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DEPT. OF ECONOMIC DEVELOPMENT

Section 3 Policies and Procedures

State of Nebraska CDBG-DR Program

~~DECEMBER 2021~~ JANUARY 2022

RECORD OF CHANGES

The following table summarizes amendments to the Section 3 Policies and Procedures.

Date Change Approved	Change Number	Description of Change



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1 POLICY OVERVIEW

As a ~~recipient~~[Grantee](#) of United States (US) Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) funds, the State of Nebraska's Department of Economic Development (DED) will comply with Section 3 ~~New~~[Final](#) Rule requirements set forth at 24 Code of Federal Regulations (CFR) Part 75, effective November 30, 2020.

Section 3 is intended to direct employment and other economic opportunities to low- and very low-income persons to the greatest extent feasible for activities that are funded by HUD. These policies and procedures (P&P) correspond to the information set forth in 24 CFR Part 75, subparts A (General Provisions), C (Additional Provisions for Housing and Community Development Financial Assistance), and D (Provisions for Multiple Funding Sources, Recordkeeping, and Compliance). Subpart B contains additional information not set forth herein regarding provisions for public housing financial assistance.

The State of Nebraska enforces conduct of the CDBG-DR Program to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.

1.1 ASSOCIATED ALLOCATION(S)

- Winter Storm Ulmer ([DR-4420](#))
 - In early 2019, the State of Nebraska suffered record-breaking damage from severe winter weather, straight-line winds, and its worst flooding event in 50 years, leading to a federal major disaster declaration (DR-4420) under the Stafford Act. Damage from DR-4420 was widespread, leading to disaster declarations in 84 of the State's 93 counties (and four [\(4\)](#) tribal areas), with the worst damage located in the eastern part of the state.
 - HUD Most Impacted and Distressed (MID) is detailed in the Action Plan and includes Dodge, Douglas, and Sarpy counties.
 - Pursuant to the federal requirements for DR-4420, a minimum of 80% of this allocation must be invested in HUD-defined MID areas.

- A minimum of 70% of total CDBG-DR program funds must be spent on Low-to-Moderate Income (LMI) populations.

This subsection may be updated should other allocations become available due to subsequent disaster events and/or supplemental allocations.

2 ACRONYMS

Acronym	Meaning
CDBG-DR	Community Development Block Grant – Disaster Recovery
CFR	Code of Federal Regulation
CPD	HUD Office of Community Planning and Development
DED	Nebraska Department of Economic Development
HUD	US Department of Housing and Urban Development
PHA	Public Housing Authority
US	United States
USC	United States Code

3 DEFINITIONS

Controlling definitions are found in the *CDBG-DR Program Definitions*. Key definitions specifically relating to this P&P are stated below.

Best efforts: Throughout this P&P, DED uses the HUD terminology “best efforts” and “to the greatest extent feasible” to qualify expectations for Section 3 activities. These statutory terms¹

¹ 12 USC 1701u(b)-(d).

provide flexibility for Grantees and their Subrecipients and Successful Applicants of HUD funding. DED will evaluate Subrecipient and Successful Applicant performance based on the standard set forth by HUD,² based on “the level of effort expended by those recipients that fail to meet the benchmark safe harbor... [to] ensure that the statutory terms are being properly enforced. HUD included a list of examples in the regulation at 24 CFR §§ 75.15 and 75.25, including engagement in outreach efforts to generate job applicants who are Targeted Section 3 workers, providing training or apprenticeship opportunities, and providing technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).”

Contractor:³ Any entity entering ~~into~~ a contract with:

- A Grantee 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 or Successful Applicant for work in connection with a Section 3 project.

Labor hours:⁴ 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.

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.

Section 3 business concern:⁵ A business concern meeting at least one (1) of the following criteria, documented within the last six-month period:

- It is at least 51% owned and controlled by low- or very low-income persons;

² See <https://www.hud.gov/sites/documents/11SECFAQS.PDF>.

³ 24 CFR § 75.5.

⁴ 24 CFR § 75.5.

⁵ 24 CFR § 75.5.

- Over 75% 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% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Section 3 Business Registry: A listing of firms that have self-certified that they meet one (1) of the regulatory definitions of a Section 3 business and are included in a searchable online database that can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of certain HUD-funded contracts. Section 3 workers can also use the database to identify businesses that may have HUD-funded employment opportunities.

