



CITY OF LONG BEACH
DEPARTMENT OF FINANCIAL MANAGEMENT
Business Services Bureau

HUD SECTION 3 COMPLIANCE GUIDELINES

REVISED August, 2021

Policy

Notwithstanding anything contained in Federal law, the Contractor (throughout this Guideline, reference to “Contractor” shall mean prime contractor and shall include “Developer” as applicable) and its subcontractors shall comply with Section 3 requirements (24 CFR Part 75) and shall:

1. Make attempts to contract with Section 3 Business Concerns for all building trades and non-construction related work at the subject project site. *For non-construction related work, Section 3 worker may be included as long as the work performed does not require an advanced degree or professional licensing.*
2. To the greatest extent feasible, employ Section 3 workers for a minimum of twenty five percent (25%) of the total number of labor hours worked by all workers on a Section 3 Project, including Targeted Section 3 workers (5% or more of the total number of labor hours worked by all workers – 5% is included as part of the 25% threshold).

The City is committed to working with the Contractor to successfully achieve Section 3 requirements.

Definitions

► **Section 3 Coordinator:** Representative(s) of the City available to assist the Contractor and any subcontractor(s) to meet the Section 3 goals described above.

► **Section 3 Business:** A business that meets at least one of the following criteria documented within the last six-month period:

- at least fifty-one percent (51%) or more owned and controlled by low-income persons;
- more than 75% of the labor hours performed for the business over the previous 3-month period are performed by Section 3 workers, or;
- at least 51% owned and controlled by current residents of public housing or Section 8 assisted housing.

► **Section 3 Worker:** A worker *who currently fits or when hired within the past five years fit* at least one of the following categories (Note the five year span does not take effect until Nov 30, 2025):

- Met HUD's income limits in the previous calendar year (individual income does not exceed eighty percent (80%) of the area median income for the Los Angeles County-Long Beach Area. This is based on an individual's income, not on household size)
- Is employed by a Section 3 Business Concern; or
- Is a YouthBuild participant

► **Targeted Section 3 Worker (sub-category of a Section 3 Worker):**

- **Projects funded by public housing assistance:**

- Workers employed by a Section 3 business concern, or;
- Workers who currently or when hired (within the last 5 years *effective November 30, 2025) were residents of public or Section 8-assisted housing, or
- YouthBuild Participants

- **Projects funded by housing and community development assistance**

- Workers employed by a Section 3 business concern, or:
- Workers who are currently or when hired (within the last five years *effective November 30, 2025) were living within the service area or neighborhood of the project, or:
- Youthbuild Participants

► **Service Area:**

- an area within one mile of the Section 3 Project, or within a circle that is sufficient to encompass a population of 5,000 people according to the most recent US Census.

► **YouthBuild Program:**

- programs receiving assistance under the Workforce Innovation and Opportunity Act(29U.S.C.3226)

Section 3 Business Enterprises – Compliance Requirements

Contractors/Vendors are directed to contract with Section 3 business concerns to the greatest extent feasible. Good Faith efforts to contract with Section 3 business concerns may include the following:

1. **Advertise** subcontracting opportunities within sufficient time to notify contractors of subcontracting opportunities.

Advertising Agencies

1. Business Assistance Agencies, Minority Contractors Associations and/or Community Organizations
2. Publications that advertise opportunities to obtain assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
3. Agencies administering HUD Youthbuild programs, Long Beach Chamber of Commerce or local chambers of commerce
4. Trade association papers/newsletters, local media, such as community television networks, newspapers of general circulation, and/or radio advertising.

Publishing Sources for HUD Section 3 Contracting Opportunities can be found on the City's website at the following web address:
<http://longbeach.gov/finance/business-info/compliance/hud-section-3-program/>

2. Provide written notice of such opportunities to all known Section 3 Business Concerns who can provide the services in which you are proposing/bidding. This notice should be provided within sufficient time to allow the Section 3 Business Concerns to respond to the bid invitation. The Section 3 Business Concern List can be found on the City's website at the following web address: <http://www.longbeach.gov/finance/business-info/compliance/hud-section-3-program/> or at HUD's Section 3 Business Registry at <https://portalapps.hud.gov/Sec3BusReg/BRegistry/>. You can also search for Section 3 workers and workers can post resumes at hudapps.hud.gov/OpportunityPortal. A copy of the written notice to each firm should be retained for the project record.

Attachment C is provided to assist the Contractor with recording all contact and outreach efforts. This is not required but recommended in the event of an audit of the project by HUD.

Required Documentation to accompany ALL bid/proposals

1. **An executed HUD Section 3 Affidavit (Attachment A).** This document is to be submitted with the Prime Contractor's bid. Must be completed by all subcontractors prior to issuance of Notice to Proceed.
2. **Business Concern Information Form (Attachment D) for the Prime Contractor and all listed subcontractors** with the Prime's Bid. If not available with Bid Documents, each form must be received by the City by 10:00 a.m. of the next working day. The Section 3 Coordinator will use this form to determine if the prime and/or subcontractor qualifies as a Section 3 Business Concern.

