



# **Multifamily Division Section 3 Compliance Guide**

*April 2024*



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## Introduction

Section 3 is a provision of the United States Department of Housing and Urban Development (HUD) Act of 1968. The purpose of Section 3 “is to help ensure that employment and other economic opportunities generated by certain 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.” Section 3 regulations can be found at [24 Code of Federal Regulations \(CFR\) §75 – Economic Opportunities for Low- and Very Low-Income Persons](#).

“To the greatest extent feasible” means that every effort must be made to comply with the regulatory requirements of Section 3. By this, HUD means that Recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 Workers and Business Concerns for these types of economic opportunities.

## Chapter 1 – Section 3 Recipients and Responsibilities

### 1.01 What is a Section 3 Assisted Project

Section 3 Projects are 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 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. The requirements of 24 CFR Part 75 apply to an entire Section 3 Project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

### 1.02 Who is a Recipient

A Recipient is any entity who receives Section 3 covered assistance either directly from HUD or from another Recipient.

Examples of Recipients:

- Minnesota Housing
- Owners/developers who receive Section 3 covered assistance from Minnesota Housing and are contracting with others to conduct construction

Examples of who would not be a Recipient:

- Contractors and Subcontractors are not Recipients.
- The ultimate beneficiary under a HUD program is not a Recipient. An example of an ultimate beneficiary would be a tenant living in an assisted property.
- Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the [Indian Self-Determination and Education Assistance Act](#) (25 U.S.C. 5307(b)) or subject to Tribal preference requirements as authorized under 101(k) of the [Native American Housing Assistance and Self-Determination Act](#) (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

### 1.03 Recipient Responsibilities

Minnesota Housing works with Recipients to achieve the requirements of Section 3, which include all of the following:

- Attempt to reach the benchmarks of 24 CFR §75.23
- Inform Recipients of Section 3 requirements

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- Assist Recipients and their Contractor and Subcontractors to meet Section 3 requirements and objectives
- Monitor the performance of Recipients with respect to the objectives and requirements of 24 CFR §75

All Recipients are responsible for the actions specified in 24 CFR §75. Recipients must:

- Comply with Section 3 in their operations and in the operations of their Contractors and Subcontractors
- Notify potential Contractors of the Section 3 requirements by providing this Multifamily Section 3 Compliance Guide and all appendices before bidding.
- Follow the prioritization of effort for employment, training, and contracting at 24 CFR §75.19. Implement procedures designed to notify Section 3 Workers about training and Employment Opportunities generated by Section 3 covered assistance and Section 3 Business Concerns about contracting opportunities generated by Section 3 covered assistance.
- Take steps to meet or exceed the applicable Section 3 benchmarks and to reach or exceed Section 3 Safe Harbor Standards at 24 CFR §75.23
- Incorporate language applying Section 3 requirements in any solicitations and Contracts as described in 24 CFR §75.27
- Obtain the compliance of Contractors and Subcontractors and not enter into Contracts when there is notice or knowledge that a Contractor has violated 24 CFR §75
- To the greatest extent feasible, ensure that employment and training opportunities arising in connection with Section 3 Projects are provided to Section 3 Workers within the metropolitan area (or non-metropolitan county) in which the project is located. Where feasible, priority for opportunities and training should be given to:
  - Section 3 Workers residing within the Service Area or the neighborhood of the project, and
  - Participants in YouthBuild Programs
- 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 non-metropolitan county) in which the project is located. Where feasible, priority for contracting opportunities of this section should be given 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
  - YouthBuild Programs
- Ensure that Section 3 Project labor hours and qualitative efforts pursued by the Section 3 Project's Recipient, Contractors, and Subcontractors are adequately documented

- Cooperate with Minnesota Housing in the collection of documentation necessary to show compliance with Section 3 requirements

Minnesota Housing will provide the Section 3 Compliance Guide at the time of project launch. Contact the Federal Programs Manager for more details.

