

Economic Opportunities For Low-Income People (24 CFR 135) Guide for TDHCA Programs & Reporting Requirements

Purpose of Section 3

“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 business concerns which provide economic opportunities to low- and very low-income persons.” (24 CFR §135.1)

Section 3 compliance efforts should promote: Employment, Job Training, Contracts, (24 CFR §135.3)

Key Concepts (Definitions 24 CFR 135.5)

Section 3 Resident:

1. Public housing resident, or
2. Low-income resident (80% of HUD AMI) of the metro area (MSA) or non-metro county of the project.
3. Very Low-income resident (50% of HUD AMI) of the metro area (MSA) or non-metro county of the project

Section 3 Business Concern:

1. Business that is 51% or more owned by Section 3 residents; or
2. Business in which at least 30% of employees qualify as Section 3 residents; or
3. Business that provides evidence of commitment to subcontract ≥25% of dollar award of all project subcontracts to Section 3 businesses.

New hires: full-time employees for permanent, temporary, or seasonal employment opportunities.

Program Activity Applicability

NSP

A. Financing	NO
B. Purchase & Rehab	✓
C. Land Banks	NO
D. Demolition	✓
E. Redevelopment	✓

HOME

Housing Rehabilitation	✓
New Construction	✓
TBRA	NO

ESG

Rehab	✓
Operating funds	NO

Applicability of the rule (24 CFR §135.3) by type:

Entities

- Recipients of HUD funding
- TDHCA (direct recipient)
- Subrecipients of TDHCA
- Contract Administrators (CAs)
- CHDO
- Multi-family Developers
- Units of Local Government
- Subrecipients Lower-tier contractors and subcontractors.

Activities

- Housing rehabilitation (including lead-based paint abatement)
- Housing construction
- Demolition
- Other public construction

TDHCA policy applies to all covered contracts regardless of the funding amount.

Performance Goals

Individual Hires/ Contract minimums (24 CFR §135.30)

- 30% of total number of new hires (individual residents, full-time employment)
- 10% of all covered construction contracts, awards to Section 3 business concerns.
- 3% of all covered non-construction contracts, awards to Section 3 business concerns.

❖ ***Failure to meet numerical goals requires description of good faith efforts, impediments to attainment.***

❖ ***Section 3 hiring preference applies only after meeting OMB procurement rules.***

How to provide opportunities

- Section 3 Plan – develop strategies by which to fulfill Section 3 obligations & requirements (24 CFR §135.32). See an outline: Local Economic Opportunity Obligation Notice: HUD Section 3 (<http://www.tdhca.state.tx.us/program-services/hud-section-3/forms.htm>)
- Hire low-income persons and qualified Section 3 businesses to participate in Section 3-covered activity (24 CFR §135.30)
- Train workers and qualified individuals(24 CFR §135.30)
- Leverage resources of other organizations that administer complementary programs.
- Investigate other creative ways to fulfill Section 3 obligations.

Responsibilities for Recipients (24 CFR 135.32)

TDHCA and Subrecipients (rule identifies both entities as “recipients”)

- Identify local resources and partners that can optimize assistance to low-income persons.
- Notify potential contractors of Section 3 responsibilities.
- Include “Section 3 Clause” (24 CFR 135.38) in all covered solicitations and contracts.
- Notify eligible residents & businesses about employment & contracting opportunities.
- Facilitate training & employment of eligible Section 3 residents and businesses.
- Assist & cooperate with HUD on compliance.
- Do not contract with Section 3 violators, as identified by HUD (24 CFR §135.72).
- Document Section 3 compliance actions.

Subrecipients (entities that receive funds directly from TDHCA)

- Submit Section 3 Summary Reports (form-60002) prior to final draw/ release of retainage. Use version in workbook if available. (HUD’s 60002 lacks specific trade names.)
- Maintain documentation of Section 3 compliance actions on file. This includes certifications for Section 3 residents and businesses. Recommended forms available on TDHCA web site.

Contractors, Subcontractors, Sub-subs...

- Submit Section 3 reports to contracting subrecipient for inclusion in report to TDHCA.

Summary Report form 60002

- Complete each section.
- Verify that name, contract number, and dates match contract retainage information.
- Complete Parts I (hiring) and II (contracting).
- List and describe training, employment, and contracting efforts in Part III (narrative). Separately describe obstacles that prevented goal attainment.
- If needed, seek technical assistance from TDHCA Program Services Division.

Project identification information

- Matches subrecipient's contract.
- "Federal Identification (grant no.)" means TDHCA contract number for subrecipient.
- "Reporting Period" includes contract activity that subrecipient did not previously report to TDHCA.

Part I

- If reporting New Hires, also report Section 3 residents hired. (Goal: 30% of new hires, per HUD: full-time)
- Trainees (column F) may include new or existing workers.
- If reporting all zeros, or less than 30%, narrative must explain efforts, obstacles.

Part II

- If reporting contracts awarded, also show Section 3 businesses (goals: 10% construction, 3% other)
- Total dollar amount of [sub]contracts awarded may include project funds other than from HUD (e.g. match) and lower-tier contracts.
- If reporting less than prescribed goals for contracting, explain efforts and obstacles in narrative.

Part III – Narrative

- Summarizes efforts to meet Section 3 obligations (24CFR135 Appendix offers suggestions).
- Subrecipient maintains documentation of compliance efforts on file for monitoring review.
- Failure to reach performance goals requires explanation of obstacles/ impediments.
- "Compliance Resources" page on TDHCA site - HUD Section 3, offers helpful hints.

Subrecipient Consolidates Reporting by contract (24 CFR § 135.30, §135.32)

Subrecipient should summarize activities of all contractors when reporting to TDHCA.

- Submit Section 3 report (HOME uses Draw Workbook) to release retainage.
- HOME Contracts with multiple retainages (i.e. SF) requires a report for each retainage request.
- Document good faith efforts to meet Section 3 obligations and impediments encountered.

Conclusions

- Section 3 compliance activities should increase local opportunities for training, employment and contracts to eligible Section 3 residents and business.
- Section 3 rule applies to HUD-funded programs, including HOME activities such as: rehabilitation, construction, demolition, and lead abatement.
- TDHCA and its subrecipients (Contract Administrators, developers, CHoDOs) must facilitate training and employment opportunities for eligible Section 3 residents; and notify eligible businesses of contracting opportunities. Results improve when project planners incorporate economic opportunity coordination concepts from the beginning.
- Report Section 3 efforts and activities yearly via the 60002 form.

Visit the TDHCA web site for detailed information and updated documents.

<http://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm>