

CDBG-DR Section 3 Policy and Reporting Procedures

The **Section 3** program requires that New York City, as a recipient of Community Development Block Grant (CDBG-DR) funding, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with CDBG-DR funded projects and activities in their neighborhoods.

- **30%** of all new hires on applicable projects will be Section 3 residents; *and*
- **10%** of the total dollar amount of all contracts' building trades work will be with Section 3 Business Concerns; *and*
- **3%** of the total dollar amount of all other applicable contracts per calendar year will be with Section 3 Business Concerns.

OMB's Role and Responsibilities

- Provide HUD with the Annual Section 3 Summary Report through HUD's Section 3 reporting system SPEARS (FORM HUD 60002).
- Provide guidance and Technical Assistance (TA) to all partner agencies on Section 3 policy and applicable updates from HUD.
- Distribute OMB CDBG-DR Section 3 reporting templates to agency partners on an annual basis
- Monitor Section 3 compliance of all partner agencies
 - This may include on-site visits, documentation review, and record keeping compliance checks
- Collect and aggregate all Section 3 reports for partner agencies and their respective contractors and subcontractors.
- Formulate final report for the CDBG-DR program and submit to HUD following all applicable reporting deadlines. HUD Section 3 reporting is based on the Federal Fiscal Year (10/1/2018 to 9/30/2019)

Section 3 Covered Project:
CDBG-DR funded projects that have a scope of construction, rehabilitation, or repairs

Partner Agency Roles and Responsibilities

City agencies with programs funded either in whole or in part through CDBG-DR funds must participate in Section 3 reporting. The City's CDBG-DR reporting forms must be completed by all agencies that manage Section 3 covered projects whose budgeted amount exceeds \$100,000. All agencies should follow the reporting schedule and instructions provided by OMB's CDBG-DR Program Unit. This guidance will be circulated to all partner agencies prior to the end of each calendar year.

An agency that manages the procurement of a CDBG-DR project is responsible for coordinating the Section 3 reporting for that project.

- Agencies are required to report on "Section 3 covered projects" only. Under the City's CDBG-DR program these are projects that have a scope of construction (housing or other public construction), rehabilitation, and/or demolitions.
- An agency that manages the procurement of a CDBG-DR project is responsible for coordinating the Section 3 reporting for that project. This includes collecting the required Section 3 policy data,

CDBG-DR Section 3 Policy and Reporting Procedures

providing guidance to contractors about Section 3 compliance, and submitting completed CDBG-DR Section 3 reporting templates to OMB.

- Agencies are required to submit one roll-up Agency Reporting Form that includes new hire data for both the agency and the contractors and subcontractors working on CDBG-DR projects. **The Agency Reporting Form will be considered incomplete if this information is not provided to OMB.**
 - For this reporting period the attached CDBG-DR Section 3 Agency Reporting Form and the CDBG-DR Section 3 Contractor Reporting Form(s) are due to OMB by **February 15, 2020**.
- Any employment resulting from the expenditures of CDBG-DR funds on Section 3 covered projects is subject to compliance with Section 3. Agencies must retain Section 3 reporting forms and backup documentation on file for 5 years.
- Partner agencies must document the number of new, CDBG-DR funded agency employees hired in conjunction with programs covered by Section 3 and whether those employees are Section 3 residents.
 - To document the income of your employees, you should utilize the Employee Self-Affirmation Form distributed by the OMB CDBG-DR Unit. It is not mandatory that employees complete these forms. However, you should explain to your staff the importance of the form and that this information helps the City document compliance with federal regulations.
 - Agencies should also document all instances of employees failing to complete the form. Documentation of refusal includes the date the form was provided, date of refusal to sign, employee's name and job title, state circumstances of refusal, date, name, and signature of person documenting the refusal.
 - Under the New York City CDBG-DR program, there are **two provisions** that set the guidelines for determining who can be considered a Section 3 resident. Both provisions are based on HUD defined income limits.
 - Provision 1 – Individual Income: *An individual is eligible to be considered a Section 3 resident if their annual wage or salary is at, or under, the HUD income limit for a one-person family [As of 04/1/2019 the limit is \$59,750]*
 - Provision 2 – Income based on Household Size: *An individual is eligible to be considered a Section 3 resident if they live in New York City public housing or in the five boroughs and have a household income that falls at or below HUD's income limit*
 - HUD issues Section 3 income limit data each year. The applicable income limits for each reporting period will be distributed by OMB to all partner agencies. They can also be found here: <https://www.huduser.gov/portal/datasets/il/il16/index.html>
- Document the number of **all** CDBG-DR funded Section 3 and non-Section 3 employees that are already part of the agency's staff.
 - Further information on Section 3 resident provisions can be found on Page 2 of the CDBG-DR Section 3 Agency Reporting Form.

