

Bay County Pre-Bid

BAY COUNTY REDWOOD DRAINAGE CDBG DR-M0015



Code of Federal Regulations Regarding Procurement and E-Verify

- The County will strictly adhere to 2 CFR 200 Procurement Guidelines during the bidding process. These guidelines must be strictly followed and will be a part of all contracts. A copy will be provided electronically following this meeting.
- E-Verify is a web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the U.S. Your company must prove they are in compliance with E-Verify in order to be compliant with the bid process. More information will be provided within the Pre-bid packet.

Section 3

What is Section 3?

Provision of Housing and Urban Development Act of 1968

Helps bring economic opportunities generated by some HUD assistance to low-income and very low-income persons residing in the area where HUD funds are being expended

Results in a dual benefit for LMI areas:

- New or rehabilitated housing and public facilities and/or infrastructure
- Jobs and other economic opportunities working on HUD-assisted projects

When does Section 3 apply?

Section 3 is required when the following occur:

- The project involves new construction, rehabilitation, or demolition of housing, infrastructure, or public facilities AND
- The project costs exceed \$200k in CPD funds or \$100k in LEAD and Healthy Homes funds and result in employment, training, or contracting opportunities during the course of the project

Section 3 applies to the entire project, regardless of whether the activity is fully or partially funded with HUD assistance

States and subrecipients must ensure that contractors, subcontractors, and developers comply with Section 3 on applicable projects

Section 3 **DOES NOT** apply to material supply contracts or contracts that do not require any labor or require special certifications, such as Engineers, Architects, etc.

Dollar thresholds may be updated every 3 years by FRN (<https://www.federalregister.gov>)

Other Section 3 Considerations

For projects estimated to be near or above the dollar threshold, contractors should be procured with the upfront understanding that Section 3 numeric goals apply

Subrecipients **MAY BUT DO NOT HAVE TO** give award preference to Section 3 businesses in your evaluation of returned bids-HUD will consider this a qualitative effort that can help achieve safe harbor if numeric benchmarks are not achieved

Contractors **are not required to hire or subcontract solely to comply with Section 3** if they already have the capacity to complete the project in-house using existing staff

Section 3 will only apply on a per-project basis rather than per contracted program activity. “The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.” (24 CFR 75.3 (a)(2))

*For individual projects under \$200k, Section 3 is encouraged but not required.

Section 3 vs. Targeted Section 3

Section 3 Worker	Targeted Section 3 Worker
<p>Any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:</p> <ol style="list-style-type: none"> 1. Employed by a Section 3 business concern 2. Youthbuild participant or 3. Income is below 80% AMI 	<p>Any Section 3 worker who:</p> <ol style="list-style-type: none"> 1. Is employed by a Section 3 business concern; or 2. Currently fits, or when hired fit, at least one of the following categories as documented within the past five years: <ol style="list-style-type: none"> a. Living within the service area or the neighborhood of the project b. A YouthBuild participant.
<p>25% of hours worked on a Section 3 project</p>	<p>5% of hours worked on a Section 3 project (included in 25%)</p>
<p>Self-certification permitted – But grantees should perform due diligence before awarding contracts to firms that have self-certified by ensuring that they meet the definition of a Section 3 business concern as defined by the Department's regulations at 24 CFR 135.5.</p>	<p>Grantee or UGLG must verify status by one of three methods:</p> <ol style="list-style-type: none"> 1. Employer confirmation that worker resides within the Section 3 service area 2. Employer certification that worker is employed by a Section 3 business concern 3. Worker self-certification of YouthBuild participation

What is a Section 3 Business Concern?

A Section 3 Business Concern is any business that meets at least ONE of the following criteria, documented within the last six-month period:

- At least 51% owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; OR
- A business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

Section 3 Certification for Businesses

If a business concern claims Section 3 status, certification should be done at the start of the project

A business retains Section 3 status for the life of the project as long as it continues to meet the definition.

