



CDBG-DR

Section 3 Policy

**DEPARTMENT OF HOMELAND SECURITY AND
EMERGENCY MANAGEMENT**

This policy is effective as of 3/20/2026 and may be updated periodically to reflect program implementation and evolving guidance from the U.S. Department of Housing and Urban Development (HUD).

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I. PURPOSE AND SCOPE

Purpose: This policy outlines how DHSEM and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements while implementing DHSEM's HUD CDBG-DR funded programs.

DHSEM may amend this Section 3 policy as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance.

Scope: Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

Section 3 requirements that apply to CDBG-DR Programs:

- Section 3 applies to Chaves and Lincoln Counties, as well as to other projects receiving **HUD housing and community development financial assistance** exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition, or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

Section 3 requirements that apply to CDBG-DR Projects:

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- Section 3 applies to housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs when the total HUD assistance to the project exceeds \$200,000. The project is defined as the site or sites together with any buildings and improvements located on the site(s) that are under common ownership, management, and financing.
- Contractors and subcontractors performing work on Section 3 projects must comply with Section 3 requirements if their contracts exceed \$100,000. This includes contracts not directly funded with CDBG-DR assistance but arising from a Section 3-covered project. "Section 3 covered contract" "Section 3 covered contracts" may include professional services if the work supports Section 3-covered activities (e.g., housing construction, rehabilitation, or public construction). This includes engineering, architecture, environmental review, property evaluation, construction oversight, draw inspections, and labor compliance.

The regulations should not be construed to mean that recipients are required to hire Section 3 workers or award contracts to Section 3 businesses other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, reporting is still



required. Recipients are not required to hire or enter into contracts with Section 3 workers or business concerns simply to meet the Section 3 goals, as anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.

The Counties will apply Section 3 criteria and standards to “covered activities” within the following programs:

- The New Mexico Home Recovery Program
 - Homeowner Voluntary Buyout and Acquisition
 - Homeowner Repair
 - Homeowner Reconstruction
 - Homeowner Elevation
- The Post-Disaster Infrastructure Investment Program
- The Disaster Resilience Planning Program

For housing and community development financial assistance, this policy applies to housing rehabilitation, housing construction, housing reconstruction and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs.

Section 3 requirements do not apply to:

- Material Supply Contracts – 24 CFR § 75.3(b)
- Indian and Tribal Preferences – 24 CFR § 75.3(c), and
- Other HUD assistance and other Federal assistance not subject to Section 3 24 CFR §75.3(d).

However, for financial assistance that is not subject to Section 3, subrecipients are encouraged to consider ways to support the purpose of Section 3.

II. BACKGROUND

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) regulated by 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

The section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide: (a) employment and training, and (b) contracting opportunities for low or very low-income workers in connection with construction projects in their neighborhoods



III. POLICY STATEMENT

DHSEM and its subrecipients, contractors and subcontractors will comply with HUD’s Section 3 requirements while implementing DHSEM’s HUD CDBG-DR funded programs.

IV. DEFINITIONS

Term	Definition
Safe Harbor Benchmarks	Specific labor hour targets for creating local economic opportunity, requiring that at least 25% of total labor hours in HUD-funded projects go to Section 3 workers, with at least 5% of total labor hours going to Targeted Section 3 workers.
Section 3	HUD rule ensuring economic opportunities (jobs, training, contracts) from HUD-funded projects go to low-income residents and local businesses.
Section 3 Business Concern	A business that prioritizes hiring low-income individuals or providing opportunities to residents of public/Section 8 housing.
Section 3 Worker	A person who is low-income, employed by a Section 3 business, or a YouthBuild participant, qualifying them for preference in jobs from HUD-funded projects, ensuring economic opportunities for local communities.
Targeted Section 3 Worker	A Section 3 worker who also meets one of these criteria: lives in the project's neighborhood (within 1 mile or 5,000 people) or is employed by a Section 3 business, aiming for 5% of labor hours on HUD projects to be these workers, providing them priority for jobs from HUD-funded developments.

V. SCOPE OF WORK AND EVALUATION CRITERIA

A. *Employment, Training, and Contracting Goals*

1. *Safe Harbor Compliance*

Grantees (DHSEM) can meet the Safe Harbor determination by certifying they have followed the required prioritization of effort and have met or exceeded the applicable Section 3 benchmarks. DHSEM will comply with the Section 3 benchmark requirements to attain Safe Harbor Compliance.



At the time of contract execution, DHSEM's vendors (also known as contractors and/or subcontractors) and Subrecipients are required to certify that they will follow the prioritization of effort requirements for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns. Successful execution of the contract or Subrecipient Agreement indicates the vendor and Subrecipient's acceptance of the Section 3 regulations at 24 CFR Part 75.

