



Department of  
Development

Office of Housing and Community Partnerships

# **Housing and Urban Development Act of 1968 Section 3 Guidebook**

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# Section 3 Economic Opportunity <sup>1</sup>

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<sup>11</sup> : HUD Section 3 – Economic Opportunities web site is located at–  
<http://www.hud.gov/offices/fheo/section3/section3.cfm>

## **Introduction – State of Ohio Section 3 Requirements Overview**

Section 3 requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

### **Community Planning and Development funding covered by Section 3**

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)

### **Recipients covered by Section 3**

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Managers; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above

NOTE: Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies and does **NOT** refer to contractors.

The requirements of Section 3 only apply to the portion(s) of covered funding that was used for project/activities involving housing construction, rehabilitation, demolition, or other public construction. However, Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

**OHCP programs covered by Section 3 are HUD-funded programs that provide housing and community development assistance for housing rehabilitation, demolition, housing construction and other public construction projects such as roads, sewers, community centers, etc.**

**The requirements apply to covered projects in which the amount of OHCP funding exceeds \$10,000. The requirements also apply to contracts and subcontracts.**

Compliance with Section 3 is not an option, it is the law.

It is the grant recipient's responsibility to ensure compliance in its own operations and those of its contractors. Recipient responsibilities include:

- Notifying Section 3 residents and business concerns about economic opportunities
- Notifying covered contractors about responsibilities
- Incorporate the Section 3 clause verbatim into covered contracts
- Facilitate training and employment of residents
- Award contracts to Section 3 businesses
- Meet annual numerical goals
  - 10% of the total dollar amount of covered construction contracts
  - 30% of new hires annually
  - 3% of covered non-construction contracts
- Assist with achieving compliance among contractors
- Refrain from entering into contracts with contractors that fail to comply
- Document other actions taken to achieve compliance
- Submit annual Section 3 report even if no covered actions were completed

Recipients of HUD financial assistance and their contractors and subcontractors are expected to develop a Section 3 Plan to assure that economic opportunities to the greatest extent feasible are provided to low and very low-income persons and to qualified Section 3 businesses. One element of that Plan is the use of a Section 3 clause which indicates that all work performed under the contract is subject to the requirements of Section 3.

If an organization was hired with a contract containing the Section 3 clause, the organization has reporting obligations, hiring obligations, and contracting obligations. These obligations are discussed below.

### Reporting Obligations

HUD requires OHCP to report on specific award recipients, contractors, and subcontractors. To do so it must collect information from the covered award recipient, who must collect information from contractors, who must (in turn) collect information from subcontractors.

### OHCP Section 3 Summary Report

This form is to be used to report accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to OHCP recipients of **housing and community development assistance** awarded for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contract and subcontracts of \$10,000 or more**. **This report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

If an award recipient received an award of covered funds from OHCP, it must complete **the Section 3 Summary Report** and submit it to OHCP. This **Section 3 Summary Report** must contain information (a) for the award recipient and (b) for all the contractors and subcontractors that received covered contracts. This will require the award recipient to collect information from contractors and subcontractors prior to submitting its **Section 3 Summary Report** to OHCP.

Not all organizations that work on the project must be reported on. Whether or not an organization is reported on does not depend on the size of the contract with which it was hired. Rather, it depends on if the organization that hired it has reporting obligations.

OHCP also requires Section 3 contractor data on the Notice of Contract Award Report.

## Hiring Obligations

Section 3 requires that certain award recipients, contractors, and subcontractors fulfill the following obligations when they hire any new employees:

- Do outreach to low-income people in the area whenever they intend to hire new employees
- Train their new hires
- Provide preferences in their hiring process, as follows:
  - 1) If the project is assisted under the Stewart B. McKinney Homeless Assistance Act, homeless persons residing in the service area or neighborhood of the project get top priority, and these three populations get second priority. If the project is not receiving McKinney funds, these three populations get top priority.
  - 2) Section 3 residents living in the service area or neighborhood of the project. (This means any geography up to the area of the local government.)
  - 3) Participants in HUD Youthbuild programs.
  - 4) Other Section 3 residents. (This means those outside the service area or neighborhood of the project. A low-income individual can only be a Section 3 resident on a project if he or she resides in the MSA or nonmetropolitan county of the project. Low-income individuals outside the MSA or nonmetropolitan county are not Section 3 residents for this project, although they may be for projects nearer to where they live.)
- Meet HUD's hiring requirement (the "minimum numerical target for training and employment") that 30% of new hires be Section 3 individuals.

*Minimum numerical targets for training and employment (per HUD):* At least 10% of the aggregate number of new hires each year must be Section 3 residents. "New hires" refers to full-time employees for permanent, temporary or seasonal employment opportunities. If the business is not able to meet this requirement, it has the burden of demonstrating why it was not feasible to meet the numerical goal. Such justification may include impediments encountered despite action taken. It is important to note that if applicants are not qualified for a position, the business is under no obligation to hire them.

## Contracting Obligations

Section 3 requires that certain award recipients, contractors, and subcontractors fulfill the following obligations when they contract with other businesses to work on the project:

- "To greatest extent feasible" contract with Section 3 business concerns.
- Give contracting priority to these 3 categories:
- Section 3 businesses that provide "economic opportunities for Section 3 residents in the service area or neighborhood" of the project.
- Applicants carrying out HUD Youthbuild programs.
- Other Section 3 businesses.
- Meet HUD's contracting requirement (the "minimum numerical target for contracting") that Section 3 businesses receive least 10% of the building trades contracts for the project, and at least 3% of the total amount for all non-building trade contracts.

*Minimum numerical targets for contracting (per HUD):* 10% of the dollar amount of contracts for *building trades* work must be with Section 3 Business Concerns, and 3% of the dollar amount of contracts for *other* work (non building trades work) must be with Section 3 Business Concerns. If an organization has contracting obligations under Section 3 and is not able to meet these requirements, it has the burden of demonstrating why it was not feasible to meet the numerical goals. Such justification may include impediments encountered despite action taken.

These requirements concern (a) contracts for labor and (b) contracts for both labor and materials, but *not* (c) contracts just for materials. These contracting obligations are for contracts of any dollar value, not just those contracts for more than \$100,000.

It is important to note that recipients, contractors, and subcontractors don't have to contract with businesses that are not qualified for the contract, even if only by doing so will the business meet HUD's minimum numerical targets.

### **Section 3 Reporting Instructions (Section 3 Summary Report)**

This reporting requirement applies to any project receiving covered funds from OHCP, to contractors working on that project with covered contracts, and to subcontractors hired by those contractors if the contract with which the subcontractor is hired is for more than \$10,000. Award recipient must submit an OHCP Section 3 Summary Report that contains both their own activities and the activities of the contractors and subcontractors with covered contracts.

#### **General Instructions**

The OHCP Section 3 Summary Report has three parts which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**, The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F) or the number of new hires utilized on the Section 3 covered project (columns B, C and F). Part II of the form relates to **construction contracts**, and Part III summarizes recipients' **efforts** to comply with Section 3.

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\* The terms "low-income persons" and "very low-income persons" have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low- income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

Recipients should email or fax in the completed forms to:

Ohio Department of Development/OHCP  
77 South High Street, P.O. Box 1001  
Columbus, OH 43216-1001

#### **IMPORTANT:**

**Section 3 requirements apply to the entire project or activity regardless if the project is fully or partially funded with covered financial assistance.**

The OHCP Section 3 report **MUST** be completed and submitted with the annual performance report even if there were no Section 3 covered contracts or activities during the reporting period.

#### **OHCP Section 3 Summary Report:**

ALWAYS Fill out the following information:

- Recipient Name and Address: This should contain the complete name of the recipient of the OHCP award, not the name of contractors and subcontractors. The address field should be the address of the property being constructed or rehabilitated or public construction location.
- Grant Number

- Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received from OHCP.
- Contact person: The person at the recipient organization whom OHCP staff should contact with questions about this form.
- Phone: The telephone number of the contact person.
- E-mail Address of the contact person
- Reporting Period: Length of project
- Date Report Submitted
- Program Name
- Program Code (i.e., CDBG, HOME, CHIP, NSP 1, NSP 2, Homeless Assistance, Other)

If there were no covered awards during the reporting period, check the appropriate box on the form and submit the report to OHCP.

### **For Part I: Employment and Training**

All hours worked and Section 3 residents hired will be reported on this part of the OHCP Section 3 Summary Report.

If a business is to be “reported on” but does not have “reporting” obligations, then its activity does not need to be included in Part I.

#### **Column A:**

Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "other" includes occupations such as service workers. For definitions of each category, see [HUD's website](#).

#### **Column B: (Mandatory Field)**

Enter the number of new hires for each category of workers identified in Column A in connection with this award. New Hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

#### **Column C: (Mandatory Field)**

Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award at the time of receipt of Section 3 covered assistance.

#### **Column D:**

Enter the percentage of Section 3 new hires (Section 3 residents) in connection with this award.

#### **Column E:**

Enter the percentage of the staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

#### **Column F: (Mandatory Field)**

Enter the number of Section 3 residents that were trained in connection with this award.

### **For Part II:**

#### **1. Construction Contracts**

If a business is to be “reported on” then the contract *should* be represented in Part II.

Item A: Enter the total dollar amount of all construction contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving construction contracts.

### **1. Non- Construction Contracts**

Item A: Enter the total dollar amount of all non-construction contracts awarded on the project/program.

Item B: Enter the total dollar amount of non-construction contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount connected with this project that was awarded to Section 3 businesses.

Item D: Enter the total number of Section 3 businesses receiving non-construction contracts.

### **For Part III:**

Summary of Efforts- Self –explanatory.

If a business is to be “reported on” then Part III should contain the outreach activity done prior to the hiring of that business for the contract.

## **SECTION 3: Economic Opportunity**

### **What is Section 3?**

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

### **How does Section 3 promote self-sufficiency?**

Section 3 is a starting point to obtain job training, employment and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency.

- Federal, state and local programs
- Advocacy groups
- Community and faith-based organizations

### **How does Section 3 promote homeownership?**

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities they have begun the first step to self-sufficiency.

Remember, "It doesn't have to be fields of dreams". Homeownership is achievable. For more information visit our HUD [website](#).

### **Who are Section 3 residents?**

Section 3 residents are:

- Public housing residents or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below [HUD's income limits](#).

### **Determining Income Levels**

- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

### **What is a Section 3 business concern?**

A business that:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

### **What programs are covered?**

Section 3 applies to HUD-funded Public and Indian Housing assistance for development, operating, and modernization expenditures.

Section 3 also applies to certain HUD-funded Housing and Community Development projects that complete housing rehabilitation, housing construction, and other public construction.

### **What types of economic opportunities are available under Section 3?**

- Job training
- Employment
- Contracts

Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3.

Examples of Opportunities include:

- Accounting
- Architecture
- Appliance repair
- Bookkeeping
- Bricklaying
- Carpentry
- Carpet Installation
- Catering
- Cement/Masonry
- Computer/Information
- Demolition
- Drywall
- Electrical
- Elevator Construction
- Engineering
- Fencing
- Florists
- Heating
- Iron Works
- Janitorial
- Landscaping
- Machine Operation
- Manufacturing
- Marketing
- Painting
- Payroll Photography
- Plastering
- Plumbing
- Printing Purchasing
- Research
- Surveying
- Tile setting
- Transportation
- Word processing

### **Who will award the economic opportunities?**

Recipients of HUD financial assistance will award the economic opportunities. They and their contractors and subcontractors are required to provide, to the greatest extent feasible, economic opportunities consistent with existing Federal, State, and local laws and regulations.

### **Who receives priority under Section 3?**

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

### **How can businesses find Section 3 residents to work for them?**

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities are:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

### **Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?**

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs.

Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

### **What if it appears an entity is not complying with Section 3?**

There is a complaint process. Section 3 residents, businesses, or a representative for either may file a complaint if it seems a recipient is violating Section 3 requirements are being on a HUD-funded project.

**Will HUD require compliance?**

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses.

**How can Section 3 residents or Section 3 business concerns allege Section 3 violations?**

You can file a written complaint with the local HUD Field Office or mail it to:

The Assistant Secretary for Fair Housing and Equal Opportunity Attn: Office of Economic Opportunity  
U.S. Department of Housing and Urban Development 451 Seventh Street, S.W., Room 5100 Washington,  
D.C. 20410-2000

A written complaint should contain:

- Name and address of the person filing the complaint
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought i.e. training, employment or contracts

## § 135.1 24 CFR Subtitle B, Ch. I (4–1–03 Edition)

APPENDIX TO PART 135

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

SOURCE: 59 FR 33880, June 30, 1994, unless otherwise noted.

EFFECTIVE DATE NOTE: At 59 FR 33880, June 30, 1994, part 135 was revised effective August 1, 1994 through June 30, 1995. At 60 FR 28325, May 31, 1995, the effective period was extended until the final rule implementing changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992 is published and becomes effective.

### Subpart A—General Provisions § 135.1 Purpose.

(a) Section 3. The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low Income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

(b) Part 135. The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

### § 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect.  
[60 FR 28326, May 31, 1995]

### § 135.3 Applicability.

(a) Section 3 covered assistance. Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) Public and Indian housing assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) Housing and community development assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and

community development assistance that is used for the following projects;

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

(3) Thresholds—(i) No thresholds for section 3 covered public and Indian housing assistance. The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) Thresholds for section 3 covered housing and community development assistance—(A) Recipient thresholds. The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) Contractor and subcontractor thresholds. The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

(C) Threshold met for recipients, but not contractors or subcontractors. If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

(b) Applicability of section 3 to entire project or activity funded with section 3 assistance. The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) Applicability to Indian housing authorities and Indian tribes. Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) Other HUD assistance and other Federal assistance. Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low income persons, or which employ low and very low-income persons.

### § 135.5 Definitions.

The terms Department, HUD, Indian housing authority (IHA), Public housing agency (PHA), and Secretary are defined in 24 CFR part 5.

*Annual Contributions Contract (ACC)* means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists

the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

*Applicant* means any entity which makes an application for section 3 -covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

*Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity.

*Business concern* means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

*Business concern that provides economic opportunities for low- and very low-income persons.* See definition of "section 3 business concern" in this section.

*Contract.* See the definition of "section 3 covered contract" in this section.

*Contractor* means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

*Employment opportunities generated by section 3 covered assistance* means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in §135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

*Housing authority* (HA) means, collectively, public housing agency and Indian housing authority.

*Housing and community development assistance* means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance

does not include financial assistance provided through a contract of insurance or guaranty.

*Housing development* means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

*HUD Youthbuild* programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

*Indian tribes* shall have the meaning given this term in 24 CFR part 571.

*JTPA* means the Job Training Partnership Act (29 U.S.C. 1579(a)).

*Low-income person.* See the definition of "section 3 resident" in this section.

*Metropolitan area* means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

*Neighborhood area* means:

(1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

(2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

*New hires* mean full-time employees for permanent, temporary or seasonal employment opportunities.

*Nonmetropolitan county* means any county outside of a metropolitan area.

*Other HUD programs* means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for "section 3 covered projects," as defined in this section.

*Public housing resident* has the meaning given this term in 24 CFR part 963.

*Recipient* means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD

program to which section 3 applies and does not include contractors.

*Section 3* means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). *Section 3 business concern* means a business concern, as defined in this section—

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

*Section 3 clause* means the contract provisions set forth in § 135.38.

*Section 3 covered activity* means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

*Section 3 covered assistance* means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act; (2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act; (3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act; (4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

- (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
- (ii) Housing construction; or (iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

*Section 3 covered contract* means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. “Section 3 covered contracts” do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

*Section 3 covered project* means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

*Section 3 joint venture*. See § 135.40.

*Section 3 resident* means: (1) A public housing resident; or (2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:

(i) A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

(ii) A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

(3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

*Section 8 assistance* means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

*Service area* means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD’s Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe’s sovereign power, is limited to the area of tribal jurisdiction.

*Subcontractor* means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

*Very low-income person*. See the definition of “section 3 resident” in this section.

*Youthbuild programs*. See the definition of “HUD Youthbuild programs” in this section.

[59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

### **§ 135.7 Delegation of authority.**

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; provided however, that the authority to issue rules and

regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

**§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.**

(a) Certification of compliance with part 135. All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) Statement of purpose in NOFAs. (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed \$200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) Section 3 as NOFA evaluation criteria. Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

**§ 135.11 Other laws governing training, employment, and contracting.**

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) Procurement standards for States and local governments (24 CFR 85.36)—(1) General. Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) Flexible Subsidy Program. Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not

permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) Procurement standards for other recipients (OMB Circular No. A-110). Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) Federal labor standards provisions. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs," as described in paragraph (d) of this section.

(d) Approved apprenticeship and trainee programs. Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) Compliance with Executive Order 11246. Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally-assisted construction contracts.

**Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns**

**§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.**

(a) General. (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a

recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(4) The numerical goals established in this section represent minimum numerical targets.

(b) Training and employment. The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels.

(1) Numerical goals for section 3 covered public and Indian housing programs. Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996;

(iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.

(2) Numerical goals for other HUD programs covered by section 3. (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project;

(ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

(A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) Safe harbor and compliance determinations.

(1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

#### **§ 135.32 Responsibilities of the recipient.**

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors.

This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30;

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

**§ 135.34 Preference for section 3 residents in training and employment opportunities.**

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section.

(1) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);

(iv) Other section 3 residents.

(2) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

(iv) Other section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

(b) Eligibility for preference. A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(c) Eligibility for employment. Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

**§ 135.36 Preference for section 3 business concerns in contracting opportunities.**

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to award section

3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(1) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

(b) Eligibility for preference. A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) Ability to complete contract. A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

**§ 135.38 Section 3 clause.**

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

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 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).

#### **§ 135.40 Providing other economic opportunities.**

(a) General. In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) Other training and employment related opportunities. Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance

positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) Other business related economic opportunities.

(1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises.

Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

### **Subpart C [Reserved]**

### **Subpart D—Complaint and Compliance Review**

#### **§ 135.70 General.**

(a) Purpose. The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) Definitions. For purposes of this subpart:

(1) Complaint means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) Complainant means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) Noncompliance with section 3 means failure by a recipient or contractor to comply with the requirements of this part.

(4) Respondent means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in § 135.7, which includes PHA and IHA.

