



**Homes and
Community Renewal**

**New Section 3:
Rule Changes, Reporting Changes**
Reporting Due: August 1, 2022

June 21, 2022

Ground Rules & Helpful Information

- Please mute
- Add questions to Chat or unmute yourself at the end
- **Slideshow deck will be emailed to participants & on our site**
- Website resources: <https://hcr.ny.gov/section-3-compliance>
 - Compliance manual
 - Training Decks
 - Up-to-date forms and guidance on how to use them
 - **TIP:** Check back often to make sure you are using the most up-to-date forms



This training focuses on the Section 3 reporting due:

AUGUST 1, 2022



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This HCR Guidance Applies to NYSHCR-financed housing:

- ✓ NYS HCR-Funded projects, e.g.,
 - ✓ NYS Office of Community Renewal
 - HOME & CDBG-funded projects
 - ✓ NY Housing Finance Agency
 - Federal HTF-funded projects
 - HOME-funded projects
 - ✓ NY Housing Trust Fund Corp.
 - Federal HTF-funded projects
 - HOME-funded projects

Does NOT Apply to:

- X Funding that is not administered by NYS HCR
 - Examples: Local municipality CDBG, OTDA funds, etc.
- X Public housing assistance funds (e.g., Syracuse Housing Authority)



What is Section 3?

“It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”

Race
and
Gender
Neutral



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New Rule Basics



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New Rule: Key Dates

- **9/29/2020**: 24 CFR Part 75 Published in Federal Register
- **11/30/2020**: Effective date of new Section 3 Rule
 - Projects funded before this date follow the OLD RULE
- **11/30/2020 – 7/1/2021**: Transition Period
 - NEW RULE applies to projects funded in this time period
 - Lightened reporting requirements
- **7/1/2021**: Full NEW RULE Applicability
 - New Rule reporting required.



Applicability Thresholds

Key Points:

- ✓ Housing construction & rehabilitation, public works
- ✓ Greater than \$200,000 of total HUD Housing & Community Development assistance (e.g. HOME, CDBG, Federal HTF, etc.)
- ✓ Any amount of Federal Public Housing Assistance
- ✓ Determined at project level



Section 3 Applicability on a Project Basis

- Section 3 applicability thresholds determined at the project level
 - Look at what is being spent on a specific housing construction or community works project to determine if the project triggers Section 3 duties and reporting
- **NOTE:** S3 applies to entire project once triggered – not just the portion of the project that utilizes the federal funds



New Rule: Key Changes

OLD RULE	NEW RULE
<p>New hires</p> <ul style="list-style-type: none"> Ex: 30% of New Hires=S3 Residents, 10% of construction contracts to S3 Businesses 	<p>Labor hours</p> <ul style="list-style-type: none"> Ex: 25% of labor hours = S3 Workers (no contracting benchmarks)
<p>Contractor trigger amounts</p> <ul style="list-style-type: none"> Ex: Contracts over \$100K→S3 	<p>No contractor trigger amounts</p> <ul style="list-style-type: none"> All contractors must report (except professional services)
<p>Recipient-based trigger thresholds</p> <ul style="list-style-type: none"> Ex: Recipient received \$200K+ →S3 	<p>Project-based trigger thresholds</p> <ul style="list-style-type: none"> Project received \$200K+ → S3
<p>1 definition of S3 Resident</p>	<p>“Section 3 Worker” & “Targeted S3 Worker”</p>
<p>Grid-based reporting form</p>	<p>Online link for reporting form & other form updates</p>
<p>Greatest Extent Feasible Efforts</p>	<p>Greatest Extent Feasible Efforts</p>

Section 3 Workers/Targeted Section 3 Workers & Safe Harbor Benchmarks



$$\frac{\# \text{ Section 3 Worker Labor Hours}}{\# \text{ Total Labor Hours}} = 25\%$$

AND

$$\frac{\# \text{ Targeted Section 3 Worker Labor Hours}}{\# \text{ Total Labor Hours}} = 5 \%$$

See HCR Hiring Form to incorporate in HR Processes



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Defining Total Labor Hours

“Hours worked by all workers employed on a Section 3 Project”

Includes hours worked by employees and contractors of, for example:

- Recipients and Subrecipients,
- Owner,
- Contractors and Subcontractors.