Why Certify Section 3 Businesses

Regulations require grantees to contract with businesses that direct economic opportunities to Section 3 workers

It may be necessary to certify Section 3 businesses in order to certify workers

100% of hours worked by Section 3 business concerns can be counted as Section 3 hours

Grantees are required to make best efforts to contract with businesses that employ Section 3 workers from the metropolitan area (or nonmetropolitan county) in which the project is located, so certification helps grantees and subrecipients meet best efforts toward safe harbor when numeric goals cannot be achieved

Additional Section 3 Hiring Considerations

Section 3 is triggered when an applicable project results in opportunities for employment, training, and/or contracting-contractors do not have to subcontract or hire new workers just to meet Section 3 if they would otherwise have the capacity to complete the project in-house

Per 24 CFR 75.5, Section 3 business concerns are not exempt from meeting the specifications of the contract and Section 3 workers are not exempt from meeting the qualifications of the position. This means:

- Contractors do not have to hire a Section 3 worker who is unqualified for a position just to comply with Section 3; and
- There is no requirement to contract/subcontract with a Section 3 business concern that does not have the capacity or qualifications to perform on a project just to comply with Section 3.

The Section 3 status of a worker, targeted worker, or business owner **cannot** be negatively affected by prior arrest or conviction.



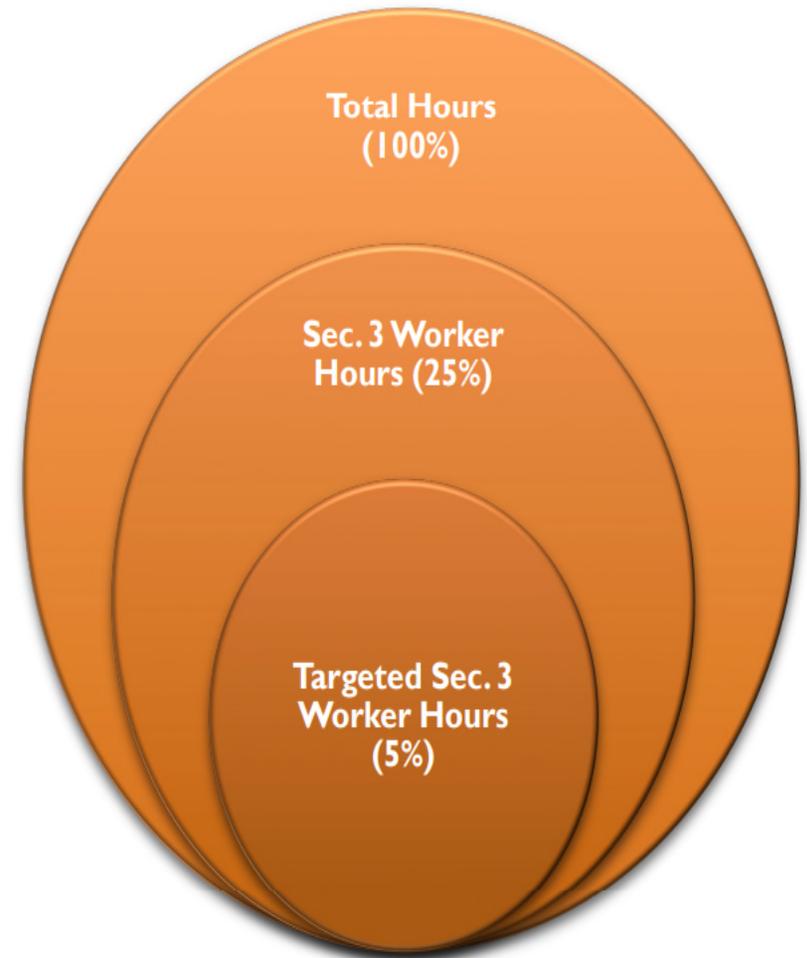
Section 3 Numeric Goal

25% or more of total hours worked on a project must be performed by Section 3 workers

5% or more of total hours worked on a project must be performed by Targeted Section 3 workers

The 5% numeric goal is included within the 25% goal

Includes hours worked on a project by nonprofit developer subrecipients, contractors, and subcontractors



Section 3 Safe Harbor Provision

If you meet numeric goals, HUD will consider you in compliance

If you do not meet numeric goals, you may also achieve safe harbor through qualitative efforts toward compliance such as outreach, training, and procurement

HUD will evaluate your qualitative efforts to determine if safe harbor is achieved

Qualitative Efforts to Achieve Safe Harbor

Grantee must make “best effort” or effort to the “greatest extent feasible” in order to comply with Section 3.

Qualitative efforts may include outreach, training/apprenticeship opportunities, and/or technical assistance

Qualitative efforts will only be considered by HUD if the grantee does not achieve safe harbor by meeting numeric goals.