#### **§ 135.72 Cooperation in achieving compliance.**

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in

investigations of allegations of noncompliance made under § 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

#### **§ 135.74 Section 3 compliance review procedures.**

(a) Compliance reviews by Assistant Secretary. The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) Form of compliance review. A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) Where compliance review reveals noncompliance with section 3 by recipient or contractor. Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) Continuing noncompliance by recipient or contractor. A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Debarment, suspension and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.

(e) Conducting compliance review before the award of assistance. Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) Consideration of complaints during compliance review. Complaints alleging noncompliance with section 3, as provided in § 135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

#### **§ 135.76 Filing and processing complaints.**

(a) Who may file a complaint. The following individuals and business concerns may, personally or through an authorized

representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents;

(2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) Where to file a complaint. A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) Time of filing. (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) Contents of complaint—(1) Written complaints. Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) Amendment of complaint. Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) Resolution of complaint by recipient.

(1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The

determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) Informal resolution of complaint by Assistant Secretary—  
(1) Dismissal of complaint.

Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) Informal resolution. Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) Effective date of informal resolution.

The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) Sanctions. Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited

denial of participation in HUD programs.

(h) Investigation of complaint. The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) Judicial relief. Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

(Approved by the Office of Management and Budget under control number 2529-0043)

## **Subpart E—Reporting and Recordkeeping**

### **§ 135.90 Reporting.**

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

(Approved by the Office of Management and Budget under control number 2529-0043)

### **§ 135.92 Recordkeeping and access to records.**

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

## **APPENDIX TO PART 135**

### **I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents**

- (1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified "Step-Up" employment and training program for section 3 residents.
- (3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- (4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in § 135.34) reside.
- (5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.
- (6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- (7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.
- (8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.
- (9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
- (10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.
- (11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.
- (12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.
- (13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.
- (15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and § 905.201(a)(6).)
- (16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.
- (17) Undertaking job counseling, education and related programs in association with local educational institutions.
- (18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.
- (19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

## **II. Examples of Efforts To Award Contracts to Section 3 Business Concerns**

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

(10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

(11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.

(12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

(13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.

(14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Developing a list of eligible section 3 business concerns.

(16) For HAs, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR part 963.

(17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

(18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(21) Actively supporting joint ventures with section 3 business concerns.

(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

### III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

(1) **Small Purchase Procedures.** For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) Solicitation. (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

- the section 3 covered contract to be awarded with sufficient specificity;
- the time within which quotations must be submitted; and
- the information that must be submitted with each quotation.

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) Award. (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

(B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) **Procurement by sealed bids (Invitations for Bids).** Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and nonsection 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

(B) is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

	x=lesser of:
When the lowest responsive bid is less than \$100,000 .....	10% of that bid or \$9,000.
When the lowest responsive bid is:	
At least \$100,000, but less than \$200,000 .....	9% of that bid, or \$16,000
At least \$200,000, but less than \$300,000 .....	8% of that bid, or \$21,000.
At least \$300,000, but less than \$400,000 .....	7% of that bid, or \$24,000.
At least \$400,000, but less than \$500,000 .....	6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million .....	5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million .....	4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million .....	3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million .....	2% of that bid, or \$105,000.
\$7 million or more .....	1½% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

**(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).** (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

## **Frequently Asked Questions and Answers about Section 3 of the Housing & Urban Development Act of 1968**

### **General Questions**

#### **Applicability**

#### **Consistency with Other Laws**

#### **Recipient Responsibilities**

#### **Section 3 Preference**

#### **Economic Opportunities/Numerical Goals**

#### **Recordkeeping and Reporting**

#### **Section 3 Complaints**

### **GENERAL QUESTIONS**

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

2. What does the term "Section 3 resident" mean?

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.

3. What does the term Section 3 Business Concern mean?

Section 3 business concerns are businesses that can provide evidence that they meet one of the following:

- 51 percent or more owned by Section 3 residents; or
- At least 30 percent of its fully time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

4. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender. Please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, to learn more about these programs.

5. How is “low-income” determined?

The term “low-income” is used in the Section 3 regulation to include both low- and very low-income individuals. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

6. Define “metropolitan area” and “Non-metropolitan County.”

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. Non-metropolitan County means any county outside of a metropolitan area.

7. What is a “new hire”?

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

8. What is a Section 3 covered project?

A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

9. Who is considered a recipient of Section 3 funding?

A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient. It does not include contractors or any ultimate beneficiary under the HUD program to which Section 3 applies.

10. Is a non-profit organization considered a “business” for the purposes of Section 3?

Yes. A non-profit organization is a legitimate business. The non-profit organization must meet the criteria of a Section 3 business concern as defined in 24 CFR Part 135.5 in order to receive Section 3 preference.

11. What is a Service Area?

The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

## **APPLICABILITY**

12. What is Section 3 covered assistance?

- Public and Indian housing development, operating or capital funds; or
- Other housing assistance and community development assistance expended for housing rehabilitation, housing construction or other public construction projects, such as: CDBG, HOME, 202/811, Lead-Based Paint Abatement, etc.

13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?

- Public Housing Authorities regardless of size or number of units

Section 3 also applies to recipients of \$200,000 or more of the following Housing and/or Community Development financial assistance:

**(NOTE: the requirements apply to covered projects or activities in which the amount of OHCP funding exceeds \$10,000)**

- HOPE VI funding
- Community Development Block Grant (CDBG) funding
- Community Development Block Grant Programs for Indian Tribes and Alaska Native Villages
- HOME Investment Partnership funding
- Self-Help Homeownership Opportunity Programs
- Economic Development Initiatives assistance
- Brownfields Economic Development Initiatives
- Neighborhood Stabilization Program
- Continuum of Care Homeless Assistance Programs
- Housing Opportunities for Persons with AIDS
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Assisted Living Conversion Program
- Lead Hazard Control Grants
- Healthy Homes and Lead Technical Studies
- Healthy Homes Demonstration Programs

\*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact the Economic Opportunity Division at [section3@hud.gov](mailto:section3@hud.gov) to determine applicability to a particular project/activity.

14. Are Section 8 ONLY Housing Authorities exempt from the requirements of Section 3?

Yes. Since Section 8 ONLY Housing Authorities do not utilize any of the financial assistance described above, they are exempt from the requirements of Section 3. However, compliance with Section 3 is encouraged.

15. What are funding thresholds and how do they apply to Section 3 covered financial assistance?

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for Public Housing Authorities (PHAs). The requirements of Section 3 apply to all PHAs regardless of the amount of assistance received from HUD.

The requirements of Section 3 apply to recipients of Housing and Community Development assistance that invest \$200,000 or more into projects/activities involving housing construction, rehabilitation, or other public construction.

16. What dollar threshold amounts apply to contractors/subcontractors?

All contracts (or subcontracts) funded with Public and Indian Housing assistance (regardless of the dollar amount or the type of contract) is subject to the requirements of Section 3.

With respect to recipients of Housing and/or Community Development funding, all contractors (or subcontractors) receiving covered funds in excess of \$100,000 to complete projects involving

housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

17. What responsibilities do contractors/ subcontractors have if they receive Section 3 covered financial assistance?

If the contractors/subcontractors has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The same numerical goals apply to contractors and subcontractors (i.e., 30 percent of new hires, 10 percent of construction contracts and 3 percent of non-construction contracts). In addition, the contractor/subcontractor must notify the recipient agency about their efforts to comply with Section 3 and submit any required documentation.

18. Do the Section 3 requirements apply to HUD's procurement activities?

No. Section 3 covered contracts do not include contracts awarded under HUD's procurement programs, which are governed by the Federal Acquisition Regulation System.

19. Are maintenance projects covered by Section 3?

Yes, but only for projects using funding that is provided for the operation, development, or modernization of Public Housing Authorities.

Extensive rehabilitation (i.e., complete renovation of one or more livable units) activities are covered by Section 3 for all covered programs.

20. Does reduction and abatement of lead-based paint hazards constitute housing rehabilitation?

Yes, reduction and abatement of lead-based paint hazards does constitute housing rehabilitation and is covered by Section 3.

21. Are professional service contracts covered under Section 3?

Yes, the term "Section 3 covered contract" includes professional service contracts provided that the work to be performed is generated by the expenditure of Section 3 covered Public and Indian housing assistance, or for work arising in connection with projects involving housing rehabilitation, housing construction, or other public construction.

22. Does Section 3 apply to hiring by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD allocation to hire additional staff persons(s) to perform work related to housing construction, rehabilitation, or other public construction, then the position(s) is covered by Section 3. However, if the local municipality uses a civil servant applicant process to hire new employees, compliance with the requirements of Section 3 may not be feasible.

23. For community development and other housing assistance, do the thresholds apply to the total amount of HUD assistance received or the amount of funds invested into Section 3 covered projects/activities?

The threshold applies to the amount of funds invested into Section 3 covered projects/activities. Example: the City of Hilltop, receives \$210,000 through the State CDBG program. The funds will be used as follows:

- a. Housing rehabilitation- \$180,000;
- b. micro-enterprise revolving loan fund- \$20,000; and

c. Fair housing counseling- \$10,000.

Hilltop is not subject to Section 3 requirements because only \$180,000 is spent for Section 3 covered activities, and the remaining \$30,000 is not used for construction, rehabilitation, or other public construction. Therefore, the \$200,000 threshold is not met. However, the city must still submit a Section 3 annual summary report (form 60002) to HUD headquarters.

24. Are contracts cumulative for reaching the Section 3 threshold? For example, a recipient agency receives \$800,000 in HOME Investment Partnership funds. The recipient awards contracts for single housing rehabilitation on a rotating basis from a list of qualified contractors. One contractor receives three contracts (\$36,000; \$50,000; and \$20,000) with a cumulative total of \$106,000 for three different projects within a twelve month period. Is that contractor covered by Section 3?

No, contracts for Section 3 covered projects are not cumulative.

The requirements of Section 3 apply to contractors and subcontractors performing work on a Section 3 covered project for which the amount of the assistance exceeds \$200,000; and each contract or subcontract exceeds \$100,000.

#### **CONSISTENCY WITH OTHER LAWS**

25. Does Section 3 apply to other State/local laws?

Compliance with Section 3 shall be achieved to the greatest extent feasible, and consistent with local laws and regulations.

26. What is the relationship between Section 3 and Minority Business Enterprises (MBEs)?

“Minority business enterprise” (MBE) means a business enterprise that is owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes. Section 3 preferences are not tied to race or ethnic origin of the owner. A minority business enterprise must provide evidence that it meets at least one criterion of a Section 3 business outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs, and other socially and economically disadvantaged businesses. Additional information about the MBE program can be obtained by calling the Office of Small and Disadvantaged Business Utilization at 202-708-1428.

#### **RECIPIENT RESPONSIBILITIES**

27. What are the responsibilities of recipient agencies under Section 3?

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR § 135.32.

28. Are funds provided to recipients that comply with the requirements of Section 3?

No. There is no need for funds to be provided to ensure Section 3 compliance because the Section 3 requirements are only triggered when new jobs and/or contracting opportunities are created during the completion of covered projects/activities.

29. Does Section 3 require that the expenditure of HUD financial assistance result in the creation of training, employment, and contracting opportunities?

Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that when employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD 8 financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses owned by these persons or that substantially employ these persons.

30. Are Section 3 residents or business concerns guaranteed employment or contracting opportunities under Section 3?

No. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of covered assistance.

Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

31. Are recipients and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?

Recipients and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities.

Employment goals are based on “new hires”, which is defined as full-time employees for permanent, temporary or seasonal employment opportunities.

Recipients and contractors are encouraged to provide long-term employment. They may count a Section 3 resident employee for three years to meet the business criterion that at least 30 percent of the permanent, full-time employees are Section 3 residents.

32. When might a recipient agency be exempt from the requirements of Section 3?

If Section 3 covered assistance is awarded and the recipient has no need for additional employees or trainees, or the recipient has no need to contract for work, then the Section 3 requirements are not triggered. However, the recipient agency must still submit a Section 3 Annual Summary report (HUD form 60002), in accordance with 24 CFR § 135.90.

### **SECTION 3 PREFERENCE**

33. What is considered acceptable evidence to determine eligibility as a Section 3 resident?

HUD does not prescribe any specific forms of evidence are required for Section 3 certification. Sample certification documents can be found on the Section 3 website. Acceptable documentation includes, but is not limited to the following:

- proof of residency in a public housing development;
- evidence of participation in a HUD Youthbuild program operated in the metropolitan area (or non-metropolitan county) where the Section 3 covered assistance is spent;
- evidence that the individual resides in the Section 3 area and is a low or very low-income person, as defined in Section 3(b) (2) of the U.S. Housing Act of 1937 (1937 Act).

- Recipient agencies may choose to allow prospective Section 3 residents to self-certify their eligibility. Any self-certification should include a statement of penalty for falsifying information.

34. What is acceptable evidence for determining eligibility as a Section 3 business?

HUD does not prescribe any specific forms of evidence are required for Section 3 certification. Sample certification documents can be found on the Section 3 website. The business seeking the preference must be able to demonstrate that it meets one of the following:

- 51 percent or more owned by Section 3 residents; or
- Has permanent, full time employees at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- Has a commitment to sub-contract in excess of 25 percent of the dollar award of all sub-contracts to be awarded to such businesses described above.
- Recipient agencies may choose to allow prospective Section 3 business concerns to self-certify their eligibility. Any self-certification should include a statement of penalty for falsifying information.

35. Are all public and Indian housing residents considered Section 3 residents regardless of their income?

Yes. Public and Indian housing residents need only show proof of residency in public housing within the metropolitan area (or non-metropolitan county). Other residents of the Section 3 area need to show proof of residency in the metropolitan area (or non-metropolitan county) and meet the income requirements. [See 24 CFR Part 135.5 for the definition of a Section 3 resident].

36. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm's compliance with technical and public policy requirements.

Preference to Section 3 business concerns means that a recipient's or contractor's procurement procedures include methods to provide preference to Section 3 business concerns. Accordingly, if a Section 3 business concern is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the recipient agency can give preference to the Section 3 business in an effort to meet its numerical goals annually.

37. Does a business have to be incorporated to be considered as a Section 3 eligible business? What forms of identification are used to determine that an organization is a Section 3 business?

No, a business does not have to be incorporated to be a Section 3 business concern. It can be any type of business- sole proprietorship, partnership or a corporation.

## ECONOMIC OPPORTUNITIES/NUMERICAL GOALS

38. What types of new employment opportunities are covered by Section 3?

For Public and Indian Housing (PIH) Programs, all employment opportunities generated by the expenditure of development, operating, and modernization assistance, including management and administrative jobs, technical, professional, construction and maintenance jobs; and jobs at all levels.

For Housing and Community Development Programs, all employment opportunities arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project (i.e., management and administrative jobs, technical, professional, and construction and non-construction jobs; and jobs at all levels).

39. Are recipient agencies required to meet the Section 3 goals or are they merely “goals”?

The Section 3 Numerical goals are minimum numerical targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make efforts to the greatest extent feasible to achieve the annual numerical goals for employment and contracting. If an agency fails to fully meet the Section 3 numerical goals, they must be prepared to demonstrate the efforts taken in an attempt to meet the numerical goals.

40. What are the Section 3 numerical goals?

The minimum numerical goal for employment 30 percent of the aggregate number of new hires shall be Section 3 residents annually—i.e., 1 out of 3 new employees needed to complete a Section 3 covered project/activity shall be a Section 3 resident.

The minimum goals for contracting are:

- Ten percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing or building trades work arising in connection with housing rehabilitation, housing construction and other public construction, shall be awarded to Section 3 businesses; and
- Three percent of the total dollar amount of all non-construction Section 3 covered contracts, shall be awarded to Section 3 businesses.

41. Are the numerical goals the same as set-asides and quotas?

No. A set-aside guarantees that a specific portion of funds will be provided to protected class. The numerical goals in the Section 3 regulations are goal that a recipient of HUD Section 3 covered financial assistance must try to meet in order to demonstrate Section 3 compliance.

42. What is the meaning of the “safe harbor” determination?

Absent evidence to the contrary (i.e., evidence that efforts to the “greatest extent feasible” were not expended), if a recipient or contractor meets the numerical goals, the recipient or contractor is considered to be in compliance with Section 3.

A recipient or contractor considered to be in compliance with Section 3 may not be subject to routine compliance reviews.

In the event that a complaint is filed against a recipient or contractor considered to be in compliance with Section 3. HUD will investigate to determine if “the greatest extent feasible” policy was met.

## RECORDKEEPING AND REPORTING

43. What are the recordkeeping requirements of a recipient?

Documentation of actions taken to comply with the employment and training requirements of Section 3, the results of actions taken and impediments encountered. Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with Federal or State procurement laws and regulations. The documentation should demonstrate efforts taken towards the achievement of the Section 3 numerical goals.

44. Who is required to submit Section 3 reports?

Each recipient of Section 3 covered HUD financial assistance shall submit an annual report to the Assistant Secretary for the purpose of determining the effectiveness of Section 3 (HUD form 60002). Section 3 summary reports are required even if the recipient agency did not undertake any activities that triggered the requirements.

45. Where should the Section 3 summary reports be submitted?

Section 3 Summary reports can be sent by mail to:

**For State of Ohio, Office of Housing and Community Partnerships Grantees:**

Office of Housing & Community Partnerships  
77 South High Street, P.O. Box 1001  
Columbus, OH 43216-1001

Or submit online at [ohcp@development.ohio.gov](mailto:ohcp@development.ohio.gov)

HUD Entitlements:

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 Seventh Street, SW room 5232  
Washington, DC 20410  
Attn: Economic Opportunity Division  
Section 3 reports can also be submitted online at:  
[www.hud.gov/offices/fheo/section3/section3.cfm](http://www.hud.gov/offices/fheo/section3/section3.cfm)

46. When should annual reports be submitted?

**State of Ohio, Office of Housing & Community Partnerships Grantees:**

Submit the OHCP Section 3 Summary Report with the Final Performance Report

For those reporting directly to HUD-

Depending on the source of funding, annual reports should be submitted

- 1) at the time the recipient submits an annual performance report;
- 2) by January 10 of each year if no program annual performance report is required; or
- 3) within ten (10) days of project completion, whichever is earlier.

