

STATE OF NEBRASKA

Section 3 Final Rule (24 CFR Part 75)

Reporting Requirements

NEBRASKA


Good Life. Great Opportunity.

Agenda

- Overview of Section 3 Final Rule
 - Section 3 Projects
 - Key Definitions
 - Section 3 Requirements
 - Section 3 Benchmarks
- Reporting & Recordkeeping Requirements
 - Supporting Documentation
 - Reporting Form
- Section 3 Resources & Upcoming Office Hours

SPECIAL NOTE

The Section 3 Final Rule has different triggers and benchmarks for public housing programs than for other types of community development projects. This presentation focuses only on compliance for housing and community development financial assistance.



Nebraska Department of Economic Development: Programs Impacted

- National Housing Trust Fund (HTF)
 - HOME Investment Partnerships Program (HOME)
 - HOME American Rescue Plan Program (HOME-ARP)
 - Community Development Block Grant (CDBG)
 - Community Development Block Grant Coronavirus Response (CDBG-CV)
 - Community Development Block Grant Disaster Recovery (CDBG-DR)
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Section 3 Purpose

To ensure that economic opportunities, most importantly employment, 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 where Section 3 covered assistance is expended.

Effective Date of “Final Rule”

The Section 3 Final Rule became effective of November 30, 2020.

Contract Commitment Date	Before 11/30/2020	On or After 11/30/2020
Applicable Regulations	24 CFR Part 135	24 CFR Part 75
Reporting Requirements	Subrecipient/Developer must retain documentation demonstrating compliance with 24 CFR Part 135 in project file.	Subrecipient/Developer must retain documentation demonstrating compliance with 24 CFR Part 75 in project file.

NOTE: Commitment date is program-specific. Consult with a DED representative to confirm your project’s commitment date to determine which set of rules apply.

Section 3 Projects

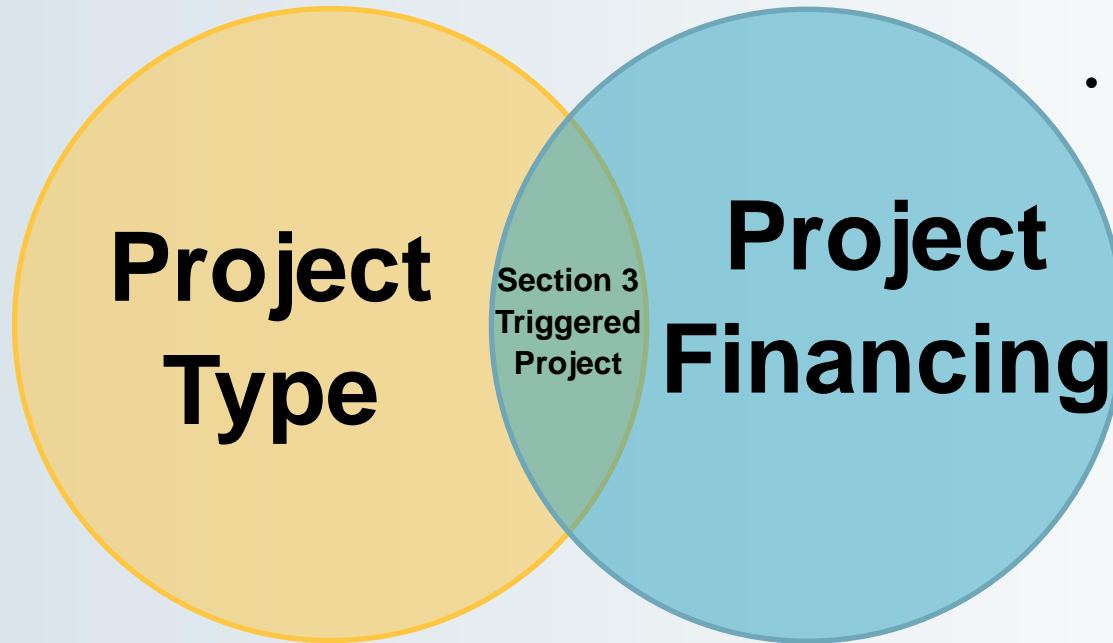
- Section 3 projects are defined as **housing rehabilitation, housing construction, and other public construction projects** that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of **\$200,000**.
- The threshold is inclusive of total HUD assistance provided at the project level, not just the HUD assistance overseen by DED.

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, it is not a Section 3 project.