Section 3 Workforce – Compliance Requirements

During construction, the Contractor shall do the following:

1. **The Contractor shall, to the greatest extent possible, employ Section 3 workers for a minimum of twenty five percent (25%) of the total number of labor hours worked by all workers on a Section 3 Project. Contractor shall also employ Section 3 Targeted Workers for a minimum of 5% of the total number of labor hours worked by all workers. The 5% is included as part of the 25% threshold.** If the Contractor fails to meet these work hour requirements, the Contractor shall be subject to penalties outlined in Effects of Noncompliance on page 8. To avoid imposition of such penalties, the Contractor must demonstrate that it utilized its best efforts to achieve the Section 3 employment and contracting goals. The Contractor may demonstrate best efforts by detailing all efforts made on a contact log similar to **Attachment C** and affixing documents to the log that support such efforts (e.g., proof of mailing, fax transmittal sheets, e-mails, etc.).
2. The Contractor shall submit the following documentation to the City's Section 3 Coordinator at a date and time to be specified:
 - **An executed HUD Section 3 Compliance Certificate (Attachment E).** This document is to be submitted prior to issuance of Notice to Proceed and becomes a part of the Contractor's contract with the City and required for each subcontractor. Must be completed by all contractors prior to the issuance of Notice to Proceed.
 - A **Project Section 3 - Worker Certification Form (Attachment F)** for each employee working onsite for the prime contractor and each listed subcontractor. The form shall include the employee's name, address and individual income limit. This form will be used to determine if the employee

is or qualifies as a Section 3 Worker or Targeted Section 3 Worker, or in situations of subcontractors, whether they qualify as a Section 3 Business Concern.

3. Post public notices announcing **HUD Section 3 Job and Contracting/Business Opportunities**. The Contractor shall post these notices at the jobsite.
4. With each monthly application for payment, the Contractor shall provide to the Section 3 Coordinator or designee, by the fifteenth (15th) calendar day of the following month, Contractor and subcontractor documentation to confirm compliance with Section 3 Worker and Targeted Worker requirements. These documents shall include, but not be limited to:
 - a. Submittal of Certified Payrolls utilizing the City's LCPTracker software system. All workers employed on the Section 3 Project will be set-up in the Demographic Classification section based on the list of worker classifications and the information noted on the Section 3 Worker Certification form (**Attachment F**). .
5. Submit other such documentation that the City may require to demonstrate the Contractor's/subcontractor's compliance with Section 3 requirements, such as contact logs for Section 3 inquiries.

During construction of the project, the Contractor shall provide all required information to the Section 3 Coordinator or designee who will do the following:

1. Coordinate with the City's workforce development bureau and other community organizations that provide workforce opportunities and training.

HUD Section 3 – Effects of Noncompliance

The City is committed to working with the Contractor to meet the employment and contracting requirements. **In this regard, the Contractor shall include the Section 3 Coordinator in all meetings related to complying with the employment goals.** Failure to meet these goals or to assist in the documentation of the Contractor's best efforts to meet these goals, shall result in a penalty equal to ten percent (10%) of each subsequent progress payment application beyond any normal retention until the deficiency is corrected. Upon remediation of the deficiency, the penalty amount will be released to the Contractor. In the event that the Contractor fails to provide required documentation regarding both the twenty five percent (25%) Section 3 Worker employment and five percent (5%) targeted Section 3 worker, the maximum penalty that may be assessed is ten percent (10%) of each subsequent progress pay application.

Note: In the event a subcontractor fails to furnish the required documentation to the Contractor, the Contractor at its discretion shall withhold a penalty equal to ten percent (10%) of each payment application from that subcontractor. Upon remediation of the deficiency, the Contractor shall release the penalty amount to the subcontractor. The maximum penalty that may be assessed against a subcontractor is ten percent (10%) of each subsequent pay application.

24 CFR Part 75 § Section 3 clause

§ Section 3 clause.

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3), as amended in the section 3 Final Rule on September 29, 2020. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment and training, generated by certain HUD financial assistance, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing or residents of the project area/community in which the Federal assistance is spent.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract. The parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth the job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.
- F. 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.

HUD Section 3 Contract/Business Opportunity and Workforce Development Compliance Personnel List

	Contracting/ Business	Employment Opportunities
Contact	Business Outreach Coordinator	Eric Galeana Pacific Gateway Coordinator
Phone	(562) 570-6200	(562) 570-3738
Address	City Hall 411 W. Ocean Blvd, 6th floor Long Beach, CA 90802	Pacific Gateway Network 4811 Airport Plaza Dr Long Beach, CA 90815
Email	lbpurchasing@longbeach.gov	Eric.Galeana@pacific-gateway.org
Fax	(562) 570-5099	(562) 570-3704