

**RESOLUTION NO. 223-30**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCATA  
ADOPTING THE SECTION 3 PLAN FOR HUD-FUNDED HOUSING  
REHABILITATION, HOUSING CONSTRUCTION, AND PUBLIC CONSTRUCTION  
PROJECTS**

**WHEREAS**, The City of Arcata is a local government agency that receives funding from Housing and Urban Development (HUD), including Community Development Block Grant Program Income and grant funding, and HOME Investment Partnerships Program Income and grant funding from the State of California, Department of Housing and Community Development (HCD); and

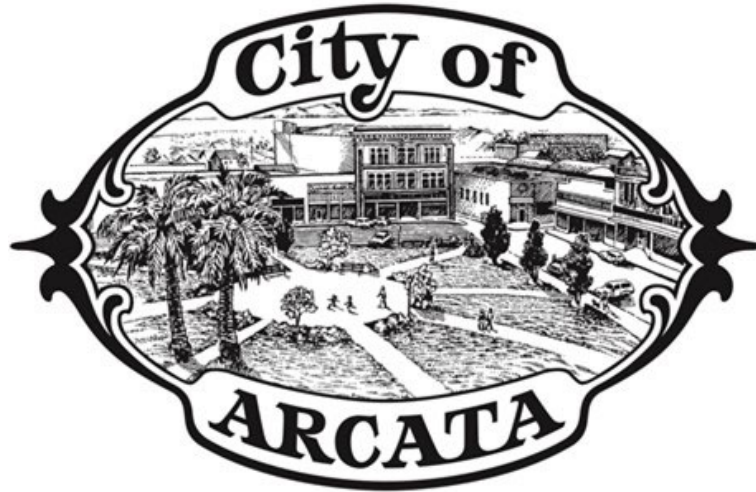
**WHEREAS**, HCD requires participating jurisdictions to develop and implement a Section 3 Plan under 24 CFR Section 75 for certain housing rehabilitation, housing construction, and public construction Projects; and

**WHEREAS**, the Section 3 Plan describes Section 3 implementation documentation and reporting requirements for implementation and tracking efforts which benefit low-income individuals and qualifying businesses; and

**WHEREAS**, the City Council held a public hearing on January 18, 2023, to receive comments on the Section 3 Plan;

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Arcata as follows:

1. Adopts the City of Arcata Section 3 Plan, Exhibit 1.



# Section 3 Plan

## 1. Overview and Purpose

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall – to the greatest extent feasible 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 businesses which provide economic opportunities to low- and very low-income persons.

This Plan outlines how the City of Arcata (City) and its subrecipients, contractors, and subcontractors will comply with the Department of Housing and Urban Development (HUD)'s Section 3 requirements in implementing City projects which are funded by HUD. The City will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons and to eligible businesses. The City will require the same of its subrecipients, contractors and subcontractors.

Section 3 is distinct from Minority Business Enterprise/Women Business Enterprise (MBE/WBE) certification. Section 3 is race and gender neutral.

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

## 2. Applicability

This Plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of Housing and Community Development (HCD) financial assistance from one or more HUD programs. Section 3 applicability is determined at the project level.

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

This Plan also applies to projects that include multiple HUD-funded sources. Multiple funding source projects subject to Section 3 are projects where \$200,000 of the cumulative project cost is HUD-funded.

Section 3 requirements **do not** apply to:

- a. Material Supply Contracts
- b. Indian and Tribal Preferences

- c. Projects funded with other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients will be encouraged to consider ways to support the purpose of Section 3 within the project.

### 3. Section 3 Coordination

The City is required to report Section 3 activities according to the revised legislation to the California Department of Housing and Community Development (HCD) with its existing activity reporting, and HCD forwards the reports to HUD. The report will include documentation of subrecipient, contractor, and subcontractor activity and their Section 3 results for covered Projects. The City will also report on results of its implementation of Section 3 requirements and activities with subrecipients, contractors, and subcontractors.

Section 3 will apply when the City is awarded grant funds for a construction project, requiring the contractor’s implementation of Section 3, and City staff involvement beginning with the procurement and contracting process through completion of a covered project and reporting.

Section 3 will apply when an award is made for a project which entails construction, requiring early City staff involvement to ensure that the contractor performing the work will implement and report Section 3 activity from initiation to completion of the project.

The City of Arcata’s Section 3 Coordinator will be the Director of Community Development or their designee, serving as the central point of contact for Section 3 compliance for the City and its subrecipients, contractors and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others will be encouraged to reach out to the City’s Section 3 Coordinator with questions regarding Section 3 compliance.

The HUD Section 3 Office of Field Policy and Management provides a point of contact for Section 3 concerns out of the Region IX office (see [www.hud.gov/program\\_offices/field\\_policy\\_mgt/section3/publications\\_and\\_regulations](http://www.hud.gov/program_offices/field_policy_mgt/section3/publications_and_regulations), Section 3 Points of Contact).

### 4. Brief Definitions

Benchmarks	25% of a project’s Labor Pool must be Section 3 Workers, with 5% of the 25% being Section 3 Targeted Workers. These benchmarks may be adjusted every 3 years by HUD.
Labor Pool	All workers on a Section 3 Project, including those who are not low-income (LI) or very low-income (VLI). Professional services which require specialized degrees or licensing may be excluded from the Labor Pool;

	however, if professional service providers do qualify as Section 3 businesses or workers that should be documented.
Low-Income (LI)	The individual's income does not exceed 80% of the Area Median Income (AMI), as published by HUD for the area in which they live.
Prioritization of Effort	HUD establishes the order of Prioritization of Effort to residents and businesses in the service area or neighborhood of the project first, followed by participants in a YouthBuild program.
Qualitative Efforts	If Benchmarks are not met, actions taken by subrecipients, contractors, subcontractors, and the City must be reported to demonstrate that efforts to implement Section 3 have been made to the greatest extent feasible. See Section 10 for information about Qualitative Efforts.
Safe Harbor	When project Benchmarks are met, Safe Harbor is attained (see Qualitative Efforts if Safe Harbor is not attained).
Section 3 Business	A Section 3 Business meets the following criteria: <ul style="list-style-type: none"> <li>• At least 51% of the business is owned or controlled by LI or VLI persons; or</li> <li>• Over 75% of the labor hours performed for the business over the previous three months are performed by Section 3 Workers; or</li> <li>• At least 51% of the business is owned or controlled by current public housing residents or residents who live in Section 8-assisted housing.</li> </ul>
Section 3 Project (Project)	Housing rehabilitation, housing construction, or public construction projects assisted by HUD programs when the cumulative amount of HUD assistance is greater than \$200,000 (or \$100,000 for Projects funded with Lead and Hazard Control and Healthy Homes Programs awards).
Section 3 Targeted Worker	A LI or VLI worker who lives within the service area or neighborhood of the Project, is employed by a Section 3 Business, or is a resident of public housing.
Section 3 Worker	A Worker who is LI or VLI worker, employed by a Section 3 Business, and/or a resident of public housing.
Service Area	The area within one mile of the Project. If there are fewer than 5,000 residents in that area, the radius is expanded until it comprises a minimum of 5,000 residents.
Very Low-Income (VLI)	The individual's income does not exceed 50% of the Area Median Income as published by HUD for the area in which they live.

## 5. Section 3 Project Responsibilities

- A. It will be the responsibility of the City of Arcata to:
- Ensure all subrecipients, contractors, and subcontractors are aware of and make best efforts to comply with Section 3 requirements.
  - Include Section 3 language in all contracts and subcontracts.
  - Report subrecipient, contractor, and subcontractor Section 3 implementation efforts to HCD, including their Qualitative Efforts if Benchmarks are not met.
  - Report City Qualitative Efforts if Benchmarks are not met by the subrecipient, contractor, or subcontractor, and their Qualitative Efforts are insufficient.
- B. It will be the responsibility of subrecipients, contractors, and subcontractors to:
- Certify compliance with Section 3 prior to beginning work, and again upon completion of work.
  - Report the following data to the City, on City forms or the equivalent: Labor Pool, Section 3 Workers, Section 3 Targeted Workers, and Qualitative Efforts made to implement the program if Benchmarks are not met.
  - Include Section 3 language in all contracts and subcontracts.
- C. The California Department of Housing and Community Development (HCD) will monitor the City for compliance with Section 3 and report compliance to HUD.