Section 3 Final Rule: The Final Rule, published on September 29, 2020, and effective November 30, 2020, updates HUD’s Section 3 regulations to create more effective incentives for employers to retain and invest in their low- and very low-income workers, streamline reporting requirements by aligning them with typical business practices, provide for program-specific oversight, and clarify the obligations of entities that are covered by Section 3. The changes in the Final Rule improve the effectiveness of Section 3, streamline some processes that have not yielded significant benefits, and encourage PHAs and HUD Grantees to focus on sustained employment for low- and very low-income individuals.⁶

Section 3 Project:⁷ Means housing rehabilitation, housing construction, and other public construction projects⁸ 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. 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 Business Registry:** A listing of firms that have self-certified that they meet one of the regulatory definitions of a Section 3 business and are included in a searchable online database~~

⁶ September 29, 2020, 85 FR 189.61524 at 61524.

⁷ 24 CFR § 75.3.

⁸ Public construction may include infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, and installing conduits for utility services.

~~that can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of certain HUD-funded contracts. The database can also be used by Section 3 workers to identify businesses that may have HUD-funded employment opportunities.~~

~~**Section 3 Final Rule:** The Final Rule, published on September 29, 2020, updates HUD's Section 3 regulations to create more effective incentives for employers to retain and invest in their low- and very low-income workers, streamline reporting requirements by aligning them with typical business practices, provide for program-specific oversight, and clarify the obligations of entities that are covered by Section 3.~~

~~**Section 3 worker**~~**Worker:**⁹ Any worker who currently fits or when hired within the past five (5) years fit at least one (1) 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;¹⁰
- The worker is employed by a Section 3 business concern; or
- The worker is a YouthBuild participant.

~~**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.~~

Service Area or the Neighborhood of the Project:¹¹ An area within one (1) mile of the Section 3 project or, if fewer than 5,000 people live within one (1) 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 US Census.

⁹ 24 CFR § 75.5.

¹⁰ Median income data is available at: https://www.huduser.gov/portal/datasets/il.html#2021_query.

¹¹ 24 CFR § 75.5.

Subcontractor:¹² 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 for a Section 3 project.

Successful Applicant: Successful Applicants include any eligible entity that is selected to enter into a funding agreement with DED to implement CDBG-DR program activities (e.g., for-profit developers).

Targeted Section 3 worker:¹³ A targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern; or
- (2) A worker who currently fits or when hired fit at least one (1) of the following categories, as documented within the past five (5) years:
 - (i) Living within the Section 3 service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
 - (ii) A YouthBuild participant.

Youthbuild:¹⁴ A community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school. YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality.

4 SCOPE

These policies and procedures apply to all DED employees, providers, vendors, contractors, consultants, Subrecipients, partners, citizens, Successful Applicants, external departments, and

¹² 24 CFR § 75.5.

¹³ 24 CFR § 75.21.

¹⁴ Additional information regarding Youthbuild is available at <https://www.dol.gov/agencies/eta/youth/youthbuild>.

agencies doing business with DED, as well as beneficiaries and others associated with, working for, accessing, or attempting to access benefits under the CDBG-DR programs.

~~The State of Nebraska enforces conduct of the CDBG-DR Program to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.~~

5 SECTION 3 POLICY

Section 3 is a provision of the Housing and Urban Development Act of 1968 and is intended to ensure that preference for employment, training, and contracting opportunities generated from the expenditure of Federal financial assistance be directed to local low- and very low-income persons, particularly those who receive federal housing assistance, and businesses that are owned by or substantially employ such persons. Section 3 specifically provides guidance to providing opportunities to Section 3 business concerns, Section 3 workers, and targeted Section 3 workers (see section 3, ***Definitions***).

On April 4, 2019, HUD proposed a new rule to update the Section 3 regulations. HUD published the Final Rule on September 29, 2020. The Final Rule became effective on November 30, 2020 and is codified at 24 CFR Part 75. It is intended to create more effective incentives for employers to retain and invest in their low- and very low-income workers, streamline reporting requirements by aligning them with typical business practices, provide program-specific oversight, and clarify the obligations of entities that are covered by Section 3.