### **1.04 Contractor/Subcontractor Responsibilities**

The Contractor/Subcontractor is responsible for all of the following:

- Comply with Section 3 requirements in their operations and in the operations of their Subcontractors
- Notify potential Subcontractors of the Section 3 requirements by providing this Multifamily Section 3 Compliance Guide and all appendices before bidding
- Follow the prioritization of effort for employment, training, and contracting at 24 CFR §75.19. Implement procedures designed to notify Section 3 Workers about training and Employment Opportunities generated by Section 3 covered assistance and Section 3 Business Concerns about contracting opportunities generated by Section 3 covered assistance.
- Take steps to meet or exceed the applicable Section 3 benchmarks and to reach or exceed Section 3 Safe Harbor Standards at 24 CFR §75.23
- Incorporate language applying Section 3 requirements in any solicitations and Contracts as described in 24 CFR §75.27
- Identify and certify the status of all Section 3 Workers and Targeted 3 Workers who will work on the Section 3 Project and all Section 3 Business Concerns being awarded a Contract for the Section 3 Project
- Obtain the compliance of Subcontractors and not enter into Contracts when there is notice or knowledge that a Subcontractor has violated 24 CFR §75
- Adequately document Section 3 Project labor hours and qualitative efforts pursued by the Section 3 Project's Contractors and Subcontractors
- Cooperate with Minnesota Housing and the Recipient in the collection of documentation necessary to show compliance with Section 3 requirements



## **Chapter 2 – Section 3 Contracts and Requirements**

### **2.01 What is a Section 3 Covered Contract**

A Section 3 covered Contract is a Contract or subcontract awarded by a Recipient, Contractor or Subcontractor for work generated by the expenditure of Section 3 covered assistance or for work in connection with a Section 3 Project. It does not include Contracts for the purchase of supplies and materials without installation.

Contracts, subcontracts, grants or subgrants subject to Indian and Tribal preferences in employment as defined by 24 C.F.R. 75.3 (c) and professional service contracts requiring an advanced degree (architect, engineer, surveyor, etc.), are not subject to Section 3 requirements.

### **2.02 Who Must Comply with Section 3**

The following must comply with Section 3:

- Recipients exceeding \$200,000 of Section 3 covered assistance, including Recipients' Contractors and Subcontractors with contracts for housing construction, regardless of the source of funds to pay the Contract

For example, an owner/developer (Recipient) combines \$300,000 of HOME Investment Partnerships (HOME) Program/National Housing Trust Fund (NHTF) Funds with \$120,000 of Project reserves for a total Project cost of \$420,000. Even though the Recipient chooses to pay the \$120,000 Contract for heating system replacement with Project reserves, that heating Contractor is subject to Section 3.

### **2.03 What is a Section 3 Business Concern**

A Section 3 Business Concern is a business that can provide evidence they meet one of the following criteria within the previous six-month period from the date the business's Section 3 Business Concern Certification Form (refer to Section 2.06, below) is signed:

- The business is at least 51% owned by Low- or Very Low-Income Persons;
- Over 75% of the labor hours performed for the business over the prior three-month period, from the date the business' Section 3 Business Concern Certification Form (refer to Section 2.06, below) is signed are performed by Section 3 Workers; or
- A business at least 51% owned and controlled by current Public Housing Residents or residents who currently live in Section 8-assisted housing.

To be designated as a Section 3 Business Concern, a self-certification must be completed on HUD's Section 3 [website](#). Refer to Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability (Appendix J). Retain all of the documentation showing that your business meets the requirements of a Section 3 Business Concern. When Minnesota Housing conducts monitoring on Section 3 requirements, the

business might be asked to provide all of the necessary documentation to confirm the business's eligibility.

#### **2.04 Who is a Section 3 Worker**

A Section 3 Worker is any worker who currently fits, or when hired within the past five years, falls into at least one of the following categories, as documented:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD (refer to Section 2.07, below); or
2. The worker is employed by a Section 3 Business Concern; or
3. The worker is a YouthBuild participant

#### **2.05 Who is a Targeted Section 3 Worker**

A Targeted Section 3 Worker for Housing and Community Development Financial Assistance projects is a Section 3 Worker:

1. Who is employed by a Section 3 Business Concern; or
2. Who currently fits or when hired 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, or
  - (ii) A YouthBuild participant

"Service area" or the "neighborhood of the project" 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.

The HUD Region 5 Section 3 Resource Hub has a [Neighborhood Service Area Definition Tool](#) available for Recipients and Contractors to identify the Service Area of a Section 3 Project.

