



SECTION 3 POLICIES AND PROCEDURES

CDBG, CDBG-CV, CDBG-DR, and CDBG-MIT

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WEST VIRGINIA COMMUNITY ADVANCEMENT AND
DEVELOPMENT

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The West Virginia Community Advancement and Development Office, a division of the West Virginia Department of Economic Development, and the entities to which it provides Community Development Block Grant (CDBG), Community Development Block Grant – Coronavirus (CDBG-CV), Community Development Block Grant – Disaster Relief (CDBG-DR), and Community Development Block Grant – Mitigation (CDBG-MIT) must comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (Section 3). Section 3 requires that economic opportunities that are generated by the use of Federal funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. **Section 3 establishes benchmark goals for (a) 25% of total labor hours worked by Section 3 workers, and (b) 5% of total labor hours worked by Targeted Section 3 workers.**

These procedures summarize the Section 3 requirements and the required implementation by WVCAD and its subrecipients.

The Section 3 implementing regulations (at 24 CFR part 75) can be found at, [Electronic Code of Federal Regulations \(eCFR\)](#).

Section 3 applies to Section 3 projects as follows [24 CFR 75.3(a)(2)(i)]:

Section 3 projects means housing rehabilitation, housing construction, and other public construction projects 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, 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.*). 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.

Whether the project is fully or partially assisted under CDBG, CDBG-CV, CDBG-DR, or CDBG-MIT, Section 3 applies to the entire project [24 CFR 75.3(a)(2)(iii)].

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)].

Section 3 Employment and Training

Recipient is defined as the entity receiving a CDBG, CDBG-CV, CDBG-DR, or CDBG-MIT commitment in excess of a threshold of \$200,000.

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, ensure employment and training opportunities arising in connection with the Section 3 project is provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located [24 CFR 75.19(a)(1)].

Where feasible, priority for opportunities and training should be given to [24 CFR 75.19(a)(2) (i-ii)]:

- Section 3 workers residing within the service area or the neighborhood of the project, and

- Participants in YouthBuild programs.

Section 3 Contracting

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, 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 [24 CFR 75.19(b)(1)].

Where feasible, priority for contracting opportunities should be given to [24 CFR 75.19(b)(2)(i-ii)]:

- 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 Reporting requirements

To comply with Section 3 regulations, the Recipient must report [24 CFR 75.25(a)]:

- 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.

The labor hours reported must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors [24 CFR 75.25(a)(3)].

In order to meet Section 3 reporting requirements, Recipients may report labor hours by Section 3 workers and Targeted Section 3 workers from professional services without including labor hours from professional services in the total number of labor hours worked for the project [24 CFR 75.25(a)(4)].

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient's reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks (see Form 3.28c).

Section 3 Contract Provisions

Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project [24 CFR 75.27(a)] (see Form 3.28a).

Section 3 business concern means (24 CFR 75.5):

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;

- (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
 - (3) 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.

Section 3 worker means (24 CFR 75.5):

- (1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:
 - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

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 five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or
 - (ii) A YouthBuild participant.

Exhibits to Section 3 Policies and Procedures

Form #	Description
8	Certificate of Section 3 Compliance and Section 3 Clause
9	Parties Involved Form
10	Weekly Hours Worked Certification
11	Section 3 Worker Certification
12	Section 3 Business Certification
13	Section 3 Plan - Template

**WEST VIRGINIA COMMUNITY ADVANCEMENT AND DEVELOPMENT
CDBG, CDBG-CV, CDBG-DR, CDBG-MIT PROGRAMS
SECTION 3 CERTIFICATION**

PURPOSE, AUTHORITY AND RESPONSIBILITY

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of Federal funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals for **(a) 25% of total labor hours worked by Section 3 workers;** and **(b) 5% of total labor hours worked by Targeted Section 3 workers.**

_____ (hereinafter called the Recipient/Contractor)
hereby **CERTIFIES** that upon being awarded a contract to participate in the following HUD-funded project:

_____ (the "Project") located in _____
(city or town) in _____ (county), that the Recipient/Contractor:

- (a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and
- (b) will comply with HUD's regulations in 24 CFR Part 75; and
- (c) will submit to the West Virginia Community Advancement and Development (WVCAD) appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 workers, and confirmation of Section 3 business concerns and YouthBuild participants; and
- (d) will include the Section 3 Clause and this Section 3 Certification of Compliance in every subcontract and further agrees to take the appropriate action pursuant to those regulations in the event the contractor/subcontractor is found to be in violation of 24 CFR Part 75; and
- (e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

By: _____
Authorized Representative's Signature

Name and Title: _____

Date: _____

Section 3 Clause must be included in contracts with all contractors/subcontractors/lower-tier subcontractors.