## 6. Safe Harbor Compliance and Benchmarks

Safe Harbor Compliance. The City will be considered to have complied with Section 3 requirements and met Safe Harbor if they certify that they followed the required Prioritization of Effort and have met or exceeded Section 3 Benchmarks.

Prior to the beginning of work, subrecipients, 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 Businesses. After completion of the Project, they will be required to certify that they followed Prioritization of Effort and made best efforts to reach Section 3 Benchmarks.

If the data provided by a sub-recipient, contractor, or subcontractor does not meet 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 to the greatest extent feasible. The City may also need to implement Qualitative Efforts to ensure Section 3 compliance. See Section 10 for Qualitative Efforts.

Prioritization of Effort. HUD establishes the order of Prioritization of Effort as residents and businesses in the service area or neighborhood of the Project first, followed by participants in a YouthBuild program.

Benchmarks. This Plan will implement Section 3 employment goals that subrecipients, contractors, and subcontractors must meet to comply with Section 3 requirements described in 24 CFR Part 75.19, as follows:

- 25% or more of total labor hours worked by all workers on a Section 3 Project are Section 3 Workers; and
- 5% or more of total labor hours worked by all workers on a Section 3 Project are Section 3 Targeted Workers.

Benchmarks may be updated by HUD every three years through publication in the Federal Register. The City's Section 3 Coordinator will review and update this Section 3 Plan annually at minimum.

## 7. Section 3 Certifications

Individuals and businesses may self-certify.

### Section 3 Worker (Including Targeted Worker) Certification.

Workers will provide a Section 3 Worker and Section 3 Targeted Worker form (see Attachment A) to the contractor or subcontractor to certify eligibility. It is important to note that contrary to most HUD-related income certifications, family size is not taken into consideration for the certification; income is certified for the individual Worker only. A Worker certification may be used for up to five years from when the certification is established.

Certifications will be provided electronically by the contractor or subcontractor to designated City staff upon initiation and completion of the Project, together with a cover sheet (see Attachment B).

Since nearly all Section 3 Projects will fall under prevailing wage requirements contractors and subcontractors may include Section 3 certifications as part of existing prevailing wage documentation.

### Section 3 Business Certification.

HUD encourages grant recipients, subrecipients, contractors, and subcontractors to make best efforts to award contracts and subcontracts to Section 3 Businesses, subject to all procurement requirements.

A Section 3 Business will certify that it meets the following requirements using a certification form (Attachment C):

- At least 51% of the business is owned or controlled by LI or VLI persons; or

- Over 75% of the labor hours performed for the business over the previous three months are performed by Section 3 Workers; or
- At least 51% of the business is owned or controlled by current public housing residents or residents who live in Section 8 assisted housing.

If a Section 3 eligible business desires to respond with a bid proposal as a contractor or subcontractor, a Section 3 Business certification must be provided and acknowledged by the City with a response. City recognition of a Section 3 Business will expire after 3 years.

When the City issues a Request for Proposal (RFP) it will give preference or additional points in ranking the RFP to Section 3 Businesses if their proposal is within 10% of the lowest acceptable bid.

It should be noted that when practicable it may be acceptable to break a contract into smaller contracts to increase participation by Section 3 Businesses, but not to avoid Section 3 requirements. If this strategy is employed, it must be well-documented.

## 8. Contracts

Coordination with subrecipients, contractors, and subcontractors will be critical to ensure Section 3 requirements are met. Subrecipients, contractors, and subcontractors are not required to hire new low-income workers to meet Section 3 targets. However, they will need to ensure they demonstrate due diligence in tracking their existing and new labor force data related to the Project. Due diligence is generally accomplished by workforce analysis, documentation for Section 3 Workers and Section 3 Businesses, reports to the City, and good faith efforts to implement Section 3. More detail about requirements may be found Attachment D, “Section 3 – Information and Requirements for Contractors”.

Section 3 implementation will begin with the procurement process. Information about Section 3 compliance requirements will be provided in City Pre-Bid meetings and in Bid or Request for Proposal packages for Projects subject to Section 3 (Attachment D). The form “Certification for Contracts: HUD Section 3 Regulations” in Attachment D is required for City bid proposals.

