

**2021 SMALL CITIES DEVELOPMENT PROGRAM  
WEBINAR – SEPTEMBER 16, 2021  
QUESTIONS & ANSWERS**

**Q1: Are there any SCDP grant policies or processes that do not apply to CDBG-CV grants?**

A: The policies and processes are going to be same. For example, a Drug Free Workplace Policy, Anti Displacement, Prohibition of Excessive Force, Section 3 Plan and Fair Housing Plan should be adopted. When in doubt, please contact your SCDP representatives. For more information on CDBG-CV waivers, refer to [https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV Notice Federal Register Publication 2002-08.pdf](https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV_Note_Federal_Register_Publication_2002-08.pdf)

**Q2: Would council members or elected officials be able to connect/utilize services from the CDBG-CV Broadband project? Would this be a conflict of interest?**

A: The CDBG-CV program **must** be used to prevent, prepare for, and respond to coronavirus (COVID-19) pandemic and **must** meet a National Objective. However, conflict of interest screenings should still be conducted to determine if each council members or elected officials have an invested interest in this project. An invested interest could include being an owner or partner of the internet service provider.

**Q3: How should we document a Section 3 businesses concern?**

A: Businesses may self-certify to claim eligibly meeting the definition of a Section 3 business concern. To qualify as a Section 3 Business Concern, one of the following must be documented within the last six-month period:

- 51% or more owned by low or very low-income persons, or
- Over 75% of the labor hours performed by the business over the prior 3-month period are performed by Section 3 workers, or
- 51% or more owned by current residents of public housing or Section 8 assisted housing.

The Section 3 Business Certification located in the Google Drive is to be used to further document Section 3 businesses. Eligible Section 3 Business Concerns are responsible for maintaining records that verify eligibility.

**Q4: Would Section 3 reporting be required for current grants or only for newly funded projects.**

A: Please refer to the date “State Agency” signature date on the fully executed contract to determine which Section 3 rule to follow for compliance.

Projects with fully executed contracts on or after July 1, 2021 must adhere to the requirements of the new Final Rule; 24 CFR Part 75 and report on Section 3 compliance.

Projects with fully executed contracts between November 30, 2020 and July 1, 2021 must adhere to the requirements of the new Final Rule 24 CFR Part 75. During this transition period, Grantees must plan and revise policies and procedures for tracking labor hours and other requirements to ensure compliance with the new rules. Grantees must maintain records and contractual Section 3 compliance but will not be required to report on the requirements found in 24 CFR part 75.

Project with fully executed contracts prior to November 30, 2020 are considered legacy projects and must adhere to the old rule; 24 CFR Part 135. Records are expected to be maintained but Section 3 compliance report is not required.

**Q5: What documentation does DEED required for documenting Section 3 hours?**

A: Grant administrators are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist grantees in demonstrating compliance. This includes documentation that shows hours worked by all workers on the project, Section 3 workers, Targeted Section 3 workers and any qualitative efforts to comply with Section 3.

Administrators need to keep track of hours worked for only projects over the \$200,000 threshold in HUD program funds and Lead Hazard Control and Healthy Homes projects over the \$100,000 threshold. ***(Please refer to Question 10)***. For projects that require Davis Bacon Prevailing wage, the payroll reports will come in handy to determine hours worked. The rule also provides that for employers who do not track labor hours in detail through a time and attendance system, such employers could provide a good faith assessment of labor hours for their employees. However, if a time and attendance system is later implemented, the accurate labor hour accounting would be required. HUD will be providing Section 3 training and we are anticipating for more directions on this topic.

**Q6: With additional Section 3 duties, will there be additional admin?**

A: HUD has indicated that Section 3 is not a separate program but instead a requirement. There are no additional funds for admin.

**Q7: Are the documents on the Google Drive docs the most updated files?**

A: Administrators should be using the documents in the Google Drive. If you are in doubt on certain documents, please contact your respective SCDP representative.

**Q8: When should grantees expect to receive their grant contract agreement?**

A: The FY 21 grant contract agreements should be coming out soon. We are in the process of adjusting the language to include Section 3 Final Rule changes.