~~HUD's Section 3 Opportunity Portal found at: <https://hudapps.hud.gov/OpportunityPortal> is available to support Grantees, Subrecipients, and Successful Applicants with meeting their Section 3 benchmarks. The website may also be used by Section 3 workers, targeted Section 3 workers, or employers to identify jobs and training and contracting opportunities.~~

DED will manage non-compliance with the Section 3 policy in accordance with the regulations set forth in 24 CFR § 570.496 and 2 CFR § 200.339. Specific monitoring and compliance practices are set forth in the ***Monitoring and Compliance Plan***.

6 APPLICABILITY

Section 3 applies to financial assistance expended for housing rehabilitation, housing construction, and other public construction¹⁵ projects assisted under HUD programs. Projects must exceed a threshold of \$200,000 for Section 3 to be considered applicable.¹⁶

The \$200,000 threshold is inclusive of total HUD assistance provided at the project level, not just the HUD assistance that is overseen by DED. For example, if a project is funded with \$101,000 of HOME funds and \$100,000 of CDBG funds, then it exceeds the applicability threshold of \$200,000 and the Section 3 requirements apply. However, if a project is funded with \$100,000 of CDBG funds and \$100,000 of state funds, Section 3 is not applicable.

The project is the site or sites together with any buildings and improvements located on the site(s) that are under common ownership, management, and financing. The requirements 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.¹⁷ Subrecipients and Successful Applicants must make all entities that they contract with aware of the need to comply with Section 3 requirements.

Section 3 requirements do not apply to material supply contracts.¹⁸ Subrecipients and Successful Applicants not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

¹⁵ Public construction may include infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, and installing conduits for utility services.

¹⁶ 24 CFR § 75.3. The threshold is \$100,000 where 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 USC § 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 USC § 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 USC § 4851 et seq.).

¹⁷ 24 CFR § 75.3.

¹⁸ 24 CFR § 75.3.

6.1 BENCHMARKS

For Section 3 projects, Subrecipients and Successful Applicants must report in a manner prescribed by DED the following:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by targeted Section 3 workers.

HUD established Section 3 benchmarks for the number of hours Section 3 workers and targeted Section 3 workers work on a project. The Section 3 benchmarks are key targets for DED, Subrecipients, and Successful Applicants. Additionally, Subrecipients and Successful Applicants are required to provide DED with a list of the qualitative efforts undertaken to remain compliant. DED will complete a report to HUD describing the qualitative efforts done to try and meet those standards per 24 CFR § 75.25(b). **Examples of qualitative efforts are identified below in section 9, Section 3 Examples of Qualitative Efforts.**

<u>Benchmark</u>	<u>Target</u>
<p><u>The benchmark for Section 3 workers is currently¹⁹ 25% or more of the total labor hours for grant-assisted projects each year.</u></p>	<p><u>The number of labor hours worked by Section 3 workers is divided by the total number of labor hours worked by all workers on a Section 3 project in the Subrecipient or Successful Applicant’s program year.</u></p> $\frac{\text{Total Section 3 Labor Hours}}{\text{Total Labor Hours (Project)}} = 25\% \text{ or more}$

¹⁹ HUD established the threshold set forth in the Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Federal Register Notice (September 29, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>.

Benchmark	Target
<p><u>The benchmark for targeted Section 3 workers is currently²⁰ 5% or more of the total labor hours for grant-assisted projects each year.</u></p>	<p><u>The number of labor hours worked by targeted Section 3 workers is divided by the total number of labor hours worked by all workers on a Section 3 project in the Subrecipient or Successful Applicant's program year. Note this figure is included in the overall 25% numeric goal for the project (see above).</u></p> <p>Targeted Total Section 3 Labor Hours $\frac{\text{Total Labor Hours (Project)}}{\text{Total Labor Hours (Project)}} = 5\% \text{ or more}$</p>

7 ROLES AND RESPONSIBILITIES

DED and its Subrecipients and Successful Applicants will be the primary entities responsible for ensuring compliance with Section 3 requirements.

7.1 DED RESPONSIBILITIES

²⁰ HUD established the threshold set forth in the Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Federal Register Notice (September 29, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>.

DED maintains overall responsibility for ensuring that projects for which Section 3 is applicable are conducted in compliance with the requirements set forth in this P&P. To this effect, DED will serve the following functions to support Section 3 compliance:

- DED will lead and establish a process to support Subrecipients and Successful Applicants with completing quarterly reports that effectively capture Section 3 reporting;
- DED will lead Section 3 management for applicable programs managed directly by the State; and
- DED will review Section 3 reporting to ensure Subrecipient and Successful Applicant compliance.