#### **2.06 Section 3 Worker and Business Concern Certifications**

To be certified as a Section 3 Worker and Targeted Section 3 Worker, a worker must complete and submit a self-certification form to their employer, who must then review the form and confirm the employee's Section 3 Worker or Targeted Section 3 Worker status. Refer to Minnesota Housing's Section 3 Worker Self-Certification Form (Appendix H).

All businesses seeking Section 3 preference as a Section 3 Business Concern must complete and submit a certification form to the Contractor or Subcontractor soliciting bids during the bidding process, who must then review the form and confirm the business's Section 3 Business Concern status. Refer to Minnesota Housing's Section 3 Business Concern Certification Form (Appendix I).

A worker can be certified as a Section 3 Worker or Targeted Section 3 Worker for up to five years from when they were initially hired using the category they met when initially hired.

All certification forms must be retained by the project Recipient. When Minnesota Housing conducts Section 3 monitoring, the Recipient will be asked to provide copies of all certification forms collected to confirm Section 3 Worker, Targeted Section 3 Worker, and Section 3 Business Concern status.

## **2.07            Determining Income**

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. These limits are typically established at 80% (low) and 50% (very low) of area median individual income. HUD income limits may be obtained from <https://www.huduser.gov/portal/datasets/il.html>. The income limits to use when determining Section 3 status are the income limits for the county in which the employee or individual lives.

## **Chapter 3 – Benchmarks**

### **3.01 Safe Harbor Compliance**

The Recipient will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they certify that they followed the required prioritization of effort at 24 CFR §75.19 and met or exceeded the Section 3 benchmarks (also known as the Section 3 Safe Harbor Standards at 24 C.F.R. §75.23).

The Recipient, Contractors, and Subcontractors will be required to initially certify that they will follow the required prioritization of effort for Section 3 Workers, Targeted Section 3 Workers, and Section 3 Business Concerns. This certification to follow the required prioritization of effort must be made on the applicable Section 3 Compliance Checklist (Appendices C – E).

Contractors and Subcontractors will then be required to certify on the Section 3 Qualitative Efforts Reporting Form (Appendix G) that they followed the prioritization of effort requirements and provide evidence of the qualitative efforts they made to assist Low- and Very Low-Income Persons with employment and training opportunities.

### **3.02 Safe Harbor Benchmarks**

Recipients are evaluated according to how well they meet the following Safe Harbor Standards with respect to Section 3 covered Projects:

For housing and community development financial assistance projects, the benchmark for Section 3 Workers is set at 25% or more of the total number of labor hours worked by all workers on a Section 3 Project.

The benchmark for Targeted Section 3 Workers is set at 5% or more of the total number of labor hours worked by all workers on a Section 3 Project. This means that the 5% is included as part of the 25% threshold.

Recipients may report the labor hours worked by Section 3 Workers and Targeted Section 3 Workers from professional service Contracts without including their labor hours in the total number of labor hours worked on the Section 3 Project.

Regardless of meeting the benchmarks, the Recipient must report on the qualitative nature of its activities and those its Contractors and Subcontractors pursued pursuant to 24 CFR §75.25(b). If any Contractors or any Subcontractors are unable to meet the benchmarks, they must also document impediments they encountered.

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 Workers.

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- 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

Reporting on the qualitative efforts used by the Recipient, Contractors, and Subcontractors, and any impediments encountered, must be completed using Minnesota Housing's Section 3 Qualitative Efforts Reporting Form (Appendix G) and submitted to Minnesota Housing prior to Project Completion.

## **Chapter 4 – Monitoring and Reporting**

### **4.01 Monitoring and Recordkeeping Requirements**

The development team, which includes but is not limited to the owner/developer and Contractor, must allow Minnesota Housing and HUD and their representatives to inspect all records related to the Project.

Recordkeeping requirements for Recipients are found at 24 CFR §75.31. Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their Contractors and Subcontractors to maintain or provide any documentation that will assist Recipients in demonstrating compliance, including documentation that shows that workers meet the definition of a Section 3 Worker or a Targeted Section 3 Worker; that the hours worked by Section 3 Workers, Targeted Section 3 Workers, and any qualitative efforts to comply with Section 3; and other documentation that may be required by the regulations.

Documentation must be maintained for the time period required for record retentions in accordance with applicable program regulations or, if there are no program regulations, in accordance with 2 CFR § 200.334.

Refer to the appendices for documentation that must be completed and submitted to or retained for later review by Minnesota Housing.

