



SECTION 3 COMPLIANCE PLAN



Community Housing and Grants Management Division

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Summary of Changes: 2025 Revision

Date	Section	Description of Changes

Minor formatting, wording, or grammatical changes are not identified in this list. In addition to the items below, all website links referenced in the manual have been validated and updated where appropriate.

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INTRODUCTION

1.01 Overview

North Dakota Housing Finance Agency (NDHFA) and the entities to which it provides certain U.S. Department of Housing and Urban Development (HUD) funding must comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3).

The purpose of Section 3 is to ensure employment and other economic opportunities generated by HUD assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons who reside in the community where HUD funding is expended.

A Recipient, Subrecipient, Subgrantee, and all Contractors associated to a Section 3 Covered Project must comply with HUD's Section 3 regulations at 24 CFR Part 75.

This Compliance Plan summarizes the Section 3 requirements of 24 CFR Part 75 as they pertain to the HUD programs administered by NDHFA. The Plan outlines what NDHFA and its housing partners must do to comply with Section 3 and identifies the record-keeping and reporting requirements which must be met.

1.02 Definitions

Contractor: an entity which has entered into a contract directly with a Subrecipient.

Labor Hours: number of paid hours worked by people on a Project or by people employed with funds that include public housing financial assistance.

Material Supply Contracts: contracts solely for the purchase of products and materials.

Professional Service: non-construction service that requires an advanced degree or professional licensing, including but not limited to contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and engineering services.

Project: the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

Subcontractor: an entity that has a contract with a Contractor, or other Subcontractor, to undertake a portion of the Contractor's, or Subcontractor's, obligation to perform work in connection for a Project.

Subrecipient: any entity which receives directly from NDHFA, HUD funding assistance.

SECTION 2 GENERAL PROVISIONS

2.01 Which Projects are covered by Section 3?

A Section 3 Covered Project is any Project involving the construction, reconstruction, conversion, or rehabilitation of housing or public infrastructure which receives HUD assistance in excess of \$200,000 from any combination of the following programs:

- CDBG (Community Development Block Grant)
- Disaster Recovery
- ESG (Emergency Solutions Grant)
- HOME (HOME Investment Partnerships Program)
- HOPWA (Housing Opportunities for Persons with AIDS)
- HTF (National Housing Trust Fund)
- NSP (Neighborhood Stabilization Program 1, 2 and 3)
- Public Housing Capital Fund
- RAD (Rental Assistance Demonstration)

- Section 202 or 811

Section 3 applies to the entire Project regardless of which costs are being paid with the HUD assistance. For example, assume a Project combines \$300,000 of HTF funding with \$120,000 of the owner's cash reserves for a total Project cost of \$420,000. Even if the developer chooses to pay the \$120,000 contract for heating system replacement with cash reserves, the entire Project, including the heating contractor, is required to comply with Section 3.

2.02 Who must ensure compliance with Section 3?

NDHFA, any Subrecipient which awards HUD funding on behalf of NDHFA, recipients of assistance directly from HUD, and Contractor and any Subcontractor.

A Contractor or Subcontractor exclusively subject to the following contract types are exempt from reporting Section 3 Work Hours and Outreach Efforts for each Financial Draw and/or Section 3 Worker Certifications:

- Material Supply Contracts
- Professional Service contracts
- Contracts, subcontracts, grants or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111)

2.03 What does Section 3 require?

Completion of an Entity Profile Package for each contract associated with the Project.

Any agreement or contract between a Recipient, Subrecipient, Subgrantee, Contractor, or Subcontractor must include specific NDHFA-provided Contract Provision(s) (provided in the Entity Profile Package):

- Certification of Non-Debarment or Suspension
- Section 3 Clause

Section 3 Covered Projects must strive to meet the following Section 3 Benchmarks:

- Twenty-five percent of total Labor Hours are worked by Section 3 Workers
- Five percent of total Labor Hours are worked by Targeted Section 3 Workers

Labor Hours for Contractors and Subcontractors to be reported on a good faith basis on a Work Hours and Outreach Efforts for each Financial Draw form.

2.04 Who is a Section 3 Worker?

To determine if a worker is a Section 3 Worker or Targeted Section 3 Worker, each worker must complete, or have completed on their behalf by their employer, a Section 3 Worker Certification.