Does not include:

- Material Supply Contracts & Vendors
- Professional Services Hours (see bonus tip on next page)

Calculate using payroll tracking systems (used for Davis Bacon) or, if not available, good faith efforts.



BONUS Opportunity & Professional Services Hours Exclusion

“Non-construction services that require an advanced degree or professional licensing.”

Examples Include architects, accountants, engineers, etc.

Hours worked by these professionals are *excluded* from the Total Labor Hour calculation.

HOWEVER, there is a Bonus Opportunity for Professional Services Labor Hours:

- Awardee may 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 by adding to the numerator.
- Do not count the professional services as part of the total labor hours (i.e., in the denominator of the calculation).

→ Increases your Section 3 & Targeted Section 3 Labor Hour percentages 😊



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Defining a Section 3 Worker

A Section 3 Worker is any worker who **currently fits, or when hired fits, as documented within the past 5 years**, at least one of the following categories:

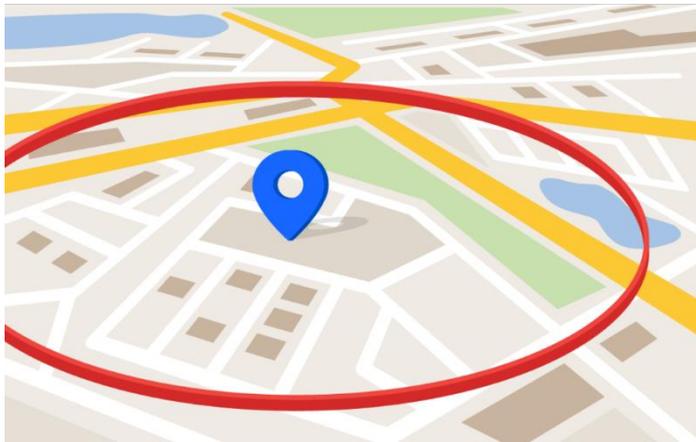
- ✓ Low- or very low-income persons (as defined by HUD's income limits); OR
- ✓ Employed by a Section 3 Business; OR
- ✓ DOL YouthBuild participant



Defining a Targeted Section 3 Worker

Targeted Section 3 Workers are Section 3 Workers who:

- Are employed by a Section 3 Business; OR
- Currently fits or when hired fit one of these categories, **as documented within the last 5 years:**
 - DOL YouthBuild participant; OR
 - Lives in the neighborhood or service areas of the project:



This means the area within one mile of the Section 3 project site (or, if fewer than 5,000 people live within one mile of a Section 3 project, an expanded radius of 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).