### **4.02 Section 3 Clause**

All Section 3 covered Contracts must include the Section 3 Clause (Appendix G) in its bid package and Contracts. All Contractors and Subcontractors must also ensure that the Section 3 Clause and language requiring that the requirements of 24 CFR §75.19 be met are included in all Section 3 covered Contracts.

### **4.03 Reporting Requirements**

For Section 3 Projects subject to [Davis-Bacon and Related Acts](#) labor standards, LCPtracker will be used to monitor Section 3 labor hours worked during the construction period. LCPtracker is online labor compliance software used for certified payroll reporting, construction site compliance management, and workforce reporting. Contractors and Subcontractors will be responsible for initially identifying all Section 3 and Targeted Section 3 employees when they are first set up in LCPtracker.

If the project is not subject to Davis-Bacon and Related Acts labor standards, Contractors and Subcontractors will be responsible for submitting their Section 3 labor hours to Minnesota Housing on a monthly basis in conjunction with their draw requests. Refer to Minnesota Housing's Labor Hour Certification Form (Appendix J). Minnesota Housing staff will review reports monthly prior to releasing the draw and will reach out to the Contractor as needed.

After project construction is complete, any remaining reporting information and/or documentation required for Section 3, including for labor hours worked and qualitative efforts used, must be submitted to Minnesota Housing for approval prior to release of the final draw for the HOME and/or NHTF Funds.

Minnesota Housing will then enter all necessary Section 3 data and information for the project into HUD's Integrated Disbursement and Information System (IDIS) prior to Project Completion.

#### **4.04            Enforcement**

Minnesota Housing reserves the right to withhold draw requests if compliance with Section 3 requirements is not met during underwriting and construction.

## Chapter 5 – Fair Housing Policy

It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, gender identity or sexual orientation.

Minnesota Housing's fair housing policy incorporates the requirements of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988, as well as the Minnesota Human Rights Act. Housing providers are expected to comply with the applicable statutes, regulations, and related policy guidance. Housing providers should make sure that admissions, occupancy, marketing and operating procedures comply with non-discrimination requirements.

In part, the Fair Housing Act and the Minnesota Human Rights Act make it unlawful, because of protected class status, to:

- Discriminate in the selection/acceptance of applicants in the rental of housing units;
- Discriminate in terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- Engage in any conduct relating to the provision of housing that otherwise makes unavailable or denies the rental of a dwelling unit;
- Make, print or publish (or cause to make, print or publish) notices, statements or advertisements that indicate preferences or limitations based on protected class status;
- Represent a dwelling is not available when it is in fact available;
- Deny access to, or membership or participation in, associations or other services, organizations or facilities relating to the business of renting a dwelling or discriminate in the terms or conditions of membership or participation; or
- Engage in harassment or quid pro quo negotiations related to the rental of a dwelling unit.

Minnesota Housing has a commitment to affirmatively further fair housing for individuals with disabilities by promoting the accessibility requirements set out in the Fair Housing Act, which establish design and construction mandates for covered multifamily dwellings and requires housing providers to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Applicants will be required to submit an Affirmative Fair Housing Marketing Plan at the time of application, to update the plan regularly and to use affirmative fair housing marketing practices in soliciting renters, determining eligibility and concluding all transactions.



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As a condition of funding through Minnesota Housing, housing providers are not permitted to refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident has a housing choice voucher or other form of tenant-based rental assistance.

## **Chapter 6 – Fraud, Misuse of Funds, Conflict of Interest, Suspension, and Disclosure and Reporting**

### **6.01 Fraud**

Fraud is any intentionally deceptive action made for personal gain or to damage another.

Any person or entity (including its employees and affiliates) that enters into an agreement with Minnesota Housing and witnesses, discovers evidence of, receives a report from another source, or has other reasonable basis to suspect that fraud or embezzlement has occurred must immediately make a report through one of the ways described in Section 6.05.

### **6.02 Misuse of Funds**

A loan or grant agreement is a legal contract between Minnesota Housing and the borrower or grantee. The borrower or grantee promises to use the funds to engage in certain activities or procure certain goods or services while Minnesota Housing agrees to provide funds to the borrower or grantee to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the borrower or grantee must use Minnesota Housing funds as agreed, and the borrower or grantee must maintain appropriate documentation to prove that funds were used for the intended purpose(s).