M/WBE vs. Section 3

M/WBE certification is different than Section 3

Section 3 preferences are based on INCOME and LOCATION

Section 3 is race and gender neutral, although it may overlap with M/WBE certification

HUD encourages recipients to align their Section 3 activities with their M/WBE and procurement policies

Putting Your Section 3 Plan Into Action

Items to Include in Section 3 Covered Contracts

Section 3 standard Contract Clause

Section 3 Project Plan and Certifications

Subcontractor Information

Employee Roster

Documentation of Qualitative Efforts



Contractor Section 3 Capacity Building

Contractors and subcontractors are accountable for complying with Section 3 but may be unfamiliar with requirements. To maximize contractor compliance, the subrecipient should:

Discuss Section 3 Plan requirements at pre-bid meetings

Clearly identify the contractor's staff member who will handle Section 3 compliance

Walk through Section 3 requirements at pre-construction meeting or schedule a separate meeting to discuss the Section 3 reporting form

Consider providing this Section 3 presentation to contractors as part of a pre-qualifying bid meeting/annually

Required File Documentation

Outreach efforts

Bid solicitations

Contracts

Subcontractor and employee lists

Compliance reports that show total hours worked as well as Section 3 and Targeted Section 3 hours

Section 3 worker, targeted worker, and business concern applications and supporting documentation *certification forms

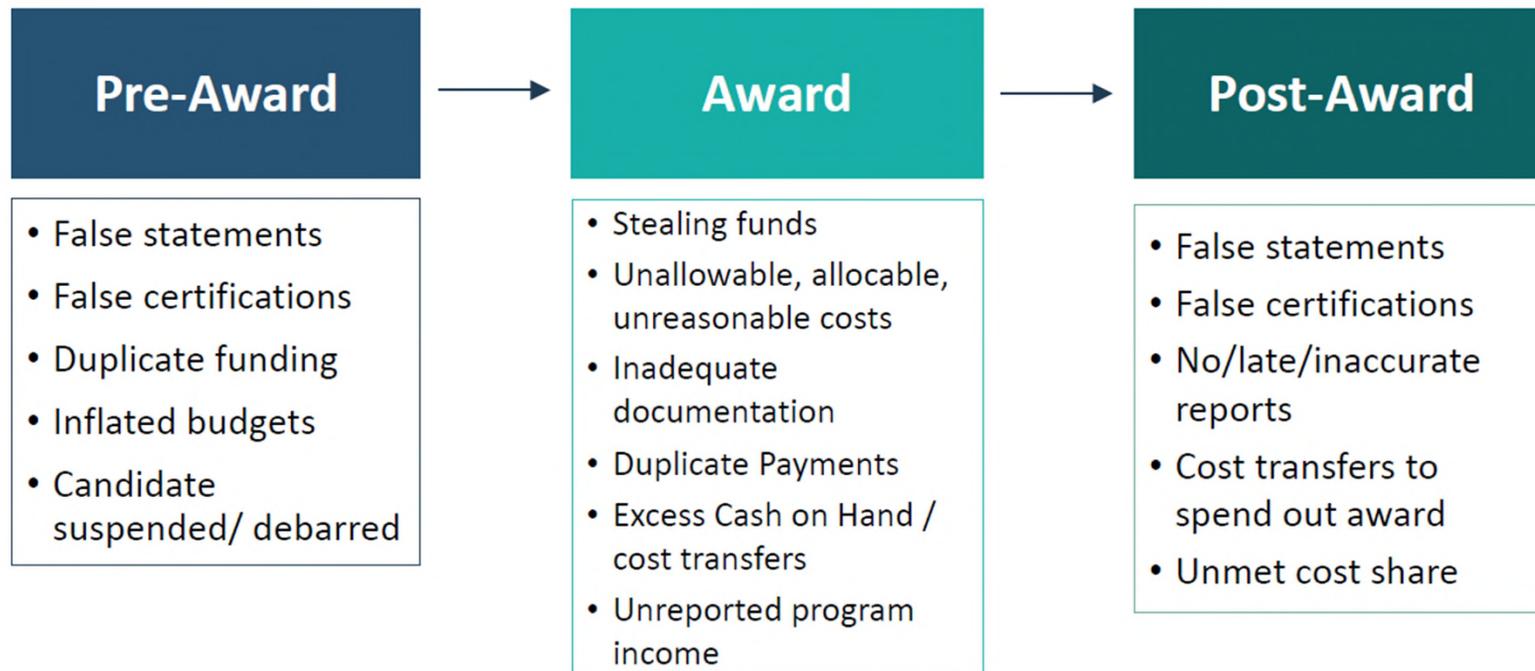
Documentation of other qualitative efforts

Fraud Training

What is fraud?