Section 3 Triggers

APPLICABILITY IS BASED ON PROJECT TYPE AND FUNDING

- Housing rehabilitation
- Housing construction
- Demolition
- Other public construction, such as infrastructure and other public facilities



- Projects using \$200,000+ in HUD funds
- HUD funds may include:
 - HTF, HOME, HOME-ARP, CDBG, CDBG-CV, CDBG-DR, CDBG-MIT, NSP, Section 108, ESG, RHP, HOPWA, Section 202 & 811, Lead Abatement Grant

Project Definition

- A “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. See [24 CFR § 75.3](#).

Example: HOME funds used to rehabilitate 20 rental units in one building as part of an effort to rehabilitate 40 rental units in two buildings on a single property. The “Section 3 project” includes the rehabilitation of all 40 rental units.

- Section 3 requirements apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs.

Key Definitions

- **Section 3 Worker**: Any worker who currently fits, or when hired within the past **five** years fit, at least one of the following categories:
 - Worker’s income for the previous or annualized calendar year is below the HUD-established income limit.
 - Worker is employed by a Section 3 business concern.
 - Worker is a YouthBuild participant.
- **Section 3 Business Concern**: A business concern documented within the last six-month period to be:
 - At least 51% owned and controlled by low-or very low-income persons;
 - >75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8 assisted housing.

WHAT IS YOUTHBUILD?

YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24.

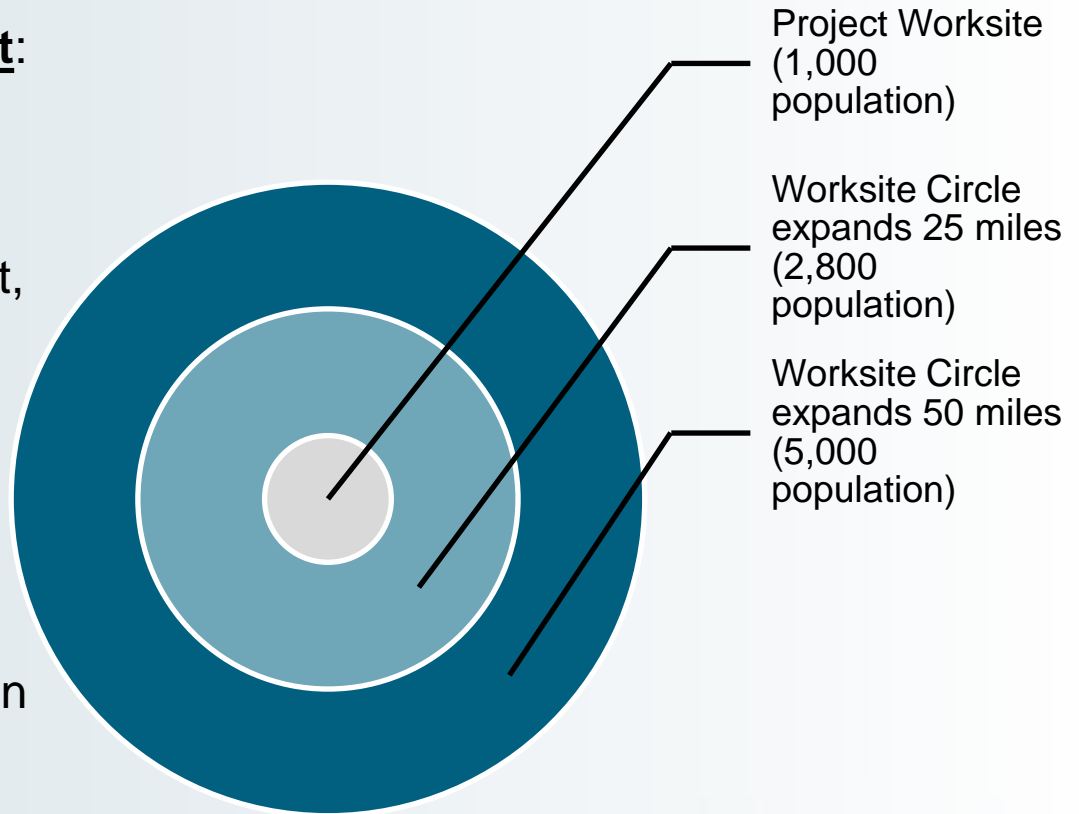
Key Definitions

- **Targeted Section 3 Worker:** A Section 3 worker who is:
 - A worker employed by a Section 3 business concern; or
 - A worker who currently fits or when hired fit at least one of the following categories, as documented within the past **five** years:
 - Living within the service area or the neighborhood of the project; or
 - A YouthBuild participant.