### Contract Requirements.

Pursuant to 24 CFR 75.27, the City must include language applying to Section 3 in any subrecipient agreement and construction or subcontractor contract for a covered Project. The City must also require subrecipients, contractors, and subcontractors to meet Section 3 requirements even if Section 3 language is not included in recipient and subrecipient agreements, program regulatory agreements, or contracts.

Language regarding Section 3 requirements for contracting may be found at 24 CFR 75.19: To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart 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 metropolitan area (or nonmetropolitan county) in which the project is located.

This plan will implement Section 3 in its existing procurement policy.

## 9. Reporting Requirements

### Project Reports

Subrecipients, contractors, and subcontractors must provide an initial Section 3 report, as described in the contractor package on City forms (or equivalent), when the Project begins and another report when the Project ends.

Reports will show the total number of workers in the Section 3 Project labor force, the number of Section 3 Workers, and the number of Section 3 Targeted Workers. If Safe Harbor Benchmarks are not met as described in this Plan, the report must include Qualitative Efforts to meet Section 3 Benchmarks.

For multi-year projects, reports will be required annually on the anniversary date of Project initiation.

### City Reports

Upon Project completion, the City will report Section 3 results using the appropriate reporting system for the Project's funding source.

For Section 3 Projects funded by more than one HUD funding source, Section 3 reports will be made to all sources.

## 10. Qualitative Efforts Including Outreach Opportunities

It has been recognized that implementing Section 3 may be more difficult in rural areas given lower population density and lower HUD-defined Low-Income levels, coupled with prevailing wage requirements. For this reason, Qualitative Efforts should be considered.

HUD has listed a number of possible Qualitative Efforts at 24 CFR 75.25(b). Some of the listed efforts are more suited to well-funded contractors and cities in metropolitan areas with staff dedicated to community outreach. It should be again noted that if subrecipients, contractors, and subcontractors do not meet Safe Harbor requirements or prove Qualitative Efforts, the City must do so.

The following Qualitative Efforts opportunities will be most suited to Arcata's rural context and can be implemented effectively with limited resources, by contractors or by the City:

- Give award preference to Section 3 Businesses if their proposal is within 10% of the lowest acceptable bid .
- Identify and certify Section 3 Businesses outside of any particular project.

- Maintain a log of outreach activities.
- Provide information to potential Section 3 Workers at job fairs.
- Provide information regarding Section 3 Worker and Business qualifications to agencies and organizations such as the Workforce Development Board, Humboldt GoBiz, College of the Redwoods, and CalPoly Humboldt.
- Post Bids and Requests for Proposal to the HUD Opportunity Portal.

This list is not comprehensive. More Qualitative Effort opportunity examples can be found at 24 CFR 75.25(b).

#### Additional Subrecipients, Contractors, and Subcontractors Outreach Opportunities

Several outreach strategies for subrecipients, contractors, and subcontractors may be effective in implementing Section 3, and are identified in “Section 3 – Information and Requirements for Contractors” as part of a contractor package. These include:

- Indicate Section 3-eligible Projects on job postings with a statement such as: “This job is a Section 3-eligible job opportunity. We encourage applications from individuals that are low-income, live in public housing, or receive a Section 8 housing voucher”.
- Include Section 3 Worker and Targeted Worker Self-Certification forms in all job applications.
- Establish a current list of Section 3-eligible Workers.
- Advertise job opportunities via social media, including LinkedIn and Facebook;
- Advertise job opportunities via flyer distributions and posting advertisements in common areas of housing developments and all public housing management offices.

#### Additional City Outreach Opportunities

With or without a Section 3 Project, the City may engage in outreach that encourages implementation of Section 3 by:

- Periodically using media to direct workers and businesses to HUD’s Section 3 Opportunity Portal.
  - Recipients and employers may post contracts, search for Section 3 Businesses, post jobs and training opportunities, and search for job applicants.
  - Workers may search for jobs and training, and post resumés.
  - Businesses may search for contracts and register themselves as Section 3.

The most effective for City purposes will be posting all Requests for Proposal to the Opportunity Portal.

