



HUD's Proposed Rule Amending

Section 3 of the Housing and Urban Development Act of 1968

SUMMARY

General Section 3 Overview

- Section 3 of the Housing and Urban Development Act of 1968 states that HUD-funded jobs and contracts are to be directed, to the greatest extent feasible, to local low-income residents and the businesses that employ them.
- Section 3 helps foster local economic development, neighborhood improvement, and individual self-sufficiency in communities for covered financial assistance is spent.
- Section 3 keeps HUD-funded contracts and jobs local.
- Section 3 covered projects and activities include the development, operation, and modernization of public and Indian housing. They also include housing and community development projects like construction, reconstruction, conversion or rehabilitation of housing and other public construction.

Need for HUD's Section 3 Proposed Rule

- Since 1994, HUD's Section 3 requirements have been governed by an interim regulation, which is vague in certain areas that have proved confusing for Public Housing Authorities, other HUD grantees, and their contractors.
- The proposed rule clarifies definitions and provisions that are left to interpretation and eases barriers to reaching compliance for recipients of HUD funding.
- It ensures that Public Housing Authorities and other grantees are implementing consistent procedures for determining which residents and businesses should be counted towards Section 3 compliance.
- The proposed rule addresses a number of concerns expressed by stakeholders to HUD and formalizes "best practices" implemented by high-performing grantees.

Economic Impact

- The proposed rule is estimated to direct an additional 1,400 jobs to Section 3 residents, and an additional \$172+ million in HUD-funded contracts to Section 3 businesses each year¹.
- Section 3 requirements apply to approximately 5,000 recipients of HUD funding (such as Public Housing Authorities, State and local government agencies, low-income housing providers, etc.) and their sub-recipients and contractors.
- Up to 40% of HUD's annual budget is subject to Section 3 requirements.²
- In FY 2013, the expenditure of covered HUD funds generated approximately 61,600 new jobs, nearly 27,200 (44%) of which went to Section 3 residents.³
- In FY 2013 more than 5,600 Section 3 businesses received construction and construction-related (professional service) contracts totaling \$883.4 million nationwide.
- Between 2009 and 2012⁴:
 - HUD funding resulted in more than 190,000 new jobs, about half of which (93,448) went to Section 3 residents.
 - \$2.68 billion, or 8.4 percent, of all HUD-funded construction contracts were awarded to Section 3 businesses from 2009-2012.
 - \$334.8 million or 4.1% of the total amount of HUD-funded non-construction (professional service) contracts were awarded to Section 3 businesses.
 - Nearly 26,000 Section 3 businesses were awarded HUD-funded contracts during this time.

¹ Source: 2012 Section 3 Summary Data. Under the existing numerical minimum goals \$1,245,527,056 should have been awarded to Section 3 businesses. Ten percent of the total amount of reported contracts (\$14,180,536,134) is \$1,418,053,613.

² Source: FY 2013 HUD Budget (Actual).

https://portal.hud.gov/hudportal/documents/huddoc?id=fy15cj_bdgt_auth_tbl.pdf.

³ The minimum numerical goal for new hires is that 30% of new hires shall be Section 3 residents.

⁴ Source: Section 3 Summary Report submissions from 2009-2012.

12 Key Improvements in the Section 3 Proposed Rule

The Section 3 Proposed Rule:

1. Establishes clearer guidelines for achieving compliance “to the greatest extent feasible”.
2. Requires “new hires” to work at least half the hours a typical employee would work for that job category. For example, if a Section 3 resident is hired as a painter, and painters typically work 40 hours each week, the Section 3 resident must work a minimum of 20 hours each week during their employment on the project.
3. Revises the definition of a “Section 3 Business” to specify a preference for public housing resident-owned businesses, contractors that sponsor Section 3 residents to attend apprenticeship programs approved by the Department of Labor or state agencies, or whose employees are recent participants in the non-profit Youthbuild program.
4. Revises the funding threshold for grantees that are not Public Housing Authorities. Under the proposed rule any grantee that obligates or commits to spend \$400,000, or more, of covered funds on projects involving housing construction, demolition, rehabilitation, or other public construction is required to comply with Section 3.
5. Standardizes a minimum 10% threshold of both construction and non-construction contracts that will be required to go to Section 3 businesses. Currently, only 3% of non-construction contracts (i.e.: professional services like marketing, accounting, architectural, engineering, and legal services) are required to go to Section 3 businesses.
6. Requires PHAs and other grantees to monitor the payroll of developers and contractors when administering Davis Bacon covered projects, to identify staffing changes that may trigger Section 3 obligations.
7. Instructs recipients in jurisdictions that are governed by agreements with Labor Unions to ensure Section 3 requirements are incorporated into amended agreements.
8. Incentivizes businesses to either retain Section 3 residents from previous jobs or provide on-the-job training or apprenticeship opportunities to Section 3 residents.
9. Allows PHAs and other grantees to either accept self-certifications from Section 3 residents and businesses or presume that they are Section 3 eligible if they reside, or are located in, distressed communities.

10. Imposes penalties on PHAs and other grantees that fail to submit Section 3 annual reports to HUD. Penalties could include restrictions on drawing HUD funds until annual reports are submitted.
11. Holds PHAs and other grantees accountable for achieving compliance by imposing program sanctions on those that do not. Sanctions could ultimately include recapturing covered HUD funds.
12. Ensures that relief may be provided to aggrieved individuals and other entities as a result of HUD's Section 3 enforcement activities.

How to Submit Comments on the Section 3 Proposed Rule

To submit comments on the Section 3 Proposed Rule, please visit:

www.huduser.org/portal/economicOpportunities.html

All comments must be received by: **May 26, 2015**

Additional information about Section 3 of the Housing and Urban Development Act of 1968 can be found at: www.hud.gov/section3.