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SECTION 3 COMPLIANCE POLICY, PROCEDURES, INSTRUCTIONS, AND FORMS

This packet is designed to comply with the New HUD Section 3 Final Rule issued September 29, 2020, and became effective November 30, 2020. Therefore, these documents and instructions are related to the "Hours Worked Benchmarks" as called for in the 24 CFR Part 75 regulation.

Every contractor and sub-contractor (with the exception of professional services) are required to work toward meeting the prescribed benchmarks as indicated on the bottom of page 13 of this packet. There are no specific hiring or contracting goals under this new rule.

Most importantly, the rule does not require the hiring or contracting of any person or business that is not fully qualified to perform the work. However, the rule makes clear that HUD is intent on ensuring Section 3 persons employed under the new rule receive measurable and sustainable employment. Therefore, Section 3 employees can be counted for up to five full years from the date of certification or hire respectively.

If you should have any questions on this packet, please contact:

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GOVERNING PARTS OF THE SECTION 3 FINAL RULE TO THIS RECIPIENT

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SECTION 3 REQUIREMENTS

Applicable to all contracts and agreements regardless of the dollar amount or contract duration

Background - Section 3 of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain HUD financial assistance expenditures, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low- and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

The Section 3 statute establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. For example, the prioritization as it relates to public housing assistance places an emphasis on public housing residents, in contrast to the prioritization as it relates to housing and community development assistance, which places more emphasis on residents of the neighborhood or service area in which the investment is being made.

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Portland Housing Authority Internal Hiring Procedure

The State of Maine has a restriction on the use of prior salary or compensation information and the requesting of such information relating to employment. That law is referenced below, and that language may cause or create a conflict with the requirements of Section 3 to certify the person hired is actually Section 3, what category of Section 3, or are not Section 3 at all.

The Benchmarks ([referenced on page 9](#)) will be very difficult to attain if the prior salary information is not available in all cases. Certainly a more unreasonable burden will be placed upon this authority as a direct result of this state law. So to the extent where it is deemed unlawful for the authority or its contractors to qualify a person for employment, training, or contracting because their prior employment salary history can not be requested or considered for certification, the overall agency compliance will be less than prescribed by the HUD benchmarks. Only if the cases where the employees new annualized income meets the 80% low-income threshold for being considered Section 3, and they have no other income sources, will any compliance be achieved of new hires, trainees, or contractors.

This law does not stop the authority or its contractors from marketing all opportunities to the authority residents and voucher holders. In fact, it is expected that all employment, training, and contracting must be marketed to these groups and the local YouthBuild program so their participants can apply at their own discretion.

Portland Housing Authority Contractor Hiring Notice

Due to the state of Maine's S.P. 90 - L.D. 278 An Act Regarding Pay Equality (http://legislature.maine.gov/legis/bills/bills_129th/billtexts/SP009001.asp), all contractors and sub-contractors are not permitted to ask about an applicants past employment salary when considering them for employment, training, or contracting on any authority contract. Where a general contractor (GC) or Prime contractor has sub-contractors, they must ensure the subs are fully aware of this notice and follow it just as the GC or Prime contractor is required. The use of the Section 3 Individual Person Self Certification form is merely for the contractor to identify authority residents or YouthBuild participants for the authority to confirm residency and participation in its programs. The contractor is to confirm if the person is involved currently with the YouthBuild program by way of some written confirmation, letter or email. That confirmation must be provided to the authority with that corresponding months Hour Worked Report (See the last form in this package).

Any contractor violating these requirements may face remedial action including termination of contract for repeated violation. The Portland Housing Authority assumes no responsibility for any violation committed by a contractor or sub-contractor. The violating company/individual is fully liable for any penalties and costs related to the violation(s).

Portland Housing Authority Contracting Procedure

For all advertised and non-advertised contracts let by the authority, the responsible staff will include the Section 3 Business Self Certification form and the Section 3 Individual Low-Income Self Certification form (with no income limit area) with the solicitation/bid package (virtually and paper) allowing each respondent to identify themselves and their business accordingly. The completion of the forms will remain voluntary at the respondents discretion.