Key Definitions

- **Service Area or the Neighborhood of the Project:**
Area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.
- HUD is currently developing an online tool to assist with determining service areas.



Section 3 Requirements: Employment and Training

- Ensure that employment and training opportunities in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) where the project is located.
- Priorities for opportunities and training should be given to:
 - Section 3 workers residing within the service area or the neighborhood of the project, and
 - Participants in YouthBuild programs.

Section 3 Requirements: Contracting

- Ensure contracts for work are 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.
- Priority for contracting opportunities should be given to:
 - Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
 - YouthBuild programs.

Section 3 Benchmarks

- **25%** or more of total number of labor hours worked by all workers on a Section 3 project are from Section 3 workers.
- **5%** or more of total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
- Excludes material only contracts.
- Excludes “professional services” that may still be counted in the numerator.

$$\frac{\text{Total Section 3 Labor Hours}}{\text{Total Labor Hours (Project)}} = 25\% \text{ or more}$$

$$\frac{\text{Targeted Total Section 3 Labor Hours}}{\text{Total Labor Hours (Project)}} = 5\% \text{ or more}$$

Example: 21-01 Policy Memo

- DED awards City of Anytown \$300,000 of CDBG funds for street improvements.
- DED requires City of Anytown to report the following accomplishments:
 - the total labor hours,
 - the total labor hours worked by Section 3 workers, and
 - the total labor hours worked by Targeted Section 3 workers.
- During the most recent reporting period, City of Anytown reports a total of 5,000 labor hours worked on the project.
 - 1,300 worked by employees who self-certified as Section 3 workers.
 - 300 of those 1,300 hours performed by workers who lived within a one-mile radius of the work site (e.g., Targeted Section 3 workers).
- City of Anytown has met the project-level Section 3 benchmarks and reports the following data at the next reporting cycle:

Total Labor Hours	5,000 hours	
Section 3 Labor Hours	1,300 hours	26%
Targeted Section 3 Labor Hours	300 hours	6%

Evidence of Best Efforts

Examples of “best efforts” that demonstrate a commitment to comply with Section 3 include:

Engage in outreach efforts to generate job applicants who are Targeted Section 3 workers

- Host one or more job fairs
- Provide training or apprenticeship opportunities

Provide direct assistance to Section 3 workers

- To seek and compete for jobs (e.g., resume assistance, coaching, interview prep, job placement)
- For work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare)
- To apply for/or attend community college, a four-year educational institution, or vocational/technical training (e.g., scholarships, test prep and fees, application support)
- To obtain financial literacy training and/or coaching

Evidence of Best Efforts

Examples of “best efforts” that demonstrate a commitment to comply with Section 3 include:

Provide direct support to Section 3 Businesses

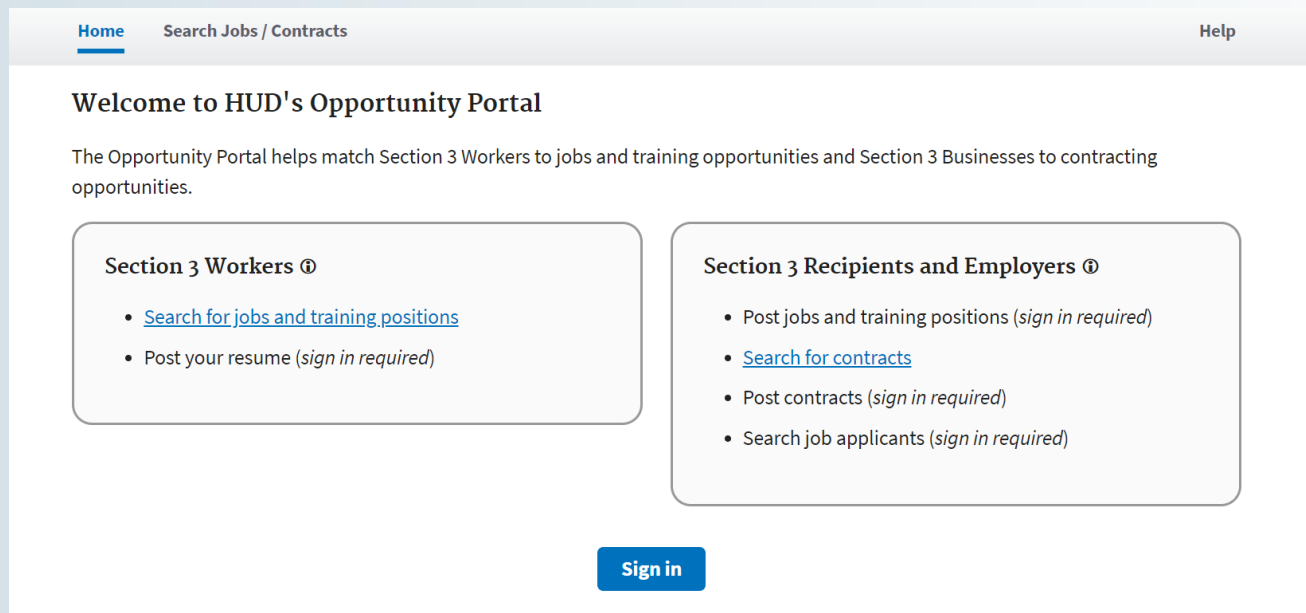
- To identify and secure bids from Section 3 business concerns
- To understand and bid on contracts

