

PHILADELPHIA HOUSING AUTHORITY
SECTION 3 FREQUENTLY ASKED QUESTIONS

What is Section 3?

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (“Section 3”) and 24 CFR Part 75 requires that, to the greatest extent feasible, employment and other economic opportunities generated by certain financial assistance from the U.S. Department of Housing and Urban Development (HUD) be directed to low- and very low-income residents, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low income persons, as defined in 24 CFR 75.

What is PHA’s Section 3 Policy?

This Section 3 portion of the Procurement Policy shall provide direction to the Philadelphia Housing Authority (PHA) for maximizing employment and other economic opportunities (aka Qualitative Efforts) for low- and very low-income individuals and business concerns through certain HUD-funded contracts, pursuant to 24 CFR Part 75. PHA will establish appropriate procedures and processes to implement this Section 3 portion of the Policy. This Policy does not require employing a Section 3 Worker that does not meet the qualifications of the position to be filled or cannot fulfill the contract requirements.

Where does PHA’s Section 3 Policy Apply?

This Policy shall cover all contracts, including memoranda of understanding, for the provision of services to PHA funded through Section 3 Public Housing financial assistance (defined at 24 CFR § 75.3(a)(1)), which includes cooperative purchasing agreements and contracts for professional services (such as audit and accounting, brokerage, architecture, and legal), maintenance, repairs, labor, landscaping, modernization projects, employee training, PHA resident education and services, and construction. This Policy does not apply to contractors who only furnish materials or supplies.

How does Section 3 promote self-sufficiency?

Section 3 is a starting point to obtain job training, employment, and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency.

- Federal, state, and local programs
- Advocacy groups
- Community and faith-based organizations

How does Section 3 promote homeownership?

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities they have begun the first step to self-sufficiency.

Who are Section 3 residents?

Section 3 residents are:

- Public housing residents or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below HUD's income limits.

What does "Section 3 Worker" mean?

A Section 3 worker is any worker who currently fits, or when hired within the past 5 years fit, at least one of the following categories:

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

What does "Targeted Section 3 Worker" mean?

A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who:

- Is employed by a Section 3 business concern; or
- Currently fits, or when hired fit, at least one of the following categories, as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing;
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - A YouthBuild participant.

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 who have previously dropped out of high school. Participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the require construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

What is a Section 3 business concern?

A business concern is defined as a business entity formed in accordance with State law, and which is licensed to the extent required under any State, county or municipal law to engage in the type of business activity for which it was formed, and which meets at least one of the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent 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 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

How are low-income and very low-income levels determined?

Low and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. HUD income limits may be obtained from:

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

- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

What types of economic opportunities are available under Section 3?

- Job training
- Employment
- Contracts

Who will award the economic opportunities?

Recipients of HUD financial assistance will award the economic opportunities. They and their contractors and subcontractors are required to provide, to the greatest extent feasible, economic opportunities consistent with existing Federal, State, and local laws and regulations.

What do “Best efforts” and “to the greatest extent feasible” mean?

“Best efforts” and “greatest extent feasible” are statutory terms, used in the statute in different contexts. PHA and HUD will use these terms interchangeably to track compliance. A recipient’s reported results will be compared to the outcome metrics defined in the benchmark notice. PHA staff and HUD program staff will evaluate the level of effort expended by those recipients that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. PHA has included list of approved examples in the Section Schedule K including engagement in outreach efforts to generate job applicant 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).

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD YouthBuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities are:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

What are considered “Qualitative Efforts” under PHA?

Where an entity fails to meet the quantitative numerical benchmark(s) set forth by HUD, certain qualitative efforts may be accepted to demonstrate compliance with the Section 3 requirements. Qualitative Efforts can include, but are not limited to:

- contributing to PHA’s Section 3 Fund;
- outreach efforts to generate job applicants who are Targeted Section 3 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;
- and outreach efforts to identify and secure bids from Section 3 business concerns.

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs.

Recipients and contractors are encouraged to have Section 3 residents make up at least 25% of their total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. Of that 25%, at least 5% of the total number of labor hours worked must be worked by Targeted Section 3 workers.

An employer may count an employee as a Section 3 worker for a period of 5 years, even if their income rises to a level where they would no longer meet the definition of a Section 3 worker because they earn too much. This encourages recipients to continue employing Section 3 residents when employment opportunities are available.

What is Safe Harbor Compliance?

Contractor will be considered to have complied with the Section 3 requirements and met the safe harbor benchmarks, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary. Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined in PHA's Section 3 Policy.

What are Safe Harbor Benchmarks?

i. 25% or more of all labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year must be Section 3 workers (including Targeted Section 3 Workers).

ii. 5 % or more of all labor hours worked by all workers employed in PH financial assistance in the PHA's or other recipient's fiscal year must be Targeted Section 3 workers.

Section 3 labor Hours / Total labor hours = 25% AND Targeted Section 3 labor hours / Total labor hours = 5%.

The 5% for Target Section 3 labor hours may be included in the 25% total for Section 3 labor hours.

What are PHA's Qualitative Options?

Except in the case of Section 3 Covered Contracts under \$20,600, PHA requires each contractor pursuant to any Section 3 Covered Contract to perform qualitative efforts in each of the following circumstances:

- a. The Section 3 worker labor hours, including Targeted Section 3 Workers, on the project failed to achieve 25 percent of the total labor hours performed on the project;
- b. The Targeted Section 3 worker labor hours on the project failed to achieve 5 percent of the total labor hours performed on the project.

What are PHA's Qualitative Efforts?

1. Under the PHA's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below. Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed. The following qualify as qualitative efforts to fulfill the requirements of PHA's Section 3 policy:
 - a. Contribute to a Section 3 Fund created by PHA in the amount of three percent (3%) of the Section 3 Contract amount.
 - b. Provide training or apprenticeship opportunities to the greatest extent feasible per the prioritization of efforts above.
 - c. Provide services to Section 3 workers supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
 - d. Provide assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
 - e. Provide technical training (workshops or one-on-one support) to help Section 3 business concerns understand and bid on contracts.
 - f. Divide subcontracts into smaller jobs to facilitate participation by Section 3 business concerns.
 - g. Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
 - h. Provide Contracting Opportunities, to the greatest extent feasible, 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 participants in Youth Build programs.

Does PHA need to review and approve all qualitative efforts?

Yes, all proposed potential qualitative efforts must be reviewed and approved by PHA prior to execution of any agreement.

What if it appears that an entity is not complying with Section 3?

There is a complaint process. Section 3 residents, businesses, or representatives for either may file a complaint if it seems a recipient is violating Section 3 requirements are being on a HUD-funded project. Complain Procedures are detailed in 24 CFR 75. Complaints are to be filed with the Assistant Secretary for Fair Housing and Equal Opportunity.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses.

If my agency has met all the benchmark goals for employment and contracting, does this mean that my agency is considered in compliance with Section 3.

Yes. Recipients will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they meet all benchmark goals and certify compliance with prioritization requirements as per PHA's Section 3 Policy and Schedule K.

How can Section 3 residents or Section 3 business concerns allege Section 3 violations?

You can file a written complaint with your local HUD Field Office using form HUD 958

For more information visit HUD's website at:
<http://www.hud.gov/offices/fheo/section3/section3.cfm>

or visit PHA's website at:
<http://www.pha.phila.gov/section3jobs>