Once all responses have been received and reviewed, the most desirous and qualified business will be progressed through the contracting process. The Section 3 status of the respondent will be considered only after the "Most Qualified and Advantageous" respondent has been determined. Please note that due to that conflict with the state of Maine's S.P. 90 - L.D. 278 An Act Regarding Pay Equality (http://legislature.maine.gov/legis/bills/bills_129th/billtexts/SP009001.asp), there will be no area for contractors to confirm they meet any HUD income limit for Section 3 business owners or for the persons working for Section 3 business owners. So again, meeting the Section 3 Business Concern definition will be difficult to impossible. Though we still encourage contractors to recruit, train, and hire as many Portland Housing Authority residents and voucher holders as possible. At a minimum contractors are required to provide an opportunity notice the Section 3 coordinator so some outreach can be executed for any created or available employment opportunities.

If there are multiple and equally qualified businesses, the Section 3 status and category of the business will be considered. The business with the highest Section 3 priority, based on the 24CFR Part 75.9 (b)(2) will be awarded the contract. All other applicable procurement laws will be adhered to relative to contracting amounts. All advertisements for contracts with the authority or its contractors, and sub-contractors will carry this wording:

"This opportunity is covered under Section 3 of the HUD Act of 1968"

Portland Housing Authority Internal Resident Training Procedure

For all resident training offered by the authority and its contractors, the staff will include the Section 3 Individual Low-Income Person Self Certification form with the training notice or upon the first day of training (virtually and paper) allowing each prospective trainee to identify themselves accordingly as public housing or Section 8. The completion of the form will NOT be voluntary as the prospective trainees will be allowed to attend based on their prioritization in the 24CFR Part 75.9(a)(2).

If the training is being paid for with HUD Public Housing financial assistance, the training will be limited to authority residents and potentially voucher holders only.

All advertisements for training with the authority will carry this wording:

"This opportunity is covered under Section 3 of the HUD Act of 1968"

§ 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

§ 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iv) 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 as defined in paragraphs (a)(1)(i) through (iii) of this section.

(iii) 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.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

§ 75.5 Definitions

The terms HUD, Public housing, Public Housing Agency (PHA), and are defined in 24 CFR part 5. The also apply to this part: 1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. Contractor means any entity entering into a contract with:

- (1) 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
- (2) A subrecipient for work in connection with a Section 3 project.

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.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

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.

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.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

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.

§ 75.5 Definitions Continued

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

- (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 means a project defined in § 75.3(a)(2).

Section 3 worker means:

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.
 - (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 This definition

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

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.

Sub-recipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

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.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

§ 75.9 Requirements - (a) Employment and Training.

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

(i) To residents of the public housing projects for which the public housing financial assistance is expended;

(ii) 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;

(iii) To participants in YouthBuild programs; and

(iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) Contracting. (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

(i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

(ii) 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;

(iii) To YouthBuild programs; and

(iv) 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.

§ 75.11 Targeted Section 3 worker for Public Housing Financial Assistance.

(a) Targeted Section 3 worker. A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) A resident of public housing or Section 8-assisted housing;

(ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

(iii) A YouthBuild participant.

§ 75.15 Reporting. (See [Benchmarks on page 9](#))

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

- (i) The total number of labor hours worked;
- (ii) The total number of labor hours worked by Section 3 workers; and
- (iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) 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 pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section 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, or elects pursuant to paragraph (a)(4) of this section, to report.

If other mechanisms are needed toward awarding contracts or employing Section 3 persons, contact the person listed at the top of this document for suggestions.

§ 75.17 Contract provisions

- (a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.
- (b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.
- (c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

§ 75.31 Recordkeeping

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) 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.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

- (i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:
 - (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
 - (B) 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;
 - (C) An employer's certification that the worker is employed by a Section 3 business concern; or
 - (D) A worker's certification that the worker is a YouthBuild participant.

Benchmarks - For Section 3 projects, the proposed benchmark notification set the same benchmarks but with regards to the project itself rather than the recipient's fiscal year. The proposed benchmark notification provided that recipients would meet the safe harbor in the new § 75.13 by certifying to the prioritization of effort in the new § 75.9 and meeting or exceeding Section 3 benchmarks for total number of labor hours worked by Section 3 workers and by Targeted Section 3 workers. **Simply stated, the agency needs to meet these two benchmarks annually in order to be in compliance.**

Section 3 Workers Labor Hours = 20%
Total Labor Hours for the Project

Section 3 Targeted Workers Labor Hours = 5%
Total Labor Hours for the Project

Contractor Acknowledgement

I hereby certify to the US Department of Housing and Urban Development (HUD) and Portland Housing Authority that I have read all of the information in this policy package and agree to follow the requirements for complying with the order of prioritization in 75.9 and reporting of all labor hours associated with my contract as required. I further understand that failure to comply with these requirements will cause my payments to be held and not processed or not released until I come into full compliance with this policy.