- Making information available on the City’s Economic Development page for businesses that may qualify as a Section 3 Business.
- Publishing contracting opportunities for a Section 3 Project in local papers, on the City website, and to other appropriate sites—including the HUD Section 3 Opportunity Portal.
- Advertising on the City website and in other locations how/where Section 3 Businesses may sign up for e-notification of upcoming contract opportunities.

## 11. Complaints

In an effort to resolve complaints regarding non-compliance, the City will encourage complaint submission to be directed to the Section 3 Coordinator as follows:

- Complaints must be in writing and include the name of the complainant and a brief description of the alleged violation of 24 CFR Part 75.
- Complaints must be made within 30 days of the complainant becoming aware of the alleged violation.

An investigation will be conducted if the complaint is found to be valid. The City will conduct an informal but thorough investigation, providing an opportunity for all interested parties (if any) to submit pertinent information or evidence. The City will provide written documentation detailing the findings of the investigation, which will be subject to review by the Section 3 Coordinator for accuracy and completeness before it is released to complainant. Findings will be made available not later than 60 days after the complaint is made. If a complainant wishes to have the complaint considered by a third party outside of the City, a complaint may be filed with the Region IX HUD field office.

### Section 3 Worker and Targeted Worker Self-Certification

The Section 3 program of the Housing and Urban Development Department (HUD) is used to document employment, training, and contracting opportunities for workers on a HUD-funded construction project. This form is used to identify qualified workers based on HUD's published annual income limits, especially people who receive government assistance for housing.

**Your response is voluntary, confidential, and has no effect on your employment.**

Workers may self-certify and submit this form to the contractor or subcontractor you are working for.

Employer Name: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Job Site Address: \_\_\_\_\_

Are you a resident of the City of Arcata?  Yes  No

If not, in which city do you reside? \_\_\_\_\_

Are you a resident in public housing, or a Section 8 Housing Choice voucher holder?  Yes  No

Please select the amount of individual income (not household income) that you believe you earned last year:

- \$16,350 or less
- \$16,351 to \$27,300
- \$27,301 to \$32,760
- \$32,761 to \$43,650
- \$43,651 or more

#### **Employee Affirmation**

I affirm that the statements above are true, complete, and correct to the best of my knowledge and belief.

Home Address \_\_\_\_\_

Employee Name \_\_\_\_\_

Date Hired \_\_\_\_\_

Signature \_\_\_\_\_

Date Signed \_\_\_\_\_

#### **Contractor / Employer Use Only**

Was this employee hired specifically for this project (using CDBG or HOME funds)?  Yes  No

*Provide this form to the City of Arcata within 30 days of the completion of the project.*

*Keep a copy of this form in your Section 3 Compliance file for five years.*

**Section 3 – Contractor Summary Sheet**

**Name of Project** \_\_\_\_\_  
**Contractor** \_\_\_\_\_  
**Contractor Contact** \_\_\_\_\_  
**Start Date** \_\_\_\_\_  
**Completion Date** \_\_\_\_\_  
**HUD LI Limit** \_\_\_\_\_  
**HUD VLI Limit** \_\_\_\_\_

**SECTION 3 BENCHMARKS**

Section 3 Workers – 25% of Total Labor Force \*

Targeted Section 3 Workers – 5% of Total Labor Force Living in Service Area (or in Youth Build Program) \*

<b>Total of All Workers in Labor Force *</b>	<u>Enter</u>	Calculated
<b>Section 3 Workers</b>	<u>Enter</u>	Percentages
<b>Targeted Section 3 Workers</b>	<u>Enter</u>	<u>        </u> %
		<u>        </u> %

\* *Excluding professional workers where services require specialized degrees or licensing.*

**Section 3 – Contractor Tracking Sheet**

<b>Worker Name</b>	<b>Address</b>	<b>Income per Certification</b>	<b>Hired for Job (Y / N)</b>	<b>LI (Y / N)</b>	<b>VLI (Y / N)</b>	<b>Targeted (Y / N)</b>	<b>Over Income (Y / N)</b>
<i>Enter Name</i>	<i>Enter Address</i>	<i>Enter</i>	<i>Enter</i>	<i>Auto Calc</i>	<i>Auto Calc</i>	<i>Auto Calc</i>	<i>Auto Calc</i>

### Section 3 Business Certification

The Section 3 program of the Housing and Urban Development Department (HUD) is used to document employment, training, and contracting opportunities for workers and businesses on a HUD-funded construction project. This form is used to identify qualified Section 3 Businesses.