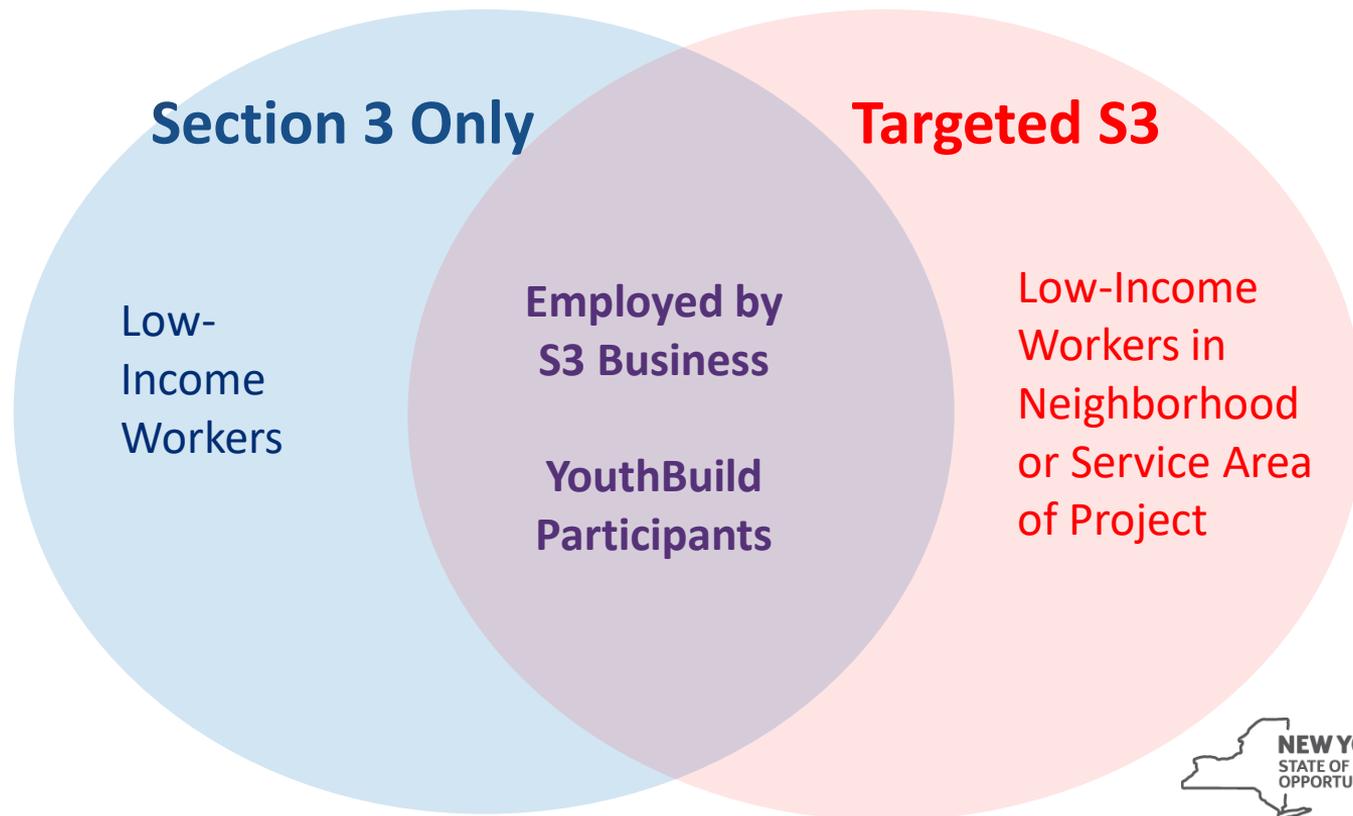
Defining a Section 3 Business

A business that meets at least one of the following criteria, documented within the last **6-month period**:

- ✓ At least 51% owned and controlled by low- or very low-income persons;
- ✓ Over 75% of the labor hours performed for the business over the prior 3-month period 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.

TIP/REQUIREMENT: Have contractors register as a S3 Business on HUD's website AND get a signed S3 Business Self-Certification when entering into contract with the Business.