A misuse of funds shall be deemed to have occurred when: (1) Minnesota Housing funds are not used as agreed by a borrower or grantee; or (2) A borrower or grantee cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the loan or grant agreement.

Any borrower or grantee (including its employees and affiliates) of Minnesota Housing funds that discovers evidence, receives a report from another source, or has other reasonable basis to suspect that a misuse of funds has occurred must immediately make a report through one of the ways described in Section 6.05.

### **6.03 Conflict of Interest**

A conflict of interest, actual, potential, or perceived, occurs when a person has an actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A potential or perceived conflict of interest exists even if no unethical, improper or illegal act results from it.

An individual conflict of interest is any situation in which one's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a friend, relative, acquaintance or business or organization with which they are involved.

Organizational conflicts of interest occur when:

- A contracting party is unable or potentially unable to render impartial assistance or advice to Minnesota Housing due to competing duties or loyalties
- A contracting party's objectivity in carrying out the award is or might be otherwise impaired due to competing duties or loyalties
- A contracting party has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors

Once made aware of a conflict of interest, Minnesota Housing will make a determination before disbursing any further funds or processing an award. Determinations could include:

- Revising the contracting party's responsibilities to mitigate the conflict
- Allowing the contracting party to create firewalls that mitigate the conflict
- Asking the contracting party to submit an organizational conflict of interest mitigation plan
- Terminating the contracting party's participation

Any person or entity (including its employees and affiliates) that enters into an agreement with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all actual, perceived or potential conflicts of interest through one of the ways described in Section 6.05.

A contracting party should review its contract agreement and request for proposals (RFP) material, if applicable, for further requirements.

#### **6.04 Suspension**

By entering into any agreement with Minnesota Housing, a contracting party represents that the contracting party (including its employees or affiliates that will have direct control over the subject of the agreement) has not been suspended from doing business with Minnesota Housing. Refer to Minnesota Housing's website for a list of [suspended individuals and organizations](#).

#### **6.05 Disclosure and Reporting**

Minnesota Housing promotes a "speak-up, see something, say something" culture whereby internal staff, external business partners (e.g., grantees, borrowers) and the general public are encouraged to report instances of fraud, misuse of funds, conflicts of interest, or other concerns without fear of retaliation. You may report wrongdoing or other concerns by contacting:

- Lender's Chief Risk Officer at 651.296.7608 or 800.657.3769;

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- Any member of Lender's [Servant Leadership Team](#), as denoted on Lender's current organizational chart (go to [mnhousing.gov](http://mnhousing.gov), scroll to the bottom of the screen and select About Us; select Servant Leadership Team); or
- [Report Wrongdoing or Concerns \(mnhousing.gov\)](#) (go to [mnhousing.gov](http://mnhousing.gov), scroll to the bottom of the screen and select Report Wrongdoing).

## Certification and Acknowledgement

**Instructions:** The project's owner/developer and Contractor must return this completed and signed certification to Minnesota Housing via the Multifamily Customer Portal prior to releasing the project bid package. The project bid package must be approved by Minnesota Housing before it is released. A copy of the completed and signed certification must be included in the construction Contract as well.

A Subcontractor bidding on the project must return this completed and signed certification and acknowledgement with the bid application.

\_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company), hereby acknowledge that I have been provided a copy of and have read Minnesota Housing's Multifamily Division Section 3 Compliance Guide, including Appendices, and fully understand and acknowledge, on behalf of, \_\_\_\_\_ (company), the obligation to strictly comply with the requirements set forth therein.

I certify that the information provided in this Certification is true, correct, and accurate.

