

M-11 Section 3 Packet for Award Recipients/Contractors/Subcontractors

Project Name: _____

This document summarizes the Section 3 requirements (24 CFR 75) and describes how SC Housing implements them. It outlines what SC Housing and its housing partners must do to comply with Section 3 and identifies the record-keeping and reporting requirements that HUD funded (HOME, NHTF and NSP) entities must meet.

The Award Recipient must, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 Workers) and to Section 3 Business Concerns, and requires the same of all Contractors and Subcontractors performing construction services on the development. All forms referenced in this document can be found on SC Housing's website at <https://schousing.com/Home/SmallRentalDevelopmentProgram> --> SRDP Implementation Manual and Forms.

The purpose of Section 3:

The purpose of Section 3, a provision of the U.S. Department of Housing and Urban Development (HUD) Act of 1968, is to help foster local economic development, neighborhood economic improvement, and individual self-sufficiency. It requires that Award Recipients of certain financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- and very low-income persons in connection with developments and activities in their neighborhoods.

A. Definitions

Award Recipient: Any entity that receives housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, PHA, or other public agency, public or private organization.

Labor Hours: The number of paid hours worked by persons on a *Section 3 project* or by persons employed with funds that include public housing financial assistance in accordance with 24 CFR 75.5. These hours are to be logged for **every worker whether they are a Section 3 worker or not**.

Low- or Very Low-Income Person: (See HUD's Income Limits at: <https://www.huduser.gov/portal/datasets/il.html>)

- Low-Income Person - A person whose annual income is below 80% AMI (Average Median Income) for the county in which they reside.
- Very Low-Income Person – A person whose annual income is below 50% AMI (Average Median Income) for the county in which they reside.

Qualitative Efforts: Efforts made by Award Recipients/ Contractors/Subcontractors in order to comply with Section 3 benchmarks if benchmarks are not met. A list of Qualitative Efforts can be found in 24 CFR Part 75.25 and also listed below in section B, number 3.

Section 3 Business Concern: A business that meets at least one of the following criteria:

- The business is at least 51% or more owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the previous three-month period being performed were performed by Section 3 workers;
- The business is at least 51% or more owned and controlled by current public housing residents or Section 8-assisted housing voucher holders.

Section 3 Worker: Is a worker who currently fits or, when hired within the past five (5) years, fits at least one of the following categories:

- Is a low- or very low-income person that met HUD income limits for an individual (1 Person) for the previous or annualized calendar year. Low- and very-low-income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>
- Is employed by a Section 3 Business Concern, or
- Is a participant of the US Department of Labor's YouthBuild program

Service Area or Neighborhood of the Project: Is an area within *one mile* of the Section 3 project or, if fewer than 5,000 people live within one mile of the 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 US Census. This distance will be provided to the Award Recipient by the Program Coordinator and is to be given to the General Contractor for Targeted Section 3 worker certification.

Targeted Section 3 Worker: *Is a Section 3 worker* who meets one of the following:

- 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:
 - Living within the service area, or neighborhood of the project, as defined by 24 CFR 75.5 (See below), **OR**
 - Is a participant of the US Department of Labor’s YouthBuild program.

B. Section 3 Regulations:

1. **Applicability:** A Section 3 project means housing rehabilitation, housing construction, and other public construction projects that are assisted under HUD programs which provide housing and community development financial assistance for the project that exceeds the 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*).

Therefore, SC Housing and the entities to which it provides HOME, NHTF and NSP funds (collectively HUD Funds) in excess of \$200,000 must comply with Section 3, as amended. Whether the project is fully or partially assisted under HUD CPD programs, Section 3 applies to the entire project [24CFR 75.3(a)(2)(iii)]. **All Contractors and Subcontractors** must be made aware of the need to comply with Section 3 requirements.

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)] or “non-construction” professional service jobs that require an advanced degree or professional licensing, including but not limited to contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

2. **Reporting:** The following labor hours data will be reported for each construction subcontract and contract awarded to the project:
 - a. Total Labor hours during construction (**ALL HOURS WORKED BY ALL WORKERS**)
 - b. Total Labor hours during construction for Section 3 Workers.
 - c. Total Labor hours during construction for Targeted Section 3 Workers
 - d. Qualitative efforts that were taken if benchmarks were not met. Documentation of these efforts is submitted with the reports.