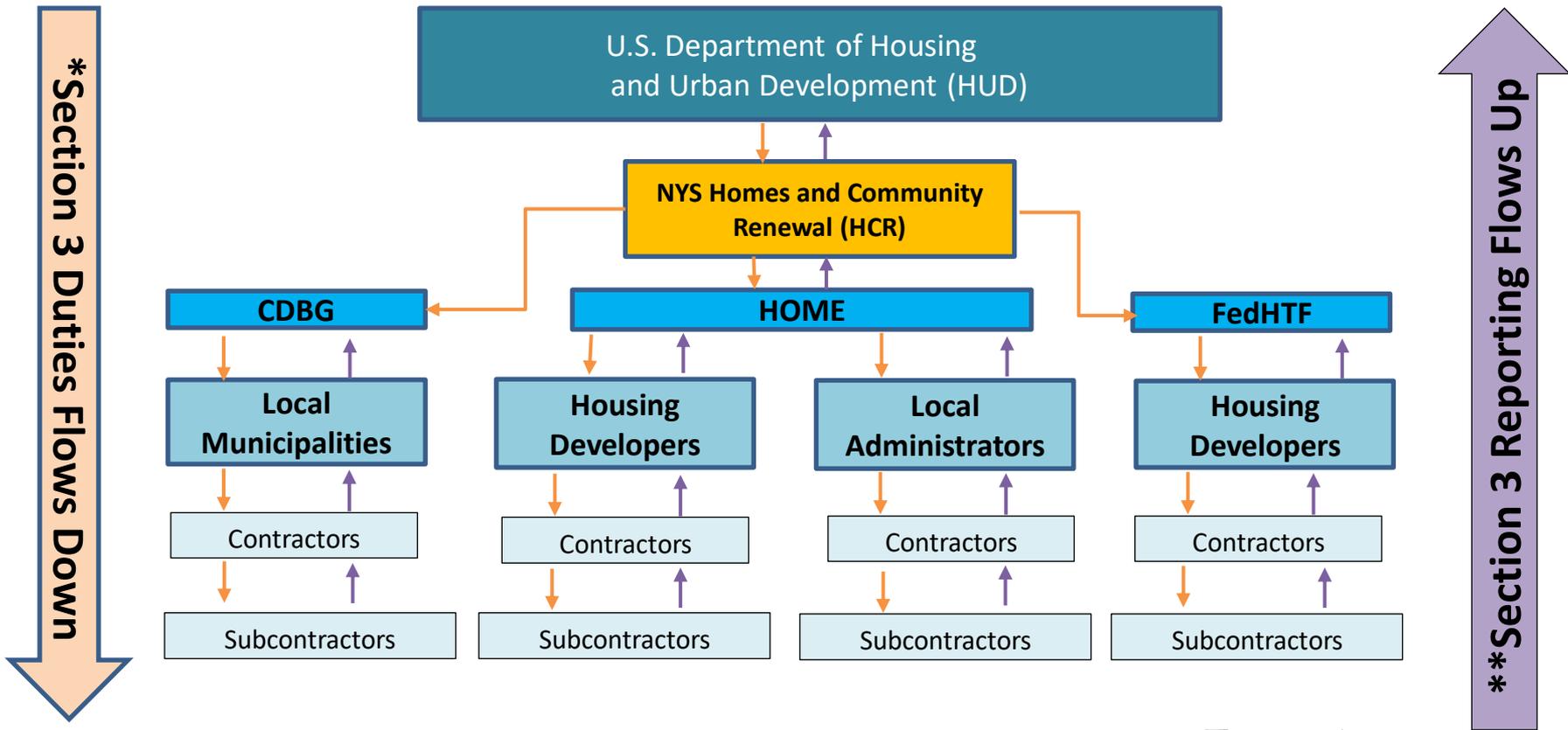




Section 3 Reporting



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Reporting Requirements

- Twice a year
 - **Due August 1 (report through June 30) and February 1 (report through December 31)**
- Subs report “Up” to Awardee
 - Use Awardee Reporting Form
- Awardee consolidates and reports “Up” to NYS HCR
 - Use [Consolidated Reporting Form Link](#)
- HCR reports “Up” to HUD
- Reporting is cumulative from beginning of Project



Basic Components of Reporting by Awardee

HUD funding Awardees (Recipients such as Developers/ Owners, Municipalities, LPAs) must either:

- Show that they met the Safe Harbor Benchmark Goals & certify that they followed hiring and contracting prioritizations.
 - **25% of Total Labor Hours to Section 3 Workers, including**
 - **5% of Total Labor Hours to Targeted Section 3 Workers**

OR

- Provide narratives and evidence about the Greatest Extent Feasible (GEF) Efforts they took to assist low-income persons with employment and training opportunities.
- Certify that they followed hiring and contracting prioritizations.



Reporting Using the Consolidated Reporting Link DUE: AUGUST 1, 2022



Document	Summary	Required for Use by:	Link
Contract Clause	Mandatory language for all S3 projects	Awardee, GC, all Subs	https://hcr.ny.gov/S3ContractClause
Participation Plan	Outlines mandatory minimum efforts and sets forth Project's plan to meet S3 objectives. Must be completed before funding contract execution.	Awardee & GC, Suggested for all Subs	https://hcr.ny.gov/S3ParticipationPlan
Sub-Reporting Form & Greatest Extent Feasible Checklist	Form GC and Subs use to report S3 performance up to Awardee	GC and all Subs	https://hcr.ny.gov/S3SubReportingForm
Consolidated Awardee Reporting Form	Form Awardee uses to report consolidated S3 performance to NYSCHR	Awardee (consolidating Sub Reporting Forms)	https://forms.office.com/g/XtC2LpxJ4w
Section 3 Business Self Certification	Forms businesses can use to self-certify that they meet the S3 definition for a S3 business within the 6 months prior to contract	Awardee must have on file for all S3 Businesses on Project	https://hcr.ny.gov/S3BusinessSelfCert
Hiring Form	Form to be used to determine which employees/applicants are Section 3 Workers % Targeted Section 3 Workers	Awardee, GC, all Subs	Translated Versions available https://hcr.ny.gov/section-3-compliance#forms---documents

