

# **CITY OF DULUTH**

## **PLANNING AND ECONOMIC DEVELOPMENT**

Community Development Funding

### **SECTION 3 ADMINISTRATIVE PLAN April 28, 2022**

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## **I. INTRODUCTION**

Section 3 of the Housing and Urban Development Act of 1968 and as amended by the Housing and Community Development Act of 1994 (hereafter referred to simply as Section 3), requires that:

“To the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low and very low income residents”.

On November 30, 2020 Housing and Urban Development Department (HUD) amended the Section 3 Rule. The most significant change from the previous regulations to the new regulations is the shift away from tracking new hires of low-income persons and instead tracking the labor hours performed by low-income persons. The goal is to recognize sustained employment rather than short-term hiring.

This is the official document for implementing Section 3 requirements as they relate to Housing and Urban Development (HUD) funds within the City of Duluth.

## **II. DEFINITIONS**

Contractor. Any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Good Faith. Reporting on the labor hours on the employer’s good faith assessment of the labor hours of a full-time or part-time employee informed by the employer’s existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting

Labor hours. The number of paid hours worked by person on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low Income. Families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary of HUD.

Materials. Contracts for purchase of products and materials, including but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

New Hires. Full-time employees hired for permanent, temporary, or seasonal employment that is created by a Section 3 Project.

Recipient – Any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include contractors and does not include any ultimate beneficiary under the HUD

program to which Section 3 applies.

Safe Harbor. Absent evidence to the contrary, if a recipient or contractor meets the Section 3 goals, the recipient or contractor is considered to be in compliance. A recipient or contractor considered to be in compliance with Section 3 may not be subject to routine compliance reviews.

Section 3 Service Area. The geographic area in which the persons benefitting from the Section 3 Project reside. This area does not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended. This would mean the City of Duluth.

Section 3 Business Concern. A business entity formed in accordance with State law, and which is licensed under State, county, or municipal law to engage in the type of business activity for which it was formed. A business that fits one of the following criteria that has been documented within the last six months:

1. At least 51% of the business is owned and controlled by low or very low-income persons;
2. Businesses where low or very low-income workers perform over 75% of the labor hours over a 3 month period
3. At least 51% of the businesses is owned and controlled by current public housing or Section 8 residents.

Section 3 Project. A project using HUD funds (CDGB, HOME, ESG) that involves construction or rehabilitation of housing (including demolition), or other public construction such as homeless shelters, street repair, sewage line repair, updates to building façade, etc. where the total amount of assistance to the project exceeds a threshold of \$200,000.

Section 3 Worker is any worker who currently fits or when hired within the past five years fit at least one of the following categories as documented:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
2. The worker is employed by a "Section 3 business concern."
3. YouthBuild participant.

Targeted Section 3 Worker meets the definition of a Section 3 worker and 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 of the following categories as documented within the past five years:
  - a. Is a resident of public housing or Section 8 housing
  - b. Living within the service area or the neighborhood of the project
  - c. A YouthBuild participant.

### **III. GOALS**

Section 3 does not require set-aside guarantees, but only goals that recipients must try to meet in order to demonstrate Section 3 compliance. Section 3 is not intended to create an entitlement for eligible residents and business, simply opportunities. The “best effort made” goals of Section 3 are as follows:

Goal 1, Employment: 25% of all labor hours must be performed by a “Section 3 Worker”

Goal 2, Contracting: 5% of all labor hours must be performed by a “Target Section 3 Worker”

### **IV. APPLICABILITY**

Section 3 requirements apply to all contractors and subcontractors receiving contracts or subcontracts for covered funds in excess of \$200,000 to complete a Section 3 Project. A 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.

Prior to November 30, 2020 the Section 3 goals were related to hiring people who met the definition of Section 3 worker. The new regulations is the shift away from tracking new hires of low-income persons and instead tracking the labor hours performed by low-income persons. The goal it to recognize sustained employment rather than short-term hiring.

Guidance published by the Department of Housing and Urban Development Office of Field Policy and Management for Section 3 states that contracts executed and funds committed prior to November 30, 2020 are required to adhere to the requirements of the old rule. For the City of Duluth Community Development programming, FY 2020 projects Section 3 accomplishments have been submitted.

For projects that receive funding after November 30, 2020 but before July 1, 2021, they are subject to the new Section 3 rules. HUD is requiring recipients to maintain records of Section 3 compliance, but are not expected to be required to report to HUD on the new accomplishments metrics. For the City of Duluth Community Development programming, FY 2021 projects will be required to report Section 3 accomplishments to the City of Duluth. The City of Duluth will follow up with the agencies that had Section 3 hires for retention strategies.

For projects which will have funds committed after July 2021, those projects will be required to show compliance with the new goals. For the City of Duluth Community Development programming, FY 2022 projects will have to comply with the new Section 3 goals and reporting.

### **V. REPORTING**

HUD is now requiring that Section 3 accomplishments be reported in the Integrated Disbursement and Information System (IDIS). Specifically for all Section 3 projects, prior to final payment, the agency must provide the Total Labor Hours on a project, the number of Section 3 Worker Hours, and the Targeted Section 3 Worker Hours. The form on the following page must be completed.

Section 3- From the IDIS site:

		<i>Calculated Percentage</i>	<i>Safe Harbor Benchmark Met</i>
<b>Total Labor Hours</b>	<input type="text"/>		
<b>Section 3 Worker Hours</b> ⓘ	<input type="text"/>		
<b>Targeted Section 3 Worker Hours</b> ⓘ	<input type="text"/>		

If the Section 3 goals are not met, the Agency must provide a description of efforts made to address the Section 3 goals. Specifically the Agency must select one or more of the following and provide a narrative of how the effort(s) were made. For Agencies that have more than one project, City Staff will accept a Section 3 Outreach Plan for review.

Section 3- from the IDIS site:

Check all that apply. Maintain records available for HUD review to document any efforts checked.

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funding Targeted Workers.
- Direct, on-the job training (including apprenticeships).
- Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.
- Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Outreach efforts to identify and secure bids from Section 3 business concerns.
- Technical assistance to help Section 3 business concerns understand and bid on contracts.
- Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided or connected residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- Held one or more job fairs.
- Provided or connected residents with supportive services that can provide direct services or referrals.
- Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- Assisted residents with finding child care.

- Assisted residents to apply for, or attend community college or a four year educational institution.*
- Assisted residents to apply for, or attend vocational/technical training.*
- Assisted residents to obtain financial literacy training and/or coaching.*
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.*
- Provided or connected residents with training on computer use or online technologies.*
- Promoting the use of a business registry designed to create opportunities for disadvantaged and small businesses.*
- Outreach, engagement, or referrals with the state one-stop system, as designed in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.*
- Other. Specify:*

In summary, HUD has revised the Section 3 requirements and starting with the FY 2022 contracts, agencies who are receiving \$200,000 or more in HUD funds for construction projects will be required to provide City Staff the total number of labor hours for the project and how many of those labor hours were performed by people meeting the Section 3 definition. If a project does not meet the goals (25% of labor hours were performed by people meeting the Section 3 definition and 5% of labor hours performed by people meeting the Targeted Section 3 definition); the agency shall submit a Section 3 Outreach Plan implementing engagement techniques described above.