---

Signature

Date

---

Printed Name

Title

## Appendix A – Terms

Term	Definition
Contractor	Any entity entering into a Contract with the Recipient to perform work in connection with a Section 3 Project.
Contract	An agreement for work arising in connection with a Project.
Employment Opportunities generated by Section 3 covered assistance	<p>For Section 3 covered housing and community development assistance as this guide includes, this term means all Employment Opportunities arising in connection with Section 3 Projects, not including most management and administrative jobs connected with the Section 3 covered Project. Professional service contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported as a part of total Section 3 labor hours. However, this exclusion does not cover all non-construction services.</p> <p>However, professional services staff labor hours are permitted to be reported, and PHAs will be given credit for reporting opportunities created for professional services, by including professional services labor hours in the numerator, and not in the denominator, of the reported outcome ratios. The reporting structure in the rule allows a Recipient to count any work performed by a professional services Section 3 Worker or Targeted Section 3 Worker as Section 3 labor hours and as Targeted Section 3 labor hours (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a Recipient a bonus if they are able to report Section 3 hires in the professional services context.</p>
HOME Investment Partnerships Program Funds/National Housing Trust Fund Funds	Funds awarded under HUD’s programs. Abbreviated as HOME and NHTF programs.
HUD	The United States Department of Housing and Urban Development
Low-Income Person	Individual whose income does not exceed 80 % of the median income for the area, as determined by the Secretary, except that the Secretary may establish

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Term	Definition
	income ceilings higher or lower than 80% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.
Minnesota Housing	The Minnesota Housing Finance Agency
Project Completion	<p>For the HOME and NHTF programs, project completion means that:</p> <ul style="list-style-type: none"> <li>• All necessary title transfer requirements and construction work have been performed</li> <li>• The project complies with the requirements of the program regulations, including property standards</li> <li>• The final drawdown of HOME and/or NHTF funds has been disbursed for the project</li> <li>• The project completion information has been entered into HUD's Integrated Disbursement and Information System (IDIS)</li> </ul>
Public Housing Resident	Any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease, as defined in 24 CFR §963.5.
Recipient	Any entity that receives Section 3 covered assistance directly from HUD or from another Recipient (e.g., PHA, unit of state or local government, property owner, developer).
Safe Harbor Standards	<p>A Recipient will be considered to be in compliance with Section 3 requirements if they, in the absence of evidence to the contrary:</p> <ol style="list-style-type: none"> <li>1. Certify that they have followed the prioritization of effort in 24 CFR Part 75.19; and</li> <li>2. Meet or exceed the applicable Section 3 benchmarks below.</li> </ol> <p>Section 3 Workers: 25% or more of the total number of labor hours worked by all workers on a Section 3 Project; and</p>

# MINNESOTA HOUSING – MULTIFAMILY DIVISION SECTION 3 COMPLIANCE GUIDE

Term	Definition
	Targeted Section 3 Workers: 5% or more of the total number of labor hours worked by all workers on a Section 3 Project.
Section 3	Section 3 of the Housing and Urban Development Act of 1968, as amended.
Section 3 Business Concern	<p>A Section 3 Business Concern is a business that meets at least one of the following criteria, documented within the previous six-month period from the date the business' Section 3 Business Concern Certification Form is signed:</p> <ol style="list-style-type: none"> <li>1. At least 51% owned and controlled by Low- or Very Low-Income Persons;</li> <li>2. Over 75% of the labor hours performed for the business over the prior three-month period from the date the business' Section 3 Business Concern Certification Form is signed are performed by Section 3 Workers; or</li> <li>3. A business at least 51% owned and controlled by current Public Housing Residents or residents who currently live in Section 8-assisted housing</li> </ol>
Section 3 Project	A new construction, rehabilitation, or other public construction project receiving more than \$200,000 in Section 3 covered assistance.
Section 3 Worker	<p>A Section 3 Worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:</p> <ol style="list-style-type: none"> <li>1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD;</li> <li>2. The worker is employed by a Section 3 business; or</li> <li>3. The worker is a YouthBuild participant</li> </ol>
Service Area	"Service area" or the "neighborhood of the project" 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.



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Term	Definition
Subcontractor	Any entity that has a Contract with a Contractor or other Subcontractor to undertake a portion of the Contractor or Subcontractor’s obligation to perform work in connection with a Section 3 Project.
Targeted Section 3 Worker	<p>A Targeted Section 3 Worker for Housing and Community Development Financial Assistance projects is a Section 3 Worker who:</p> <ol style="list-style-type: none"> <li>1. Is employed by a Section 3 Business Concern; or</li> <li>2. Currently fits, or when hired fits, at least one of the following categories, as documented within the past five years:               <ol style="list-style-type: none"> <li>(i) Living within the Service Area or the neighborhood of the project, as defined in 24 CFR §75.5; or</li> <li>(ii) A YouthBuild participant</li> </ol> </li> </ol>
Very Low-Income Person	Individual whose income does not exceed 50% of the median family income for the area, as determined by the Secretary, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.
YouthBuild Programs	Programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

## Appendix B – Combined Guidance for Compliance

\*\*All Section 3 Forms referenced below may also be found on [Minnesota Housing's website](#) and in the Multifamily Customer Portal in the Pre-Construction Due Diligence Checklist.