A Section 3 Worker is any worker who fits one of the following categories:

- Currently or when hired in the last five years meets the definition of low-income (i.e., household income at or below 80% of area median income) as established by HUD's income limits
- Employed by a Section 3 Business Concern
- A YouthBuild participant

2.05 Who is a Targeted Section 3 Worker?

A Targeted Section 3 Worker is a Section 3 Worker who fits one of the following categories:

- Employed by a Section 3 Business Concern.
- Currently lives or when hired within the last 5 years lived within the Neighborhood Service Area of the Project:

- An area within one mile of the Section 3 Covered Project
- If fewer than 5,000 people live within one mile, within a circle centered on the Section 3 Covered Project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census
- Currently is or when hired within the last 5 years was a resident of public housing or housing assisted with project-based or tenant-based Section 8 rental assistance.
- Currently is or when hired within the last five years was a participant in the U.S. Department of Labor's YouthBuild program

2.06 What is a Section 3 Business Concern?

A Section 3 Business Concern is a business that can provide evidence that they meet, or have met within the last 6 months, one of the following criteria:

- At least 51 percent owned and controlled by Section 3 Workers
- At least 75 percent of Labor Hours over the prior three-month period are performed by Section 3 Workers
- At least 51 percent owned and controlled by current residents of public housing or housing assisted with project-based or tenant-based Section 8 rental assistance

Each entity which is a party to any agreement or contract in connection with the Project must complete a Section 3 Business Concern Certification (provided in the Entity Profile Package) to determine its Section 3 Business Concern status.

2.07 What are NDHFA's responsibilities?

NDHFA shall:

- Educate and assist Subrecipients, Subgrantees, Contractors and Subcontractors sufficiently to be able to comply with Section 3 requirements
- Monitor performance of a Section 3 Project to meeting the objectives and requirements of Section 3
- Report required Section 3 related data annually to HUD

If a Project is awarded multiple HUD sources, not all of which were awarded by NDHFA, each awarder shall separately administer Section 3 compliance and reporting for its HUD program. One awarder shall not administer Section 3 for all HUD funding sources unless all HUD sources are administered by the same awarder.

2.08 What are a Subrecipient's responsibilities?

Provide a fully complete and executed Entity Profile Package.

Ensure all solicitations and contracts related to the Project clearly indicate the contract and work therein is subject to Section 3 requirements.

Ensure no Contractor, Subcontractor or key principle of a Contractor or Subcontractor is an excluded party, suspended or debarred from doing business with federal funds. No party to any contract in association with the Project may be an excluded party.

- Search Exclusions within the Entity Information Domain on Sam.gov

Ensure any contract associated to the Project between the Subrecipient, a Contractor or Subcontractor contains specific NDHFA-provided Contract Provisions provided in the Entity Profile Package:

- Certification of Non-Debarment or Suspension
- Section 3 Clause

To the greatest extent feasible, ensure that contracting, employment and training opportunities arising in connection with the Project are provided to Section 3 Business Concerns and Section 3 Workers, in the Subrecipient's own operations and that of any Contractor or Subcontractor.

Implement procedures designed to notify potential Section 3 Business Concerns about contracting opportunities generated by a Section 3 Covered Project.

Collect and review for completeness and accuracy, required Section 3 documentation from all Contractors and Subcontractors throughout the Project's development:

- Any contract's execution
 - Fully completed and executed Entity Profile Package
 - Contract includes all required Contract Provision(s)
- Each draw request, regardless of the source of funds used to fund the draw
 - Work Hours and Outreach Efforts for Each Financial Draw
 - A single Worker Certification has been provided for each worker

2.09 What are a Contractor's and Subcontractor's responsibilities?

To the greatest extent feasible, ensure that contracting, employment and training opportunities arising in connection with the Project are provided to Section 3 Business Concerns and Section 3 Workers, both in the Contractor's operations and that of any Subcontractor.

Implement procedures designed to notify potential Section 3 Workers about training and employment opportunities and potential Section 3 Contractors about contracting opportunities generated by the Project.

Ensure all solicitations and subcontracts related to the Project clearly indicates the contract and work therein is subject to Section 3 requirements.

Ensure no Subcontractor or key principle of a Subcontractor is an excluded party, suspended or debarred from doing business with federal funds. No party to any contract in association with the Project may be an excluded party.