Consolidated Awardee Reporting Form

- Reporting link to be completed for each Section 3 Project by the Awardee (Municipality, Developer, Local Non-Profit)
- Report CONSOLIDATES the information in Sub reporting forms to report this information to HCR.
- Tool to report ALL Labor Hours and Section 3 Worker hours for Recipient, Contractor and all Subs.
- 64 questions –
 - Must complete all the way through
 - A local PDF can be printed from the reporting link so that you can see an offline version and prepare answers
 - TIP: Create local word document and answers that can be replicated for each reporting period.
- Awardee must complete 2x/year and at completion



KEY WORD = *CONSOLIDATED*

22. Does this Report include, as required, the Section 3 performance of Awardee (the reporting entity) and all sub-awardees (if any), contractors and subcontractors who have done any work on the Project? *

Yes

No

Other



Steps to Completing Consolidated Reporting Form

- Awardee's Section 3 Coordinator:
 1. Collects Sub-reporting forms from contractors and subcontractors including:
 - Hiring Forms
 - Section 3 Business Certifications
 - Documentation of Greatest Extent Feasible (GEF) Efforts
 2. Consolidates all sub-reporting forms and supporting documentation
 3. Completes consolidated Section 3 form through link provided
 4. Submits Consolidated Section 3 electronic reporting form AND all GEF documentation to HCR (Use of dropbox link OK)
- HCR reports to HUD (through IDIS system)



Components of Consolidated Form

- Recipient (Awardee) Information
- Project Identification
- Contractors and Subcontractors
- Benchmark Goals and Safe Harbor
- Qualitative Efforts Reporting (if project did not meet benchmark goals)
 - Documentation of Efforts (space for narrative)
 - Hiring
 - Contracting
- Certification

SEND ALL SUPPORTING DOCUMENTATION TO: Section3MWBE@hcr.ny.gov

[file sharing links like dropbox can be used]



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Consolidation of Contractors & Subcontractors

18. List all Subawardees (if any), contractors and subcontractors that have worked on the Project: *

Enter your answer

19. Confirm that all these subawardees, contractors and subcontractors have submitted a Section 3 Sub Reporting Form to Awardee (the entity completing this form), which this electronic Form now consolidates. Email the Sub Reporting Forms to Section3MWBE@hcr.ny.gov (subject = Name of Project) *

Yes. Confirmed.



Consolidation of Section 3 Businesses Utilized

20. List any Section 3 Businesses contracted/subcontracted on this Project (Name, Location, Contact Information, Date of Contract and Type of Work performed). *

Enter your answer

21. For any Section 3 Businesses listed above, confirm that Section 3 Business Certifications were collected upon contract-signing with the Section 3 Business. Email the Certifications to Section3MWBE@hcr.ny.gov. Certification Forms available here: <https://hcr.ny.gov/S3BusinessSelfCert> *

Yes. Confirmed.



QUANTITATIVE REPORTING:

**DID PROJECT MEET THE NUMERICAL SAFE
HARBORS?**



Total Labor Hours

23. Total Labor Hours worked on Project by Awardee and ALL subawardees (if any), contractors and subcontractors that work or worked on the Project since the Start of the Project: *

(Total Labor Hours do NOT include hours worked by Professional Services Providers, which are 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))

Enter your answer



Consolidate S3 Worker Hours from Sub Form(s)

24. Section 3 Worker Hours: Total Labor Hours worked by Section 3 Workers. Benchmark Goal is 25% of Total Labor Hours worked on Project. *

A Section 3 Worker is an individual employed by Awardee or its Subs who works on the Section 3 Project and who currently fits, or when hired within the past 5 years fit, at least one of the following criteria, as documented:

- Their income for the previous or annualized calendar year is categorized as low-income (80% AMI or less);
 - Residents/recipients of the following benefits are likely to meet the low-income criteria: Medicaid – Public Assistance/TANF, SNAP/Food Stamps, Section 8-assisted housing, Public Housing.
- They are employed by a Section 3 Business (these are also Targeted Section 3 Workers); or
- They are a YouthBuild participant (these are also Targeted Section 3 Workers).