If DHSEM's subrecipients, contractors or subcontractors do not meet the safe harbor requirements, they must provide evidence demonstrating they have made qualitative efforts to assist low and very low-income people with employment and training opportunities. The DHSEM Compliance Department will monitor all qualitative efforts reported by contractors and Subrecipients.

2. Safe Harbor Benchmarks

DHSEM has adopted HUD's employment and training benchmarks. These benchmarks are applicable to all subrecipients, contractors, and subcontractors. The safe harbor benchmark goals are as follows:

a. Public Housing Financial Assistance (24 CFR Part 75.9)

The benchmarks for Section 3 projects (housing rehabilitation, housing construction, and other public construction projects, such as demolitions, assisted under HUD programs that provide public housing financial assistance where the amount of assistance to the project exceeds a threshold of \$200,000) are:

- Twenty-five percent (25%) or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the Public Housing Authority's (PHA) fiscal year are Section 3 workers. This percentage is calculated as follows:

$$\text{Section 3 Labor Hours/Total Labor Hours} = 25\% \text{ and}$$

- Five percent (5%) or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Targeted Section 3 workers, as defined at 24 CFR Part 75.11. This percentage is calculated as follows:

$$\text{Targeted Section 3 Labor Hours/Total Labor Hours} = 5\%$$

b. Housing and Community Development Financial Assistance (24 CFR Part 75.19)

The benchmarks for Section 3 projects (housing rehabilitation, housing construction, and other public construction projects, such as demolitions, assisted under HUD programs that provide housing and community development financial assistance where the amount of assistance to the project exceeds a threshold of \$200,000) are:



- Twenty-five percent (25%) or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers. This percentage is calculated as follows: $\text{Section 3 Labor Hours} / \text{Total Labor Hours} = 25\%$ and
- Five percent (5%) or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21. This percentage is calculated as follows: $\text{Targeted Section 3 Labor Hours} / \text{Total Labor Hours} = 5\%$

3. Certification of Prioritization of Effort for Employment, Training, and Contracting Employment and Training

To meet the benchmarks outlined above, subrecipients, contractors and subcontractors are required to make their best efforts to provide employment and training opportunities to Section 3 workers in accordance with HUD's prioritization of effort requirements.

a. Public Housing Financial Assistance (24 CFR Part 75.9(a)(2))

For projects receiving Public Housing Financial Assistance, the prioritization of employment and training opportunities must follow this order:

- Residents of the public housing project for which the assistance is provided.
- Residents of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance.
- Participants in HUD YouthBuild programs.
- Low- and very low-income persons residing in the metropolitan area or nonmetropolitan county where the assistance is provided.

b. Housing and Community Development Financial Assistance (24 CFR Part 75.19(a))

For projects receiving Housing and Community Development (HCD) financial assistance, the prioritization of employment and training opportunities must follow this order:

- Section 3 workers residing within the service area or neighborhood of the project.
- Participants in HUD YouthBuild programs.

4. Contracting

Based on the HUD regulations under 24 CFR Part 75, here are two subsections outlining the prioritization of effort for contracting under:

- § 75.9(b)(2) – Public Housing Agency (PHA) Contracting
- § 75.19(b)(2) – Housing and Community Development (HCD) Contracting



These are modeled similarly to the Employment and Training section for HUD CDBG-DR programs.

a. PHA Contracting Prioritization of Effort (§ 75.9(b)(2))

When awarding contracts and subcontracts using public housing financial assistance, PHAs and their contractors/subcontractors must make their best efforts to prioritize Section 3 business concerns in the following order:

- Section 3 business concerns that provide economic opportunities to workers of the public housing project for which the assistance is provided.
- Section 3 business concerns that provide economic opportunities to workers of other public housing projects or Section 8-assisted housing managed by the PHA providing the assistance.
- YouthBuild programs.
- Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area or nonmetropolitan county where the assistance is provided.

b. HCD Contracting Prioritization of Effort (§ 75.19(b)(2))

For Section 3 projects funded through housing and community development financial assistance, recipients must ensure contracting opportunities are prioritized as follows:

- Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or neighborhood of the project.
- YouthBuild programs.

B. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 certification from DHSEM for training, employment, or contracting opportunities generated by public housing financial assistance or housing and community development financial assistance. To qualify as a Section 3 worker, Targeted Section 3 worker, or a Section 3 business concern, each must certify that they meet the applicable criteria.

1. Section 3 Worker and Targeted Section 3 Worker Certification

An individual seeking certification from DHSEM to be designated a Section 3 worker or Targeted Section 3 worker shall submit the Section 3 Worker Self-Certification form (see Appendix) to DHSEM. The Compliance Department will review all submissions and determine if the information provided qualifies the individual as a Section 3 worker or Targeted Section 3 Worker.



DHSEM will not review submissions for individuals with a hire date greater than five (5) years ago, at the time of certification submission.

The DHSEM Compliance Department may reach out to the employer listed on the self-certification to confirm an individual's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of the work site. In addition, the employer may complete HUD form 4763A to certify a Section 3 or Targeted Section 3 worker (see Appendix).

The DHSEM Compliance Department may also contact the individual to obtain the following documentation if needed:

- Proof of occupancy.
- Proof of Income.
 - Most recent W-2
 - Recent paystubs (within the most recent thirty (30) days of certification))
 - Completed Zero Income Statement
- Proof of public assistance.
- Proof of participation in a federally assisted program such as YouthBuild.
- Proof of participation in a state or local assistance program, or other program that assists low-or very-low-income persons.

All individuals submitting their information into the self-certification form understand their basic information (name, email, and phone number) will be shared with subrecipients, contractors and other entities seeking to hire Section 3 certified individuals.

Once certified, DHSEM also provides Section 3 and Targeted Section 3 Workers with a list of DHSEM approved contractors to contact regarding possible employment.

2. Projects Involving Multiple Sources of Funding

In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance, and housing and community development assistance, the PHA is required to follow the definition of Targeted Section 3 worker and priorities as outlined in subpart B of 24 CFR Part 75.

3. Section 3 Business Concern Certification

Businesses may seek a Section 3 Business Concern certification by completing the DHSEM Section 3 Business Concern Certification (see Appendix).

A Section 3 business concern meets one or more of the following criteria:

- At least fifty-one percent (51%) of the business is owned and controlled by low- or very low- income people; or



- At least fifty-one percent (51%) of the business is owned and controlled by current public housing workers or workers who currently live in Section 8-assisted housing; or
- Over seventy-five percent (75%) of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

In an effort for DHSEM to obtain greater participation from Section 3 Businesses, the Compliance Department may perform independent outreach to businesses and seek their completion of the DHSEM Section 3 certification.

C. Assisting Contractors with Achieving Section 3 Goals

Contractors selected by DHSEM to participate in federally funded projects whose funding exceeds the funding threshold will comply with federal guidelines specific to Section 3 requirements. Section 3 requires contractors to make every effort to provide economic opportunities for low- and very low-income persons as well as business concerns by providing information and resources upon contract execution.

Contractors selected under DHSEM will make every effort to provide opportunities to low- and very low-income persons by providing resources and information to notify Section 3 individuals and businesses about opportunities in the community.

Section 3 regulations are not intended to influence the termination of existing employees to satisfy Section 3 benchmark requirements. DHSEM encourages contractors and/or subcontractors to make every effort to meet Section 3 benchmarks by utilizing existing qualified employees and by giving hiring priority to qualified eligible Section 3 workers and Targeted Section 3 workers.

D. Section 3 Outreach

1. Outreach Efforts for Employment and Training

In order to educate and inform subrecipients, contractors and subcontractors, DHSEM's Compliance Department will provide training and technical assistance on a regular basis.

2. Outreach Efforts for Contracting

When contracting opportunities arise in connection with the use of HUD provided funds, such as CDBG-DR or CDBG-MIT, DHSEM will notify Section 3 Business Concerns of Section 3 contracting opportunities by including Section 3 language to all RFPs, procurement documents, bid offerings and contracts. Moreover, DHSEM also sends all contracting opportunities to the State of New Mexico Historically Underutilized Businesses (HUB) Liaison who sends the procurement opportunities out to registered HUB businesses, which often overlap with contractors and subcontractors that meet Section 3 Business requirements.



E. Section 3 Language Requirement for All Contract, Subrecipient, and/or Other Agreements

DHSEM will include Section 3 language in all its agreements and contracts for Section 3 covered projects to ensure compliance with regulations in 24 CFR Part 75. Furthermore, DHSEM has elected to require at least one contractor or subcontractor on every applicable contract be a Section 3 business. Failure to include a Section 3 business may render the bid non-responsive. On a periodic basis the Designated Section 3 Staff will audit DHSEM contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

VI. ROLES AND RESPONSIBILITIES

Stakeholder	Roles & Responsibilities
DHSEM Designated Section 3 Staff	DHSEM’s Compliance Department employs designated Section 3 staff that serve as the central point of contact for Section 3 compliance. Subrecipients, contractors, subcontractors and other organizations are encouraged to contact DHSEM’s Designated Section 3 Staff, including the Section 3 Coordinator, with questions regarding Section 3 compliance.

VII. CONFLICTS OF INTEREST AND MODIFICATIONS

To maintain the highest standards of integrity, all stakeholders, including DHSEM staff, subrecipients, contractors, and partners, must adhere to strict conflict of interest guidelines and the Conflict of Interest Policy.

