

**HOUSING ASSISTANCE COUNCIL  
SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)  
SECTION 3 COMPLIANCE GUIDE**

---

**OVERVIEW**

In 1968, Congress passed a law requiring groups receiving federal funds for housing and community development to provide economic opportunities to low-income people. The ultimate goal of Section 3 of the Housing & Urban Development Act of 1968<sup>1</sup> is to encourage the training and hiring of low-income people. Section 3 requires that, to the greatest extent feasible, economic opportunities generated by federal funding associated with housing and community development be given to low- and very low-income persons and to businesses that provide economic opportunities to those persons.

As a recipient of HUD funds, HAC is required to comply with Section 3. HAC Self-Help Homeownership Opportunity Program (SHOP) affiliates/affiliates, as subrecipients of those funds, are also required to comply. This guide will lay out the Section 3 compliance responsibilities of SHOP affiliates.

Please note that for many SHOP affiliates, Section 3 compliance responsibilities exceed those triggered by a SHOP award. If your organization receives federal funds (HOME, CDBG, SHOP, etc.) in excess of \$200,000 for any housing project, you are required to meet Section 3 obligations for the aggregate amount of federal funding, regardless of the size of your SHOP award. HAC, however, will only require that you report to us on compliance activities related to the SHOP award. Although compliance requirements are the same for a federally funded housing and community development activities, this Guide is primarily concerned with Section 3 compliance related to SHOP.

**THRESHOLDS**

An organization must report to HAC on Section 3 compliance if the SHOP award for a project is \$200,000 or more. It need not report to HAC if a project receives less than \$200,000 in SHOP funds (from all SHOP rounds). HAC defines a project as all of the units funded in a single SHOP round and multiple SHOP rounds if that financing serves the same site. For example, all 10 scattered site units funded in a single SHOP round would be considered a single “project.” If there were three phases of 15 units each in a subdivision, and each phase received a separate SHOP award, the second and third awards would be for the same “project” as the first.

If you enter into any contract for a project exceeding \$100,000 with any one contractor, that contractor is subject to Section 3 compliance and reporting requirements. In these cases, the contractor must keep track of Section 3 activities and report them to you. In all other cases, your organization is responsible for compliance and reporting on the activities of your contractors and subcontractors.

---

<sup>1</sup>12 USC 1701(u).

**HOUSING ASSISTANCE COUNCIL  
SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)  
SECTION 3 COMPLIANCE GUIDE**

---

**SECTION 3 COMPLIANCE REQUIREMENTS**

Section 3 requirements are based on the relationships defined below:

- ◆ **Section 3 Residents.** All public housing residents and all people who are members of families earning 80% or less of the area wide median income who live within the metropolitan statistical area or non-metro county in which the project is located.
- ◆ **Section 3 Businesses.** Any business concern that: (a) is 51% or more owned by Section 3 Residents; (b) for whom at least 30% of permanent full time employees are Section 3 Residents; or (c) that provides evidence of a commitment to subcontract at least 25% of the dollar amount of all subcontracts to businesses that meet the qualifications in (a) or (b) above.

Affiliates of SHOP funds of \$200,000 or more must demonstrate compliance with Section 3 requirements by meeting *either* of the following two numerical goals related to providing training and employment to Section 3 Residents and contracting opportunities to Section 3 Businesses.

1. **New Hires.** Each year of the SHOP grant term, at least 30% of new hires (aggregate FTEs who are permanent, temporary, or seasonal workers) must be Section 3 Residents. This includes all new hires, regardless of the positions' relationship to the SHOP-financed activity.

*Example 1: In the second year of its three-year \$250,000 SHOP award, Self-Help Housing of Madaket hires two new staff people (i.e., Development Director and Construction Supervisor). The Development Director's annual income when hired is below 80% of the area-wide median income. The New Hire goal is met for that year; however, the goal is not met for the other years.*

*Example 2: Surfside Self-Help does not hire any new employees during the course of its three-year SHOP award. The New Hire goal is not met.*

*Example 3: Over the three years of its \$300,000 SHOP award, Community Housing of Sconset hires a part-time Group Worker who is low-income, a full-time Program Manager, and a seasonal part-time Construction Supervisor, the latter two of which have incomes above 80% of the area-wide median income. The New Hire goal is not met.*

2. **Contracts.** Award contracts to Section 3 Businesses as follows: (a) at least 10% of the total dollar amount of all Covered Contracts<sup>2</sup> for building trades work; *and* (b) at least 3% of the total dollar amount of all Covered Contracts (including professional services like appraisals, legal work, architectural plans, and engineering).