DED has also developed a range of resources to support training and technical assistance for all cross-cutting policies and procedures, including Section 3. The methodology and delivery of these resources is described in the *Program Management Guide* and primarily focuses on delivery via the DED website.

7.2 SUBRECIPIENT AND SUCCESSFUL APPLICANT RESPONSIBILITIES

Subrecipients and Successful Applicants are responsible for maintaining compliance with the requirements set forth in this P&P. This includes the following:

- Review, understand, and operate in compliance with the requirements set forth in this P&P, as described in section 8, *Requirements*.
- Identify and practice best practices, as applicable, as set forth in section 9, *Section 3 Examples of Qualitative Efforts*.
- Complete regular Section 3 reporting, as set forth in this P&P and the *Recordkeeping and Data Management Policies and Procedures*.

78 REQUIREMENTS

The following Section 3 requirements will be followed by DED, Subrecipients, and Successful Applicants for all projects where Section 3 is applicable (see section 6, *Applicability*). DED will review Subrecipient and Successful Applicant compliance

and the compliance of their contractors and subcontractors with 24 CFR Part 75 via the review process described in the **Monitoring and Compliance Plan**.²¹ Support will also be provided pursuant to DED's forthcoming **Section 3 Plan**, which will provide additional detail regarding opportunities across the service areas for different projects. This P&P will be updated with additional information regarding the **Section 3 Plan** once it is made available.

7.18.1 CONTRACT PROVISIONS

Pursuant to 24 CFR § 75.27, DED will:

- Include language applying Section 3 requirements and regulatory documentation and terms for reporting requirements and frequency of submission in any Subrecipient Agreement or contract for a Section 3 project; and
- Require Subrecipients, Successful Applicants, contractors, and subcontractors to meet the requirements of 24 CFR § 75.19, regardless of whether Section 3 language is included in Subrecipient agreements, program regulatory agreements, or contracts.

7.28.2 SECTION 3 WORKER AND TARGETED SECTION 3 WORKER

DED, Subrecipients, and Successful Applicants will ensure that employment and training opportunities in connection with Section 3 projects are provided to Section 3 workers and targeted Section 3 workers- (see section 3, **Definitions**). These efforts will seek to meet the benchmarks set forth below in section 6.1, **Benchmarks**.

7.2.18.2.1 WORKER CERTIFICATION

For both Section 3 and targeted Section 3 workers, the hiring authority (i.e., DED, Subrecipient, or Successful Applicant) will utilize the appropriate Certification Form to document the status of the worker. Nothing in 24 CFR Part 75 shall be construed to require the employment of someone

²¹ Section 3 requirements will be further detailed in the forthcoming DED Section 3 Plan.

who meets either of the above definitions of Section 3 worker or targeted Section 3 worker. Such workers are not exempt from meeting the qualifications of the position to be filled and shall not be negatively affected by a prior arrest or conviction.²²

~~7.2.28.2.2~~ EMPLOYMENT AND TRAINING

Pursuant to 24 CFR § 75.19, “To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients... shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.”

Regulations specifically prioritize opportunities and training to Section 3 workers residing within the Section 3 service area or the neighborhood of the project²³ and participants in YouthBuild programs.

~~7.2.31.1~~ BENCHMARKS

~~For Section 3 projects, Subrecipients and Successful Applicants must report in a manner prescribed by DED the following:~~

- ~~• The total number of labor hours worked;~~
- ~~• The total number of labor hours worked by Section 3 workers; and~~
- ~~• The total number of labor hours worked by targeted Section 3 workers.~~

~~HUD established Section 3 benchmarks for the number of hours Section 3 workers and targeted Section 3 workers work on a project. The Section 3 benchmarks are key targets for DED, Subrecipients, and Successful Applicants. Additionally, Subrecipients and Successful Applicants are required to provide DED with a list of the qualitative efforts undertaken to remain compliant. DED will complete a report to HUD describing the qualitative efforts done to try and meet those~~

²² 24 CFR § 75.5.

²³ See section 3, **Definitions**, for a description of the service area or the neighborhood of a Section 3 project.

