

Section 3 Policy for Gainesville Housing Authority

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1. Purpose

- a) The purpose of this policy is to implement the requirements of section 3 of the Housing and Urban Development Act of 1968. Section 3 aims to 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 businesses that provide economic opportunities to low- and very low-income persons.

2. Applicability

- a) This policy applies to the Gainesville Housing Authority (GHA) and its contractors and subcontractors that receive HUD financial assistance for housing and community development programs covered by section 3, as specified in 24 CFR 75.3. These programs include, but are not limited to, public housing capital and operating funds, Choice Neighborhoods, HOME Investment Partnerships, Community Development Block Grant, and Housing Opportunities for Persons with AIDS.
- b) For public housing financial assistance, all funding is covered, regardless of the amount of expenditure or size of a contract. This plan applies to development assistance, operating funds, capital funds, and all mixed-finance development.
- c) Section 3 projects means 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.
- d) The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs
- e) The requirements in this part 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.
- f) This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.
- g) Section 3 requirements do not apply to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preferences - § 75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance not subject to Section 3, recipients are encouraged to consider ways to support Section 3's purpose.

3. Definitions

a) The following definitions are from 24 CFR 75.5:

- i) **Contractor** means any entity entering into a contract with:
 - (a) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
 - (b) A subrecipient for work in connection with a Section 3 project.
- ii) **Labor hours** means 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.
- iii) **Low-income person** means a person as defined in Section 3(b)(2) of the 1937 Act. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>. See low (80%) income limits as established by HUD
- iv) **Material supply contracts** means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.
- v) **Professional services** means non-construction services 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.
- vi) **Public housing financial assistance** means:
 - (1) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
 - (2) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
 - (3) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
 - (4) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance
- vii) **Public housing project** The term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under 42 U.S.C. 1437f of the 1937 Act (section 8). The term “public housing” includes dwelling units in a mixed-

finance project that are assisted by a public housing agency with public housing capital assistance or Operating Fund assistance. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by a PHA under the 1937 Act, and the improvement of any such housing.

- viii) **Recipient** means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.
- ix) **Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).
- x) **Section 3 business concern** means:
 - (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (2) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (4) it is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- xi) **Section 3 project** means 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.).
- xii) **Section 3 worker** means:
 - (1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
 - (2) The worker's income for the previous or annualized calendar year is low (80%) income limits or very low (50%) income limits as established by HUD
 - (3) The worker is employed by a Section 3 business concern.
 - (4) The worker is a YouthBuild participant.

(5) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

xiii) **Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

xiv) **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.

xv) **Subcontractor** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

xvi) **Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

xvii) **Targeted Section 3 worker** means:

(1) For public housing financial Funding:

- (a) Employed by a Section 3 business concern or
- (b) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - (i) A resident of public housing; or
 - (ii) A resident of other public housing projects or Section 8-assisted housing; or
 - (iii) A YouthBuild participant.

(2)

For Housing and Community Development funding:

- (a) Employed by a Section 3 business concern or
- (b) Currently meets or when hired met 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, as defined in 24 CFR Part 75.5; or
 - (ii) A YouthBuild participant.

xviii) **Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937 Act. The income limits will be determined annually using the guidelines published at

<https://www.huduser.org/portal/datasets/il.html>. See very low (50%) income limits as established by HUD

- xix) **YouthBuild programs** refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

4. Section 3 Eligibility

a) Section 3 Worker:

- i) A Section 3 worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, [recipient/grantee] will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/datasets/il.html>.
- ii) Persons seeking the **Section 3 worker** preference shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:
 - (1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
 - (2) Employed by a Section 3 business concern; or
 - (3) A YouthBuild participant.
- iii) Persons seeking the **Targeted Section 3 worker** preference shall demonstrate that it meets one or more of the following criteria:
 - (1) For public housing financial Funding:
 - (a) Employed by a Section 3 business concern or
 - (b) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - (i) A resident of public housing; or
 - (ii) A resident of other public housing projects or Section 8-assisted housing; or
 - (iii) A YouthBuild participant.

(2)

For Housing and Community Development funding:

- (a) Employed by a Section 3 business concern or
- (b) Currently meets or when hired met 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, as defined in 24 CFR Part 75.5; or

- (ii) A YouthBuild participant.

b) Employment and Training

- i) Under GHA's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:
 - (1) For Public Housing Financial Funding:
 - (a) To residents of the public housing projects for which the public housing financial assistance is expended;
 - (b) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
 - (c) To participants in YouthBuild programs; and
 - (d) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.
 - (2) For Housing and Community Development Financial Funding
 - (a) Provide employment and training opportunities to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located in the priority order listed below:
 - (i) Section 3 workers residing within the service area or the neighborhood of the project, and
 - (ii) Participants in YouthBuild programs.
- ii) Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

c) Section 3 Business:

- i) GHA, will encourage contractors and subcontractors to make their best efforts to award contracts and subcontracts to Section 3 business concerns.
- ii) Businesses that believe they meet Section 3 Business requirements may self-register in the HUD Business registry, here: <http://www.hud.gov/Sec3Biz>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- (1) At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
 - (2) At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
 - (3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.
- iii) For Public Housing Financial Funding:
- (1) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts in the following order of priority:
 - (a) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
 - (b) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
 - (c) To YouthBuild programs; and
 - (2) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.
- iv) For Housing and Community Development Financial Funding
- (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations GHA shall 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 nonmetropolitan county) in which the project is located.
 - (2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts in the following order of priority:

- (a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
- (b) YouthBuild programs.