Note: If contracting as “Piece Work/Piece Rate”, employers may report hours based on the employer’s good faith assessment of total labor hours for the contract period. Likewise, if doing Piece Work/Piece Rate AND the worker may be a Section 3 Worker, the estimated hourly wage needs to be calculated by the employer.

3. **Benchmarks:**

The Section 3 benchmarks established by HUD for all Award Recipients/Contractors/Subcontractors are:

- **25%** or more of total labor hours of the development construction must be worked by Section 3 Workers, **AND**
- **5%** or more of total labor hours of the development construction must be worked by Targeted Section 3 workers

If the Award Recipient’s/Contractor’s/Subcontractor’s reporting indicates the Section 3 benchmarks have not been met, qualitative efforts must be recorded in the M-11G Qualitative Efforts Report and evidence must be provided indicating that, to the greatest extent feasible, low- and very low-income persons were given employment and training opportunities.

Qualitative Efforts include but are not limited to:

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funded 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 training such as arranging for, contracting for, or paying for tuition for off-site training
- 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 Public Housing residents, or Workers with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting resident to job placement services
- Held one or more job fairs
- Provided or connected Public Housing residents, or Workers with supportive services that can provide direct services or referrals
- Provided or connected Public Housing residents, or Workers with supportive services that provide one or more of the following: work readiness, health screenings, interview clothing, uniforms, test fees, transportation
- Assisted Public Housing residents, or Workers with finding childcare
- Assisted Public Housing residents, or Workers to apply for or attend community college or a four-year educational institution
- Assisted Public Housing residents, or Workers to apply for or attend vocational/technical training
- Bonding assistance, guaranties, or other efforts to support viable bids form Section 3 Business Concerns
- Provided or connected Public Housing residents, or Workers with training on computer use or online technologies

4. Section 3 Compliance:

Award Recipients, Contractors and Subcontractors will be considered compliant if they have submitted the required SC Housing Section 3 documents and meet both benchmarks for total hours worked for Section 3 workers and Targeted Section 3 workers as stated above.

If Award Recipients, Contractors or Subcontractors did not meet the benchmarks, but can provide evidence that they made qualitative efforts to provide low- and very low-income persons with employment and training opportunities, they will be considered compliant with Section 3. Documentation of qualitative efforts must be provided along with the **M-11G – Section 3 Qualitative Efforts Report**.

Award Recipients, Contractors, and Subcontractors must retain all records pertaining to Section 3 for a period of five (5) years after project completion.

C. Contract provisions for Section 3 Projects:

Award Recipients are required to include the **SRDP-7 Contract Provisions** as part of the General construction contract which includes the Section 3 Clause.

General Contractors must include the Section 3 Clause (**M-11B – Section 3 Clause Contract Addendum**) in **ALL construction subcontracts** awarded for construction services for the Section 3 project.

The General Contractor is responsible for ensuring **complete copies** of all executed subcontracts are submitted to the Award Recipient's Section 3 Coordinator for submission to SC Housing (2 CFR 200.337). Copies of executed subcontracts must be submitted to SC Housing within five (5) business days of execution.

D. Section 3 Contracting Policy and Procedure:

Award Recipients are required to incorporate the requirements of Section 3 in its existing procurement policies for all procurements

generated for use with HUD-funded projects. These policies and procedures should contain requirements for making efforts to award contracts to Section 3 Business Concerns.

All Contractors/Subcontractors seeking Section 3 preference must, before submitting bids/proposals to the Award Recipient and Contractors, complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in form **M-11C - Section 3 Business Concern Certification**. This Section 3 packet, **M-11**, and all associated documents should be included in all bid packages.

E. Section 3 Eligibility and Certifications:

Businesses and individuals that meet Section 3 criteria may seek Section 3 preference from the Award Recipient or its Contractors/Subcontractors for training, employment, or contracting opportunities generated by HUD Housing and Community Development financial assistance. To qualify as a Section 3 Business Concern, or a Section 3 Worker, each must self-certify that they meet the applicable criteria (**forms M-11C- Section 3 Business Concern Certification Packet, M-11D-Section 3 Worker Self-Certification , or M-11EMP, Section 3 Employer Worker Certification**)

1. **Section 3 Business Concern Certification:** The Award Recipient should strongly encourage Contractors and Subcontractors to make best efforts to award contracts and subcontracts to qualified and responsible Section 3 Business Concerns.
 - A. Contractors and Subcontractors seeking to qualify as a Section 3 Business Concern must complete and submit a **M-11C – Section 3 Business Concern Certification** as part of the bid package.
 - B. Businesses that believe they meet the Section 3 Business Concern requirements or want to claim eligibility should demonstrate that it meets one or more of the criteria listed in the definitions section of this document (and in form **M-11C**).
 - C. Section 3 status should be verified before awarding contracts or subcontracts to businesses that self-certified.
 - D. A Section 3 Business Concern will retain status for as long as it continues to meet the definition; however, certifications *expire after 6 months*.
 - E. If the Award Recipient previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification form will expire after 6 months. Establishing a 6-month certification of eligibility period allows the Award Recipient the ability to assess contractor performance to ensure the business is striving to meet the required goals.
 - F. Eligible Section 3 Business Concerns are responsible for maintaining records that verify eligibility. Businesses who misrepresent themselves as a Section 3 Business Concern and report false information may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.
2. **Section 3 Worker Self-Certification:** Employers who believe they have some Section 3 Workers, should either:
 - a. Encourage each worker who may potentially qualify as a Section 3 worker to complete and submit an **M-11D - Section 3 Worker Self-Certification** form, **OR**
 - b. The employer can certify workers as a Section 3 Workers by using the **M-11EMP – Section 3 Employer Worker Certification** spreadsheet, **OR**
 - c. The employer can fill out the **M-11F-2 Section 3 Employer Worker Certification**. These forms will use the employee’s current hourly pay annualized to determine Section 3 worker status.
3. For the purposes of Section 3 worker eligibility, **individual income** rather than family/household income will be used to determine eligibility. The income will be determined using the previous year’s annual income, or the current year’s annualized income for the county in which the worker resides. Income limits are published yearly in June by HUD at: <https://www.huduser.org/portal/datasets/il.html>, but are provided on all worker certification forms **M-11D, M-11EMP and M-11F-2** for your convenience.

F. Recommendations for Contractors to Achieve Section 3 Goals

HUD has completed their Section 3 Guidebook which can be found at <https://www.hudexchange.info/programs/section-3/section-3-guidebook/section-3-in-action/> . The Guidebook curates the latest guidance, tools and resources for implementing and applying Section 3 to HUD funded projects and activities.

G. Reporting Requirements – Contractors/Subcontractors

Copies of all executed contracts from contractors/subcontractors are to be submitted to the Award Recipient’s Section 3 Coordinator once a new contract has been executed (**2 CFR 200.337**). These contracts must be submitted to SC Housing within five (5) business days of execution.

The Excel Section 3 forms listed below are intended to be completed on a computer as there are many formulas and data that flow from one sheet (tab) to the next. If they cannot be filled out on a computer, the GC/Section 3 Coordinator should fill out any fields on each form (all sheets/tabs) that relate to the project (i.e. Project Name, Project Address, Service Area, etc) and then print it to be given to whomever does not have the ability to fill it out online.