Appendix and Name**	Purpose of Document	Who Receives Documents and When	What Must Be Done with Document
<b>Appendix C</b> Section 3 Compliance Checklist Owner/Developer (Recipient)	To have the owner/developer certify to follow all applicable Section 3 requirements	<ul style="list-style-type: none"> <li>Owner/developer at project launch as part of this guide</li> </ul>	<ul style="list-style-type: none"> <li>Owner/developer must complete and submit via the Portal prior to releasing bid package</li> </ul>
<b>Appendix D</b> Section 3 Contractor Compliance Checklist	To have Contractors certify to follow all applicable Section 3 requirements	<ul style="list-style-type: none"> <li>Contractor as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>Contractor must complete and submit to owner/developer prior to releasing bid package or with bid application</li> <li>Owner/developer must submit via the Portal</li> </ul>
<b>Appendix E</b> Section 3 Compliance Checklist for Subcontractors	To have Subcontractors certify to follow all applicable Section 3 requirements	<ul style="list-style-type: none"> <li>Subcontractors as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>Subcontractors must complete and submit to Contractor with bid application</li> <li>Contractor and Subcontractors must retain all completed forms for later review</li> </ul>
<b>Appendix F</b> Section 3 Clause	To help ensure that the required Section 3 language is included in all Section 3 covered Contracts and solicitation materials	<ul style="list-style-type: none"> <li>Owner/developer at project launch as part of this guide Contractor and Subcontractors as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>Must be included in all bid packages, Contracts, and subcontracts</li> <li>All contracts must be submitted to and retained by</li> </ul>

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Appendix and Name**	Purpose of Document	Who Receives Documents and When	What Must Be Done with Document
			<p>owner/developer for later review</p> <ul style="list-style-type: none"> <li>Owner/Developer must submit construction Contract via the Portal</li> </ul>
<b>Appendix G</b> Section 3 Qualitative Efforts Reporting Form	To articulate the requirements from 24 CFR §75.19 and to document qualitative efforts used to help meet Section 3 requirements	<ul style="list-style-type: none"> <li>Owner/developer at project launch as part of this guide</li> <li>Contractor and Subcontractors as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>Must be completed by the owner/developer, Contractor, and Subcontractors prior to Project Completion</li> <li>Owner/developer must submit all completed forms via the Portal prior to Project Completion</li> </ul>
<b>Appendix H</b> Section 3 Worker Self-Certification Form	To certify the status of a Section 3 Worker	<ul style="list-style-type: none"> <li>Owner/developer at project launch as part of this guide</li> <li>Contractor and Subcontractors as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>Contractor and Subcontractors must collect completed form from all eligible Section 3 Workers and submit to the owner/developer prior to project construction</li> <li>Owner/developer must retain copies of all forms for later review</li> </ul>
<b>Appendix I</b> Section 3 Business Concern Certification Form	To certify the status of a Section 3 Business Concern	<ul style="list-style-type: none"> <li>Owner/developer at project launch as part of this guide</li> <li>Contractor and Subcontractors as</li> </ul>	<ul style="list-style-type: none"> <li>Contractor and Subcontractors must collect completed form from all eligible Section 3 Business Concerns and submit to the</li> </ul>

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Appendix and Name**	Purpose of Document	Who Receives Documents and When	What Must Be Done with Document
		part of bid package	<p>owner/developer prior to project construction</p> <ul style="list-style-type: none"> <li>• Owner/developer must retain copies of all forms for later review</li> </ul>
<b>Appendix J</b> Section 3 Labor Hour Certification Form	To certify the Section 3 labor hours worked on a Section 3 Project not subject to Davis Bacon Labor Standards	<ul style="list-style-type: none"> <li>• Owner/developer at project launch as part of this guide</li> <li>• Contractor and Subcontractors as part of bid package</li> </ul>	<ul style="list-style-type: none"> <li>• Contractor and Subcontractors must complete and submit to Minnesota Housing in conjunction with monthly draw requests</li> </ul>