Individuals involved in the decision-making or procurement processes must disclose any personal or financial interests that might influence their objectivity in fulfilling Section 3 objectives. This requirement is crucial to ensuring that all actions taken under the Section 3 Policy are impartial and align with the principles of fairness and equity. Regular training will reinforce these standards and help identify and address potential conflicts proactively.

The Section 3 Policy is subject to continuous evaluation and refinement to adapt to changing legal requirements and community needs. Annual reviews, based on comprehensive feedback from stakeholders and affected communities, facilitate necessary modifications to enhance policy effectiveness. Modifications are implemented in a structured manner, ensuring alignment with both federal mandates and local objectives. All changes are documented, disseminated across all levels of involvement, and incorporated into subsequent training sessions, preserving the policy’s integrity and responsiveness to emerging challenges.



VIII. DOCUMENTATION & RECORDKEEPING

For Section 3 covered contracts (construction exceeding \$200,000), contractors must submit the Section 3 Report to DHSEM’s Designated Section 3 Staff monthly.

Subrecipients will submit the required Section 3 data for eligible projects to their DHSEM Project Manager no less than quarterly.

A. Monthly Reporting

All contractors are required to submit monthly activity reports to DHSEM’s Designated Section 3 Staff by the 10th day of each month for the previous month to DHSEM Section 3 Staff (Contractors not performing work at the benefit of a Subrecipient).

B. Annual Reporting

- Once a project is completed, contractors must submit a final Section 3 cumulative report for the program year.
- Upon the completion of any project valued at more than \$200,000, DHSEM’s Designated Section 3 staff will conduct a final review of the project’s overall performance and compliance.
- DHSEM’s Designated Section 3 Staff will submit the Section 3 data quarterly to DHSEM Finance Department's HUD Disaster Recovery Grant Reporting System (DRGR) team to make quarterly submissions to HUD using DRGR.

IX. REFERENCES

Executive Order, Federal and State Laws and Regulations	Description
Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u)	Requires that, to the greatest extent feasible, low- and very low-income persons who live in the metropolitan area of the CDBG project receive opportunities for employment, training and contracting to businesses that hire low- and very low-income individuals.
24 CFR Part 75	Outlines HUD's "Section 3" requirements, mandating that economic opportunities (jobs, training, contracts) from HUD-funded projects prioritize low- and very low-income persons, especially public housing residents, by focusing on employment, training, and contracting for Section 3 workers and businesses.



24 CFR Part 75, Subpart B	Details specific rules for creating economic opportunities for low-income persons through Public Housing Financial Assistance.
24 CFR 75.3(b)	Specifies that HUD's Section 3 requirements do not apply to contracts solely for materials.
24 CFR 75.3(c)	States that any contracts, grants, or subgrants subject to tribal preference laws are exempt from the standard Section 3 requirements in this part.
24 CFR 75.3(d)	Specifies that for HUD-assisted projects with prevailing wage requirements and a mix of paid workers and volunteers, the funding agency (or entity generating payrolls) must give HUD specific income information for proposed volunteers, similar to that for paid workers, to ensure compliance with Section 3 economic opportunity requirements.
24 CFR 75.9	Describes the prioritization requirements for providing employment and training opportunities to Section 3 workers generated by HUD's public housing financial assistance.
24 CFR 75.9(a)(2)	Details the priority order for Public Housing Authorities (PHAs) and other recipients to provide job/training to low-income individuals from HUD-funded construction / modernization projects.
24 CFR 75.9(b)(2)	Outlines the priority order for making best efforts to award contracts to Section 3 business concerns when using public housing funds.
24 CFR 75.11	Defines a Targeted Section 3 worker for public housing financial assistance.
24 CFR 75.19	Outlines the core requirements for recipients of HUD housing and community development funds, mandating they ensure employment, training, and contracting opportunities are given to Section 3 workers to the greatest extent feasible.
24 CFR 75.19(a)	Mandates that recipients of HUD funds for Section 3 projects must make good faith efforts to provide



	employment and training opportunities, generated by these projects, to Section 3 workers within the project's local area.
24 CFR 75.19(a)(2)	Details priority for employment and training opportunities under HUD's Section 3 program.
24 CFR 75.19(b)(2)	Details requirements for contracting opportunities under HUD's Section 3 program.

X. APPENDICES

The appendix contains supplementary material which forms a part of this document but is not essential for its completeness, containing supporting information and will appear in this section.

Form Name, Process Map Name, OR Document Name	Link to Document
Section 3 Worker Self-Certification <i>(HUD Form 4736C)</i>	https://www.hud.gov/sites/dfiles/OCHCO/documents/4736C.docx
Section 3 Employer Certification <i>(HUD Form 4736A)</i>	https://www.hud.gov/sites/dfiles/OCHCO/documents/4736A.docx