- Lying
- Cheating
- Stealing

Types of Fraud

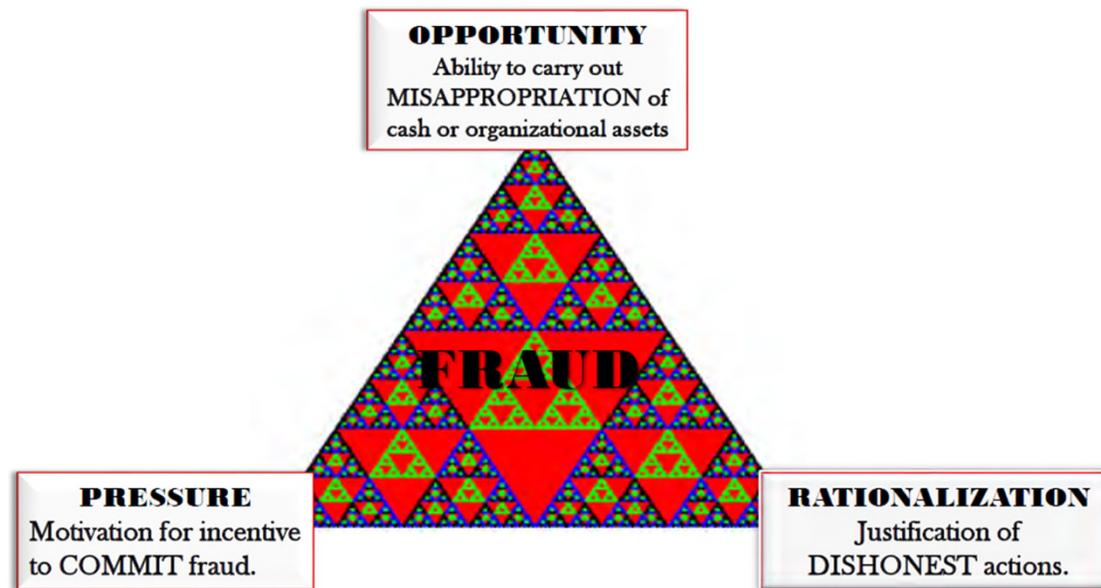


Conflict of Interest

If you or any employee are connected to anyone in the Bay County, you must disclose this to the purchasing team.

No contractor is to have an unfair advantage of knowledge or ties to the reviewing body as this is a Conflict of Interest, which may create an environment for fraud to be committed.

The Three Phases of Fraud



Types of Fraud

Theft/personal use	Lying about eligibility	Ghost beneficiaries	Ghost contractors
Fictitious Expenses	Inflated Expenses	Contractor Fraud	Conflicts of Interest
Bribes/Kickbacks	Identity Theft	Bid Rigging	Price Fixing

OTHER RESOURCES

Section 3 Resource List

HUD Section 3 Opportunity Portal: <https://www.hud.gov/section3>

HUD Section 3 Training Curriculum: <https://www.hudexchange.info/trainings/section-3/>

HUD Section 3 FAQs: https://www.hud.gov/sites/documents/I_ISECFAQS.PDF

YouthBuild: <https://www.dol.gov/agencies/eta/youth/youthbuild>

HUD Income Limits: <https://www.huduser.gov/portal/datasets/il.html>

Federal Register: <https://www.federalregister.gov>

Section 3 Resource List Cont.

Section 3 New Rule Guidance for CDBG-DR and CDBG-MIT Grantees:

<https://files.hudexchange.info/resources/documents/Section-3-New-Rule-Guidance-for-CDBG-DR-and-CDBG-MIT-Grantees-Slides.pdf>

OR https://youtu.be/7_khTGDLauw

Section 3 Final Rule Notice CPD-21-09: <https://www.hudexchange.info/resource/6443/notice-cpd2109-section-3-of-the-housing-and-urban-development-act-of-1968-as-amended-by-the-housing-and-community-development-act-of-1992>

DRGR Fact Sheet: <https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>

What is Section 3 Business Registry

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness>

Businesses use this to self-certify Section 3 status and be entered on HUD's national database where prime contractors, grantees, and subrecipients can find them.