~~standards per 24 CFR § 75.25(b). Examples of qualitative efforts are identified below in section 8, **Section 3 Examples of Qualitative Efforts.**~~

Benchmark	Target
<p>The benchmark for Section 3 workers is currently²⁴ 25% or more of the total labor hours for grant-assisted projects each year.</p>	<p>The number of labor hours worked by Section 3 workers is divided by the total number of labor hours worked by all workers on a Section 3 project in the Subrecipient or Successful Applicant's program year.</p> $\frac{\text{Total Section 3 Labor Hours}}{\text{Total Labor Hours (Project)}} = 25\% \text{ or more}$
<p>The benchmark for targeted Section 3 workers is currently²⁵ 5% or more of the total labor hours for grant-assisted projects each year.</p>	<p>The number of labor hours worked by targeted Section 3 workers is divided by the total number of labor hours worked by all workers on a Section 3 project in the Subrecipient or Successful Applicant's program year. Note this figure is included in the overall 25% numeric goal for the project (see above).</p> $\frac{\text{Targeted Total Section 3 Labor Hours}}{\text{Total Labor Hours (Project)}} = 5\% \text{ or more}$

²⁴ ~~HUD established the threshold set forth in the Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Federal Register Notice (September 29, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>.~~

²⁵ ~~HUD established the threshold set forth in the Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses Federal Register Notice (September 29, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>.~~

7.2.3.18.2.2.1 PROFESSIONAL SERVICES

Professional Services hours are excluded from the reporting requirement for Section 3 and targeted Section 3 workers.²⁶ The hiring authority (i.e., DED, Subrecipient, or Successful Applicant) should not include labor hours worked for professional services jobs in the total labor hours worked on the project. However, if employees in the professional services roles meet the definition of a Section 3 worker or targeted Section 3 worker, Subrecipients and Successful Applicants can report their labor hours in the applicable worker hour category. The effect of this reporting structure is to give a Subrecipient or Successful Applicant a bonus if they ~~are able to~~ can report Section 3 labor hours in the professional services context.

7.38.3 SECTION 3 BUSINESS CONCERN

To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, hiring authority (i.e., DED, Subrecipient, or Successful Applicant) will 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. Where feasible, priority for contracting opportunities described herein should be given to Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the Section 3 service area or the neighborhood²⁷ of the project and YouthBuild Programs.²⁸

Businesses may seek Section 3 preference for contracts where Section 3 is applicable. HUD's Section 3 Business Registry is a registry of businesses that have self-certified their status as a Section 3 business. Businesses who self-certify that they meet one (1) of the regulatory definitions of a Section 3 business are included in a searchable online database.²⁹ The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the

²⁶ 24 CFR § 75.23.

²⁷ See section 3, **Definitions**, for a description of the service area or the neighborhood of a Section 3 project.

²⁸ 24 CFR § 75.19.

²⁹ Section 3 Business Registry may be accessed at: <https://hudapps.hud.gov/OpportunityPortal/>.

notification about HUD-funded contracts to eligible firms. Section 3 workers are also encouraged to use the registry to identify businesses that may have HUD-funded employment opportunities.

The hiring authority (i.e., DED, Subrecipient, or Successful Applicant) will perform due diligence by verifying Section 3 eligibility before awarding contracts to businesses that are self-certified as a Section 3 business. The status of a Section 3 business concern will not be negatively affected by a prior arrest or conviction of its owner(s) or employees.³⁰ Nothing in 24 CFR Part 75 will 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.³¹

Qualifying as a Section 3 business does not mean that the business is selected if it meets the technical requirements of the bid, regardless of the bid price. Section 3 businesses must still compete for local HUD-funded contracts. Section 3 requirements at 24 CFR Part 75 provide a preference for contracts and subcontracts to these firms but not a guarantee.

7.48.4 **CONTRACTOR REQUIREMENTS**

As provided in 2 CFR § 200.318, contract awards will only be made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed contract. These requirements are provided in additional detail under the ***Monitoring and Compliance Plan***. Section 3 recordkeeping requirements for DED and its Subrecipients and Successful Applicants are found at 24 CFR § 75.31. The hiring authority (i.e., DED, Subrecipient, or Successful Applicant) must maintain documentation or ensure that a contractor maintains documentation to demonstrate compliance with the regulations. A contractor is responsible for requiring their subcontractors to maintain or provide any documentation that assists Subrecipients and Successful Applicants in demonstrating compliance, including documentation that shows hours worked by Section 3 workers and targeted Section 3 workers.

