

**PHADA'S VIRTUAL 2021 ANNUAL
CONVENTION & EXHIBITION**



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In 5 Minutes

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▶ We Will Begin
Momentarily

**PHADA'S VIRTUAL 2021 ANNUAL
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▶ **The New Section 3 Rule –
What You Need to Know**

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Logistics

- All attendees are muted and not on camera.
- Enter questions via Q&A box in tool bar (not via Chat); questions will be taken at the end of the session.
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- Discussions in this session are not for media use.
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Poll 1: How familiar are you with the new rule?

- Very familiar
- Somewhat familiar
- Not at all familiar

The New Section 3 Rule: What You Need To Know!

May 18, 2021

- I. **Review of the New Rule:** David Weber, PHADA, Policy Analyst
- II. **Responding to the New Rule with Program, Policy and Procedure Modifications:** Howard Baum, Deputy General Counsel, HACLA
- III. **Implementing a Successful Program – Program Strategies and Compliance Monitoring:** Michaela Harris, Section 3 Compliance Manager, Rockford Housing Authority

What is Covered / What has Changed?

- I. What is covered (and not covered):**
 - Public Housing, Community Planning and Development, RAD
 - Not Section 8 (PBV Project Awards no longer covered)
- II. Each program has separate requirements:**
 - applicability requirements
 - Definitions of Targeted Section 3 Workers
 - transition period reporting requirements
 - primary oversight department at HUD (not FHEO)
- III. For public housing contracts:**
 - All construction contracts and hiring are covered.
 - Materials only contracts and some professional services contracts (those requiring professional certifications or degree) are excluded.

Labor Hours replaces New Hires

- I. Labor Hours Worked** replaces New Hires and Contract Dollar values
- II. Section 3 Workers and Targeted Section 3 Workers**
- III. Section 3 Businesses** – now included based on labor hours;
no separate dollar value tracking/reporting required
 - a. Modified Definitions of Section 3 Businesses
 - b. HUD Registry, but PHA responsible for verification of eligibility
 - c. Counting Section 3 Business Hours

Labor Hours replaces New Hires

- **Total Labor Hours Worked** are all hours worked by employees, or employees of contractors, funded by covered funds (public housing operating or capital).
- **Section 3 Labor Hours Worked** are the subset of the total that are hours worked by a Section 3 worker (generally low-income at hire).
- **Targeted Section 3 Labor Hours Worked** are the subset of the above that are hours worked by recipients of housing assistance, and other criteria.

Reporting:

- Total Labor Hours: _____
- Section 3 Worker Hours: _____
- Public Housing Targeted Worker Hours: _____
- Did the reporting agency meet the safe harbor benchmarks? Yes/No

Safe Harbor Benchmarks – Public Housing

- I. **Benchmarks:** Of all covered labor hours:
 - i. **25%** are performed by Section 3 Workers
 - ii. **5%** are performed by Targeted Section 3 WorkersBenchmarks may be updated every few years.

(achieving
benchmarks =
presumed
compliance)