The eligibility of a **Section 3 Resident** can be based on either:

- Individual annual income **OR**
- Income based on household size

CDBG-DR Section 3 Policy and Reporting Procedures

- Data on the total number of New Hires and Section 3 New Hires should be documented in Part III and Part IV of the Agency Reporting Form.
- **HUD defines Section 3 New Hires as "full time employees"**. A Section 3 new hire employee may count for three years from hire date. All full-time employees hired in connection with CDBG-DR projects should be captured in the chart on page 3 of the Agency and Contactor reporting forms under the "Hiring" section. Any part-time new hires should be captured under the "Training, Part-Time and Other Employees" section of the chart.
- Compile the new hire information for contractors who are working on CDBG-DR funded projects
- Submit annual reports to OMB that summarize the number of Section 3 new hires, employees (part-time and full-time), and trainees for each year that your program is CDBG-DR funded.
- Maintain the Section 3 employment documentation in your files for a minimum of five years.
- Document the number and total dollar amount of CDBG-DR funded construction and non-construction construction contracts (non-building trade works), specific to Section 3 covered projects.
- Document the number and total dollar amount of Section 3 covered contracts that were awarded to Section 3 Business Concerns.
- Your compliance with these requirements is essential to the City meeting its federally-mandated Section 3 goals, which are based on the Federal Fiscal year.
- **Notify your contractors of their Section 3 responsibilities**; monitor their compliance; ensure that the CDBG-DR Federal Riders that include the Section 3 clause, are included in all CDBG-DR funded contracts; provide contractors with the Section 3 Appendix, Section 3 Business Certification Form and the CDBG-DR Contractor Reporting Form; and collect their completed reporting forms for all open, applicable contracts on an annual basis. If you award a contract for less than \$100,000 but the contractor voluntarily hires low- and very low-income persons, you may report those hires as well.
- *To the greatest extent feasible*, pursue contracting opportunities with Section 3 business concerns
 - Agencies and Contractors should go a step beyond their normal procedures for employment and contracting by developing strategies that will specifically target Section 3 residents and Section 3 Business Concerns. Some examples are utilizing local media outlets, prominently displaying signs at the project sites, and/or notifying local community organizations.
 - Agencies and Contractors should focus on awarding subcontracts to Section 3 Business Concerns

Section 3 Business Concern:

- 51% or more owned by Section 3 residents; OR
- At least 30% of full-time employees are Section 3 residents; OR
- Commitment to issue over 25% of subcontracts to an eligible Section 3 Business Concern that meets one of terms above

CDBG-DR Section 3 Policy and Reporting Procedures

Contractor Responsibilities

Contractors that have been procured by City agencies for a CDBG-DR funded project in excess of \$100,000 must do the following:

- Document the number of new hires for the CDBG-DR covered project:
 - Any new employment created as a result of the CDBG-DR project is subject to Section 3 compliance. New hires categories that should be counted include, but are not limited to: construction, administration, clerical, and management positions related to the Section 3 covered project
 - Contractors must track the number of new hires and any public works training positions AND
 - Report on the number of new hires that are filled by Section 3 residents
- If contractors have a collective bargaining agreement with any labor organization or other group of workers, they must send them a notice advising them of the Section 3 requirements.
 - The notice should state the minimum number and job titles subject to hire, availability of apprenticeship and training positions, and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - The contractors must also post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can easily see the notice.
- Provide adequate notification to Section 3 residents about possible employment and training opportunities that result from the CDBG-DR funded project. Methods of notifying residents include utilizing local media outlets, prominently displaying signs at the project sites, and/or notifying local community organizations.
- Submit annual reports that summarize the number of Section 3 new hires, employees, and trainees for each year that their contract is open. The contractors should submit a completed "Summary Report Form for Contractors and Subcontractors" for the applicable reporting period. Section 3 reporting is based on the calendar year. City agencies will provide guidance on the time period covered for each reporting period.
- Document all efforts to comply with Section 3 Policy as outlined in the Section 3 Clause
 - Contractors should keep detailed narrative description of all actions taken to comply with Section 3 regulations
 - Contractors should document attempts to collect employee Self-Affirmation forms for Section 3 resident eligibility
- Maintain the Section 3 employment documentation in their files for a minimum of five years.
- Any subcontract in excess of \$100,000 that contractors may award as part of their CDBG-DR funded project is also subject to the Section 3 requirements. Accordingly, the contractor must also:
 - Report to your agency the number, dollar value, and types of subcontracts awarded.
 - Report whether each subcontractor is a Section 3 Business Concern.