7.58.5 **REPORTING**

³⁰ 24 CFR §75.5.

³¹ 24 CFR § 75.5.

7.5.18.5.1 BIDDING

During the bidding process for activities associated with the CDBG-DR Program, the hiring authority (i.e., DED, Subrecipient, or Successful Applicant) must perform due diligence by verifying Section 3 eligibility and collect and maintain documentation related to Section 3 certification.

7.5.28.5.2 QUARTERLY AND FINAL REPORTING

In quarterly and final reports to DED, Subrecipients and Successful Applicants must collect and provide documentation related to compliance with Section 3 as defined within these policies and procedures (see also ***Monitoring and Compliance Plan***). Such documentation is further described in the **Appendix List**, section 11, **Appendix List**. Reporting is consistent with requirements and will support necessary documentation for DED to submit to HUD.

89 SECTION 3 EXAMPLES OF QUALITATIVE EFFORTS

Subrecipients and Successful Applicants must adequately document the qualitative efforts taken to meet the numerical goals. Such qualitative efforts may include, but are not limited to, the following:³²

- Engage in outreach efforts to generate job applicants who are targeted Section 3 workers, including:
 - Engagement via online platforms such as Subrecipient and Successful Applicant websites and social media platforms;
 - Announcing opportunities related to Section 3 jobs in community meetings and public hearings;

³² 24 CFR § 75.25.

- Posting notices in public buildings and in high traffic areas; and
- Posting advertisements through traditional methods such as television, radio, billboards, and other signage.
- Provide training or apprenticeship opportunities.
- Provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provide or connect Section 3 workers with assistance in seeking employment including drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Hold one or more job fairs.
- Provide or refer Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provide assistance to apply for, or attend, community college, a four-year educational institution, or vocational or technical training.
- Assist Section 3 workers to obtain financial literacy training and coaching.
- Engage in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provide technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provide bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns.
- Promote the use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

HUD's Section 3 Opportunity Portal found at: <https://hudapps.hud.gov/OpportunityPortal> is available to support Grantees, Subrecipients, and Successful Applicants with meeting their Section 3 benchmarks. [Section 3 workers, targeted Section 3 workers, or employers may also use the website to identify jobs and training and contracting opportunities.](#)

As a rule, it is important to document ~~any and~~ all actions taken to comply with requirements: if an activity is not documented, it is difficult to conclude that it ever happened. Documenting who, what, when, why, and how is helpful when capturing details of qualitative efforts, including dates, events, print or e-communication advertisements.

910 RECORDKEEPING

HUD and DED will have access to all records, reports, and other documents or items of the Subrecipient and Successful Applicant that are maintained to demonstrate compliance with the requirements of 24 CFR Part 75 or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed.³³

- Contractors will verify eligibility documents; and
- Subrecipients and DED will verify contractor reports.

The hiring authority (i.e., DED, Subrecipient, or Successful Applicant) must also maintain documentation, or ensure that a contractor, or subcontractor that employs the worker, provide documentation 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. (see section 3, *Definitions*). Examples of qualifying documentation are provided in **Appendix GF: Section 3 Worker and Targeted Section 3 Worker Documentation.**

The above documentation must be maintained for the time period required for record retentions in accordance with the terms provided in the Subrecipient agreement or contract for a Section 3 project and applicable program regulations or, in the absence of applicable program regulations, in accordance with 24 CFR § 570.490 and applicable provisions of 2 CFR Part 200.

³³ 24 CFR § 75.31.

1011 APPENDIX LIST

The following appendices reflect tools and templates that will be developed throughout the course of program launch and implementation to support Subrecipients and Successful Applicants with carrying out the procedures set forth in this P&P. Items marked in gray indicate that the tool or template is still under development at the time of this document's release. In many cases, a similar form exists under the regular CDBG program and will be adapted for CDBG-DR.

These tools do not reflect any additional policy or procedural element that is not described in the main P&P document. They will be added as appendices to this P&P for convenience of use by relevant stakeholders.

Appendix A: Section 3 Compliance Report Form

Appendix B: Section 3 Worker Certification Form

Appendix C: Targeted Section 3 Worker Certification Form

Appendix D: Section 3 Resolution

Appendix E: Section 3 Guidance

Appendix F: Section 3 worker and ~~targeted~~ Targeted Section 3 worker Documentation

Appendix G: Final Section 3 Labor Report