5. Multiple Sources of Funding

a) For instances of multiple sources of financial assistance see the chart below:

Type of Multiple Assistance	Definition of Targeted Section 3 Worker	Threshold	Applicable Compliance Requirement	Reporting
Public Housing and Housing & Community Development		None *Any amount of PH assistance triggers section 3	PHA – must follow 24 CFR 75 subpart B HCD – may follow 24 CFR 75 subpart B or C	Both - Must report on project as a whole and identify the multiple associated recipients
Multiple Sources of Housing & Community Development		Exceeds \$200,000 for Section 3 projects	Must follow 24 CFR 75 subpart C	Must report on project as a whole and identify the multiple associated recipients Must report to the applicable HUD program office, as prescribed by HUD

6. Section 3 Goals and Benchmarks

- a) GHA and its contractors and subcontractors shall comply with the minimum numerical goals and outcome-based benchmarks established by HUD in 24 CFR 75 for providing employment, training, and contracting opportunities to section 3 workers and section 3 businesses.
- b) These goals and benchmarks are as follows:
 - i) Twenty-five (25) percent 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 Section 3 workers;
(1) $\text{Section 3 Labor Hours} / \text{Total Labor Hours} = 25\%$
 - ii) Five (5) percent 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.
(1) $\text{Targeted Section 3 Labor Hours} / \text{Total Labor Hours} = 5\%$
- c) HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, the Authority will review and update the Section 3 Plan every year as needed.
- d) Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to the GHA are required to certify that they will comply with the requirements of Section 3.

7. Reporting

- a) GHA is obligated to submit specific documentation to the U.S. Department of Housing and Urban Development (HUD) yearly to demonstrate compliance with Section 3 regulations.
 - i) The annual report submitted to HUD must include:
 - (1) Total labor hours worked on Section 3 projects
 - (2) Labor hours worked by Section 3 workers
 - (3) Labor hours worked by Targeted Section 3 workers
 - ii) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established .
 - iii) This must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required
 - iv) If a contract covers both professional services and other work GHA will decide on a case by case basis whether to exclude these hours from reporting. The labor hours not from professional services must always be reported.
- b) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.
- c) On a periodic basis, not less than annually, GHA will obtain the reports necessary to obtain the information necessary for Section 3 reporting.

8. Recordkeeping

- a) GHA and its contractors and subcontractors shall maintain records documenting their compliance with section 3, in accordance with 24 CFR 75.31. These records shall include, but are not limited to, the following:
 - i) The number and dollar amount of contracts awarded to section 3 businesses;
 - ii) The number, job category, and income level of section 3 workers hired for covered projects and activities;
 - iii) The number, type, and duration of training or support services provided to section 3 workers or section 3 businesses;
 - iv) The efforts made to notify and recruit section 3 workers and section 3 businesses;
 - v) The efforts made to facilitate the use and competitiveness of section 3 businesses;
 - vi) The impediments encountered in meeting the section 3 goals and benchmarks; and
 - vii) Any other information requested by HUD or the applicable field office.
- b) For a worker to qualify as a Section 3 worker, one of the following must be maintained:
 - i) A worker's self-certification that their income is below the income limit from the prior calendar year;
 - ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - iv) An employer's certification that the worker's income from that employer is below the 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; or
 - v) An employer's certification that the worker is employed by a Section 3 business concern.
- c) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

- i) Targeted Section 3 worker for public housing financial assistance:
 - (1) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
 - (2) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - (3) An employer's certification that the worker is employed by a Section 3 business concern; or
 - (4) A worker's certification that the worker is a YouthBuild participant.
- ii) Targeted Section 3 worker for housing and community development financial assistance:
 - (1) An employer's 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 U.S. 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.
- iii) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.
- d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.
- e) GHA will require the contractor and subcontractor to maintain all records related to employment and job training of low-income residents and to supply GHA with such records upon request.

9. Contract Provisions

- a) GHA will include standard Section 3 language in all of its contracts to ensure compliance with regulations in 24 CFR Part 75 and will take appropriate actions upon finding that a contractor is in violation of Section and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations.
- b) All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to GHA will be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the Section 3 Business Concern Certification Form.
- c) In addition, contractors and subrecipients are required to include language in all Section 3 covered contracts or agreements for subcontractors to meet the requirements of 24 CFR Part 75.9 (for public housing financial assistance) or 24 CFR Part 75.19 (for housing and community development financial assistance).
- d) For businesses, noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.