expected to maintain records but will no longer be required to report Section 3 compliance to HUD in SPEARS.