- PHAs should submit Section 3 reports on form 60002 by January 10th.
- HUD Entitlement Grantees Awarded funding for CDBG, HOME and/or ESG should submit Section 3 reports on form HUD 60002 at the same time they submit the CAPER report.
- HUD Grantees Awarded funding for Section 202/811 should submit Section 3 reports on form 60002 by January 10th.
- HUD Grantees Awarded funding for lead abatement activities should submit Section 3 reports on form 60002 with their annual reports no later than September 30th.

47. What amount should be reported on the Section 3 Annual Report?

Box # 3 on the 60002 form should reflect the amount of HUD funds that were expended during the reporting period.

### **SECTION 3 COMPLAINTS**

48. Who can file a complaint when the requirements of Section 3 are not met?

Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

49. Where are Section 3 complaints filed?

Effective November 2007, Section 3 complaints must be filed at the appropriate FHEO Regional Office in which the violation occurred. Please visit [www.hud.gov/offices/fheo](http://www.hud.gov/offices/fheo) to obtain the address and telephone number for FHEO regional offices.

50. Is there a time limit for filing a Section 3 complaint?

Yes. Section 3 complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

# Section 3 Requirements

## FOR RECIPIENTS OF HUD COMMUNITY PLANNING & DEVELOPMENT FUNDING

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### Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist families achieve the American Dream.

The Section 3 regulation recognizes that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide “bricks and mortar”, but can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is HUD’s legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

Further, as a condition of receiving HUD Community Planning and Development assistance, recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b). Accordingly, the Department has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

### Applicability of Section 3 to Community Planning & Development Assistance

The requirements of Section 3 apply to recipients of HUD Community Planning and Development funding exceeding \$200,000.

All projects/activities involving housing construction, demolition, rehabilitation, or other public construction—i.e., roads, sewers, community centers, etc. that are completed with covered funding, are subject to the requirements of Section 3.

[Note: the requirements of Section 3 do not apply on a per-project-basis. Rather, the requirements apply to all covered construction and rehabilitation activities that are funded with covered assistance.

Contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as the direct recipient that provided funding to them.

If the recipient agency receives Section 3 covered funding and invests these funds into covered projects/activities, but no individual contract exceeds \$100,000, responsibility for complying with Section 3 only applies to the recipient.

Accordingly, recipient must attempt to reach the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by: 1) Awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses; and 2) Hiring Section 3 residents for 30 percent of new employment opportunities.

### **Section 3 Covered Community Planning and Development funding**

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)

\*NOTE: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction. Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

### **Section 3 Covered Recipient Agencies**

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Managers; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above
- Recipients do NOT include any ultimate beneficiary under the HUD program that Section 3 applies and does NOT refer to contractors.

### **Triggering the Requirements of Section 3**

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each agency must still submit Section 3 annual reports indicating this information.

### **Recipient Responsibilities according to Section 3**

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;

3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

In addition to the responsibilities described above, State and County agencies or consortia that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. State or County agencies must also do the following:

1. Inform subrecipients about the requirements of Section 3;
2. Assist subrecipients and their contractors with achieving compliance;
3. Monitor subrecipients' performance with respect to meeting the requirements of Section 3; and
4. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

### **Section 3 Residents and Business Concerns**

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

### **Section 3 Summary Reports (Form HUD-60002)**

Annually, each direct recipient of Community Planning and Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC. , preferably online from the following website: [www.hud.gov/section3](http://www.hud.gov/section3).

**Due Date:** Recipients of covered Housing and Community Development assistance are required to submit Form HUD-60002 at the same time as annual performance reports (e.g., CAPERS reports) The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

**NOTE:** Section 3 reports must be submitted by all agencies that receive Community Planning and Development funding in excess of \$200,000 whether the requirements were triggered or not.

### **Determining What Should Be Reported on Form HUD-60002**

Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations AND those of its covered contractors, subcontractors, and subrecipients. Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and subrecipients, as a result of performing or completing covered project/activities.
- The number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).
- The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

### **Section 3 Reporting and Compliance Determinations**

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30.

Specifically:

- 30 percent of the aggregate number of new hires shall be Section 3 residents;
- 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing all zeros, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.

### **Important Notes for Submitting Form HUD-60002**

Recipients must submit a separate form HUD-60002 for each type of covered funding (e.g., separate reports must be submitted for CDBG and HOME funding).

Use the online Section 3 Summary Reporting System at: [www.hud.gov/section3](http://www.hud.gov/section3) to ensure that form HUD-60002 is received by the Economic Opportunity Division in HUD Headquarters in a timely manner.

The “reporting period” option in the online Section 3 Summary Reporting System (box #7) lists quarters but the Section 3 reporting is an annual requirement. Accordingly, recipients should select Quarter 4 to document the total amount of covered activities/projects that were completed during the entire reporting period.

If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

### **Where are Reports Submitted**

Form HUD-60002 must be submitted to HUD’s Economic Opportunity Division, in Washington, DC. Recipients are strongly encouraged to submit form HUD-60002 online at: [www.hud.gov/section3](http://www.hud.gov/section3)

Recipients can also download a hard copy of form-HUD 60002 from the website listed above. Hard copies shall be submitted via fax or mail to:

U.S. Department of Housing and Urban Development  
Attn: Economic Opportunity Division  
451 Seventh Street, SW  
Room 5235  
Washington, DC 20410  
202-708-1286 (fax)

### **Additional Section 3 Guidance and Technical Assistance**

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: [www.hud.gov/section3](http://www.hud.gov/section3) . This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to [section3@hud.gov](mailto:section3@hud.gov)

# HUD ECONOMIC STIMULUS FUNDING AND THE CREATION OF JOBS, TRAINING, AND CONTRACTING OPPORTUNITIES

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## The American Reinvestment and Recovery Act of 2009

On February 17, 2009, President Barak Obama signed the American Recovery and Reinvestment Act (ARRA). The purpose of ARRA is to:

1. Preserve and create jobs and promote economic recovery;
2. Assist those most impacted by the recession;
3. Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
4. Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
5. Stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

General Principles Concerning Use of Funds—The President and heads of Federal departments and agencies shall manage and expend the funds made available in the Act so as to achieve the purposes specified in [above], including committing expenditures and activities as quickly as possible.<sup>2</sup>

### Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

HUD received \$13.6 billion in ARRA funding, approximately \$7.8 billion or 57 percent of which is subject to the statutory and regulatory requirements of Section 3 of the Housing and Urban Development Act of 1968. The majority of Section 3 covered ARRA funding was provided under the following program areas:

• PIH Public Housing Capital Funds	\$4 Billion
• Neighborhood Stabilization Program	\$2 Billion
• Community Development Block Grants	\$1 Billion
• Native American Housing Block Grants	\$510 Million
• Assisted Housing Energy & Green Retrofits	\$ 250 Million
• Lead Hazard Control	\$ 78 Million (LHC Grants Only)

\*\*\*The requirements of Section 3 are encouraged but not required for other HUD funding provided under ARRA.

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<sup>2</sup> H.R.-1. The American Recovery and Reinvestment Act of 2009

### **Section 3 Purpose/Intent**

Section 3 recognizes that the **normal expenditure** of certain HUD funds typically results in new jobs, contracts, and other economic opportunities; and when these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (**regardless of race and gender**), and the businesses that substantially employ them, should receive priority consideration.

Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

### **Section 3 Applicability**

Since ARRA funding is specifically intended to create jobs and other economic opportunities for those most impacted by the recession, compliance with the requirements of Section 3 is critical.

ARRA does not increase or reduce each recipient's Section 3 responsibilities. In fact, the requirements of Section 3 apply in the same manner as they do for other types of covered HUD financial assistance. Specifically, grantees and other direct recipients of Section 3 covered ARRA funding are required to comply with the statutory and regulatory requirements of Section 3. Please refer to subparts B and E of 24 CFR Part 135 for specific guidance.

### **Recipient Responsibilities Pursuant to Section 3**

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities that are created during the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents<sup>3</sup> and business concerns<sup>4</sup> about training and employment opportunities generated by Section 3 covered assistance;
2. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
3. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
4. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
6. Assisting and actively cooperating with the Department in obtaining the compliance of contractors and subcontractors;
7. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
8. Documenting actions taken to comply with Section 3; and
9. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

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<sup>3</sup> Section 3 residents are defined as: 1) residents of public housing; or 2) individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and meet the definition of a low- or very low-income person as defined by HUD).

<sup>4</sup> Section 3 business concerns are defined as one of the following: 1) businesses that are 51 percent or more owned by Section 3 residents; 2) businesses whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 residents or were Section 3 residents within 3 years of the date of first employment with the business concern; or 3) businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the two previous categories.

### **Section 3 Compliance and ARRA**

As with all other covered programs, the Department makes determinations regarding Section 3 compliance based upon the following:

1. Meeting the minimum numerical goals set forth at 24 CFR Part 135.30
  - a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
  - b. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns; and
  - c. 3 percent of all covered non-construction contracts shall be awarded to Section 3 business concerns
2. Recipients that fail to meet the numerical goals above bear the burden of demonstrating why it was not possible. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will allow the Department to make a determination regarding compliance.

Each recipient of HUD ARRA funding will be required to submit Section 3 summary data to the Office of Fair Housing and Equal Opportunity using form HUD-60002. This form can be submitted online at: [www.hud.gov/section3](http://www.hud.gov/section3) .

### **Section 3 Guidance and Technical Assistance**

The Economic Opportunity Division in HUD Headquarters is committed to providing recipients of covered funding guidance and technical assistance to ensure compliance with the statutory and regulatory requirements of Section 3. For additional information, please refer to the following:

- [www.hud.gov/section3](http://www.hud.gov/section3)
- Section 3 Statute—12 U.S.C. 1701u
- Section 3 regulations—24 CFR Part 135
- U.S. Department of Housing and Urban Development  
Economic Opportunity Division  
451 Seventh Street, SW Room 5235  
Washington, DC 20410  
202-708-3633 (this is not a toll free number)  
[section3@hud.gov](mailto:section3@hud.gov)

### **HUD Region V Contact Person**

Bruce Bailey  
[Bruce.e.bailey@hud.gov](mailto:Bruce.e.bailey@hud.gov)  
202-402-5860

## THE APPLICABILITY OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 TO NEIGHBORHOOD STABILIZATION PROGRAM FUNDING

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### Neighborhood Stabilization Program Funding<sup>5</sup>

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties.

NSP 1, a term that references the NSP funds authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008, provides grants to all states and selected local governments on a formula basis. NSP 2, refers to NSP funds authorized under the American Recovery and Reinvestment Act (the Recovery Act) of 2009, and provides grants to states, local governments, nonprofits and a consortium of nonprofit entities on a competitive basis. The Recovery Act also authorized HUD to establish NSP-TA, a \$50 million allocation made available to national and local technical assistance providers to support NSP grantees.

NSP is a component of the Community Development Block Grant (CDBG) program. The CDBG regulatory structure is the platform used to implement NSP and the HOME program provides a safe harbor for NSP affordability requirements. NSP funds are to be used for activities that include, but are not limited to:

- Establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchasing and rehabilitating homes and residential properties abandoned or foreclosed;
- Establishing land banks for foreclosed homes;
- Demolishing blighted structures; and
- Redeveloping demolished or vacant properties

NSP grantees can use their discretion to develop their own programs and funding priorities. However, at least 25 percent of their NSP funds shall be appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income.

### Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the *normal expenditure* of certain HUD funds typically results in new jobs, contracts, and other economic opportunities; and when these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (*regardless of race and gender*), and the businesses that substantially employ them, shall receive priority consideration.

Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

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<sup>5</sup> <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

### Section 3 Applicability to NSP Funds

Grantees that receive \$200,000 or more of NSP funding are required to comply with Section 3 for all projects/activities involving **housing construction, demolition, rehabilitation, or other public construction**. Accordingly, the Section 3 requirements apply to all individual properties that receive services with these funds –regardless of the actual amount that is spent on each individual unit/property. Grantees shall ensure compliance with the statutory and regulatory requirements of Section 3 in its own operations, and those of covered contractors. These responsibilities include:

- 1) Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- 2) Complying with the specific responsibilities at 24 CFR Part 135.32; and
- 3) Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

If covered contractors receive awards that exceed \$100,000 for the construction and rehabilitation activities listed above, responsibility for Section 3 compliance is shared with that firm (with the exception of the submission of the Section 3 Annual report (Form HUD 60002), which must be submitted by the direct recipient of covered funds).

If no contractor receives an award exceeding \$100,000, responsibility for complying with the requirements of Section 3 stays with the grantee. Specifically, the grantee shall be responsible for awarding 10 percent of the total dollar amount of all covered contracts to Section 3 business concerns. Each recipient shall fulfill the responsibilities described below in an attempt to meet the requirements of Section 3.

#### Recipient Responsibilities Pursuant to Section 3 [24 CFR Part 135.32]

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities that are created during the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents<sup>6</sup> and business concerns<sup>7</sup> about training and employment opportunities generated by Section 3 covered assistance;
2. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
3. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
4. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
6. Assisting and actively cooperating with the Department in obtaining the compliance of contractors and subcontractors;
7. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;

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<sup>6</sup> Section 3 residents are defined as: 1) residents of public housing; or 2) individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and meet the definition of a low- or very low-income person as defined by HUD).

<sup>7</sup> Section 3 business concerns are defined as one of the following: 1) businesses that are 51 percent or more owned by Section 3 residents; 2) businesses whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 residents or were Section 3 residents within 3 years of the date of first employment with the business concern; or 3) businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the two previous categories.

8. Documenting actions taken to comply with Section 3; and
9. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

### **Section 3 Compliance and NSP Funding**

As with all other covered programs, the Department makes determinations regarding Section 3 compliance based upon the following:

1. Meeting the minimum numerical goals set forth at 24 CFR Part 135.30
  - a. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
  - b. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns.

2. Recipients that fail to meet the numerical goals above **bear the burden of demonstrating why it was not possible.**

\* Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will allow the Department to make a determination regarding compliance.

Each recipient of NSP funding is required to submit Section 3 summary data to the Economic Opportunity Division using form HUD-60002. This form can be submitted online at: [www.hud.gov/section3](http://www.hud.gov/section3) .

### **Section 3 Guidance and Technical Assistance**

The Economic Opportunity Division in HUD Headquarters is committed to providing guidance and technical assistance to ensure compliance with the statutory and regulatory requirements of Section 3. For additional information, please refer to the following:

- [www.hud.gov/section3](http://www.hud.gov/section3)
- Section 3 Statute—12 U.S.C. 1701u
- Section 3 regulations—24 CFR Part 135
- [www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/)
- U.S. Department of Housing and Urban Development  
Economic Opportunity Division  
451 Seventh Street, SW Room 5235  
Washington, DC 20410  
202-708-3633 (this is not a toll free number)
- Email questions or comments to: [section3@hud.gov](mailto:section3@hud.gov)

HOUSING AND URBAN DEVELOPMENT ACT OF 1968

SECTION 3 PLAN

FOR

[Local Jurisdiction]

[DATE]

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### **General Policy Statement**

It is the policy of [Local Jurisdiction]] to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, ancestry or national origin, disability, or military status. The \_\_\_\_\_ implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the \_\_\_\_\_ and other qualified low- and very low-income persons residing in low-moderate income areas.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of low-moderate income residents and other eligible persons and business by contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The \_\_\_\_\_ shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to low-moderate income residents prior to acting on any proposed contract award.

### **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701 u) requires [Local Jurisdiction]] to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

### **Section 3 Contracting Policy and Procedure**

[Local Jurisdiction]] will incorporate Section 3 in all procurements generated for use with HUD funding and follow goal requirements set forth in 24 CFR Part 135 for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must before submitting bids/proposals to the \_\_\_\_\_ be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications, issued by \_\_\_\_\_, shall be adequately supported with appropriate documentation as referenced in the form.

### **Section 3 Plan**

[Local Jurisdiction]] has developed this Section 3 Action Plan to identify the applicability of provisions of 24 CFR Part 135 objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3. Since the Plan only covers the \_\_\_\_\_'s Community Development Department Program, it is limited to CDBG, HOME, HOPWA, ESG, and NSP housing construction, housing rehabilitation, and public improvement construction projects.

### **Section 3 Employment & Training Goals**

It is the policy of [Local Jurisdiction]] to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). The \_\_\_\_\_ follows the employment and training goals that contractors and subcontractors, including those providing low to moderate income employment opportunities through economic development activities, should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30 — Numerical goal for meeting the greatest extent feasible requirement).

The employment and training goal is thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All contractors submitting bids or proposals to [Local Jurisdiction]] are required to certify that they comply with the requirements of Section 3.

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is attached to this plan as Exhibit "C".

### **Section 3 Program Participant Certification Procedure**

\_\_\_\_\_ will certify Section 3 program participants who reside in [Local Jurisdiction] and who are seeking preference in training and employment. A copy of the Section 3 Resident Preference Claim form can be obtained from \_\_\_\_\_.

### **Resident Hiring Requirements**

[Local Jurisdiction] has adopted a **30%** goal for resident hiring that is to be used on construction contracts (Reference 24 CFR 135.30 — Numerical goal for meeting the greatest extent feasible requirement). It is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in [Local Jurisdiction] contracted labor efforts. A prime contractor may satisfy \_\_\_\_\_ resident hiring requirements through its subcontractors.

It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

### **Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals**

[Local Jurisdiction] will assist contractors with little or no experience in achieving Section 3 hiring and contracting goals by:

- Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.
- The Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects or will direct the contractor to the MDPHA personnel responsible for maintaining said list.
- The Section 3 Coordinator will provide contractor with a list of Section 3 business concerns interested and qualified for construction projects or will direct the contractor to the MDPHA personnel responsible for maintaining said list.
- The Section 3 Coordinator will inform contractor of known issues that might affect Section 3 residents from performing job related duties.
- The Section 3 Coordinator will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood.

### **Preference for Contracting with Section 3 Business Concerns**

[Local Jurisdiction]] has adopted a goal of at least three percent (3%) of the total dollar amount of Section 3 covered contracts to be awarded to Section 3 Business Concerns. (Reference 24 CFR 135.30 — Numerical goal for meeting the greatest extent feasible requirement).