Business Name \_\_\_\_\_

Business Address \_\_\_\_\_

Business Structure     Corporation     LLC     Sole Proprietor     Partnership     Other

Federal ID # \_\_\_\_\_                      Unique Entity ID (formerly DUNS) \_\_\_\_\_

A business may be a certified Section 3 Business when it meets the following requirements:

- At least 51% of the business is owned or controlled by Low- or Very Low-Income persons; or
- Over 75% of the labor hours performed for the business over the previous three months are performed by Section 3 Workers (workers who certify as Low- or Very Low-Income persons); or
- At least 51% of the business is owned or controlled by current public housing residents or residents who live in Section 8 assisted housing.

Low- and Very Low-Income status is based on HUD's published annual income limits, and whether people receive government assistance for housing (a Section 3 Worker and Targeted Worker Self-Certification form may be used for individual worker certification).

Provide the following documentation for the type of Section 3 Business you qualify as:

- At least 51% of business owned or controlled by Low- or Very Low-Income persons:
  - List of owners with percentages owned
  - Completed Section 3 Worker and Targeted Worker Self-Certification form for each owner
- Over 75% of the labor hours performed for the business over the previous three months are performed by Section 3 Workers:
  - List of current employees with hours worked
  - Timesheets or payroll documentation for the past 3 months
  - Completed Section 3 Worker and Targeted Worker Self-Certification form for each employee
- At least 51% of the business is owned or controlled by current public housing residents or residents who live in Section 8 assisted housing:
  - List of owners with percentages owned
  - Verification of residency in public housing or using Section 8 assistance

*Please note that additional information may be requested.*

#### Owner Affirmation

I affirm that the documentation I provide is true, complete, and correct to the best of my knowledge and belief. I understand that falsifying information will result in disqualification of certification.

Owner Name \_\_\_\_\_                      Date \_\_\_\_\_

Signature \_\_\_\_\_

## SECTION 3 – INFORMATION AND REQUIREMENTS FOR CONTRACTORS

A funding source for this project is through the Department of Housing and Urban Development (HUD) and work to be performed under this contract is subject to requirements of the Housing and Urban Development Act of 1968, codified at 24 CFR Part 75, and referred to as Section 3.

Section 3 requirements are intended to ensure that, *to the greatest extent feasible*, employment and other economic opportunities generated by HUD assistance are directed to Low- and Very-Low Income persons, particularly those who are recipients of government assistance for housing, and to qualifying business concerns, consistent with Federal, State, and local laws and regulations.

### Section 3 Terms and Definitions

The regulations outlining the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C 1701u) are described in 24 CFR Part 75, which can be found at <https://www.ecfr.gov/current/title-24/subtitle-A/part-75>.

- A. Grant Recipient means the City of Arcata.
- B. Section 3 Projects
  - 1. A Section 3 Project means housing rehabilitation, housing construction, and other public construction projects assisted with HUD programs when the amount of HUD assistance to the project exceeds a threshold of \$200,000, whether the project is partially or fully funded by HUD programs.
  - 2. 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.
  - 3. The requirements in 24 CFR Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
  - 4. The threshold is reduced to \$100,000 when the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 *et seq.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*).
- C. Organizations Subject to Section 3 obligations include all contractors, subcontractors, and subrecipients when the contract or subcontract is related to a Section 3 Project. These organizations provide data to the City for its Section 3 reporting.



D. Section 3 Worker

1. A Section 3 Worker is a worker who currently fits (or, when hired within the last 5 years, but not before November 30, 2020) at least one of the following criteria:
  - a) A Low- or Very Low-Income worker (the individual worker's income does not exceed 50% or 80% of the Area Median Income for Humboldt County, as calculated by HUD); or
  - b) A worker who is employed by a Section 3 Business Concern.
2. HUD income limits may change annually. They may be found at <https://www.huduser.gov/portal/datasets/il.html>. (Select the year, followed by the State of California, then Humboldt County, then choose "View County Calculations" to find current limits. No matter the size of the worker's household, use the limit for 1 (one) person in a family for individual income, under the Very Low (50%) and Low Income (80%) categories.)

