

## Section 3 Definitions

### **2020 Final Rule (24 CFR §75.5)**

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5. The following definitions also apply to this part:

#### **1937 Act:**

United States Housing Act of 1937, **42 U.S.C. 1437** et seq.

#### **Contractor:**

Any entity entering into a contract with:

1. A recipient (i.e.: TDHCA) to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
2. A subrecipient for work in connection with a Section 3 project.

#### **Good Faith Effort:**

Good Faith Effort Law and Legal Definition. "Good faith effort" is an implied contractual term and it is defined as "**what a reasonable person would determine is a diligent and honest effort under the same set of facts or circumstances.**".

#### **Labor hours:**

Number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

#### **Low-income person:**

Person as defined in Section 3(b)(2) of the 1937 Act. One who earns gross household income 80% or less of HUD area median income (AMI).

#### **Material supply contracts:**

Binding agreements for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

#### **Professional services:**

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.

#### **Public housing financial assistance:**

Assistance as defined in §75.3(a)(1).

#### **Public housing project:**

Defined in **24 CFR 905.108**.

**Recipient:**

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.

**Section 3:**

Part of the Housing and Urban Development Act of 1968, as amended (**12 U.S.C. 1701u**), requires that when new jobs or contracts are created as a result of the usage of certain HUD funds (including Public and Indian Housing funds), priority consideration is given, to the greatest extent feasible, to low- and very low-income persons residing in the community in which the funds are spent and to businesses that provide economic opportunities for these persons.

**Section 3 business concern:**

1. A business concern meeting at least one of the following criteria, documented within the last six-month period:
  - i. It is at least 51 percent owned and controlled by low- or very low-income persons;
  - ii. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
  - iii. 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.
2. The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
3. Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

**Section 3 project:**

A project defined in §75.3(a)(2):

1. 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. 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.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (**42 U.S.C. 4851** et seq.). 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.
2. The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years...

3. 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.

**Section 3 worker:**

1. Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
  - i. The worker's income for the previous or annualized calendar year is below the income limit established by HUD. (*low or very low-income*)
  - ii. The worker is employed by a Section 3 business concern.
  - iii. The worker is a YouthBuild participant.
2. The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
3. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

**Section 8-assisted housing:**

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

**Service area or the neighborhood of the project:**

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.

**Small PHA:**

Public housing authority that manages or operates fewer than 250 public housing units.

**Subcontractor:**

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.

**Subrecipient:**

Defined in the applicable program regulations or in **2 CFR 200.93**: an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.

**Targeted Section 3 worker:**

Has the meanings provided in §§75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction. Section 3 worker who is:

1. 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, as defined in §75.5; or
  - ii. A YouthBuild participant.

**Very low-income person:**

term set forth in section 3(b)(2) of the 1937 Act. Families (including single persons) whose incomes do not exceed 50 percent of the median family income for the area, as determined by the HUD Secretary with adjustments for smaller and larger families, except that the HUD Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the HUD Secretary's findings that such variations are necessary because of unusually high or low family incomes.

**YouthBuild programs:**

[HUD] YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).