- Search Exclusions within the Entity Information Domain on [Sam.gov](https://www.sam.gov)

Ensure any contract associated to the Project between the Contractor or a Subcontractor contains specific NDHFA-provided Contract Provision(s) (provided in the Entity Profile Package):

- Certification of Non-Debarment or Suspension
- Section 3 Clause

Collect and review for completeness and accuracy, required Section 3 documentation from all Subcontractors throughout the Project's development:

- Any contract's execution
 - Fully completed and executed Entity Profile Package
 - Contract includes all required Contract Provision(s)
- Each draw request, regardless of the source of funds used to fund the draw
 - Work Hours and Outreach Efforts for Each Financial Draw
 - A single Worker Certification has been provided for each worker

2.10 What if the Section 3 Benchmarks are not met?

If the Section 3 Covered Project fails to meet the Section 3 Benchmarks, the Recipient must demonstrate why it was not possible. Justification should describe the efforts that were taken, barriers encountered, and other relevant information that will allow HUD to make a determination regarding Section 3 compliance.

Subrecipients, Contractors and Subcontractors must undertake efforts to facilitate training and employment opportunities to Section 3 Workers as well as award contracts to Section 3 Business Concerns. Those efforts must be documented in detail and reported to NDHFA on the Section 3 Work Hours and Outreach Efforts for Each Financial Draw. Examples of evidence of efforts include copies of direct mail solicitations, email and internet outreach efforts, formal advertisements, flyers or brochures, sign-in lists from job fairs and other public meetings, and agendas and/or meeting notes from meetings with contractors.

Examples of efforts to generate training and employment opportunities for Section 3 Workers and contract opportunities to Section 3 Business Concerns include, but are not limited to, the following:

- Inform Job Service North Dakota of job opportunities
- Advertise employment or contracting opportunities in local media
- Hold or participate in job fair(s)
- Conduct direct on-the-job training, including apprenticeships
- Assist indirect training through support of off-site training opportunities
- Target advertising for training and employment to residents of public housing
- Connect residents with supportive services such as education or financial literacy
- Provide technical assistance to Section 3 Workers for job readiness (i.e., provide resume assistance, coaching, interview clothing, test fees, transportation, assist with college or vocational education, and assist in finding childcare)
- Provide technical assistance to Section 3 Business Concerns (i.e., bonding assistance, guaranties, or other efforts to help Section 3 Business Concerns provide viable bids)
- Maintain a file of eligible qualified Section 3 Workers for future employment positions
- Target advertising for training and employment to the Neighborhood Service Area of the Project
- Consult with agencies administering YouthBuild and other federally funded training programs
- Consult with probation and parole agencies, unemployment compensation programs, and community organizations which serve Section 3 Workers
- Employ a job coordinator or contract with a business concern that is licensed in the field of job placement, that will undertake on behalf of the Contractor or Subcontractor the efforts to match eligible and qualified Section 3 Workers with training and employment positions

2.11 Request for Funds

NDHFA must review every draw request for compliance with Section 3 regardless of the source(s) of funds in the draw. Absolutely no funds shall be released for payment from any source until NDHFA has communicated Section 3 compliance has been satisfied.

2.12 Sam.gov Registration

In accordance with 24 CFR 200.206(d), federal awards, subawards and contracts are restricted from being executed with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal programs or activities. To ensure compliance with these provisions, certain parties are required to be registered on the System for Award Management (SAM) at Sam.gov and must provide their assigned SAM Unique Entity ID (SAM UEI) as proof of Sam.gov registration.

Who Must register on [Sam.gov](https://sam.gov):

- **Subrecipient:** Any entity which receives, directly from NDHFA, HUD funding assistance
- **Subgrantee:** Any entity which receives, from a pass-through entity, HUD funding from NDHFA
- **Contractor:** An entity which has entered into a contract directly with NDHFA, a Recipient, a Subrecipient, or Subgrantee
- **UGLG:** Unit of General Local Government (i.e., city, town or county)

2.13 Debarment Certification / SAM Unique Entity ID (SAM UEI)

Recipients, Subrecipients, Subgrantees, Contractors, and Subcontractors are required to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation with any Federal department or agency.

Subcontractors are strongly encouraged to complete entity registration and obtain a SAM UEI.

SAM UEI FAQs are available at: <https://sam.gov/content/duns-uei>.