CDBG-DR Section 3 Policy and Reporting Procedures

Section 3 Complaint Policy

As a general policy, your agency must thoroughly investigate any complaints of non-compliance with Section 3 requirements. However, complaints may also be directed to HUD's New York Office:

U.S. Department of Housing and Urban Development
Jacob K. Javits Federal Office Building
26 Federal Plaza, Room 3532 • New York, NY 10278-0068
Ph: (212) 264-1290 • Fax (212) 264-9829
E-mail: complaints_office_02@hud.gov

A written complaint can be completed on the HUD Office of the Fair Housing and Equal Opportunity (FHEO) Complaint Register Form 958 that can be found at <http://portal.hud.gov/hudportal/documents/huddoc?id=958.pdf>

The written complaint should contain the name, address, phone number, and e-mail of the individual filing the complaint. The individual can select if they fall in the following categories:

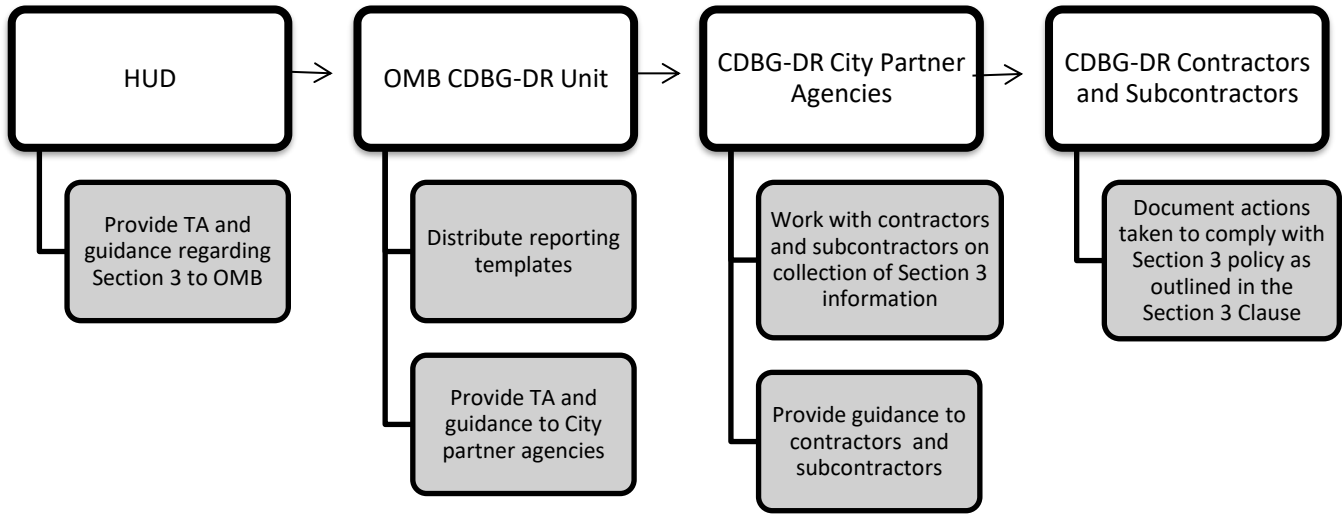
- low/very low income person
- public housing resident
- HUD Youthbuild Participant
- A representative of any of the above listed individuals
- Section 3 Business
- A representative of a Section 3 Business
- Other

The written complaint should contain a description of acts or omissions in alleged violation of Section 3; and a description of the corrective action sought. Complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

The City will provide a timely response to every citizen complaint. The response will be provided within 15 working days of the receipt of the complaint, if practicable.

CDBG-DR Section 3 Policy and Reporting Procedures

Responsibilities Overview



Reporting Overview