[Local Jurisdiction]], in compliance with Section 3 regulations, will require contractors and subcontractors to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

- **Category 1:** Business concern that is a certified Section 3 business and it is 51% or more owned by a resident of the service area or neighborhood where the work is being performed.
- **Category 2:** Business concern that is a certified Section 3 business and it is 51% or more owned by a resident of [Local Jurisdiction]].
- **Category 3:** Business concern whose permanent workforce includes not less than 30% of Section 3 residents.
- **Category 4:** HUD Youthbuild programs being carried out in [Local Jurisdiction]] in which Section 3 covered assistance is expended.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by [Local Jurisdiction]].

Contractor and subcontractors that can clearly demonstrate how they will meet the requirements in this section will be given a contracting preference when selecting a contractor.

### **Evidence of Section 3 Certification**

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with [Local Jurisdiction]] must be able to provide a copy of the Section 3 certification letter as evidence of eligibility for preference under the Section 3 Program. The certification and/or letter shall be submitted along with bid packages.

Each applicant, recipient, contractor, and subcontractor on a Section 3 covered project shall sign the attached Section 3 Assurance of Compliance (Exhibit "A").

### **Efforts to Award Contract Opportunities to Section 3 Business Concerns**

[Local Jurisdiction]], the contractors and subcontractors may use any or all of the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist.

- Advertise contracting opportunities via newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
- Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- Coordinate pre-bid meetings at which the Section 3 business concerns would be informed of upcoming contracting opportunities in advance.
- Conduct workshops on [Local Jurisdiction]] contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.
- Contact the Miami-Dade Public Housing Agency, contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
- Establish relationships with the Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist SPHA with educating and mentoring residents with a desire to start their own businesses.

- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
- Develop resources or seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance.

**Economic Opportunity Plan For Utilization of Project Area Businesses**

Each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall develop and implement an affirmative action plan, which shall:

- (a) Set forth the approximated number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the Section 3 covered project.
- (b) Analyze the information set forth in paragraph (a) and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a) and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.
- (c) Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions:
  - (1) Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor letting the contract; and
  - (2) Identification within the bid documents, if any, of the applicable Section 3 project area.
  - (3) Ensuring that the appropriate business concerns are notified of pending contractual opportunities either personally or through locally utilized media.

A sample plan is included and attached as Exhibit “B”.

**Contractor’s Requirements in Employing Section 3 participants:**

Under the [Local Jurisdiction] Section 3 Program, contractors and subcontractors are required to:

- Provide employment opportunities to Section 3 residents/participants in the priority order listed below:
  - a) Category 1 – Section 3 Resident**  
Residents of the housing development or developments for which the contract shall be expended.
  - b) Category 2 – Section 3 Resident**  
Section 8 residents as well as all other \_\_\_\_\_ residents residing in the vicinity of the project who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
  - c) Category 3 – Section 3 Resident**  
Participants in HUD Youthbuild program being carried out in the project boundary area.
  - d) Category 4 – Section 3 Resident**  
Section 8 residents as well as all other residents residing in [Local Jurisdiction] who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
- After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
  - o Names of the Section 3 business concerns to be utilized,
  - o Estimates of the number of employees to be utilized for contract,

- o Projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon),
- o Efforts that will be utilized to seek Section 3 participants.
- o Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring.
- o Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to [Local Jurisdiction] Section 3 Coordinator.

**Bidding and Negotiation Requirements**

Every applicant and recipient shall require prospective contractors for work in connection with Section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semi-skilled, unskilled labor and trainees by category) where known; where not known, such information shall be supplied prior to the signed of any contract between contractors and their subcontractors. Consideration should be given to those contractors who will have training and employment opportunities for project area residents.

When a bidding procedure is used, the invitation or solicitation for bids shall advise prospective contractors of the requirements of these regulations. When a Section 3 covered contract is to be awarded based upon the lowest price or by sealed bids, the Section 3 business concern with the lowest responsive bid shall be given the opportunity to match the lowest responsive bid from any qualified source. If said Section 3 business concern cannot match the lowest responsive bid, then the award shall be made to the source with the lowest bidder.

Applicant, recipient and contractors should insert plan for utilization of project area business in the bid documents. The recipient must have indicated therein that Section 3 applies to the project and what is expected of them. All contractors who bid a job just show in their bid what they will do to implement Section 3. They must in this bid commit themselves to a goal and show what they intend to do to reach that goal. When the bids are opened, they must be evaluated in terms of the bidder’s responsiveness to Section 3. A bid which lacks a commitment to Section 3 or which lacks a goal or plan to reach a goal may be judged nonresponsive.

Applicants, recipients and contractors will ensure that the attached Section 3 Clause (Exhibit “C”) and Assurance of Compliance (Exhibit “A”) are made a part of all contracts.

In implementing its affirmative action plan, each applicant, recipient, contractor, or subcontractor shall make a good faith effort to achieve its goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.

**Section 3 Reporting**

**Annual Reporting**

[Local Jurisdiction] will report to OHCP an annual report outlining accomplishments regarding employment and other economic opportunities provided to low and very low income persons under Section 3. Form HUD-60002 is currently being utilized for reporting accomplishments. This form may be changed and updated from time to time as required by HUD and 24 CFR 135.

**Monthly Reporting**

General contractors and sub-contractors are required to submit to the \_\_\_\_\_ a new hires Section 3 compliance form on a monthly basis.

**Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to non-compliance through an internal process, [Local Jurisdiction ] encourages submittal of such complaints to its Community Development Director as follows:

- Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.

Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.

An investigation will be conducted if complaint is found to be valid. The \_\_\_\_\_ will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.

If complainants wish to have their concerns considered outside of [Local Jurisdiction]] a complaint may be filed with:

**The Assistant Secretary for Fair Housing and Equal Opportunity**

United States Department of Housing and Urban Development

451 Seventh Street, SW, Room 5100

Washington, DC 20410-2000

1-800-669-9777

1-800-927-9276 (TTY)

[www.hud.gov](http://www.hud.gov) or [www.espanol.hud.gov](http://www.espanol.hud.gov)

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

## Definitions

**Applicant** — Any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.

**Assistant** — the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** — a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** - any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** — all employment opportunities generated by the expenditure of Section 3 covered assistance (housing construction, housing rehabilitation, and public improvements funded by CDBG, HOME, HOPWA, and ESG as spelled out in 24 CFR Part 135).

**Low-income person** — families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

**Metropolitan Area** — a metropolitan statistical area (MSA), as established by the Office of Management and Budget (Miami-Dade County).

**New Hires** — full-time employees for permanent, temporary or seasonal employment opportunities

**Recipient** — any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Section 3**—Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)

**Section 3 Business Concern** — a business concern,

- 1) That is owned by Section 3 resident: or
- 2) Whose permanent, full-time employees include persons, at least 51% percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance**

Assistance provided under any HUD community development program that is expended for work arising in connection with employment, housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Covered Contracts** — a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

**Section 3 Covered Project** - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 Resident** — an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Subcontractor** — any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** — families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

**EXHIBIT A**  
**ASSURANCE OF COMPLIANCE (Section 3, HUD ACT of 1968)**

**TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESS AND LOWER INCOME PERSONS**

A. The project assisted under this (contract) (agreement) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 170U. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

B. Notwithstanding any other provision of this (contract) (agreement), the (applicant) (recipient) shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued there under prior to the execution of this (contract) (agreement). The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulation, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20 (b) of the regulations in all contracts for work in connection with the project. The (applicant) (recipient) certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

C. Compliance with the provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued there under prior to approval by the Government of the application for this (contract) (agreement), shall be a condition of the Federal financial assistance provided to the project, binding upon the (applicant) (recipient), its successors and assigns. Failure to fulfill these requirements shall subject the (applicant) (recipient), its contractors and subcontractors, its successors, and assigns to the sanctions specified by the (contract) (agreement), and to such sanctions as are specified by 24 CFR Section 135

**APPLICANT:**  
**SIGNATURE:**  
**ADDRESS:**  
**DATE:**

**EXHIBIT B  
SAMPLE PLAN**

**SECTION 3 ECONOMIC OPPORTUNITY PLAN QUESTIONS**

The Section 3 Economic Opportunity Plan must describe the proposed strategies for achieving the Section 3 training and employment numerical goals, and subcontracting numerical goals (where subcontracting is allowable in the Bid.)

Please review the information below, and provide your responses on separate paper. (A Section 3 Economic Opportunity Plan Instruction Sheet is attached to further assist you in developing your responses to the information requested below.)

1. Identify individual(s) responsible for planning, implementing and tracking the projects' Section 3 training and employment goals. Describe their prior experience in this area.
2. Describe efforts (contractor and subcontractor) to be taken to recruit, solicit, encourage, facilitate, and hire public housing and other low-income persons. Identify any private or public resources that will be used.
3. Describe contractor's activities to be taken for recruiting, soliciting, encouraging, facilitating and selecting Section 3 subcontractors, where applicable.
4. Describe plans to structure project activities in ways that create opportunities for Section 3 firms' participation, where applicable.

**YOUR RESPONSES TO QUESTIONS 1-4, WILL CONSTITUTE YOUR PLAN; PLEASE ATTACH YOUR PLAN DOCUMENT AND ALSO INCLUDE THE FOLLOWING INFORMATION ON YOUR PLAN:**

- (1) COMPANY NAME**
- (2) YOUR NAME AND PHONE NUMBER**
- (3) BID NUMBER AND NAME.**

## **SAMPLE PLAN (Cont.)**

### **PLEASE RE-TYPE YOUR OWN FIRM'S PLAN ON YOUR FIRM STATIONERY**

FIRM NAME, ADDRESS, TELEPHONE AND FAX NUMBER

#### **Part #1**

Identify individuals responsible for planning, implementing, and tracking the project's Section 3 training and employment goals. Describe their prior experience in this area. The individual responsible for planning, implementing and tracking the project's Section 3 training and employment goals is John Doe, President (or the appropriate title of this individual), of name of firm (hereafter referred to as "Contractor"). He (or she) will obtain all pertinent information to become thoroughly familiar and ensure contract compliance with the HUD Section 3 Regulation. John Doe has worked on construction (or service, whichever is applicable) projects, and is qualified to administer contractor's Section 3 Economic Opportunity Plan (Plan.)

#### **Part #2**

Describe efforts (contractor and subcontractor) to be taken to recruit, solicit, encourage, facilitate and hire public housing and other low-income persons. Identify any private or public resources that will be used. The employment goal is thirty percent (30%) of the aggregate number of new hires. Contractor will take the following steps to recruit, solicit, encourage, facilitate and hire public housing and other low-income persons, in the event any vacancies occur throughout the duration of the project:

1. Meet with resident associations and managers at the public housing site where work is to take place, first, and second, at other public housing sites.
2. Schedule a time and place for public housing residents to complete job applications.
3. Develop a list of "pre-qualified" Section 3 public housing and other low-income residents who could fill job vacancies that may later become available.
4. Send notices about Section 3 training and employment obligations and opportunities required for this project to labor organizations.
5. Establish a training program to provide public residents and other low income residents with the opportunity to learn basic skills and job requirements.
6. Advertise in major and community newspapers and on job sites for workers who meet the definition of a Section 3 resident.

Contractor will establish files to record and retain written documentation of all training and employment outreach efforts and resources from agency representatives and job applicants.

#### **Part #3**

*(ONLY APPLICABLE TO FIRMS THAT SUBCONTRACT)*

Describe the contractor's activities to be taken for recruiting, soliciting, encouraging, facilitating and selecting Section 3 subcontractors, where applicable.

• Firm Name Page 2 of 3

Contractor will take all feasible measures to recruit, solicit, encourage, facilitate, and select qualified Section 3 business subcontracting firms to perform at least 10% of the project award amount (contract sum) for each \_\_\_\_\_ project for which Contractor is the successful bidder.

Contractor will request the organizations, listed below, to provide lists of firms, organized by trade category, which can perform required project work (in addition to these organizations, Contractor may also contact other organizations that provide such listings):

1. Contractor's Resource Center
2. Small Business Administration
3. Minority Business Development Center

Contractor understands that, in addition to awarding work to qualified Section 3 businesses, it is our responsibility to:

1. Use the contractor's or firms solicitation letter to advertise to the "greatest extent feasible" to all firms on lists provided to us by [Local Jurisdiction]] and other organizations about the type of work needed to complete each \_\_\_\_\_ project,
2. Advise firms of Contractor's obligation to seek and award work to qualified Section 3 businesses, where feasible,
3. Clarify the definition of a Section 3 resident and business,
4. Explain how to qualify as a Section 3 business in order to be eligible to receive a preference from Contractor when subcontractor work is to be awarded, and
5. Provide Section 3 certified firms that are qualified to perform work with an opportunity to submit price quotations for \_\_\_\_\_ project work, and where financially feasible, hire such firms as subcontractors.

#### **Documentation of Outreach to find Eligible Section 3 Subcontracting Firms**

1. Contractor will establish files to record and retain written documentation of all outreach efforts and responses received from organizations and subcontractors who are contacted.
2. Contractor will fax [Local Jurisdiction]] Solicitation Letter to all firms that these organizations identify, based on each category of work required for each project.
3. Contractor will provide \_\_\_\_\_ with copies of its facsimile receipts to each of the organizations listed in its Plan and their responses.
4. Contractor will provide \_\_\_\_\_ with copies of its facsimile receipts and responses received from every firm that is faxed for each \_\_\_\_\_ project.
5. Contractor will provide \_\_\_\_\_ with an outreach close-out letter for each project awarded that refers to an attached outreach summary report. If Contractor is unable to meet \_\_\_\_\_ requirement to contract at least 10% of the award amount to Section 3 businesses, Contractor will include in its close-out letter an explanation as to why this requirement was not met.
6. The outreach summary report, referred to in No. 5, above, will list all contacts made to each organization or association, the individual firms subsequently contacted, categorized by trade, and the bid amount or other type of responses received from each firm (similar to the sample outreach summary report attached to Contractor's Plan.)
7. If a firm is non-responsive, Contractor agrees to make a second attempt at getting them to respond, failing which, Contractor will move on to another company, all of which will be submitted to [Local Jurisdiction]], and referred to in the outreach close-out letter and summary report.

#### **Part #4**

*(ONLY APPLICABLE TO FIRMS THAT SUBCONTRACT)*

**Describe plans to structure project activities in ways to create opportunities for Section 3 firms to participate, where applicable.**

Contractor will make every effort to structure project activities to increase opportunities for Section 3 businesses. This will be accomplished by sub-dividing the work into smaller amounts, or by using multiple firms to complete similar types of work.

Submitted by: \_\_\_\_\_ Submission Date: \_\_\_\_\_

President Name

**EXHIBIT C**  
**SECTION 3 CLAUSES**

- The \_\_\_\_\_ will ensure that the following clauses are included in all Section 3 covered contracts. The contractor and subcontractors (where applicable) will be bound by its provisions.
- 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 of 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 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 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.

**EXHIBIT D  
NEW HIRES SECTION 3 MONTHLY COMPLIANCE FORM**

This form is distributed to the General Contractor (GC) at the Pre-Construction Meeting. GC is also required to provide this form to any subcontractor firms they hire for this project.

Review the information below, check all that apply to:

Project Name \_\_\_\_\_  
Project Address \_\_\_\_\_

Additionally, please review and comply with Steps 1 and 2 below:

1. You must sign and date this form for every pay period in connection with this project and hand deliver to: \_\_\_\_\_

2. When you hire a Section 3 resident in connection with this project, you must also complete and submit a MONTHLY report (attached) for every pay period worked, to the designated Community Development Project Manager.

Pay Period/MONTH: \_\_\_\_\_ from: \_\_\_\_\_ to: \_\_\_\_\_

\_\_\_\_ I have not hired any new employees during the pay period/MONTH specified.

\_\_\_\_ I have hired \_\_\_\_\_ Section 3 employees and/or \_\_\_\_\_ non-Section 3 employees during the pay period shown here.

\_\_\_\_ I have taken one or more of the following recruitment steps to hire a Section 3 resident with the highest training and employment priority ranking: (check all that apply)

\_\_\_\_ I have advertised to fill vacancy(ies) at the site(s), where work is taking place, in connection with this project. Below, I have checked the steps I have taken to find Section 3 low-income residents, from the targeted groups and neighborhoods, to fill any vacancies.

\_\_\_\_ Placed signs or posters in prominent places at each of the above listed developments.

\_\_\_\_ Taken photographs of the above item to document that the above step was carried out

\_\_\_\_ Distributed employment flyers to each of the residents at these developments Posted employment flyers to each of the residents at these developments

\_\_\_\_ Contacted \_\_\_\_\_ Environmental Specialist or \_\_\_\_\_ employment referrals and HUD) Youthbuild Program referrals (if applicable)

\_\_\_\_ Contacted HUD to identify any HUD Youthbuild programs currently operating in the County; then contacted these programs for Youthbuild referrals

\_\_\_\_ Kept a log of all applicants and indicated the reasons why Section 3 residents who applied were not hired

\_\_\_\_ Retained copies of any employment applications completed by public housing Section 8 certificate or voucher holders or other Section 3 residents

\_\_\_\_ Sent a notice about Section 3 training and employment requirements and opportunities to labor organizations or to worker representatives with whom our firm has a collective bargaining or other agreement

\_\_\_\_ Sent proof of all checked items to \_\_\_\_\_ Section 3 representative above via fax at (305) 416-2090 and deliver to: \_\_\_\_\_

Authorized Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date \_\_\_\_\_

SAMPLE SECTION 3 PLAN #2

SECTION 3 PLAN

FOR

THE CITY/COUNTY OF \_\_\_\_\_

**RESOLUTION**

**A RESOLUTION TO ADOPT THE SECTION 3 PLAN  
TO COMPLY WITH 24 CFR, PART 135 OF THE  
UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT SECTION 3**

WHEREAS, the United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that federal funds benefit the residents of projects funded wholly or in part by those funds, and

WHEREAS, Part 135 of Section 3 is to establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met; and

WHEREAS, the \_\_\_\_\_ County or City of \_\_\_\_\_ staff has developed a revised Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and

WHEREAS, the Section 3 Plan has been reviewed by the \_\_\_\_\_ County or City of \_\_\_\_\_ senior staff members and their comments incorporated into the Plan.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners or City Council authorizes the \_\_\_\_\_ to adopt and implement the revised Section 3 Plan to ensure compliance with Federal Law.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

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- Exhibit 4:        Special Conditions

## **General Policy Statement**

It is the policy of the \_\_\_\_\_ of \_\_\_\_\_ to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The \_\_\_\_\_ implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the \_\_\_\_\_ and other qualified low- and very low-income persons residing:

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of \_\_\_\_\_ residents and other eligible persons and business by \_\_\_\_\_ contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The \_\_\_\_\_ shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to \_\_\_\_\_ residents prior to acting on any proposed contract award.