II. **Qualitative Reporting**

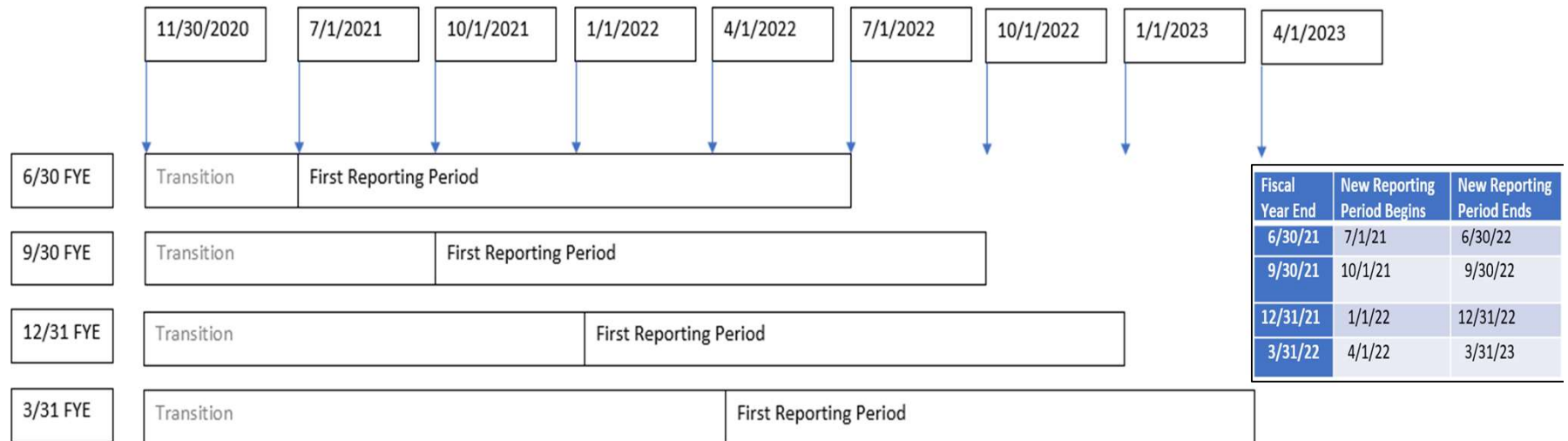
- i. Small PHAs (less than 250 units) may opt out of labor hours reporting in favor of qualitative reporting
- ii. Agencies that do not achieve benchmarks must complete qualitative reporting but are NOT assumed to be non-compliant

Qualitative Reporting

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Other _____(Mandatory Field if Other is selected)

**This is a
DRAFT
list.**

Transition Period – Timelines for PH



Transition Period – Requirements - PH

- I. Recommended steps during transition period, for:**
 - I. New contracts (new rule applies as of 11/30/2020)
 - II. Existing contracts
 - III. SPEARS Reporting
 - IV. Documentation (with or without reporting to HUD)

Outstanding Issues - PH

- I. Are PHA positions supported by the COCC subject to Section 3?
- II. What criteria or guidelines will be used to determine compliance?
- III. What procurement and hiring process modifications, if any, can be used to implement suggested “preferences” and “priority” for Section 3 in the rule?
- IV. What is recommended new contract language?
- V. Additional clarification needed on reporting when PH and CPD funds are used for the same project.

Poll 2:

What is the status of your Section 3 program policy?
Do you have:

- A formal adopted policy
- A written but not formal program policy
- No written program policy
- n/a

Section 3 New Rule

24 CFR Part 75

Responding to the New Rule with Program, Policy and Procedure Modifications

PHADA Section 3 Panel – May 18, 2021

Presented by:

Howard D. Baum, Deputy General Counsel
Housing Authority of the City of Los Angeles

PHAs are required to revise processes, systems and documents to comply with the New Rule on or before July 1st, 2021

Each PHAs response will vary depending upon its Section 3 Program

Amend Section 3 Policy and procedures, if applicable

Amend Procurement Policy (Section 3 Business Bid Preferences/Contracting Goals), if applicable

All PHAs must amend contracting and solicitations forms

Part 75.17(a): “PHAs ... must include language in any agreement or contract to apply Section 3 to contractors.”

HUD does not specify what language to include. The following are recommended:

- **New 25% Section 3 Worker and 5% Targeted Section 3 Worker Benchmarks**
- **Section 3 Business Concern, Section 3 Worker and Targeted Section 3 Worker Definitions (Parts 75.5; 75.11; 75.21)**
- **Employment and training/Hiring Priorities/Subcontracting Requirements (Part 75.9)**
- **Labor Hours Reporting Requirements/Qualitative Efforts Made (Part 75.15)**
- **Documenting Compliance/Record Keeping/Certifications (Part 75.31)**
- **Updating MBE/WBE provisions to reference Part 75 (replace former Part 135)**

Amend/Create the following documents to conform with New Rule

- Section 3 Business Concern Certification Forms
- Update Section 3 Business Registry, if applicable
- Create Section 3 Worker/Targeted Section 3 Worker Certification Form (HUD Form Forthcoming)
 Note: Inquiring re income; Individual/Not Household Income under New Rule
- Update Section 3 Resident (Worker) Registry, if applicable
- Update other contracting forms, provisions, bid solicitations, and exhibits
- Update Section 3 reporting and tracking forms (align with updated HUD SPEARS 60002 Form)

Implement New Rule in all new solicitations (IFBs/RFPs, etc.)