E. Section 3 Targeted Worker

1. A Targeted Section 3 Worker is a worker who meets the Section 3 Worker definition, plus one of the following:
  - a) A worker who currently, or within the last 5 years, is documented as living in the Service Area; or
  - b) A worker who is employed by a Section 3 Business Concern located in the Service Area.

F. Section 3 Business

1. A Section 3 Business is a business which meets at least one of the following criteria, documented within the last six-month period:
  - a) Business is at least 51 percent (51%) owned or controlled by Low- or Very Low-Income persons; or
  - b) More than 75 percent (75%) of the labor hours performed for the business over the previous 3-month period are performed by Section 3 Workers; or
  - c) The business is at least 51 percent (51%) owned and controlled by current residents of public housing or Section 8-assisted housing.
2. 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.

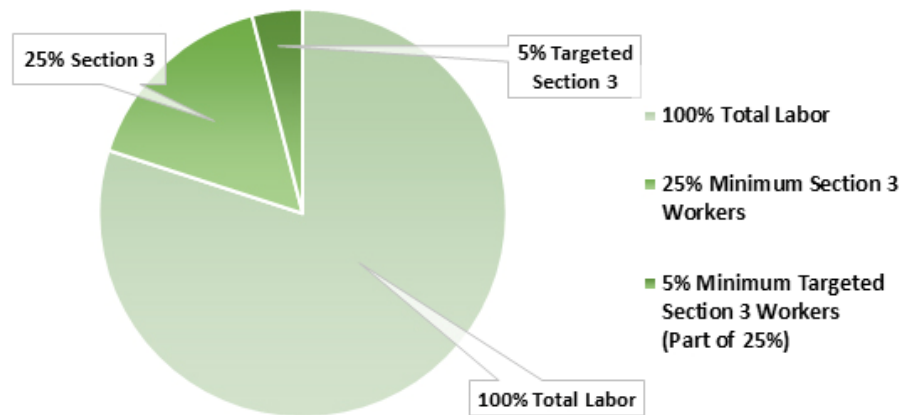
- G. Service Area (or Neighborhood) means an area within one (1) mile of the Project. If fewer than 5,000 people reside within one mile of the Project, within a circle centered on the Project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.
- H. Total Labor Hours means the total number of paid hours worked by all workers on a Section 3 Project.

NOTE: Labor hours for professional service jobs (those requiring an advanced degree or professional licensing) are excluded from the total labor hours reporting requirement. However, if employees of professional service roles meet the definition of a Section 3 Worker or Targeted Section 3 Worker, those labor hours may be included to meet HUD benchmarks.

I. Section 3 HUD Benchmarks

1. HUD is statutorily charged with the authority and responsibility to implement and enforce Section 3 and is required to review and set the Section 3 benchmarks at least once every three years.
2. When feasible, priority should be given to Section 3 workers residing within the service area or the neighborhood of the project. When feasible, priority should also 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.
3. Section 3 Worker and Targeted Worker Benchmarks:
  - a) Benchmark 1: Twenty-five percent (25%) or more of total labor hours in the project must be worked by Section 3 Workers; and
  - b) Benchmark 2: Five percent (5%) or more of total labor hours in the project must be worked by Targeted Section 3 Workers. This 5% is included as part of the 25% threshold.

Total Labor Hours	100%
Section 3 Workers	25%
Targeted Section 3 Workers	5%



### **Section 3 Contractor Requirements**

Contractors and subcontractors are required to meet the requirements of CFR 75.19 regardless of whether Section 3 language is included in contracts or subcontracts. Section 3 language in subcontracts is recommended by the City of Arcata.

The following information is provided to assist contractors and subcontractors with bids:

1. The executed Certification for Contracts is a requirement for all bid proposal submissions.
2. The City's Section 3 Plan.
3. Section 3 Worker and Targeted Worker certification form.
4. Section 3 Business certification form.
5. Section 3 reporting tool in Excel format may be provided on request.