## **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the \_\_\_\_\_ Housing Authority or City of \_\_\_\_\_ to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

## **Section 3 Contracting Policy and Procedure**

The \_\_\_\_\_ will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must before submitting bids/proposals to the \_\_\_\_\_ be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form.

The existing Procurement Policy also contains goal requirements for awarding contracts to Small Disadvantaged Businesses, formerly Minority and Women Business Enterprises (M/WBE).

## **Section 3 Plan**

The \_\_\_\_\_, in conjunction with the \_\_\_\_\_, will develop a Section 3 Action Plan to identify the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3.

\_\_\_\_\_ intent to develop this plan is to include input from various city departments to include and, as well as HUD. Where applicable, input from other agencies and companies will be included.

### **Section 3 Employment & Training Goals**

It is the policy of the \_\_\_\_\_ to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). \_\_\_\_\_ has established employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30 – Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All contractors submitting bids or proposals to the \_\_\_\_\_ are required to certify that they comply with the requirements of Section 3.

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included in Exhibit 3.

### **Section 3 Program Participant Certification Procedure**

The \_\_\_\_\_ will certify Section 3 program participants who reside in the City of \_\_\_\_\_ and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (see Exhibit 3 – Section 3 Participant Eligibility for Preference form).

- All persons living in the City who meet the Section 3 eligibility guidelines can, by appointment, visit with the Section 3 Coordinator to complete a job readiness assessment.
- Once this assessment is complete, the Section 3 Coordinator will determine if the individual meets the eligibility requirements and is job ready.
- If the individual is deemed eligible for Section 3 participation and deemed not ready for employment, a referral will be made to other agencies that are better equipped to address the individual's needs, i.e., substance abuse providers, etc.
- The Section 3 job readiness component is a part of the \_\_\_\_\_ commitment to provide economic opportunities and training to residents/eligible participants to become gainfully employed.

### **Resident Hiring Requirements**

The \_\_\_\_\_ has adopted the following scale for resident hiring that is to be used on all construction contracts, service contracts and professional service contracts that contain a labor component. It is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in \_\_\_\_\_ contracted labor efforts. A prime contractor may satisfy \_\_\_\_\_ resident hiring requirements through its subcontractors.

TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS	RESIDENT AS A % OF TOTAL LABOR DOLLARS
Labor dollars \$25,000 but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least \$1 million, but less than \$2 million	4% of the labor dollars
At least \$2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – ½% of the labor dollars

With this sliding formula, it is expected that an appropriate number of \_\_\_\_\_ public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy \_\_\_\_\_ resident hiring requirement set forth above.

1. Subcontract or joint venture with a resident owned business. The business must be 51% of more owned by \_\_\_\_\_ public housing residents, or subcontract/joint venture with a business that employs full-time, 30% or more \_\_\_\_\_ or low and very-income individuals within the \_\_\_\_\_ City of \_\_\_\_\_, or
2. Direct hiring of \_\_\_\_\_ Housing Authority's \_\_\_\_\_ public housing residents and/or low and very low-income neighborhood residents based on the Resident Hiring Scale, or
3. Contractor incurs the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth in the Resident Hiring Scale, or
4. Contractor makes a contribution to \_\_\_\_\_ Education Fund to provide assistance to residents to obtain training. The level of contribution would be commensurate with the sliding scale set forth in the Resident Hiring Scale.

### Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals

The \_\_\_\_\_ will assist contractors with little or no experience in achieving Section 3 hiring and contracting goals by:

Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.

\_\_\_\_\_ Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects.

\_\_\_\_\_ Section 3 Coordinator will provide contractor with a list of Section 3 business concerns interested and qualified for construction projects.

\_\_\_\_\_ Section 3 Coordinator will inform contractor of known issues that might affect Section 3 residents from performing job related duties.

\_\_\_\_\_ Section 3 Coordinator will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

### **Preference for Contracting with Section 3 Business Concerns**

The \_\_\_\_\_, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

- **Category 1:** Business concerns that are 51% or more owned by residents of the housing development for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.
- **Category 2:** Business concerns that are 51% or more owned by residents of the Authority's public housing development(s) other than the housing development where the work is to be performed; or whose full-time permanent workforce includes 30% of these persons as employees.
- **Category 3:** HUD Youthbuild programs being carried out in the city of \_\_\_\_\_ in which Section 3 covered assistance is expended.
- **Category 4:** Business concerns that are 51% or more owned by a Section 3 resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents (category 4 business); or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by the \_\_\_\_\_.

#### **Evidence of Section 3 Certification**

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the \_\_\_\_\_ shall complete the Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability form, which can be obtained from the \_\_\_\_\_ Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of the \_\_\_\_\_ prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid.

#### **Resident Owned Business Contracting**

\_\_\_\_\_ will consider utilizing the alternative procurement process (Section 24 CFR Part 963) when contracting with businesses owned in substantial part by housing agency residents (resident-owned business) for public housing services, supplies or construction.

To be eligible for the alternative procurement process, a business must submit evidence to \_\_\_\_\_ that shows how each of the following requirements have been met:

- Submit certified copies of any city, state, or county municipal licenses that support the type of business activity for which it performs.
- Disclose to the Section 3 Coordinator, all owners of the business, as well as, each owners percentage of ownership and names of those individuals who possess the authority to make decisions on a day-to-day basis.
- Submit evidence that the business is able to perform successfully under the terms and conditions of the proposed contract.
- Provide a certified listing of all contracts awarded and received under the alternative procurement process within a two-year period. If a resident-owned business has received under this

alternative contracting procedure one or more contracts (within the two-year period) with total combined dollars of \$1,000,000, then it is no longer eligible for additional contracts under the alternative process until the 2-year period is past.

This alternative procurement policy is based upon the procurement procedure and policy set forth in HUD's regulations at 24 CFR, Part 85.36, but applies only to solicitations of resident-owned businesses. SPHA will utilize the alternative contracting procedure for resident-owned businesses only in cases where it is considered to be in the best businesses, economic and service interests of the authority.

### **Efforts to Award Contract Opportunities to Section 3 Business Concerns**

The \_\_\_\_\_ will use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist.

- Advertise contracting opportunities via newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
- Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- Coordinate pre-bid meetings at which the Section 3 business concerns would be informed of upcoming contracting opportunities in advance.
- Conduct workshops on \_\_\_\_\_ contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.
- Contact the City of \_\_\_\_\_ Business Development Department, business assistance agencies, Minority and Women's Business Enterprise (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
- Establish relationships with the Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist SPHA with educating and mentoring residents with a desire to start their own businesses.
- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
- Develop resources or seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance.

### **Section 3 Residents Recruitment, Training, and Employment Goals**

\_\_\_\_\_ will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

- Training opportunities will be advertised by distributing flyers via mass mailings and posting in common areas of the housing developments as well as all \_\_\_\_\_ public housing management offices.

- The resident councils, resident management corporations, as well as neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.
- Employment opportunities will be advertised by posting job vacancies in common areas of all of the \_\_\_\_\_ housing developments as well as contacting resident councils, resident management corporations, and neighborhood community organizations.
- A database will be developed of certified Section residents of public housing and other Section 3 residents.
- A database will be developed to maintain a skill assessment of all Section 3 residents of public housing and other Section 3 residents.
- A database will be developed of eligible qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.
- Relationships will be developed with local area employers in an effort to solicit job vacancies to determine skills needed in their workforce, thereby providing training to residents developing skills that will transfer into the external labor market.
- A provision for a specific number of public housing or Section 3 program participants to be trained or employed by the contractor will be incorporated into the contract.

### **Employment of Section 3 Program Participants**

- The Section 3 Coordinator will conduct a pre-interview with all residents prior to being hired by a contractor.
- The pre-interview will assess job readiness (i.e., childcare, transportation, work maturity, job retention skills). Only residents meeting the minimum qualifications of the contractor or subcontractor will be referred to the job site. Residents not deemed job ready would be referred elsewhere. It is imperative that the resident's basic needs are met prior to employment.
- If a resident is referred to a contractor and does not perform satisfactorily due to poor work habits (i.e., tardiness, absenteeism, alcohol/drugs, abusive language, fighting, etc.) she/he will be allowed two additional opportunities to be referred to other contractors. If after that time the resident still does not perform satisfactorily, it will be mandatory that she/he attend and complete a job readiness class, alcohol/drug treatment center, or any other program that he or she may be required to attend. After successful completion the resident will be given the opportunity to be reinstated on the list of residents available for work.
- Residents experiencing problems with contractors should first communicate the problem to the employer. If the problem cannot be solved between the employee and employer, the Section 3 Coordinator will meet with the parties involved to assist in trying to resolve the problem. Residents and employers (contractors or subcontractors) should document problems whenever they occur and record any and all efforts to correct them. The written documentation of the problem should be submitted to the Section 3 Coordinator.
- In order to qualify for employment with contractors, public housing residents must have their name(s) on a \_\_\_\_\_ lease, be current on rent, be at least eighteen years of age, and not be involved in any legal action with \_\_\_\_\_ (current documented eviction, criminal and drug activity or trespassing).

- Residents not interested in construction employment opportunities will be assessed for other skills (clerical, administrative, etc.) and will have the opportunity to receive help with interviewing techniques, mock interviews, resume preparation, application assistance, employment leads, and how to dress for success when conducting a job search.
- Residents interested in pursuing General Equivalency Diploma (GED) and continued training education will be referred to those resources by the Section 3 Coordinator who will maintain bi-weekly contact with residents to monitor progress.

**Contractor’s Requirements in Employing Section 3 participants:**

Under the \_\_\_\_\_ Section 3 Program, contractors and subcontractors are required to:

- Provide employment opportunities to Section 3 residents/participants in the priority order listed below:
  - - a) **Category 1 – Section 3 Resident**  
Residents of the housing development or developments for which the contract shall be expended.
    - b) **Category 2 – Section 3 Resident**  
Residents of other housing developments managed by the housing authority of the City of \_\_\_\_\_.
    - c) **Category 3 – Section 3 Resident**  
Participants in HUD Youthbuild program being carried out in the project boundary area.
    - d) **Category 4 – Section 3 Resident**  
Residents of Section 8 of the \_\_\_\_\_ Housing Authority as well as all other residents residing in the City of \_\_\_\_\_ who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
- After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
  - names of the Section 3 business concerns to be utilized,
  - estimates of the number of employees to be utilized for contract,
  - projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon),
  - efforts that will be utilized to seek Section 3 participants. (See Exhibit 2)
- Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the legal department will be contacted to ensure that the individuals are not involved in any legal proceedings against/with the \_\_\_\_\_.
- Submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award.
- Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the \_\_\_\_\_ Section 3 Coordinator.

- Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.
- Immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.

### **Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to non-compliance through an internal process, \_\_\_\_\_ encourages submittal of such complaints to its Section 3 Coordinator as follows:

- Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
- Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
- An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- The Section 3 Coordinator will provide written documentation detailing the findings of the investigation of the \_\_\_\_\_. The \_\_\_\_\_ will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the \_\_\_\_\_ a complaint may be filed with:

**<INSERT Local or Regional FHEO Field Office> or**

Assistant Secretary for Fair Housing and Equal Opportunity  
 United States Department of Housing and Urban Development  
 451 Seventh Street, SW  
 Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

### **Definitions**

**Applicant** – Any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.

**Assistant** – the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** - any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing Authority** (HA) – Public Housing Agency.

**Housing Development** – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

**HUD Youthbuild Programs** – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

**JTPA** – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

**Low-income person** – families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

**Metropolitan Area** – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

**New Hires** – full-time employees for permanent, temporary or seasonal employment opportunities.

**Recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Section 3** – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business Concern** – a business concern,

- 1) That is 51 percent or more owned by Section 3 resident: or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance** –

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** – the contract provisions set forth in Section 135.38.

**Section 3 Covered Contracts** – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 covered contracts do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

**Section 3 Covered Project** - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 Resident** – a public housing resident or an individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

**Section 3 Clause**

All Section 3 covered contracts shall included the following clause (referred to as the Section 3 Clause):

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 or 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 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 to the maximum extent feasible, but not in derogation of compliance with section 7(b).



**Exhibit 2**

City of \_\_\_\_\_

**RESIDENT EMPLOYMENT OPPORTUNITY DATA**

CITY OF \_\_\_\_\_

**ELIGIBILITY FOR PREFERENCE**

**Eligibility for Preference**

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

**Certification for Resident Seeking Section 3 Preference in Training and Employment**

I, \_\_\_\_\_, am a legal resident of the \_\_\_\_\_

\_\_\_\_\_ and meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: \_\_\_\_\_

\_\_\_\_\_

I have attached the following documentation as evidence of my status:

Copy of lease

Copy of receipt of public assistance

Copy of Evidence of participation in a public assistance program.

Other evidence \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**Exhibit 2**

**THE CITY/COUNTY of \_\_\_\_\_**

**SECTION 3 INCOME LIMITS**

All residents of public housing developments of the \_\_\_\_\_ Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the \_\_\_\_\_ City of \_\_\_\_\_

Who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

**Eligibility Guideline**

<b>Number in Household</b>	<b>Very Low Income</b>	<b>Low Income</b>
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

SECTION 3 CONTRACTING

POLICY AND PROCEDURE

## INTRODUCTION

**It is the mission of the City of \_\_\_\_\_ to provide a variety of safe, sanitary, accessible, decent, and affordable housing to the citizens of the City of \_\_\_\_\_ while enhancing and promoting resident self sufficiency.**

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal State, and local laws and regulations, be directed to low and very-low income individuals, especially recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income individuals. (Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u).

Section 3 requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by public housing assistance covered by Section 3, regardless of the amount of the contract or subcontract. Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3-business concern. (Refer to What Is A Section 3 Business Concern?). The Section 3 business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8).

Contractors who do not qualify as Section 3 business concerns, but who enter into contracts with the Housing Authority or the City of \_\_\_\_\_, must agree to comply with certain general conditions (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. Included in these conditions is the requirement that each contractor and subcontractor submit with each pay request a report of Section 3 compliance (refer to Section 3 Compliance Report). Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts (refer to Sanctions for Contractor's Noncompliance).

Please direct any questions you may have regarding this information to:

\_\_\_\_\_, Contract Administrator  
City of \_\_\_\_\_

## WHAT IS A SECTION 3 BUSINESS CONCERN?

### **A Section 3 Business Concern is a business concern, as defined in this section—**

1. That is fifty-one percent (51%) or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.

**Note:** A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above. (Refer to Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability Form – Exhibit 1)

## WHO IS A SECTION 3 RESIDENT?

**For purposes of the Housing Authority or the City of \_\_\_\_\_, a Section 3 resident is:**

1. A public housing resident;
2. An individual who lives with the \_\_\_\_\_ City of \_\_\_\_\_ and whose income falls within the guidelines for low- or very low income.

## ORDER OF PROVIDING PREFERENCE SECTION 3 BUSINESS CONCERN

When considering the award of contracts to business concerns, and more than one Section 3 business concern is being considered, to the greatest extent possible, awards shall be made in the following order of priority:

1. A Section 3 business concern that is fifty-one percent (51%) or more owned by resident(s) of the public housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) of the residents of the public housing development in which the work is directed;
2. A Section 3 business that is majority owned by resident(s) of other developments owned by The Housing Authority or the City of \_\_\_\_\_, but not the housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) residents of other developments owned by The Housing Authority or the City of \_\_\_\_\_ but not the housing development in which the work is directed;
3. HUD Youthbuild programs that are being carried out in the City in which the Section 3 covered assistance is expended.
4. A Section 3 business concern that is majority owned by a Section 3 resident who is not a public housing resident or whose permanent, full-time workforce includes no less than thirty percent (30%) Section 3 residents who are not public housing residents, or that subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to Section 3 business concerns.

**Note: A Section 3 business concern seeking any of the above preferences shall submit evidence that it meets the guidelines of that preference.**

## WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

The Housing Authority will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the Housing Authority's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.

3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

**ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT**

When considering the employment of a Section 3 resident, the following order of priority is followed as outlined in 24 CFR 135.32:

1. **Category 1 – Section 3 Resident**  
Residents of the housing development or developments in which the contract shall be expended.
2. **Category 2 – Section 3 Resident**  
Residents of other housing developments managed by the City of \_\_\_\_\_.
3. **Category 3 – Section 3 Resident**  
Participants in HUD Youthbuild program being carried out.
4. **Category 4 – Section 3 Resident**  
All other residents (including Section 8 recipients) of the City of \_\_\_\_\_ who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

**SECTION 3 INCOME LIMITS**

All residents of public housing developments of The Housing Authority or the City of \_\_\_\_\_ qualify as Section 3 residents. Additionally, individuals residing within the \_\_\_\_\_ of the \_\_\_\_\_ and who meet the income limits set forth below, can also qualify for Section 3 status.

Number In Household	Very Low Income	Low Income
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

SECTION 3 SPECIAL CONDITIONS

The \_\_\_\_\_ has initiated efforts to enhance resident hiring in specific procurement areas. These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractors' hiring of \_\_\_\_\_ residents, other low income and/or very low-income residents residing in the City of \_\_\_\_\_.

1. **Procurement Documents**

Each bidder/proposer must include a Section 3 Opportunities Plan or a Schedule D which indicates its commitment to meet \_\_\_\_\_ resident hiring requirements.

If a bidder/proposer fails to submit a Section 3 Opportunities Plan or a Schedule D and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive".

For invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy \_\_\_\_\_ resident hiring requirements will be a factor used in determining whether the bidder is "responsive".

For RFQ's, RFP's and IFB's, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts).