Identify existing contracts affected by the New Rule

- Consider amending multi-year contracts with ongoing Section 3 commitments
- Amend redevelopment project agreements and reporting requirements to align with New Rule

Education

- Create plan to advise existing stakeholders of the changes (e.g. letters, publications, website, etc.)
- Develop and conduct new Section 3 Rule trainings for agency staff, vendors and external stakeholders

Section 3 Business Concerns Defined

Section 3 Business Concern means:

A business concern meeting at least one of the following criteria, documented within the last six-month period:

1. At least 51% owned and controlled by low or very low income persons
 2. Over 75% of labor hours performed for the business over the prior three-month period are performed by Section 3 workers
 3. At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing
- Under the New Rule, Section 3 Businesses can no longer receive IFB Bid Preference. However, PHAs and other recipients must make their best efforts to contract with Section 3 Businesses in a priority order (24 CFR Part 75.9 and 75.19)
 - While the numerical goals for Section 3 Business contracting are eliminated, maintaining a Section 3 Business Registry and contracting with Section 3 Businesses remains important to meet the benchmark labor hours required in the New Rule

Section 3 Worker Defined

Section 3 Worker

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

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD
- The worker is employed by a Section 3 Business Concern
- The worker is a YouthBuild participant

Income Eligibility Guideline*
(FY 2021 Los Angeles County HUD Income Limits)

	1	2	3	4	5	6
Income to not Exceed	\$66,250	\$75,700	\$85,150	\$94,600	\$102,200	\$109,750

Note: Income eligibility is published annually by HUD. In previous regulations the income limits applied to the household. The New Rule changed that to individual income limits.



Targeted Section 3 Worker Defined

A **Targeted Section 3 Worker** for public housing financial assistance (includes operating and capital funds) means a Section 3 Worker who is:

- A worker employed by a Section 3 Business Concern or
- 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; or
 - (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

A **Targeted Section 3 Worker** for housing and community development financial assistance (includes RAD, CDBG and HOME funds) means a Section 3 Worker who is:

- A worker employed by a Section 3 Business Concern or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5 or
 - (ii) A YouthBuild participant

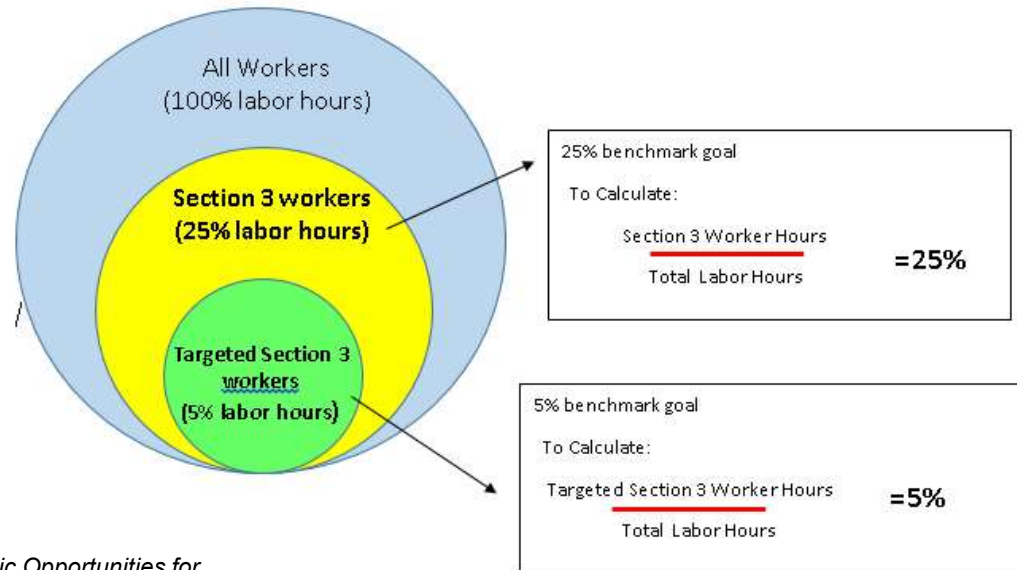


The New Rule eliminates the 30% new hire numerical goal and replaces it with labor hour benchmarks