Section 3 Clause

- 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. 1701u (section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. 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.
- 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 that 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. 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.

Parties Involved Form

Project Name _____

Owner Name	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Developer	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

GC	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
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Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	
Phone	

Each Contractor, Subcontractor, Lower-tier Subcontractor must complete this form and submit to Subrecipient, who in turn submits to WVCAD.

Note: Form must be completed for each pay period of the Project site.

Section 3 Weekly Hours Worked

Company Name _____ Project Name _____

Company Address _____ City _____ State _____ Zip _____

Contact Name for Section 3 _____ Phone _____ Email Address _____

Pay Period _____ to _____

Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers, and (b) 5% of total labor hours worked by Targeted Section 3 workers.

Employee Name	Total labor hours Employee worked at Project during Pay Period	Employee is a Section 3 worker (Yes/No)	Employee is a Targeted Section 3 worker (Yes/No)
Total for Pay Period			

Signature _____ Date _____

Definitions

Section 3 worker means (24 CFR 75.5):

- (1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:
 - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

A Targeted Section 3 worker for Public Housing Financial Assistance projects is 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 five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or
 - (ii) A YouthBuild participant.

Section 3 business concern means (24 CFR 75.5):

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) 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.

Recipient must complete this form and submit to WVCAD.

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient’s reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks. In the absence of not meeting Section 3 benchmarks, the Recipient made efforts including (check all that apply and provide documentation of effort(s)):

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted 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.
- Other, please describe: _____

By signing this document, as an authorized employee of the Recipient, I certify the above efforts are true and accurate to the best of my knowledge and belief.

Recipient Signature Date

Section 3 Worker Certification

Employee Name	Project Name		
Employee's Address	City	State	Zip

Section 3 worker means (24 CFR 75.5):

- (1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:
 - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD (see the following income limits).
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.

- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

By signing this document, I certify that I am a Section 3 worker because I fit into one or more category listed above.

Signature	Date
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2022 WV CDBG/CDBG-CV/CDBG-MIT Program Income Limits

Program Income Limits are updated annually (typically in April) by the U.S. Department of Housing and Urban Development (HUD). Section 3 business and worker status must be verified with the most current income limits by following the link below:

<https://www.huduser.gov/portal/datasets/il.html> .

When verifying income limits, please select the most current fiscal year, state, and appropriate county calculation. Do not use the statewide income limits calculation.

Section 3 Business Certification

If your business meets at least one of the categories listed below, please complete this form.

Business Name

Business Address

City

State

Zip

Contact Name

Email

Phone

Section 3 business concern means (24 CFR 75.5):

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) 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.

By signing this document, I certify _____
 is a Section 3 business concern because it fits into one or more category listed above.

Signature

Title

Date

SECTION 3 PLAN – TEMPLATE

Subrecipient (City/County): _____

Address: _____

Contractor/Subcontractor: _____

Address: _____

CDBG Funding Amount: _____

Service Area: _____

Section 3 Coordinator: _____

1. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of the local officials in preparing and implementing the affirmative action plan. The service area means an 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.
2. Will update local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area.
3. Will maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
4. Will insert this Section 3 Plan in all bid documents, and to require all bidders and subcontracts to submit a Section 3 Affirmative Action Plan, including utilization goals and the specific steps planned to accomplish these goals. *
5. Will formally contact unions, subcontractors, and trade associations to secure their cooperation for this program.
6. Will ensure that all appropriated project area business concerns are notified of pending sub-contractual opportunities.
7. Will maintain records that Section 3 requirements have been met.
8. Will appoint or recruit an executive official of the company or agency as a Section 3 Coordinator to the Section 3 Plan.
9. Will engage in outreach efforts to generate job applicants who are targeted Section 3 workers.

10. Will provide training or apprentice opportunities.
11. Will provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
12. Will provide or connect Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities.
13. Will hold one or more job fairs.
14. Will provide or refer Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview, clothing, test fees, transportation, childcare).
15. Will provide assistance to apply for or attend community college, a four-year educational institution or vocational/technical training.
16. Will assist Section 3 workers to obtain financial literacy training and/or coaching.
17. Will engage in outreach efforts to identify and secure bids from Section 3 business concerns.
18. Will provide technical assistance to help Section 3 business concerns understand and bid contracts.
19. Will divide contracts into smaller jobs to facilitate participation by Section 3 business concerns.
20. Will provide bonding assistance guarantees, or other efforts to support viable bids from Section 3 business concerns.
21. Will promote use of business registries designed to create opportunities for disadvantaged and small businesses.
22. Will outreach, engage, or have referrals with the State one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

23. Other, please describe:

Subrecipient Local Official Name	Signature	Date
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Contractor/Subcontractor Name	Signature	Date
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