Each Contractor is to submit the following to the Award Recipient:

1. **Executed M-11**, Section 3 Packet,
2. **Executed Unredacted Contract** with the **SRDP-7**, Contract Provisions,
3. **Executed M-11C**, Section 3 Business Concern (along with the other documents required in the **SRDP-6PKT**, Contract Submittal Packet)

Each Subcontractor awarded a contract to perform construction services for the development, regardless of the contract amount, must submit the following **initial** Section 3 paperwork to the General Contractor’s Section 3 Coordinator:

1. **Executed M-11**, Section 3 Packet,
2. **Executed Unredacted Contract** with **Executed M-11B**, Section 3 Clause Contract Addendum
3. **Executed M-11C**, Section 3 Business Concern

The following **final** Section 3 paperwork must be submitted once the contract period is complete so that Labor Hours are reported. These documents include:

1. **Executed M-11EMP, or M-11F-2, or M-11D** Section 3 Worker Certification forms
2. **Executed M-11F-G**, Section 3 Labor Hours Report for Subcontractors (The Section 3 Coordinator may require this form **during** the contract period on a weekly, biweekly or monthly basis. If this is the case, **only** the M-11F portion of the Excel form packet needs to be submitted)
 - a. If the benchmarks were **not** met, the **M-11G**, Qualitative Efforts Report **including proof of efforts** needs to be submitted at the end of the contract period.
 - b. If the benchmarks were met, only the M-11F needs to be submitted. **NOTE:** If you are reporting Section 3 Labor Hours, you must include documentation for workers who qualify as Section 3 workers using one of the forms listed in #1 of this section.

It is recommended that the Award Recipient’s /General Contractor’s Section 3 Coordinator collect these documents from each contractor/subcontractor soon after they complete their contracted work on the development.

H. Reporting Requirements for Section 3 Coordinators

Section 3 Coordinators are to develop procedures to be able to collect the necessary Section 3 documents that are required and listed above. They will be responsible for submitting the Section 3 paperwork to SC Housing’s Section 3 Coordinator in the form of a pdf scan as follows:

The documents are to be submitted for **each General Contractor and subcontractor** as two pdf compilations - Initial Section 3 Paperwork and Final Section 3 Paperwork:

1. **Initial Section 3 Paperwork:** (to be scanned as one pdf document with the **SRDP Section 3 Coversheet, and M-11SIP, Section 3 Subcontractor Initial Paperwork**- Please see the instructions on the first tab of this Excel form packet)
 - a. Executed M-11, Section 3 Packet
 - b. Executed Contract with M-11B, Section 3 Clause
 - c. Executed M-11C, Section 3 Business Concern

2. **Final Section 3 Paperwork:** (to be scanned as one pdf document with the **SRDP Section 3 Coversheet, and M-11SFP, Section 3 Subcontractor Final Paperwork**- Please see the instructions on the first tab of this Excel form packet)
 - a. Executed M-11EMP/M-11F-2/M-11D, Section 3 Employer Worker Certification/Worker Self-Certifications
 - b. Executed M-11F, Section 3 Contractor/Subcontractor Labor Hours Report. **NOTE:** If you have collected these during the contract period, you will need to combine them onto one form.
 - c. Executed M-11G, Section 3 Qualitative Effort Report with proof of efforts **IF** subcontractor did not meet the benchmarks. **If the subcontractor met the benchmarks, only the M-11F is required.**

Example: ABC Contractors have signed a contract for framing and Z Brothers have signed a contract for plumbing The initial paperwork is complete. The Section 3 Coordinator will submit the following to SC Housing:

ABC Contracting-Init Sect 3 Pprwrk – (it is one pdf w all of the documents listed in #1 above) **AND**
Z Brothers-Init Sect 3 Pprwrk - (also as one pdf w all of the documents listed in #1 above)

When they have completed their contract, the Section 3 Coordinator will submit the following:

ABC Contracting-Final Sect 3 Pprwrk – (it is one pdf w all of the documents listed in #2 above) **AND**
Z Brothers-Final Sect 3 Pprwrk - (also as one pdf w all of the documents listed in #2 above)

INITIAL SECTION 3 DOCUMENTS

All forms are intended to be completed on a computer as there are formulas and conditional formatting that help with the flow of the form.