Encourage opportunities for Section 3 Business participation

- Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns
- Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns
- Promote use of business registries designed to create opportunities for disadvantaged and small businesses

HUD Section 3 Opportunity Portal

HUD's [Section 3 Opportunity Portal](#) is intended to help subrecipients meet their Section 3 benchmarks. It may be used by Section 3 workers, Targeted Section 3 workers, or employers to identify jobs and training and contracting opportunities.



The screenshot shows the HUD Section 3 Opportunity Portal homepage. At the top, there is a navigation bar with 'Home' (underlined), 'Search Jobs / Contracts', and 'Help'. Below the navigation bar, the main heading is 'Welcome to HUD's Opportunity Portal'. A sub-heading reads: 'The Opportunity Portal helps match Section 3 Workers to jobs and training opportunities and Section 3 Businesses to contracting opportunities.' There are two main content boxes. The left box is titled 'Section 3 Workers ⓘ' and contains two bullet points: '• [Search for jobs and training positions](#)' and '• Post your resume (sign in required)'. The right box is titled 'Section 3 Recipients and Employers ⓘ' and contains three bullet points: '• Post jobs and training positions (sign in required)', '• [Search for contracts](#)', and '• Post contracts (sign in required)'. At the bottom center, there is a blue 'Sign in' button.

Home Search Jobs / Contracts Help

Welcome to HUD's Opportunity Portal

The Opportunity Portal helps match Section 3 Workers to jobs and training opportunities and Section 3 Businesses to contracting opportunities.

Section 3 Workers ⓘ

- [Search for jobs and training positions](#)
- Post your resume (sign in required)

Section 3 Recipients and Employers ⓘ

- Post jobs and training positions (sign in required)
- [Search for contracts](#)
- Post contracts (sign in required)
- Search job applicants (sign in required)

Sign in

HUD Section 3 Business Registry

- HUD's [Section 3 Business Registry](#) is 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 that can be used by agencies that receive HUD funds, developers, contractors.
- The database can also be used by Section 3 workers to identify businesses that may have HUD-funded employment opportunities.

Search for a HUD Section 3 Business

Metropolitan Area *Required*

Alternative location (State, City, County, Zip) search options are available using the [advanced search](#).

Business Capabilities Search Options

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Additional Search Options

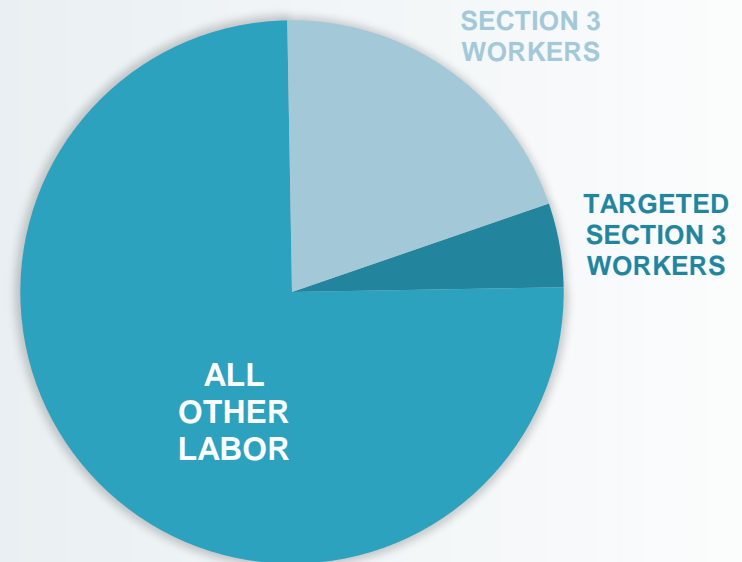
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Search For Business


Section 3 Reporting

COUNTING LABOR HOURS

- Information to be submitted includes total number of labor hours worked by the subrecipients, developers, contractors, and subcontractors:
 - 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.
- Subrecipients and developers must make all entities that they contract with aware of the need to comply with Section 3 requirements.