State/Subrecipients can use it to locate local Section 3 firms

It can be used to show qualitative efforts toward Section 3 compliance

Firms are searchable by area, trade, and/or capability

Also contains other search options such as MBE, WBE, or Youthbuild participant/grantee.

*HUD maintains the database but does not verify the information submitted. Users should perform due diligence before awarding contracts to ensure validity of Section 3 certification

What is YouthBuild?

National organization with community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.

Participants learn vocational skills in construction and other industries such as health care, IT, and hospitality

Youth also serve the community through construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

Administered by U.S. Department of Labor
(<https://www.dol.gov/agencies/eta/youth/youthbuild>)

Can be a good source of qualifying Section 3 labor when looking for new hire or re-hire positions.

What is Section 3 Opportunity Portal

<https://hudapps.hud.gov/OpportunityPortal/>

Matches Section 3 workers to jobs and training opportunities and Section 3 businesses to contracting opportunities

Section 3 workers can search for jobs or training and post their resumes

Section 3 business concerns can search for contracting opportunities

Section 3 recipients can post jobs, contracting opportunities, and training positions and search for job applicants.

Section 3 and Procurement

Small Purchase (When under \$200k) and Competitive Sealed Bids (When over \$200k)

If you estimate the bids will come **near** or **over** the Section 3 dollar threshold (currently \$200k), request that bidders provide a Section 3 Project Implementation Plan as an exhibit in RFP and request Section 3 information from the bidder

Competitive Proposals (RFP)

Section 3 not required for professional services, but is encouraged

Option to give scoring incentive for Section 3 status (can be used as an example of qualitative efforts)

Sole Source (Noncompetitive)

If project is over \$200k, ensure the contractor understands that Section 3 is triggered if they hire additional workers or subcontract

Document best efforts to collect any information that may currently qualify an existing vendor as a Section 3 business or as employing Section 3 workers



Examples of Outreach Methods

Radio Announcements

Ads in community newsletters

Social media

Signage and information intake forms and logs near project site

Posting Requests for Bid on the Section 3 Opportunity Portal

Advertising in trade publications

Possible Outreach Methods for Section 3 Bids

Use internal registry, HUD Section 3 Business Registry and/or similar directories to locate and directly solicit bids from Section 3 firms

Post Invitation for Bid on the HUD Section 3 Opportunity Portal

Provide Invitation for Bid to local government M/WBE and business assistance offices for listserv distribution

Advertise in community development e-newsletters

*Remember to document your outreach efforts by saving items such as screen shots, email confirmations, and publications.

Examples of Qualitative Efforts

Engage in outreach efforts to generate job applicants who are Targeted Section 3 workers

Provide training/apprenticeship opportunities

Provide technical assistance to help Section 3 workers compete for jobs

Assist/Connect Section 3 workers with drafting resumes, preparing for interviews, and finding job opportunities

Hold regular job fairs

Provide/refer Section 3 workers to services supporting work readiness and retention

Provide assistance to apply for/attend community college, a four-year education institution, or vocational/technical training

Examples of Qualitative Efforts Cont.

Help Section 3 workers to obtain financial literacy training/coaching

Engage in outreach efforts to identify and secure bids from Section 3 business concerns

Provide technical assistance to help Section 3 business concerns understand and bid on contracts

Divide contracts into smaller jobs to facilitate Section 3 business participation

Provide bonding assistance, guarantees, or other efforts to support viable bids from Section 3 businesses

Promote use of business registries designed to create opportunities for disadvantaged and small businesses

Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

Davis Bacon Labor Standards

The Contractor that wins the Bid will be required to comply with the Davis Bacon Labor Standards Act. This will require the Contractor to turn in the following:

1. Weekly Certified Payrolls
2. Authorization to Sign – Stating who is Authorized to Sign the Certified Payrolls
3. E-Verify – For the Company
4. Other Deduction Forms (if applicable) – if Employee have other deductions take out of pay (Child support/Garnishments) Court Ordered paperwork must be supplied
5. Apprenticeship Paperwork – Any Apprenticeship paperwork must be supplied
6. Section 3 Paperwork – Monthly reports will be required with all Pay Requests
7. Employee Roster – Showing every employee that will be on the job with following info.
 - Employee Name, 4 digit ID Number, Job Classification, Hourly Rate, Whether they are Section 3 Employee or Not.
8. Project Sign/Wage Determination/Posters – must be placed on site or project trailer