2. **Resident Hiring Requirements**

In view of \_\_\_\_\_ desire to provide \_\_\_\_\_ residents and neighborhood residents with employment opportunities, the following scale for resident hiring will be utilized on all construction contracts, service contracts, and professional service contracts containing a "labor" component:

<b>TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS</b>	<b>RESIDENT AS A % OF TOTAL LABOR DOLLARS</b>
At least \$25,000, but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least 1 million, but less than \$2 million	4% of the labor dollars
At least 2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – 1/2% of the labor dollars

With this sliding formula, it is expected that an appropriate number \_\_\_\_\_ public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy \_\_\_\_\_ resident hiring requirements set forth above.

**Exhibit 4**

3. **Enforcement**

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

During the post award or pre-bid conference, the objective shall be to impact critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail:

Davis-Bacon  
Minority and Women Owned Business Participation  
Resident Hiring Professional

(Non-construction contracts does not require Davis-Bacon)

Each representative will define specific functional requirements and require the contractor to certify its understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, resident hiring and Minority and Women Owned Business participation.

4. **Monitoring and Enforcement Authority and Responsibility**

The function of monitoring and enforcing resident hiring will be carried out by the Section 3 Coordinator, including all field activities.

**DEFINITION:**

For participation in the Resident Hiring effort, a resident is defined as anyone who is residing in the Housing Authority or the City of \_\_\_\_\_ public housing developments, Section 8 residents and individuals residing within the City of \_\_\_\_\_ who can be classified as low-and very-low income.

**INSTRUCTIONS FOR COMPLETING THE SECTION 3 OPPORTUNITIES PLAN  
(SERVICE & PROFESSIONAL CONTRACTS)**

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

The Section 3 Opportunities Plan is to be completed for service and professional contracts. There are four (4) ways in which Section 3 can be fulfilled. They are listed in order of preference:

- 1) Subcontract or joint venture with a resident owned business. The business must be 51% more owned by \_\_\_\_\_, or \_\_\_\_\_ public housing residents, or subcontractor/joint venture with a business that employs full-time, 30% or more \_\_\_\_\_, or low and very low income individuals within the \_\_\_\_\_, or
- 2) Direct hiring of \_\_\_\_\_ Housing Authority's \_\_\_\_\_ public housing residents and/or low and very low-income neighborhood residents, or
- 3) Incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth. Such training shall be determined after consultation with the Section 3 Coordinator of the \_\_\_\_\_.

- 4) Contribute to \_\_\_\_\_ resident educational fund in an amount commensurate with the sliding scale included in the Section 3 Conditions.

If a prime contractor is unable to satisfy \_\_\_\_\_ resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project.

In paragraph number one (1), if the (sub)contractor has identified a resident owned business or a business which employs 30% or more \_\_\_\_\_ Public Housing or Neighborhood residents, this paragraph is to be completed by indicating the number of resident owned businesses that will be used on the contract/spec number shown at the end of the paragraph.

If the (sub)contractor plans to hire \_\_\_\_\_ Public Housing or Neighborhood residents to work for its company, paragraph two (2) must be completed with the contract/spec number and the percentage of compliance in hiring the resident(s). For example, if your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 10% of your labor dollars or \$10,000.00. If the whole dollar amount is to be expended on the resident's salary, then 100% is to be inserted on the percent line. If a percentage amount less than 100% will be expended on the resident's salary, that amount must be inserted on the line and the remaining percentage must be expended through subcontracting/joint venturing with a resident owned business or a business that employs 30% or more residents, or placed into \_\_\_\_\_ Section 3 Resident Educational Fund. In which case, the corresponding paragraph must be completed.

If the (sub)contractor has exhausted the first two (2) options, then the full amount of the contractor's Section 3 obligations will be placed into \_\_\_\_\_ Resident Educational Fund, in which case paragraph three (3) must be completed and paragraphs one (1) and two (2) will contain zeroes in the percentage lines.

The second portion of the Section 3 Opportunities Plan begins with the specification or request for proposal title and number.

The third section is to be completed by listing current staff to be used to complete the work bid upon.

- (1) List the job titles,
- (2) Complete the Needed column if additional staff will be required to fulfill the classification,
- (3) In the Total column, list the total number of staff plus the number needed,
- (4) In the \_\_\_\_\_ and LIAR columns, list the number of current staff who are residents of \_\_\_\_\_ public housing, or who are low or very low income neighborhood residents,
- (5) In the To Be Filled column, list the number of positions that fit into the low and very low-income \_\_\_\_\_ public housing residents \_\_\_\_\_ and low and very low income Area Residents (LIAR) who will be hired.
- (6) In the Hiring Goal column, list the number of \_\_\_\_\_ Public Housing residents or low and very low-income neighborhood residents you intend to hire.

The final section is to be completed after the contract has been awarded; interviews have taken Place and residents have been hired. The completed Section 3 Opportunities Plan must be submitted to the Section 3 Coordinator and Procurement/Contracts Department.

The Housing Authority or the City of \_\_\_\_\_ public housing and neighborhood residents are screened and skills assessed by the Section 3 Coordinator. Each contractor is required to attend a pre-construction conference with the Procurement/Contract Compliance Department where contractual obligations will be explained, the contractor's Section 3 dollar amount will be determined, and the contractor's hiring goals will be discussed. The Section 3 coordinator will refer qualified residents to be interviewed by the contractor.

The Section 3 Opportunities Plan that is submitted with the RFQ/RFP/IFB and the final copy that is submitted to the Section 3 Coordinator and Procurement Contract Compliance Department must be signed and include the title of person executing the plan.





Exhibit 4

NAME OF PRIME CONTRACTOR:

TITLE OF RFP OR

SPEC: \_\_\_\_\_

SPEC. # OR RFP # OR PURCHASE

ORDER#: \_\_\_\_\_

CONTRACT

#: \_\_\_\_\_

SECTION 3 COORDINATOR

PROCUREMENT/CONTRACT COMPLIANCE DEPARTMENT

**WARNING: THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION OR LABOR RELATED PROCUREMENTS.**

1. Employment and Training of the Housing Authority or the City of \_\_\_\_\_ Public Housing Residents and Low and Very Low Income Area Residents.

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.38 implementing Section 3 requirements. The contractor hereby submits this Schedule D as its Section 3 Opportunities Plan.

The Contractor shall provide a status report identifying its progress in meeting the Section 3 goals established in this Section D on a quarterly basis throughout the contract period. The quarterly status report shall be submitted no later than 10 days after the end of each calendar quarter of the contract (e.g., April 10 for calendar quarter January 1 to March 31). The status report shall be in at least the same level of detail as the approved Schedule D. For any goal not met, the report shall identify any other economic opportunities, which the contractor has provided, or intend to provide to \_\_\_\_\_ and neighborhood residents.

The failure of the Contractor to comply with the approved plan shall be a material breach of the contract.

Each Bidder/Proposer for a construction or labor related contract must complete this Schedule D and submit all relevant information required herein. A prime contractor, through its' subcontractors may satisfy the \_\_\_\_\_ Resident Hiring Requirements. Please complete the Skill Needs Table in Section 1 of Section 3 Opportunities Plan in the following columns.

- 1) indicate each category of employment for all phase of this contract;
- 2) the number of positions which will be needed in each category;
- 3) how many of those positions are currently filled;
  - (a) the number filled by neighborhood residents, excluding \_\_\_\_\_ and \_\_\_\_\_ residents;
  - (b) the number filled by \_\_\_\_\_ Public Housing residents;
  - (c) how many positions need to be filled.
- 4) Indicate your goal for the number of positions you intend to fill with:
  - (a) Section 3 Residents
  - (b) Low and Very low income area residents.

NOTE: The minimum of trainees is that which can reasonably be utilized in each occupation, and no less than the number established by the U.S. Secretary of Labor for construction and non-construction labor related occupations. The contractor shall fill all vacant positions with low-income persons (earning less than 80% of the median income in the City of \_\_\_\_\_ and these positions shall not be filled immediately prior to undertaking work in order to circumvent regulations as set forth at 24 C.F.R. Part 135 et seq: as amended.

**II. SECTION 3 BUSINESSES SUBCONTRACTING OPPORTUNITIES**

In a one (1) page letter on your company's letterhead:

- 1) Indicate the goals, expressed in terms of percentage of planning subcontracting dollars, for the use of Section 3 business concerns as subcontractors.
- 2) A statement of the total dollar amount to be subcontracted, total dollar amount to be subcontracted to Section 3 business concerns for building trades, and total dollar amount to be subcontracted to Section 3 business concerns for other than building trades work (maintenance, repair, modernization and redevelopment).
- 3) A description of the method used to develop the goals above and the efforts to be undertaken by the Contractor to meet those goals.

Acknowledged by:

\_\_\_\_\_  
(President or Authorized Officer)

Date: \_\_\_\_\_

**RESIDENT EMPLOYMENT OPPORTUNITY DATA**

CITY OF _____  <b>ELIGIBILITY FOR PREFERENCE</b>
--

**Eligibility for Preference**

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

**Certification for Resident Seeking Section 3 Preference in Training and Employment**

I, _____, am a legal resident of the _____  _____ and meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.	
My permanent address is: _____ _____	
I have attached the following documentation as evidence of my status:	
<input type="checkbox"/> Copy of lease	<input type="checkbox"/> Copy of receipt of public assistance
<input type="checkbox"/> Copy of Evidence of participation in a public assistance program	<input type="checkbox"/> Other evidence _____
Signature _____	_____
Print Name _____	Date _____

**SECTION 3 INCOME LIMITS**

All residents of public housing developments of the \_\_\_\_\_ Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the \_\_\_\_\_ City of \_\_\_\_\_ Who meet the income limits set forth below, can also qualify for Section 3 status. A picture identification card and proof of current residency is required.

<b>Eligibility Guideline</b>		
<b>Number in Household</b>	<b>Very Low Income</b>	<b>Low Income</b>
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3  
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Type of Business:       Corporation                       Partnership  
                                  Sole Proprietorship       Joint Venture

Attached is the following documentation as evidence of status:

**For Business claiming status as a Section 3 resident-owned enterprise:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of resident lease  | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation<br>in a public assistance program | <input type="checkbox"/> Other evidence                       |

**For business entity as applicable:**

- |   |   |
|---|---|
| <input type="checkbox"/> Copy of Articles of Incorporation  | <input type="checkbox"/> Certificate of Good Standing             |
| <input type="checkbox"/> Assumed Business Name Certificate  | <input type="checkbox"/> Partnership Agreement                    |
| <input type="checkbox"/> List of owners/stockholders and<br>% ownership of each                   | <input type="checkbox"/> Corporation Annual Report                |
| <input type="checkbox"/> Organization chart with names and titles<br>and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
|   | <input type="checkbox"/> Additional documentation                 |

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:**

- List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- |  |  |
|--|--|
| <input type="checkbox"/> List of all current full-time employees                               | <input type="checkbox"/> List of employees claiming Section 3 status                                     |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3<br>years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3<br>years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

\_\_\_\_\_  
Authorizing Name and Signature

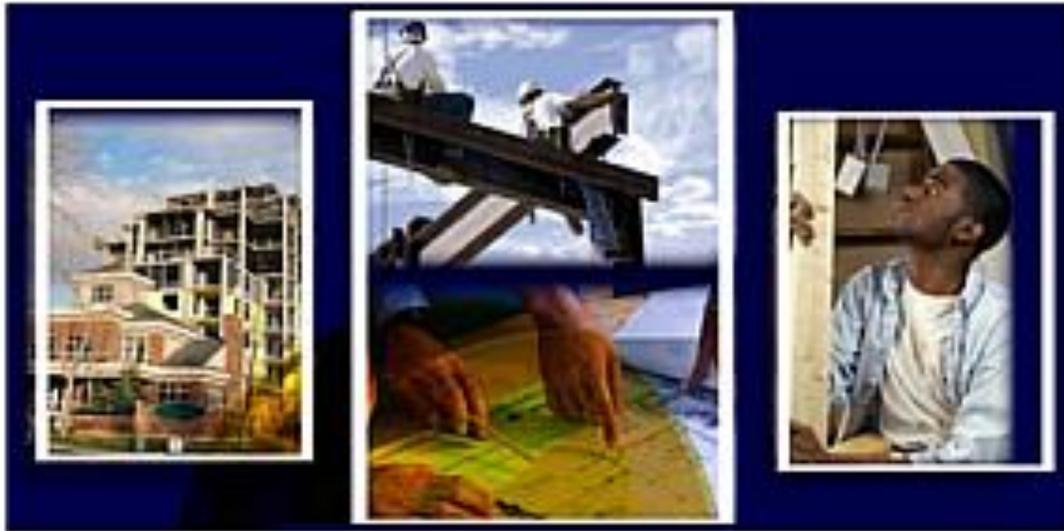
(Corporate Seal)

Attested by: \_\_\_\_\_

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Section 3

### Economic Opportunity



#### **A Piece of the American Dream**

Providing job training, economic opportunities, and self-sufficiency to businesses and residents of neighborhoods receiving HUD funding for housing and community development.

[For more information, locally contact -](#)

Or contact your nearest HUD Fair Housing and Equal Opportunity Representative at-

**U.S. Department of Housing and Urban Development  
Columbus Field Office  
200 North High Street  
Columbus, Ohio 43215  
(614) 469-5737**



**PART II: CONTRACTS AWARDED**

**1. Construction Contracts:**

- A. Total dollar amount of all contracts awarded on the project
- B. Total dollar amount of contracts awarded to Section 3 Businesses
- C. Percentage of the total dollar amount that was awarded to Section 3 Businesses
- D. Total number of Section 3 businesses receiving contracts


**2. Non-Construction Contracts:**

- A. Total dollar amount of all non-construction contracts awarded on the project/activity
- B. Total dollar amount of non-construction contracts awarded to Section 3 businesses
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses
- D. Total number of Section 3 businesses receiving non-construction contracts


**PART III: SUMMARY**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply).

Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.

Participated in a HUD program or other program which promotes the training or employment of section 3 residents.

Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 Business concerns

Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.

Adopted a Section 3 Plan

Maintain list of Section 3 residents and businesses

Other; describe below.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that HUD ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by HUD and OHCP to monitor program recipients' compliance with Section 3, to assess the results of OHCP and OHCP grant recipient's efforts to meet the statutory objectives of Section 3, to prepare reports to HUD, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected to assist HUD and OHCP in meeting reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form.

The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

**OHCP Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons****Instructions:**

This form is to be used to report accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to **recipients of housing and community development assistance in excess of awarded for:** (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts of \$10,000 or more.**

This form has three parts, which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to **contracting**, and Part III summarizes recipients' efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons. **The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

**Recipient Identification Information Table**

Self explanatory.

**PART I: Employment and Training Opportunities**

- Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.
- Column B: (Mandatory Field)** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.
- Column C: (Mandatory Field)** Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.
- Column D:** Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.
- Column E:** Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.
- Column F: (Mandatory Field)** Enter the number of Section 3 residents that were trained in connection with this award.

**PART II: Contract Opportunities**

- Block 1: Construction Contracts:**
- Item A:** Enter the total dollar amount of all contracts awarded on the project/program
  - Item B:** Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses
  - Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses
  - Item D:** Enter the number of Section 3 businesses receiving awards.
- Block 2: Non-Construction Contracts:**
- Item A:** Enter the total dollar amount of all contracts awarded on the project/program
  - Item B:** Enter the total dollar amount of contracts connected with this project that were awarded to Section 3 businesses
  - Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses
  - Item D:** Enter the number of Section 3 businesses receiving awards.

**PART III: Summary of Efforts - Self-explanatory**

\* The terms "low-income persons" and very low-income persons" have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

**U.S. Department of Housing  
and Urban Development**  
Office of Fair Housing  
and Equal Opportunity

OMB Approval No. 2529-0043

(Expires 11/30/2010)

**Complaint Register**

Under Section 3 of the Housing  
And Urban Development Act of 1968

Name of Complainant (Person or organization)	Home Phone
Street Address	Work Phone
City, State, Zip code	
Against whom is this complaint being filed?	Business Phone
Name of organization or company	
Street Address	
City, State, Zip code	
Name and identify others (if any) who violated the law in this case	

You are (check all that apply)	
<input type="checkbox"/> A. Low/Very low income	<input type="checkbox"/> D. Section 3 business concern
<input type="checkbox"/> B. Public housing resident	<input type="checkbox"/> E. A representative of D
<input type="checkbox"/> C. A representative of A or B	

Complaint is against (check one or more boxes)	
<input type="checkbox"/> A. Applicant	<input type="checkbox"/> D. Recipient
<input type="checkbox"/> B. Sub-Recipient	<input type="checkbox"/> E. Contractor
<input type="checkbox"/> C. Subcontractor	<input type="checkbox"/> F. Other (please specify _____)

Basis for non compliance with Section 3		
<input type="checkbox"/> Denied Training	<input type="checkbox"/> Denied Employment	<input type="checkbox"/> Denied Contracting

What did the person you are complaining against do? (Check all that apply – provide documentation)	
<input type="checkbox"/> A. Failed to meet numerical goals, as set out in the Section 3 regulations	<input type="checkbox"/> F. Failed to incorporate the Section 3 clause in Section 3 solicitations or contracts
<input type="checkbox"/> B. Failed to ensure that its contractors and subcontractors comply with Section 3	<input type="checkbox"/> G. Failed to train and/or employ Section 3 residents
<input type="checkbox"/> C. Failed to notify Section 3 residents about training and/or employment opportunities	<input type="checkbox"/> H. Failed to award contracts to Section 3 business concerns
<input type="checkbox"/> D. Failed to notify Section 3 business concerns about contracting opportunities	<input type="checkbox"/> I. Contracted with a contractor found to be in violation of applicable statutes and/or HUD regulations
<input type="checkbox"/> E. Failed to notify potential contractors for Section 3 covered projects of the requirements of Section3	<input type="checkbox"/> J. Failed to provide preference to Section 3 residents in training and or employment opportunities.
	<input type="checkbox"/> K. Failed to provide preferences for Section 3 business concerns in contracting opportunities

When did the act(s) checked above occur? (Include the most recent date if several dates are involved):
--

Identify HUD assistance program(s). (Check all that apply)			
<input type="checkbox"/> A. PIH/DEV	<input type="checkbox"/> D. Other PIH	<input type="checkbox"/> G. CDBG	<input type="checkbox"/> J. Other CPD
<input type="checkbox"/> B. PIH/MOD	<input type="checkbox"/> E. 202/811	<input type="checkbox"/> H. HOME	<input type="checkbox"/> K. Lead-based Paint
<input type="checkbox"/> C. PIH/OPER	<input type="checkbox"/> F. Other Housing	<input type="checkbox"/> I. Homeless	<input type="checkbox"/> L. Other

Summarize what happened? Attach additional information if necessary

[Empty box for summarizing the incident and attaching additional information]

Signature	Date
I declare under penalty of perjury that I have read this compliant (including any attachments) and that it is true and correct.	