Professional Service Hours

- Professional Services hours are excluded from the reporting requirement.
 - Subrecipients and developers should not include labor hours worked for professional services jobs in the *total labor hours* worked on the project.
 - However, if professional services employees meet the definition of a Section 3 worker or Targeted Section 3 worker, subrecipients and developers can report their labor hours in the applicable worker hour category.
 - Gives subrecipient/developer a bonus if they are able to report Section 3 labor hours in the professional services context.
 - *Examples of professional services: legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services*
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Recordkeeping Requirements

Subrecipient/Developer must maintain documentation to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker:

SECTION 3 WORKER RECORDS

- Worker's self-certification that their income is below the income limit from prior calendar year.
- Worker's self-certification of participation in public housing or Section 8-assisted housing.
- Certification from a Public Housing Agency, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs.
- Employer's certification that the worker's income from that employer is below the income limit when based on employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.
- Employer's certification that the worker is employed by a Section 3 business concern.

TARGETED SECTION 3 WORKER RECORDS

- Employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people.
- Employer's certification that the worker is employed by a Section 3 business concern.
- Worker's self-certification as a YouthBuild participant.

DED Forms

- Certification Forms
 - Section 3 and Targeted Section 3 Worker Self-Certification Form
 - Section 3 Business Concern Certification Form
 - Contractor Permanent Workforce Certification Form
- Contractor Hours Log

Certification Forms

Section 3 Business Concern Certification Form

- A business may use this form to certify, with supporting documentation, that it qualifies as a Section 3 Business Concern.

Contractor Permanent Workforce Certification Form

- A business may use this form to qualify its workers as Section 3 workers and/or Targeted Section 3 workers.

Section 3 and Targeted Section 3 Worker Self-Certification Form

- A worker may use this form to self-certify that he/she qualifies as Section 3 or Targeted Section 3 Worker.

Section 3 Worker Records

SECTION 3 WORKER RECORDS	CORRESPONDING DED FORMS
Worker's self-certification that their income is below the income limit from prior calendar year.	Section 3 and Targeted Section 3 Worker Self-Certification Form
Worker's self-certification of participation in public housing or Section 8-assisted housing.	Section 3 and Targeted Section 3 Worker Self-Certification Form
Certification from a Public Housing Agency, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs.	N/a
Employer's certification that the worker's income from that employer is below the income limit when based on employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.	Contractor Permanent Workforce Certification Form
Employer's certification that the worker is employed by a Section 3 business concern.	Section 3 Business Concern Certification Form

Targeted Section 3 Workers

TARGETED SECTION 3 WORKER RECORDS	CORRESPONDING DED FORMS
Employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people.	Contractor Permanent Workforce Certification Form
Employer's certification that the worker is employed by a Section 3 business concern.	Section 3 Business Concern Certification Form
Worker's self-certification as a YouthBuild participant.	Section 3 and Targeted Section 3 Worker Self-Certification Form

Tracking Section 3 and Targeted Section 3 Worker Hours

- Contractor Hour Log
 - Tracks total labor hours, Section 3 labor hours, and Targeted Section 3 labor hours
 - Labor hours worked by employees of each company on the project will be listed on separate tabs/worksheets
 - Non-Section 3 worker hours may be combined
- Log to be submitted as part of required reporting in AmpliFund

What's Next: Upcoming Reporting

IMPORTANT NOTE: The upcoming semi-annual reporting period will be a “catch-up” cycle. Subrecipients/Developers should complete Section 3 reporting to cover period from July 1, 2021 – June 30, 2022.

For the period of November 30, 2020 to June 30, 2021, subrecipients and developers will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 for these projects but will not be required to report to DED on the requirements found in 24 CFR Part 75.



CDBG Reporting in AmpliFund

- Complete one Section 3 form as part of Project Status Reporting for **each activity**.
- DED's AmpliFund webpage contains detailed instructions on how to complete the form.