**Q9: Please provide guidance on how to complete the updated Environmental Review Tier 2 form?**

A: The Environmental Tier 2 form is similar to the Broad-Tier Level form. This form is a more complete form than the previous form used which focused on only a few specific laws. It has an extra checkbox that allows you to state compliance had been achieved during the Broad-Tier Level where applicable. Where compliance has not been achieved at a broad level, you would then reevaluate the conditions for the specific site, check Yes/No, input your findings and attach your supporting documents

## **ADDITIONAL INFORMATION FROM HUD TRAINING SESSIONS**

**Q10: Is a project defined as a Section 3 project based on the entire activity funding as per grant agreement contract or based on the individual project cost?**

A: It is based on the individual project cost. For example, both the owner-occupied housing rehab and commercial building rehab activities would not be Section 3 projects as the maximum rehab cost per unit/building are \$25,000 and \$40,000, respectively. If a Multi-family rental rehab, streetscape or public facility project exceeds the \$200,000 in HUD program funding threshold, it will trigger Section 3 reporting.

**Q11: Can a non-profit organization be considered a business concern for the purposes of Section 3?**

A: Yes, a non-profit organization can be a Section 3 business concern. The non-profit organization must meet the criteria of a Section 3 business concern as defined at 24 CFR 75.5 and maintain documentation to support this designation.

**Q12: Are professional service contracts required to be reported under Section 3?**

A: Professional service contracts for non-construction services that required an advanced degree or professional licensing **are excluded** from Section 3 Final Rule. However, the reporting structure in the Final Rule provides a bonus opportunity by allowing grantees to count the hours worked by a professional service Section 3 worker or Targeted Section 3 worker (in the numerator of the calculation) but not counted in the baseline reporting (denominator of the calculation). Some examples of job position would be a Junior Accountant or Junior Engineer.

**Q13: How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?**

The individual or business must contact the grantee or the administrative agency. They should identify themselves as a Section 3 worker, Targeted Section 3 worker, or Section 3 business concern and provide the necessary documentation that the grantee or administrative agency requires under their certification procedures. Prospective Section 3 workers and business concerns may self-certify that they meet the requirements as defined in the regulations. Contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns as long as Section 3 requirements are met.

**Q14: What type of records should be maintained?**

A: Section 3 projects should collect the following information:

- Records showing total labor hours worked by all workers
- Records showing labor hours worked by Section 3 workers and Targeted Section 3 workers
- Documentation of awarded contracts/subcontracts to business concerns that provide economic opportunities to Section 3 workers per the prioritization requirements
- Documentation outlining qualitative efforts made to meet goals/requirements Section 3 Worker, Targeted Section 3 Worker, and Section 3 business certifications.

**Q15: What if a grantee cannot meet the quantitative benchmarks and prioritization of effort?**

A: Grantee will need to provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities. Examples of qualitative efforts can be found at 24 CFR 75.25(b)(1-14) or on page 6 of the SCDP Annual/Final Report template.

**Q16: What are the certifications that need to be maintained for a Section 3 worker and a Section 3 Targeted Worker?**

A: As listed below:

The certification that should be maintained for a Section 3 worker could include but not limited to the following:

1. A worker's self-certification stating income is below the income limits from the prior calendar year;
2. An employer's certification that the worker's income from the same employer is below the income limits based on the worker's wage rate if annualized.
3. An employer's certification that the work is employed by a Section 3 business concern.

The certification that should be maintained for a Targeted Section 3 worker could include but not limited to the following:

1. An employer's confirmation of the worker's residence being one mile of the work site or fewer that 5,000 people in the service.
2. An employer's certification that the worker is employed by a Section 3 business concern or
3. A worker's self- certification that the work is a YouthBuild participant.

Please note that certification is good for five years from the date the certification is completed as long as the worker stays with the same employer. If the worker moves to a new employer, then a new certification will be needed.

**Q17: What should be include in contracts/agreements?**

A: All contracts/agreements must contain a contract provision that has language applying Section 3 requirements in any contract for a Section 3 project. Subcontractor contracts must contain a Section 3 contract provision as well.