**Instructions for the Complaint Register**  
**Section 3 of the Housing and Urban Development Act of 1968**

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

The information is given voluntarily and provides the basis for HUD's investigation of the complaint to determine if the allegations of noncompliance are valid. The Department will use the information provided as the basis for its determination of jurisdiction over a complainant's allegations. All information collected complies with the Privacy Act of 1974 and OMB Circular A-108. The information is not of a sensitive nature. The information is unique to the processing an allegation of noncompliance with the Section 3 statute or implementing regulations.

This form is to be used to report allegations of noncompliance with Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations at 24 CFR Part 135.

**What does Section 3 of the Housing and Urban Development Act of 1968 provide?**

The law describes the HUD programs directly affected by Section 3, receiving Federal financial assistance from the Department, and dictates how these programs are to provide employment and other economic opportunities for low and very low income persons.

**What does the law cover?**

Section 3 applies to any Public and Indian Housing programs that receive: (1) developmental assistance pursuant to section 5 of the U. S. Housing Act of 1937; (2) operating assistance pursuant to section 5 of the U.S. Housing act of 1937; or (3) modernization grants pursuant to section 14 of the U.S. Housing Act of 1937, and to housing and community development assistance extended for: (1) housing rehabilitation (including reduction and abatement of lead based paint hazards); (2) housing construction or (3) other public construction projects; and for which the contract and subcontract exceeds \$100,000.

**What can you do about violations of the Law?**

Remember, Section 3 applies to the awarding of jobs, training programs, and contracts, generated from projects receiving HUD financial assistance. If you believe that, as a low-income person or a Section 3 business concern, the responsibilities to provide economic opportunities under Section 3 have been violated, you have a right to file a complaint within 180 days of the last alleged occurrences of noncompliance.

Complain to the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, by filing this form by mail or in person. The information received will be used by HUD to determine jurisdiction under Section 3.

HUD will send the complaint to the appropriate HUD recipient for resolution. If resolution by the recipient fails, HUD will investigate. If HUD finds that the complaint has merit, it will try to end the violation by informal resolution. If conciliation fails, HUD may initiate other steps to enforce the law, including but not limited to suspension and debarment of the recipient or contractors as applicable.

You can obtain assistance in learning about Section 3 or in filing a complaint at the HUD Office listed below:

Assistant Secretary  
HUD Fair Housing and Equal Opportunity  
451 7<sup>th</sup> Street SW  
Washington, DC 20410  
(202)-708-3633

**Privacy Act of 1974 (P.L.93-579)**

**Authority:** Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1968, as amended by the Housing and Community Development Act of 1992, U.S.C. 1701u and implementing regulations at 24 CFR Part 135.

**Purpose:** The information requested on this form is to be used to investigate and process Section 3 complaints.

**Use:** The information requested will be used to process a complaint filed under Part 135. HUD may disclose certain information for Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.

**Penalty:** Failure to provide some or all of the requested information will result in delay or denial of HUD assistance.

Disclosure of this information is voluntary.



U.S. DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT  
Midwest Regional Office, Region V  
Ralph H. Metcalfe Federal Building  
77 West Jackson Boulevard – Room 2101  
Chicago, Illinois 60604-3507

Office of Fair Housing and Equal Opportunity

**FYI**

August 25, 2009

Honorable Chris Coleman  
Mayor of Saint Paul  
390 City Hall  
15 West Fourth Street  
Saint Paul, MN 55102

Dear Mayor Coleman:

SUBJECT: Section 3 Monitoring and Limited Compliance Review  
City of Saint Paul and the Housing and Redevelopment Authority (HRA)  
Determination of Non-Compliance

The U.S. Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity, has completed a limited on-site compliance review of the city of Saint Paul and the Saint Paul Housing and Redevelopment Authority (HRA)<sup>1</sup> pursuant to Section 3 of the Housing and Urban Development Act of 1968<sup>2</sup>. The purpose of the review was to determine whether, and to what extent, the city of Saint Paul and the HRA were administering HUD-funded programs in compliance with the requirements of Section 3 as specified in 24 CFR § 135. The review was limited to Section 3 contracting requirements and therefore the findings contained herein do not address the city's compliance with the Section 3 training and employment requirements.

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low-income persons. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of community development assistance. Most HUD programs require the grantee to sign a certification stating that it will comply with the requirements of Section 3.

Background:

The city of Saint Paul is a Community Development Block Grant (CDBG) entitlement

<sup>1</sup> The Saint Paul Housing and Redevelopment Authority is a legally distinct public entity which undertakes housing, commercial and business development activities on behalf of the City of Saint Paul. The Saint Paul City Council serves as the HRA Board of Commissioners.

<sup>2</sup> 12 USC 1701a.

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[www.hud.gov](http://www.hud.gov)

[espanol.hud.gov](http://espanol.hud.gov)

community and a HOME program participating jurisdiction. As such it is a recipient of HUD financial assistance. Certain projects carried out by the city utilizing HUD funds constitute "Section 3 covered assistance" as defined in 24 CFR 135.3.<sup>3</sup> Between 2006 and 2008, the city received HUD funds in the following amounts:

2006 <sup>4</sup>	CDBG \$8,211,748	HOME \$2,291,390
2007 <sup>5</sup>	CDBG \$8,225,675	HOME \$2,277,962
2008 <sup>6</sup>	CDBG \$7,941,344	HOME \$2,202,555

On June 23, 2008, Fredrick Newell filed a complaint alleging that the Saint Paul HRA failed or refused to comply with the requirements of Section 3. On June 24, 2008, Mr. Newell filed a second complaint alleging that the city of Saint Paul failed or refused to comply with the requirements of Section 3. Given the functional relationship between the HRA and the city of Saint Paul, the two complaints were consolidated for the purposes of investigation.

During the course of the investigation, HUD staff discovered that the city of Saint Paul had not submitted annual reports (HUD Form 60002) of Section 3 activity as required by 24 CFR 135.90<sup>7</sup> for the last several years. In light of Saint Paul's failure to submit the annual reports as required, HUD determined to incorporate the investigation of Mr. Newell's complaints into a general review of the city of Saint Paul's compliance with the contracting provisions of Section 3.<sup>8</sup>

During the week of May 19, 2009, the following staff conducted a limited review of the city's compliance with Section 3, focusing on contracting opportunities and obligations: Jaime Pedraza, Erika Finkler and Lerdine Darden of the HUD Minneapolis Field Office, and Rafiq Munir of HUD's Section 3 Headquarters office. Data and documents were examined in advance of the on-site review. Key staff were interviewed and selected construction project files were reviewed on-site. Peter McCall, Assistant City Attorney, was present during the entrance and exit meetings and at all staff interviews.

In addition, materials produced pursuant to a federal lawsuit<sup>9</sup> filed by Mr. Newell against the city of Saint Paul were also reviewed. In his lawsuit, Mr. Newell alleged the city failed to comply with Section 3 in numerous ways including (1) failure to award a sufficient percentage of contracts to Section 3 business concerns; (2) failure to exercise

<sup>3</sup>Section 3 applies to the following HUD assistance...community development assistance that is used for the following projects (i) housing rehabilitation (ii) housing construction and (iii) other public construction.

<sup>4</sup> See <http://www.hud.gov/offices/cpd/about/budget/budget06>

<sup>5</sup> See <http://www.hud.gov/offices/cpd/about/budget/budget07>

<sup>6</sup> See <http://www.hud.gov/offices/cpd/about/budget/budget08>

<sup>7</sup> Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with and with such information as the Assistant Secretary may request, for the purposes of determining the effectiveness of Section 3.

<sup>8</sup> See 24 CFR 135.74 (f).

<sup>9</sup> Nails Construction Company et al v. The City of Saint Paul 2007 WL 423187 (D.Minn.)

oversight over contractors hired with Section 3 funds to assure that the contractors provide training, employment, and contracting opportunities to Section 3 persons and business concerns; (3) failure to meet Section 3's reporting requirements; (4) failure to seek out and identify Section 3 business concerns about contracting opportunities; and, (5) failure to file form HUD-60002. These are essentially the same allegations contained in Mr. Newell's HUD complaint. The lawsuit was ultimately dismissed on summary judgment because the court determined that Section 3 does not provide a right of private action.

#### Interviews:

HUD staff conducted interviews to determine the extent of knowledge city staff had of Section 3. From these interviews it was apparent that the staff had no working knowledge of Section 3 and was generally unaware of the city's programmatic obligations thereto. It appeared that city staff were confusing Section 3 responsibilities with Saint Paul's efforts to increase participation by minority and women-owned businesses in city contracts. Project managers and grants administrators in the city's Department of Planning and Economic Development (PED) testified that potential contractors are not notified of their Section 3 obligations nor do bid solicitations or contracts reference or incorporate the required "Section 3 clause."<sup>10</sup> Further, they stated that an explanation of Section 3 requirements is not included in pre-bid or pre-construction conferences. Although such conferences are routine and project managers review various contract compliance issues during the conferences, they acknowledged that Section 3 is not one of the matters regularly discussed. Mr. McCall stated that his office works with PED staff to develop contracts using CDBG and HOME funds but that he has never advised that the Section 3 clause be incorporated into said contracts.

HUD requires CDBG entitlement communities to submit an annual report to determine the effectiveness of Section 3. The annual report is to be electronically submitted on Form 60002 with or at the same time the entitlement community submits its Consolidated Annual Performance and Evaluation Report (CAPER). City staff stated that they were unaware of this requirement and that, to their knowledge, the city has never submitted a Section 3 report to HUD.

Ronald Ross, PED Grants Administrator, stated that the city does submit the required Contract and Subcontract Activity Report to HUD annually.<sup>11</sup> This report is submitted pursuant to Executive Order 2516 which requires that all federal agencies develop Minority Business Development Plans. Form 2516 is designed to provide HUD with sufficient information to evaluate a grantee's performance towards meeting its Minority Business Enterprise (MBE) goals. While Form 2516 does include a field for reporting on Section 3 contract activity, filing Form 2516 does not obviate the recipient's obligation

<sup>10</sup> 24 CFR 135.32 Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors and sub-contractors. This responsibility includes...notifying potential contractors for Section 3 covered projects of the requirements of this part, and incorporating the Section 3 clause ... in all solicitations and contracts.

<sup>11</sup> HUD Form 2516 Contract and Subcontract Activity

to file Form 60002.

Form 2516 was not designed to fully capture a recipient's Section 3 contracting activities. However, even if it were, the city's method of data collection would have rendered its efforts in this regard as insufficient. This is demonstrated by a review of the Forms 2516 submitted by the city for 2005, 2006 and 2007. In project reports for each of the three years, there are numerous instances where a contractor is identified as Section 3 business in one report but not in another. When asked about this discrepancy, Mr. Ross stated that when filling out Form 2516 he relies exclusively upon information provided to him by the city's various sub-recipients. He said that upon receipt of said information he enters it onto a Form 2516 which he then transmits to HUD annually. Consequently in those instances where a sub-recipient working on a project asserts that a given contractor is a Section 3 business and another sub-recipient working on a different project does not so certify, the city simply forwards the contradictory information to HUD. Further, as Mr. Ross acknowledged, the city does not have a procedure in place for certifying Section 3 businesses. Therefore there is no mechanism by which the city could have independently evaluated a sub-recipient's assertion concerning a business's Section 3 status.

#### File review:

Based on information gathered before the on-site review, five community development projects were selected for review<sup>12</sup>. The projects were selected because, per the recipient, they met the Section 3 funding threshold<sup>13</sup>. HUD staff reviewed the contract files maintained by the PED and the Human Rights and Equal Economic Opportunity Department. The reviewers were examining the files for documentation of compliance with Section 3. None of the contracts examined contained the required "Section 3 clause."<sup>14</sup> Further, neither the project bid solicitations nor the official minutes of pre-bid and pre-construction conferences contained any reference to Section 3

The HOME Repayment Loan Agreements for the Winnipeg Apartments, Booth Brown Manor and for the Delancey/Selby Stone Apartments did contain a paragraph on Section 3, but it incorrectly stated that participation in the city's Vendor Outreach Program and Affirmative Action Program are required elements of Section 3 compliance. Nor did these documents include or reference the required Section 3 clause but rather recommended that sub-grantees utilize businesses located in, or owned by people living within, the seven county metropolitan area.

The Request for Qualifications for the Delancey/Selby Stone Apartments renovation

<sup>12</sup> The projects selected were Booth Brown Manor, Commerce Apartments, Delancey/Selby Stone Apartments, City House and Rice-Winnipeg Apartments.

<sup>13</sup> 24 CFR 135.3(a)(3)(ii)(B) The requirements of this part apply to contractors and subcontractors performing work on Section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

<sup>14</sup> 24 CFR 135.38. All Section 3 covered contracts are required to contain a specific clause that details a contractor's Section 3 responsibilities.

project did state that Section 3 requirements apply. However, the Acknowledgment of Receipt of Compliance Documents for this project did not identify any subsequent compliance with Section 3.

#### Testimony or Other Evidence:

HUD staff reviewed materials developed pursuant to Mr. Newell's federal civil suit against the city of Saint Paul. This material is generally consistent with the information developed during the on-site compliance review. Robert Hammer, Director of Finance and Administrative Services for the city of Saint Paul, provided a sworn affidavit filed with the United States District Court in which he stated that the city of Saint Paul had never instituted, nor had in place at the time, a Section 3 certification and tracking program. Further, Mr. Hammer affirmed that the city had never submitted a Form 60002 to HUD nor was he familiar with a requirement to do so.<sup>15</sup>

#### Findings and Conclusions:

The city of Saint Paul (including the Saint Paul HRA) is not in compliance with the requirements of the Section 3. It cannot document compliance with the "greatest extent feasible" requirement of Section 3 by demonstrating that its contracting activities meet the numerical goals as set forth in the regulation.<sup>16</sup> Nor has it implemented any of the specific activities defined by the regulation as recipient responsibilities. There are no procedures in place to: 1) notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business opportunities;<sup>17</sup> 2) notify potential contractors about the Section 3 requirements and ensure their compliance and their subcontractors' compliance with Section 3 requirements;<sup>18</sup> 3) incorporate the Section 3 clause<sup>19</sup> in all solicitations and contracts;<sup>20</sup> 4) facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;<sup>21</sup> or 5) document the actions taken to comply with the Section 3 requirements, the results of the actions and impediments, if any.<sup>22</sup> Furthermore, the recipient has not submitted the Form 60002 annually as required by the regulations.

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<sup>15</sup>Second Affidavit of Robert Hammer dated October 3, 2006.

<sup>16</sup> See 24 CFR § 135.30

<sup>17</sup> See 24 CFR § 135.32(a)

<sup>18</sup> See 24 CFR § 135.32(b)

<sup>19</sup> See 24 CFR § 135.38

<sup>20</sup> See 24 CFR § 135.32(b)

<sup>21</sup> See 24 CFR § 135.32(c)

<sup>22</sup> See 24 CFR § 135.32(e)

The city asserts that notwithstanding its inability to document compliance with the "greatest extent feasible" requirement, to implement any of its defined program responsibilities, or to file Form 60002 annually, it administers its community development programs in compliance with Section 3 requirements. The city offers in support of this assertion the fact that HUD's Office of Community Planning and Development (CPD) reviews its community development activities annually to determine compliance with applicable laws and regulations and that the city routinely receives high rating from CPD. However, Section 3 compliance is not an element of a CPD annual review. Although HUD may periodically conduct Section 3 compliance reviews of selected recipients, it relies primarily on a recipient's self-certification in this regard. Absent reason to believe to the contrary, HUD accepts a recipient's self-certification as sufficient evidence that the recipient is carrying out its community development activities in compliance with Section 3. The Section 3 self-certification of compliance is included in every application for new or continued HUD funding.

Given this finding of noncompliance, the Assistant Secretary for Fair Housing and Equal Opportunity will take informal steps to bring this matter to a voluntary and just resolution in accordance with 24 CFR 135.76(f)(2).<sup>23</sup> Where attempts to informally resolve this issue fail, the Assistant Secretary will impose a resolution. Any resolution imposed by the Assistant Secretary will be in accordance with the regulations governing the particular HUD program(s) in question and may result in the imposition of program sanctions if appropriate. Please be advised that you have the right to appeal this decision with fifteen (15) days of the receipt of this notification by requesting a reconsideration of this action. Any request for reconsideration should specify the reasons why this decision should be reconsidered. Your request should be mailed directly to the Assistant Secretary for Fair Housing and Equal Opportunity at:

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity  
451 Seventh Street, SW  
Suite 5100 Washington, D.C. 20410

If an appeal is not submitted during the indicated time above, you will be contacted by a staff person to begin the voluntary resolution process. If you have any questions

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<sup>23</sup> Generally findings of noncompliance identified by way of a compliance review are resolved pursuant to 24 CFR 135.74 (c). However, since the compliance review resulted from an individual complaint, the Assistant Secretary has determined to resolve the matter in the manner detailed above.

regarding any aspect of this review, please contact Ms. Jaime Pedraza at 612-370-3000 ext 2130. Thank you for your cooperation.

Sincerely,



Barbara M. Knox, Director  
Office Fair Housing & Equal Opportunity  
Region V

cc: Cecile Bedor, PED  
Robert Hammer, Administrative Team Leader  
Fredrick Newell  
Dexter Sidney, Field Office Director  
Michele Smith, CPD Director  
Jaime D. Pedraza, FHEO Director

SECTION 3 PLAN  
 FOR  
 THE CITY OF SAINT PAUL  
 AND ITS  
 HOUSING AND REDEVELOPMENT AUTHORITY  
 (Revised March 4, 2010)

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## **I. Introduction**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701(u)) ('Section 3') requires the City of Saint Paul ("Saint Paul") and its Housing and Redevelopment Authority ("HRA")(collectively Saint Paul and HRA are referred to as the "City") to ensure that employment, training, contracting and other economic and business opportunities generated by the Department of Housing and Urban Development ("HUD") financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low and very-low income persons.