BONUS OPPORTUNITY: If there are Section 3 Workers at a Professional Services company (either at Awardee or a contractor) that did work on the Project (e.g. junior accountants, architects, etc.) their work hours can be counted as a Section 3 Worker hours in this field while not counted in the Total Labor Hours, above. This may increase the Section 3 Worker hour percentages.

CONSOLIDATE ALL SECTION 3 WORKER CERTIFICATIONS (ALSO KNOWN AS THE "SECTION 3 HIRING FORM"), SUPPORTING THIS NUMBER FOR NYSHCR/HUD INSPECTION.

Enter your answer

25. What percentage of Total Labor Hours (#23) is Section 3 Worker Hours? Benchmark Goal is 25%.

*



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Meeting Safe Harbors Shorten Form

32. Did the Project meet BOTH Section 3 Benchmarks, above (#26 and #30)? If so, Project can take advantage of the Safe Harbor and this form will skip the sections regarding Greatest Extent Feasible efforts taken by Awardee and Subs, and will take respondent to the final Certification Section). *

Yes

No

Other



QUALITATIVE REPORTING:

What efforts did awardee, contractors and subcontractors make to hire and contract with low-income individuals and the companies that hire or are owned by them?



Confirmation of Mandatory Minimum Requirements

MANDATORY MINIMUM SECTION 3 REQUIREMENTS FOR PROJECTS THAT DID NOT MEET BENCHMARK GOALS

IF THE PROJECT DID NOT MEET THE BENCHMARK GOALS IN #26 & #30, ABOVE, YOU MUST COMPLETE THIS SECTION TO DEMONSTRATE GREATEST EXTENT FEASIBLE EFFORTS TO MEET SECTION 3 GOALS . **Documentation in support of each of these efforts MUST be emailed to Section3MWBE@hcr.ny.gov** (file sharing links like DropBox are OK). **Projects that met the Benchmark Goals can skip this section.**

33. Confirmation that the Mandatory Minimum Section 3 Requirements were completed on the Project for both Recipient, GC and all Subs. Check all that apply (Provide supporting documentation to Dinorah Santiago at Section3MWBE@hcr.ny.gov (required)):

- A. Designated Section 3 Coordinator.
- B.
- All Hiring and contracting for the Project (including by Subs) included prioritization for Section 3 Workers and Section 3 Businesses, consistent with other state and federal laws.
- C. Used Section 3 Contract Clause included on ALL contracts for this project.
- D. All Subs on Project completed Section 3 Sub-Reporting and Greatest Extent Feasible Checklist form.



Dates of Job Postings & Outreach

34. List the date(s) that job postings were posted on the New York State Job Bank, the entity/Sub that posted them and the job titles posted. Retain screenshots or email confirmations on file for HUD/NYSHCR inspection. *

Enter your answer

35. List which YouthBuild, Public Housing Authorities and NYS Career Centers were notified, the date on which they were notified, the entity that notified them and the contents of the notifications (this is the "one-stop system referenced in Section 3 regulations). *

Enter your answer

36. Space for Explanation (if necessary) if Project did not complete all the Mandatory Minimum Requirements:



TIP: Use Additional Narrative Space

36. Space for Explanation (if necessary) if Project did not complete all the Mandatory Minimum Requirements:

Enter your answer



HIRING: Greatest Extent Feasible Efforts

HIRING - GREATEST EXTENT FEASIBLE EFFORTS

REQUIRED FOR PROJECTS THAT DIDN'T MEET THE BENCHMARK GOALS. Consolidate the activities completed by the Awardee and its Subs with respect to hiring and training and describe below. The information should be consolidated from the Sub Reporting & Greatest Extent Feasible Efforts Forms completed by the GC and Subs on the Project. Email supporting documentation/proof to Dinorah Santiago at Section3MWBE@nysocr.org.

37. (Consolidate answers in Section 4:A in the SubReporting Forms) Engaged in outreach efforts to generate job applicants who are Section 3 and targeted Section 3 Workers. Describe, including which entity carried these activities out, the dates, location and format. Provide documentation.

Enter your answer

38. (Consolidate answers in Section 4:B in the SubReporting Forms) Provided direct on-the-job



CONTRACTING: Greatest Extent Feasible Efforts

CONTRACTING - GREATEST EXTENT FEASIBLE EFFORTS

REQUIRED FOR PROJECTS THAT DIDN'T MEET THE BENCHMARK GOALS. Consolidate the activities completed by the Awardee and its Subs with respect to hiring and training and describe below. The information should be consolidated from the Sub Reporting & Greatest Extent Feasible Efforts Forms completed by the GC and Subs on the Project. Email supporting documentation/proof to Dinorah Santiago at Section3MWBE@hcr.ny.gov. (use a dropbox or other file sharing platform for large files).

51. (Consolidate answers in Section 5:A in the SubReporting Forms) Engaged in outreach efforts to identify and secure bids from Section 3 Businesses. Describe, including which entity carried these activities out, the dates, location and format. Provide documentation.

Enter your answer

52. (Consolidate answers in Section 5:B in the SubReporting Forms) Provided technical assistance to help Section 3 Businesses understand and bid on contracts. Describe, including which entity carried these activities out, the dates, location and format. Provide documentation.



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Certifications

58. I certify that the information contained in this Reporting Form includes the Greatest Extent Feasible Efforts undertaken for the Project by Awardee, as well as all the General Contractor and all other contractors and subcontractors . *

Yes

No

59. I certify that all supporting documentation regarding the Greatest Extent Feasible efforts listed above and undertaken by Awardee and its Subs were emailed to Dinorah Santiago at Section3MWBE@hcr.ny.gov. *

Yes

No

60. ADDITIONAL SPACE FOR EXPLANATION (if necessary):

Enter your answer



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Other Forms that Go Into the Consolidated Form

Sub-Reporting Form & Greatest Extent Feasible Checklist

- Use with the Contractor and all Subs (i.e. entities that do the hiring and contracting for the project)
- Mechanism to collect information on the Total Labor Hours, Section 3 Workers and Targeted Section 3 Workers from Contractor and Subs
- Includes descriptions of “Greatest Extent Feasible Efforts” – Subs check off which they have done and provides documentation
- Awardee (Developer/Owner, Municipality) consolidates this information from Contractor and all Subs to report to HCR on a bi-annual basis
- <https://hcr.ny.gov/S3SubReportingForm>.



Sub-Reporting Form & Greatest Extent Feasible Efforts Checklist

- Double-Duty Form
 - Reporting of Section 3 Utilization (quantitative reporting)
 - Reporting of qualitative effort (GEF checklist)
- Section 1 – Project Info
- Section 2 – Section 3 Utilization Reporting
 - Total Paid Labor Hours worked on the project
 - Total Section 3 Worker Hours (goal: 25% of total work hours)
 - Total Targeted Section 3 Worker Hours (goal: 5% of total work hours)
 - 5% is part of the 25%
- Section 3 – Mandatory Minimum Requirements
- Section 4 – Hiring Efforts
- Section 5 – Contracting Efforts



Resources

Resources and Training

- More Section 3 training to come.
- Email me to be added to our Section 3 distribution list – if you registered for this webex, you already are 😊
- Many resources available at: <https://hcr.ny.gov/section-3-compliance>
- We offer 1 on 1 technical assistance on creating a successful Section 3 program.
- Training for project teams.



Contact

Fair and Equitable Housing Office

New York State Homes & Community Renewal

641 Lexington Avenue

New York, NY 10021

(347)213-1363

<https://hcr.ny.gov/section-3-compliance>

Contact:

Dinorah Santiago, Section 3 Coordinator

Dinorah.Santiago@hcr.ny.gov, Section3MWBE@hcr.ny.gov



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