To achieve Section 3 benchmarks, the City of Arcata requires contractors and subcontractors to maintain and provide documentation that will assist the Recipient in demonstrating compliance, including the following:

- A. Analyze their current workforce for the Project (including professional, technical, construction, and administrative positions) to determine whether workers may be Section 3 Workers or Targeted Section 3 Workers; and analyze their own ownership structure to determine whether it is, or could be, certified as a Section 3 Business Concern.
- B. Collect and submit documentation for certifying workers and businesses that qualify as Section 3 Workers and Section 3 Business Concerns.
- C. Provide the home address of all Section 3 Workers to determine whether they are a Section 3 Targeted Worker.
- D. Make and keep records of Good Faith Efforts to target, recruit, and hire Section 3 eligible Workers for Section 3 Projects.

- E. Make and keep records of Good Faith Efforts to target, recruit, and use Section 3 Businesses for Section 3 Projects.
- F. Track ALL labor hours, including those of owners and high-income workers, to document Total Labor Hours for a project. Income is only reported for Section 3 Workers or Targeted Workers.
- G. Submit an initial report on commencement of the Project, on City forms or equivalent, showing total labor force for the Project, total labor of certified Section 3 Workers and Targeted Workers working on the Project.
- H. Submit a final report at completion of the Project, on City forms or equivalent, showing total labor force for the Project, total labor of certified Section 3 Workers and Targeted Workers labor, and progress made in meeting Section 3 Benchmarks, including all good faith efforts made to meet requirements *to the greatest extent feasible*.
- I. Submit an annual report as described above (H) if the Project is multi-year.
- J. Note that compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon.

#### **Qualitative Efforts Requirements If Section 3 Benchmarks Are Not Met**

If Section 3 Benchmarks are not met under CFR 75.13, the City of Arcata is required to report documented and qualitative contractor, subcontractor, and subrecipient actions and activities that advance compliance with Section 3. Documentation of Qualitative Efforts must be kept and provided to the City with required labor data reports.

Qualitative Efforts are described in detail at CFR 75.25(b). General examples of actions and activities for contractors or subcontractors may include the following:

- A. Use the HUD Section 3 Opportunity Portal at <https://hudapps.hud.gov/OpportunityPortal/> to post jobs, contracts, and training opportunities.
- B. Engage in outreach efforts to generate job applicants who reside in public housing, HUD Section 8 assisted housing, or within the Service Area.
- C. Provide training or apprenticeship opportunities.
- D. Provide technical assistance to help Section 3 Workers compete for jobs (e.g., resume assistance, coaching).
- E. Provide or connect Section 3 Workers with assistance in seeking employment including: Drafting resumes, preparing for interviews, and finding job opportunities connecting Section 3 Workers to job placement services.
- F. Create or present at one or more job fairs.
- G. Provide or refer Section 3 Workers to services that support work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, or child care).

- H. Provide assistance for workers to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- I. Assist Section 3 Workers to obtain financial literacy training and/or coaching.
- J. Provide outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

## **CERTIFICATION FOR CONTRACTS: HUD SECTION 3 REGULATIONS**

**\* \* \* Must be Submitted by ALL BIDDERS \* \* \***

THE CONTRACTOR, SUBCONTRACTOR, SUBRECIPIENT, OWNER, DEVELOPER, NONPROFIT, OR SERVICE PROVIDER, BY HIS/HER SIGNATURE(S) AFFIXED HERETO, DECLARES UNDER PENALTY OF PERJURY OR NON-COMPLIANCE ENFORCEMENT THAT:

- A. 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. 1701 (u) (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or 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 implements Section 3, and to provide information to the City of Arcata as described in SECTION 3 – INFORMATION AND REQUIREMENTS FOR CONTRACTORS document. 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.

- B. The contractor agrees to send to each labor organization or representative of workers with which the contractor 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.
- C. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- D. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor 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's obligations under 24 CFR Part 75.

- E. 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.
  
- F. 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 (i) preference and opportunities for training and employment shall be given to Indians, and (ii) 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).

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Contractor's Authorized Signature

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Date

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*Authorized Signatory's Name and Title*

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*Name of Project*

**Note:** *The person signing must be authorized by owner, developer, or contractor to carry out the Contractor's Section 3 Project Implementation Plan.*