	FORM #	COMMENTS
I N I T I A L	M-11 Section 3 Information Packet	To be included in <i>all</i> bid solicitations GC/Subs - Signed prior to contract execution and submitted to the Award Recipient/Section 3 Coordinator within 5 business days with executed contract.
	M-11B Section 3 Clause Contract Addendum	GC's will have the SRDP-7, Contract Provisions , which contains the Section 3 Clause, must be included as an exhibit to the GC contract. Subs - To be included within all subcontracts or as an addendum. A complete copy of the contract is to be sent to the Award Recipient/Section 3 Coordinator within 5 business days after execution.
	M-11C Section 3 Business Concern Certification	GC/Subs - This is to be filled out either stating that the business is not certifying as a Section 3 Business Concern, or, if certifying, completed for the criteria being used for certification. NOTE: If the business is NOT a Section 3 Business Concern, name and address of business, the box checked for "...not certifying as a Section 3 Business Concern", signed and dated is all that is needed.

FINAL SECTION 3 DOCUMENTS

	FORM #	COMMENTS
F I N A L	M-11D (Opt 1) OR M-11EMP (Opt 2) OR M-11F-2 (Opt 3) Section 3 Worker Certification	M-11D to be submitted for all Section 3 workers reported as Section 3 Labor Hours. OR If the Employer wants to certify for their Section 3 Workers, complete the M-11EMP or the M-11F-2 which is included with the Labor Hours Report form (M-11F-G)
	M-11F-G Contractor/Subcontractor Labor Hours Report Packet	GC/Subs - Completed by all contractors and subcontractors and submitted to the Award Recipient/Section 3 Coordinator within 14 business days after contract work is completed.
	M-11H Award Recipient Labor Hours Report Packet	Award Recipient or Section 3 Coordinator- To be submitted with Placed-In-Service application along with any supporting documentation.

I. RECORDS Contractors and Subcontractors are required to submit to SC Housing and maintain for reported Section 3 Workers Hours:

One of the following certifications must be maintained for five (5) years after project completion:

1. A worker’s self-certification that their income is below HUD’s income limit for the current or prior calendar year.
2. A worker’s self-certification of participating in a means-tested program such as public housing or Section 8-assisted housing
3. Certification from a PHA, or an owner or property manager of project-based Section 8-assisted housing, or an administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs.
4. An employer’s certification that a worker’s income from that employer is below HUD’s income limit when based on an employer’s calculation of what the worker’s wage rate would translate to if annualized on a full-time basis.
5. An employer’s certification that the worker is employed by a Section 3 business concern.

J. RECORDS Contractors and Subcontractors are required to submit to SC Housing and maintain for reported Targeted Section 3 Workers Hours:

One of the following certifications must be maintained for five (5) years after project completion:

1. An employers’ confirmation that a worker’s residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent US Census;
2. An employer’s certification that the worker is employed by a Section 3 business concern; or
3. A worker’s self-certification that the worker is a YouthBuild participant.

K. Complaints of Non-Compliance with Section 3:

Complaints alleging failure of compliance with Section 3 may be reported to SC Housing through your Project Coordinator or to the local HUD field office.

L. What HUD monitors for compliance?

HUD monitors the performance of Grantees, Award Recipients, and Contractors, and reviews annual reports, compliance documentation, and investigates complaints. HUD also examines employment and contract records for evidence that Award Recipients are, to the greatest extent feasible, training and employing Section 3 residents and awarding contracts to Section 3 Business Concerns.

M. Award Recipient's Section 3 Coordinator:

The Award Recipient's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the Award Recipient and all its Contractors and Subcontractors supporting the program. The Section 3 Coordinator will be responsible for instructing the Contractors and Subcontractors of their Section 3 responsibilities and the paperwork that is required as indicated in this document.

Contractors, Subcontractors, and others are encouraged to reach out to this Section 3 Coordinator with any questions regarding Section 3 compliance.

Coordinator Name: _____ Coordinator Title: _____

Coordinator Email: _____ Coordinator Phone: _____

I, _____, representing _____ have received and read this Section 3 document, related to the HUD-funded project, _____, located in _____ (Project Name) _____ in _____ (City) _____ (County), and have been briefed on my responsibilities to comply with the requirements, regulations and reporting of Section 3 (24 CFR Part 75).

Signature of Award Recipient/Contractor/Subcontractor

Date

Printed Name of Award Recipient/Contractor/Subcontractor

Printed name of Contracting Business