Project Status - Section 3 (Part 75)

Status Project

Report # - Project Status - Section 3 (Part 75)

Report Year (Calendar or "Fiscal") - Project Status - Section 3 (Part 75)

Calendar 1 - June 30
Calendar 2 - December 31

Period of Time Report Covers - Project Status - Section 3 (Part 75)

Final Report Date - Project Status - Section 3 (Part 75)

Section 3 Hours

Select the Activity*

Identify the Activity Address, Street Address

Identify the Activity Address, City

Identify the Activity Address, State

Identify the Activity Address, Zip Code

Total Labor Hours during the reporting period*

Section 3 Labor Hours during the reporting period*

Target Section 3 Labor Hours during the reporting period*

UPICAD Certification Terms and Entity Tracking Agreement* No, the chosen

Section 3 Efforts Taken

engage in outreach efforts to generate job applicants who are Targeted Section 3 workers.
 provide training or apprenticeship opportunities.
 provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
 provide career, financial, 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 career, financial, workers with assistance in seeking employment including drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
 provide assistance to apply for attend community college, a four-year educational institution, or vocational/technical training.
 provide technical assistance to help Section 3 business concerns understand and bid on contracts.
 engage in outreach efforts to identify and secure bids from Section 3 business concerns.
 provide contracting opportunities to smaller jobs to facilitate participation by Section 3 business concerns.
 provide technical assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns.
 promote use of business programs designed to create opportunities for disadvantaged and small businesses.
 research, implement, or refer to the state enterprise system as defined in Section 12(b)(3)(D) of the Workforce Innovation and Opportunity Act.
 No efforts were taken during the reporting period.

Identify the efforts taken during the reporting period to be in compliance with Section 3(a)(4)(B) Part 75 (check all that apply)*

UPICAD Documentation demonstrating the efforts taken to be in compliance with Section 3(a)(4)(B) Part 75, if applicable No file chosen

Notes

Certification

Certification I certify that, to the best of my knowledge, the provided information is true and accurate. I also certify that I am the authorized official to submit such information on behalf of the entity who has entered into an agreement with the Department or that I have the authority to execute this form on behalf of the authorized official and can submit proof of such authorization upon request.

Electronic Signature (Please Type First and Last Name)

Electronic Signature* By checking this box, I agree to the above certification.

Form Completion

Is the Project Status - Section 3 (Part 75) form complete and ready for submission? Yes No

Date of Completion - Section 3 (Part 75)

What's Next: Other Process Updates and Considerations

- Subrecipients/Developers should update Section 3-related processes and procedure and communicate expectations related to the Section 3 Final Rule.
 - Assess current active agreements with DED to determine which set of Section 3 rules apply (24 CFR Part 135 v. 24 CFR Part 75).
 - Take inventory of solicitation package templates and other relevant documents to update Section 3-applicable language.
 - Relay Section 3 Final Rule changes to contractor(s) or prospective proposer(s) and ensure contractor understanding of Section 3 reporting.
 - Communicate clear recordkeeping duties to contractors.
 - Continue outreach efforts after winning bidder/proposer is awarded.
 - Prepare for upcoming “catch-up” reporting cycle.

Section 3 Resources

- **DED Section 3 Webpage:** <https://opportunity.nebraska.gov/section-3/>
- **HUD Section 3 Guidebook:** <https://www.hudexchange.info/programs/section-3/section-3-guidebook/welcome/>
- **Section 3 HUD FAQs:** <https://www.hudexchange.info/section-3/faqs/>
- **HUD Income Limits:** <https://www.huduser.gov/portal/datasets/il.html>
- **CPD Notices:**
 - [Notice CPD-21-07](#): Section 3 Final Rule Requirements for HOME and HTF projects
 - [Notice CPD-21-09](#): Section 3 Final Rule Requirements for CDBG, CDBG-CV, CDBG-DR, CDBG-MIT, NSP, Section 108, and RHP Projects

Upcoming Office Hours

Questions about Section 3 and upcoming reporting requirements? DED is hosting open office hours to address questions related to the new Section 3 Final Rule:

- **Tuesday, May 24: 2:30-4pm CT**
- **Wednesday, May 25: 9:30-11am CT**

Register: <https://opportunity.nebraska.gov/events/>

Contact Information

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NOTE: Please include
“Section 3” in the subject
line of any emails regarding
the Section 3 Final Rule
and this presentation.