New Rule labor hour benchmarks:

- 25% or more of the total number of labor hours worked by all workers in the recipient's fiscal year are **Section 3 Workers** and
- 5% or more of the total number of labor hours worked by all workers in recipient's fiscal year are **Targeted Section 3 Workers**

Note: Professional Services contracts requiring an advanced degree or professional licensing are exempt from Section 3. This exclusion does not cover all non-construction services. However, PHAs may include labor hours in the numerator and not denominator, thereby improving the reported outcome ratio.



Source: 24 CFR Part 75: Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses
Federal Register/Vol 85, No. 189

New Reporting Requirements and Key Dates

- **Contracts and grants executed before November 30, 2020 remain subject to old Section 3 Rules**
 - Unless agreements include language applying all revisions to statutes and regulations
- **Period between November 30, 2020 and a PHA's required reporting start date will be considered a transition period**
 - PHAs are still **required to revise processes, systems and documents to comply with New Rule** and support Section 3 goals during the transition period
 - Apply Old Section 3 Rules until adoption of New Rules
 - It is currently unclear what data collection and reporting, if any, will apply during the transition period
- **PHA requirement to report Section 3 activities and efforts starts 60 days after end of the first fiscal year beginning on or after July 1, 2021. See below chart:**

Fiscal Year End	New Reporting Period Begins	New Reporting Period Ends
6/30/21	7/1/21	6/30/22
9/30/21	10/1/21	9/30/22
12/31/21	1/1/22	12/31/22
3/31/22	4/1/22	3/31/23

Additional Resources

- HUD Finalizes Revised Section 3 Rule – Press Release – Sept. 28, 2020 [HUD Finalizes Revised Section 3 Rule | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- Final Section 3 Rule - [Section3rule092820.pdf \(hud.gov\)](#)
- Final Rule Benchmarks - [Federal Register: Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses](#)
- HUD FAQ - [11SECFAQS.PDF \(hud.gov\)](#)
- RAD Eblast! - [RADBlasts! | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

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Poll3 : For your Section 3 program, do you have:

- 1 or more Full Time Equivalent (FTE) dedicated staff
- Less than 1 FTE dedicated staff
- No dedicated staff time
- n/a



Implementing a Successful Program

Program Strategies and Compliance Monitoring

Michaela Harris

Section 3 Compliance Manager, Rockford Housing Authority



Building Partnerships



YouthBuild

Social
Service
Agencies

• TANF or SNAP

Public
Relations

• Project First Rate
(Rockford, IL)

Your Own
Resident
Services
Team

Programs & Initiatives

Resident Assessments

- Develop a data base of barriers and challenges your residents face.

Section 3 Portal

- Connects residents with job, training and education opportunities.

Training Programs

- **Section 3 Training Program:** Provides on the job training.
- **Lifeforce Development Institute:** Teaches the soft skills needed for employment.

Public Events

- Tour training facilities for the trades.
- How to do business with your PHA.
- Education events, i.e., Women of Influence

Compliance Monitoring



Compliance Forms

Forms should be self-certified.

Both residents and contractors will need forms.

Review with your legal team.



Opportunity Notices

Every employment, training, and education opportunity should be posted for your residents to view.

Share copies of these notices with your contractors.



Procedure Lists

Develop procedure guidelines for your contractors to follow.

This should include the hiring process and how to certify employees.



Compliance Notices

Develop a tiered approach for compliance violations.

Make sure you follow the steps for each compliance violation.

Keep copies of these notices in the contractor files.

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Q&A

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- Recording will be on the Whova web app and mobile app.
- During the break, please stretch, grab some coffee, and network with fellow attendees on the Whova web app or mobile app.
- Please take the session survey in Whova.
- The next session will begin in 60 minutes at 1:00pm ET.