Monthly, I will be required to provide these data points for all contract staff working directly on the contract not including any back-office staff:

- Total Hours Worked by all employees (Section 3 and regular)
- Total Hours Worked by All Targeted Section 3 employees (Public Housing, Section 8, and YouthBuild)
- Total Hours Worked by All Non-Targeted Section 3 employees (Low Income persons residing in the MSA)

You will be required to list the names and hours worked by each Section 3 employee individually.

Signature:		Date Signed:
Print Name:	Title:	
Company Name:	Signers Email:	
Address		
Telephone Number		
Type of Business: (Check One) <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other		

PORTLAND HOUSING AUTHORITY SECTION 3 BUSINESS SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 Business Certification requirements. To count as a Section 3 Business your company/firm must meet one of the listed categories below. Each category will require additional documentation to support the election. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business. If this form is submitted without the required supplemental data, your certification will not be processed.

Section 3 Business Category	Additional Required Data	Mark an "X" on Your Election
It is at least 51 percent owned by low- or very low-income persons. This business must be in existence for a minimum of six months.	Proof of ownership showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners	
Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list	
It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing. This business must be in existence for a minimum of six months.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information will be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business.

Signature Print Name Title Date

PORTLAND HOUSING AUTHORITY

SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 self-certification income requirements. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are being confirmed as low-income.

Printed Name: _____

Street Address (Not a PO Box) Apt# City State Zip

Phone #: _____ Email: _____

To qualify as a Section 3 Person, you must meet one of the standards in the box below.

Table with 2 columns: Housing situation options and Annual Income limit. Includes a note about the Portland, ME HUD Metro FMR Area.

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual. Finally, I authorize including my name on a list of Section 3 Residents seeking employment and to include my contact information so that contractors may contact me directly for any employment opportunities.

Signature

Date

The State Maine's S.P. 90 - L.D. 278 An Act Regarding Pay Equality restricts the asking for any prior salary or income information in conflict with the New Section 3 Rule at 24 CFR 75.9. Therefore, Section 3 status will be limited to qualifying Targeted Section 3 persons only. Read the full Act: http://legislature.maine.gov/legis/bills/bills_129th/billtexts/SP009001.asp

PORTLAND HOUSING AUTHORITY SECTION 3 HOURS WORKED REPORTING FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 tracking of hours worked by all person's employed by _____ (company name) on the _____ contract including those meeting the Section 3 income requirements as low- or very low-income. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are confirming they are low-income. If your company employs any person you believe is low income now or was when they were hired within the past five years, please have them complete the "SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM" and return it immediately. Please keep in mind the objective and the HUD benchmark requirements for this agency are:

- 20% of the total labor hours worked by everyone employed under the project must be worked by Section 3 Workers (Defined as the low and very low-income people in your project service area)
- And
- 5% of the total labor hours worked by everyone employed under the project must be worked by TargetedSection 3 Workers (Defined as Public Housing and Section 8 Assisted persons in your project service area)

Therefore, we are interested in identifying as many people Section 3 workers as possible that will allow us to count their hours toward the benchmarks. However, all hours worked by everyone on the project must be reported monthly by the 10th day to:

Heather Kaufman, Procurement Coordinator
207-221-8087
hkaufman@porthouse.org

Official Hours Worked for the Period of _____ 20__ - _____ 20__

1. Total Hours Worked by all contract or project level staff (Not Back-office) _____
2. Total Hours Worked by All Section 3 staff Non-Targeted ____ (Low Income person residing in the MSA)
3. Total Hours Worked by All Section 3 staff Targeted ____ (Public Housing, Section 8, and YouthBuild)

Please list the names and hours worked by each Section 3 Worker individually below or on a separate sheet.

First Name	Last Name	Total Hours This Period Only
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____