---

<sup>2</sup> A "Covered Contract" is any contract awarded in connection with a SHOP-financed project (even if not paid for by SHOP funds), except contracts solely for supplies and materials that do not pay labor costs for installation, construction, etc.

**HOUSING ASSISTANCE COUNCIL  
SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)  
SECTION 3 COMPLIANCE GUIDE**

---

*Example 1: South Wharf Affordable Homes receives a \$400,000 SHOP award to help finance \$750,000 in site development work in a subdivision. A total of \$90,000 in contracts and subcontracts are awarded to Section 3 businesses doing grading and road construction. In addition, \$35,000 in engineering contracts are awarded to Section 3 businesses. The Contracts goal is met.*

*Example 2: Orange Street Self-Help finds a Section 3 Business to provide architectural plans for its self-help project. The contract exceeds 3% of their \$200,000 SHOP award; however, only \$12,000 in building-related contracts are with Section 3 businesses. The Contracts goal is not met.*

If a SHOP affiliate who is required to comply with Section 3 cannot meet the New Hire or Contracts goals, they must demonstrate why the goals were not met and indicate what economic opportunities were provided in an effort to comply. In other words, they must talk about what progress they were able to make toward meeting the goals during the reporting period.

HAC does not interpret the Section 3 statute in such a way that allows family labor contributions to meet either the New Hire or Contracts requirement. However, we believe that the self-help housing opportunities provided by all SHOP affiliates meet the spirit of Section 3 if not the letter of the two numerical goals, and therefore that careful explanation can demonstrate how each affiliate provides substantial training-related “economic opportunities” to its families. SHOP affiliates will be given an opportunity to provide this explanation in compliance reports to HAC.

**MONITORING AND REPORTING**

SHOP affiliates receiving awards of \$200,000 or more will be responsible for keeping records documenting all Section 3 compliance activities and for reporting those activities to HAC.

As mentioned earlier, if any one contractor receives \$100,000 or more in a SHOP-financed contract, that contractor is required by the statute to complete its own Section 3 compliance report and submit it to the SHOP affiliate. HAC recommends that groups receiving \$200,000 or more in SHOP funds use the “Section 3 clause” language, attached to this guide, in all such contracts. HAC will add the same language to its standard SHOP Affiliate Agreement with each SHOP affiliate.

HAC will require that each SHOP affiliate report at least once a year on Section 3 compliance using the **form HUD-60002**, “Section 3 Summary Report.” This form will be sent by HAC in conjunction with quarterly status report forms.

**HOUSING ASSISTANCE COUNCIL  
SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)  
SECTION 3 COMPLIANCE GUIDE**

---

**SECTION 3 COMPLIANCE PLAN SUBMISSION**

Each SHOP applicant is required to submit a Section 3 compliance plan outlining how it intends to meet the requirements described in this guide. The plan should describe the concrete steps each organization will take to meet the New Hire and Contracts requirements and other steps, if applicable, that will be taken to provide economic opportunity to low- and very-low income people and Section 3 Businesses. Your plan should include the following:

- ◆ A description of how your organization will attempt to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contact with other community organizations and public or private agencies operating within the Section 3 project area, or similar methods;
- ◆ Information as to whether your organization will or does participate(s) or provide(s) a program that promotes/provides training or employment of Section 3 residents;
- ◆ Information as to whether your organization will or does participate(s) or provide(s) a program that promotes/provides awarding of contracts to business concerns that meet the definition of Section 3 businesses;
- ◆ Information as to whether your Section 3 project will coordinate with Youthbuild Programs administered in the project area; and
- ◆ Other steps by which your organization will attempt to comply with Section 3.

A Section 3 Compliance Plan need not be lengthy (1-3 pages is sufficient), but it should be as detailed as possible. The thoroughness and substance of this plan will be a factor in determining which SHOP applications receive funding.

**SECTION 3 CLAUSE**

Recommended language for contracts should include:

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and

**HOUSING ASSISTANCE COUNCIL  
SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM (SHOP)  
SECTION 3 COMPLIANCE GUIDE**

---

training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**FOR MORE INFORMATION**

If you have questions about Section 3 compliance or about HAC's Section 3 requirements, do not hesitate to contact Dierdra Pressley, Loan Officer, at HAC's National office at (202) 842-8600.

A sample Section 3 Compliance Plan can be found on the U.S. Department of Housing and Urban Development's website at: <http://www.hud.gov/offices/fneo/section3/sect3plan.pdf>.