This Section 3 plan ("Plan") identifies the goals, objectives and actions that will be implemented by the City to ensure compliance in its own operations and those of developers, covered contractors and covered subcontractors with the requirements of Section 3 and its regulations found at 24 CFR Part 135. The City may take other actions it deems necessary as well. At the same time, the City will also be complying with all other laws and regulations pertaining to the awarding of contracts including without limitation laws requiring the awarding of contracts to the lowest responsible bidder. The City will designate a Section 3 Coordinator who will work with City departments, developers, contractors, subcontractors, Section 3 business owners, members of the community, and public housing residents to coordinate and monitor activities that contribute to Section 3 compliance. Defined Terms used in this Plan are defined either in this Plan, in Attachment A or at 24 CFR Part 135.

## **II. Section 3 City Contracting Policy and Procedure**

The City will include Section 3 information and requirements in all its procurements and bid specifications for projects covered by Section 3, which by reference become a part of the City's contract with the successful bidder. This Plan contains goal requirements for awarding contracts to Section 3 business concerns.

All contractors/businesses seeking contracts as Section 3 business concerns must, before submitting bids/proposals to the City, complete certifications acknowledging the Section 3 contracting and employment provisions required by this Plan. Such certifications shall be adequately supported with appropriate documentation as referenced in the form.

Any bidder/proposer's failure to agree to a Section 3 action plan may render the bid non-responsive and may cause the bidder/proposer to be disqualified from further consideration for the contract.

## **III. Efforts by City to Award Contract Opportunities to Section 3 Business Concerns and Employment Opportunities to Section 3 residents.**

The City will use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist:

- Create a Section 3 page on the City's web site.
- Advertise contracting and employment opportunities via the City's web page that will provide general information about the work to be contracted and where to obtain additional information.
- Create and maintain a list of certified Section 3 businesses and Section 3 residents.
- Send notices to all vendors on the City's current CERT list, and other interested entities, inviting eligible businesses to submit certification forms. Businesses shall certify or submit evidence, if requested, that the business concern is a Section 3 business concern as defined in Section 135.5 of 24 CFR.
- Provide electronic notice of contracting opportunities to Section 3 business concerns on the City's Section 3 list.

**IV. Efforts by City to cause developers, covered contractors and covered subcontractors to Award Contract Opportunities to Section 3 Business Concerns and Employment Opportunities to Section 3 residents.**

In addition to the efforts described in section III above, the City will use the following methods to facilitate compliance of Section 3 by developers, covered contractors and covered subcontractors:

- Section 3 information and requirements will be provided at all pre-bid meetings and pre-construction conferences by means of a prerecorded DVD and/or City staff member. Written agenda of such meetings and conferences will be maintained in the project file. Section 3 materials to be handed out include the information in Attachment B.
- HRA development and contracting process will include:
  - (a) adding Section 3 to the list of potential compliance in the first compliance letter sent to a potential developer, which letter identifies the range of potential compliance areas for a project; and require that developer acknowledges receipt of this letter;
  - (b) adding Section 3, if applicable, to the second compliance letter, which letter identifies actual compliance areas applicable to the project, and require acknowledgement by developer;
  - (c) adding Section 3 to compliance checklist that is used by the City Attorney Office to review contracts;
  - (d) adding Section 3 language to contract as set forth in Attachment C;
  - (e) requiring reporting to be submitted to the City;
  - (f) monitoring contractor/subcontractor efforts to meet Section 3 goals; and
  - (g) adding Section 3 to the Compliance Matrix which is distributed to City staff.

- Require developers, covered contractors and covered subcontractors to name a Section 3 compliance officer for the project, and to prepare a Section 3 action plan for the project.
- Businesses must also demonstrate, if requested, to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

**V. Required minimum steps to be taken by developers, covered contractors, and covered subcontractors; Section 3 action plan; Section 3 Contracting and Employment Opportunites Template.**

To meet the contracting and employment requirements of Section 3, the following minimum steps must be taken by the developer, covered contractor and covered subcontractor:

1. Obtain a list of certified Section 3 business concerns from the City's web page.
2. Attend all pre-bid and pre-construction conferences to obtain information about the Section 3 program requirements.
3. Solicit at least 3 bids from the City's list of Section 3 business concerns. If such list has fewer than three (3) qualified businesses, then the contractor/subcontractor must contact the entire list.
4. Provide plans and specifications or information regarding the location of plans and specifications to Section 3 business concerns.
5. Attempt to the greatest extent feasible to meet the following project contracting and employment goals:
  - 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction will be awarded to qualifying Section 3 business concerns.
  - At least 3% of the total dollar amount of all other Section 3 covered contracts (eg architect, appraisal, etc) will be awarded to qualifying Section 3 business concerns.
  - The goal for employment in Section 3 covered contracts is 30% of the aggregate number of new hires in any fiscal year will be Section 3 residents.

Goals apply to all construction costs of the project, not just the amount of HUD financial assistance. Records must be maintained on goals reached, and efforts/actions taken to reach goals. If goals are not met, a description of impediments encountered despite actions taken must be included. Reporting of such efforts/actions must be made to the City on forms supplied by the City including those in Attachment D.

6. File Section 3 reports with the City at such frequency and on such forms required by the City.
7. File Section 3 reports with the City using the electronic reporting system known as B2Gnow/LCPtracker.
8. Designate a Section 3 compliance officer for the project.
9. Execute and submit to the City such other documents and Section 3 action plan to meet Section 3 goals as requested by the City, including without limitation the Section 3 action plan attached as Attachment F and the Section 3 Contracting and Employment Opportunities Template as Attachment G. The Section 3 action plan shall contain specific information (a) about the current workforce, (b) strategies for hiring Section 3 residents, (c) strategies for engaging Section 3 business concerns, and (d) efforts to conduct aggressive outreach and notification to potential Section 3 business concerns and residents of contracting and employment opportunities.
10. Meet with City staff to discuss the City's review of the submitted Section 3 action plan and modify the plan based on feedback from the City.
11. Comply with the Section 3 contract language set forth in Attachment C.
12. Where noncompliance is found by the City, the City will issue notification of the nature of the deficiency and issue directives for corrective actions, and such corrective actions shall immediately be taken.

**VI. Contracting goals of City, developers, covered contractors and covered subcontractors**

The following are Section 3 project contracting goals for the City, developers, covered contractors, and covered subcontractors:

- 10 % of the total dollar amount of all section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction will be awarded to qualifying Section 3 business concerns, and
- At least 3% of the total dollar amount of all other Section 3 covered contracts (eg architect, appraisal, etc.) will be awarded to qualifying Section 3 business concerns.

Goals apply to all construction costs of project, not just amount of HUD financial assistance. Records must be maintained on goals reached, and efforts/actions taken to reach goals. If goals are not met, a description of impediments encountered despite actions taken must be included. Reporting of such efforts/actions must be made to the City on forms supplied by the City including those forms set forth in Attachment D.

**VII. Section 3 Employment Goals of the City, developers, covered contractors and covered subcontractors.**

It is the policy of the City to utilize and to require developers, covered contractors and covered subcontractors to utilize Section 3 residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from HUD. The City has established employment goals for itself, developers, covered contractors and covered subcontractors to attain in order to comply with Section 3 requirements in accordance with 24 CFR 135.30. The numerical goals are:

- For Section 3 covered contracts, thirty percent (30%) of the aggregate number of new hires in any fiscal year will be Section 3 residents.

The City, developers, covered contractors and covered subcontractors must comply with the requirements of 24 CFR 135.32. The Section 3 contract clause required by 24 CFR Section 135.38 specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 clause will be included in contracts for all Section 3 covered projects.

It is the responsibility of developers, covered contractors and covered subcontractors to comply with Section 3, and all developers, covered contractors and covered subcontractors submitting bids or proposals to the City are required to certify that they will comply with the requirements of Section 3.

**VIII. Training Goals.**

The City has drawn upon its partnership with Ramsey County Workforce Solutions Department and Saint Paul Public Housing Agency (SPHA) under the Joint Powers Agreement (JPA) for the Workforce Investment Act (WIA) to provide training and employment opportunities to eligible Section 3 residents directed at opportunities generated by the City, its developers, contractors or subcontractors.

All new hires (detailed in the job utilization plan) are posted on the web-based interactive Job Connect system [www.jobconnectmn.com](http://www.jobconnectmn.com) under a separate Saint Paul jobs and training link. This link details job requirements, hours of work, pay, employer contact, training opportunities and support services. The Job Connect system also has a database of Section 3 eligibles, skill levels and job matching tools that can be sorted and broadcasted by census tracts corresponding to project areas, public housing units and economically depressed communities.

Job Connect is accessible by low income individuals, Section 3 employers and over 40 different government and community-based employment and training entities including Opportunities Industrialization Centre (OIC), Merrick Brownfield Community Services, Goodwill Easter Seals, and Saint Paul College (a community and technical college).

**IX. CIB Funding of \$300,000.**

In an attempt to remove barriers for Section 3 residents and Section 3 business concerns thereby allowing full participation in economic opportunities generated by HUD financial assistance, the City's Planning and Economic Development Department applied in January 2007 for funding in the amount of \$300,000 from the City's Capital Improvement Budget (CIB). The intended use of these funds was to provide Section 3 residents and Section 3 business concerns with technical assistance tools, no interest loans, new employee wage subsidies and work readiness training. This funding request was approved by the CIB committee and the City Council in the summer of 2009. The City will be using the funds in connection with City capital projects.

**X. Section 3 Residents Certification Procedure**

The City will certify Section 3 residents who (i) reside in the City of Saint Paul, and (ii) complete forms (see Attachment E) and attach adequate proof of Section 3 eligibility as required by the City.

**XI. Section 3 Business Concerns Certification Procedure**

Any business seeking contracts as a Section 3 business concern in the awarding of contracts or purchase agreements with the City, developers, contractors or subcontractors shall complete the certification form (see Attachment E), which can be obtained from the City's Section 3 Coordinator. The business seeking Section 3 status must provide adequate documentation of eligibility for Section 3 status. Certifications of Section 3 status for business concerns must be obtained from the City's Section 3 Coordinator prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified within the last three years, then the certification can be submitted along with the bid. A Section 3 business concern that is certified as such by another governmental entity is also considered to be a Section 3 business concern by the City, provided that the City reserves the right to independently verify status as a Section 3 business concern by requesting that such Section 3 business concern provide to the City documentation supporting its status as a Section 3 business concern. The City will consider entering into a joint certification program with other metro area public entities.

**XII. Contracting Priorities with Section 3 Business Concerns**

The City, in compliance with Section 3 regulations, will require its staff, developers, covered contractors and covered subcontractors (including professional service contractors) to direct their efforts to award contracts in community development programs, where feasible, to (i) Section 3 business concerns that provide economic opportunities for Section 3 residents living in the

service area or neighborhood in which the Section 3 covered project is located; (ii) applicants selected to carry out HUD Youthbuild programs; and (iii) other Section 3 business concerns.

### **XIII. Monitoring and Compliance**

The City, through the Section 3 Coordinator and other staff, will monitor outreach and hiring practices of developers, covered contractors and covered subcontractors, including monitoring the dollar value of subcontracts awarded to Section 3 business concerns and employment of Section 3 residents. Any developer, covered contractor, or covered subcontractor that does not meet the Section 3 numerical contracting and employment goals must demonstrate in a written report to the City the efforts and actions taken to reach the goals and a description of impediments encountered.

City staff will assess the efforts and action taken, and if those are found to be insufficient, the City will issue notification of the nature of the deficiency and issue directives for corrective actions, and such corrective actions shall immediately be taken. If corrective action is not promptly taken and noncompliance is not remedied, then the City will declare a default under the contract and exercise appropriate contract remedies including without limitation withholding approvals of draw requests pending remedial action. The City will also consider taking steps to debar the developer, covered contractor and covered subcontractor under the City's ordinance.

Where a bidder, contractor, subcontractor, developer or sub-recipient has not reached the goal that at least 10% of the total dollar amount of all Section 3 covered subcontracts for building trades work arising in connection with housing rehabilitation, housing construction, demolition, waste management and/or other public construction to Section 3 business concerns and at least 3% of the total dollar amount of all other Section 3 covered contracts are provided to Section 3 business concerns, the bidder, contractor, developer and/or sub-recipient are required to make additional efforts. Those additional actions include but shall not be limited to:

- (a) Within 120 days the City will devise and implement Section 3 Procurement Preferences consistent with the Appendix III to 24 CFR 135, Examples of Procurement that Provides for Preference for Section 3 Business Concerns and require the bidder, contractor, subcontractor, developer and sub-recipient to comply with the same. The Preferences will be devised so as to maximize the utilization of Section 3 sub-contractors without economically disadvantaging general contractors or developers.
- (b) The bidder, contractor, sub-contractor, developer or sub-recipient are required to provide other economic opportunities to Section 3 residents and businesses pursuant to 24 CFR 135.40 as follows. Where at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, demolition,

waste management, and/or public construction or at least 3% of the total dollar amount of all other Section 3 covered contracts are not provided to Section 3 business concerns and/or do not result in the employment of Section 3 residents, the bidder, contractor, sub-contractor, developer or sub-recipient will be required to contribute the difference between 10% of the covered contract amount (3% for non-construction related contracts) and the amount provided to Section 3 business concerns and/or in the employment of Section 3 residents into the City's Section 3 Implementation Fund.

All contracts will be evaluated upon completion of the project for compliance with the Section 3 action plan for the contract. The developer's, covered contractor's and covered subcontractor's compliance or noncompliance may be used to determine responsibility and bid responsiveness on future contracting opportunities with the City.

#### **XIV. City Reporting**

The City will electronically file Form 60002 annually with HUD at its Washington, D.C. office at the same time of year as the CAPER is sent to HUD's local office.

#### **XV. Protest and Complaint Processing**

##### **Cooperation in Achieving Compliance**

The City recognizes that the success of ensuring that Section 3 residents and Section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of the City, developers, the contractors and subcontractors. A Section 3 resident or business concern maintains the right to file a complaint directly with HUD's Office of Fair Housing and Equal Opportunity.

All recipients, developers, covered contractors and covered subcontractors shall cooperate fully and promptly with HUD in Section 3 compliance reviews, in investigations of allegations of noncompliance made and with the distribution and collection of data and information.

##### **Filing and Processing Complaints**

**Who may file a complaint?** The following individuals and business concerns may, personally or through an authorized representative, file a complaint with HUD alleging noncompliance with Section 3:

1. Any Section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities, or by a

representative who is not a Section 3 resident but who represents one or more Section 3 residents;

2. Any Section 3 business concern on behalf of itself, or as a representative of other Section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of Section 3 assistance from a recipient or contractor, or by an individual representative of Section 3 business concerns.

**Where to file a complaint.** A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410.

### **Time of Filing**

1. A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.
2. Where a complaint alleges noncompliance with Section 3 and the regulations of this part (24 CFR 135) that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.
3. Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

### **Contents of Complaint**

**Written complaints:** Each complaint must be in writing, signed by the complainant, and shall include:

1. Name and address of the complainant;
2. The name and address of the respondent;
3. A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged non-compliance; and
4. A complainant may provide information to be contained in a complaint by telephone to HUD.

### **Amendment of Complaint**

Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join

additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

### **Resolution of complaint**

1. Within ten (10) days of a timely filing of a complaint that contains complete information, the Assistant Secretary shall determine whether the complainant alleges an action or omission by the City or the City's contractor that, if proven, qualifies as noncompliance with Section 3. If a determination is made that there is an allegation of noncompliance with Section 3, the complaint shall be sent to the City for resolution.
2. If the City's Section 3 Coordinator believes that the complaint lacks merit, the City's Section 3 Coordinator must notify the Assistant Secretary, in writing, of this recommendation with supporting reasons, within thirty (30) days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.
3. If the City's Section 3 Coordinator determines that there is merit to the complaint, the City will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the sixty (60) day period, the City must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached.

If resolution has been reached, the notification must be signed by both the City and the complainant, and must summarize the terms of the resolution reached between the two parties.

4. Any request for an extension of the sixty (60) day period by the City must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.
5. If the City is unable to resolve the complaint within the sixty (60) day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

**Judicial relief:** Nothing in this procedure precludes a Section 3 resident or Section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

## Attachment A

### SECTION 3 DEFINITIONS

*Applicant* means any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

*Business concern* means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

*Business concern that provides economic opportunities for low-and very low-income persons.* See definition of "Section 3 business concern" in this section.

*Contract.* See definition of "Section 3 covered contract" in this section.

*Contractor* means any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3-covered project.

*Covered contractor* means any contractor whose contract for the Section 3 covered project exceeds \$100,000.00.

*Department or HUD* means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

*Developer* means the developer as used in the definition of Recipient.

*Employment opportunities generated by Section 3 covered housing and community development assistance.* This term means all employment opportunities arising in connection with Section 3 covered projects (as described in 135.3(a)(2), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialists, payroll clerk, etc.

*Housing and community development assistance* means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended.

Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

*JTPA* means the Job Training Partnership Act (29 U.S.C. 1579(a)).

*Low-income person.* See the definition of "Section 3 resident" in this section.

*Metropolitan area* means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

*Neighborhood area* means:

- (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.
- (2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

*New hires* mean full-time employees for permanent, temporary or seasonal employment opportunities.

*Other HUD programs* means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for "Section 3 covered projects" as defined in this section.

*Recipient* means any entity which receives Section 3 covered assistance directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

*Secretary* means the Secretary of Housing Urban Development (HUD).

*Section 3* means Section 3 of the Housing Urban Development Act of 1968, as amended (12 U.S.C. 1701(u)).

*Section 3 business concern* means a business concern, as defined in this section.

- (1) That is 51 percent or more owned by Section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or

- (3) That provides evidence of a commitment to contract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "Section 3 business concern".

*Section 3 clause* means the contract provisions set forth in 24 CFR 135.38.

*Section 3 covered assistance* means

(1) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

- (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
- (ii) Housing construction; or
- (iii) Other public construction projects (which includes other buildings or improvements, regardless of ownership).

*Section 3 covered contract* means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of a furnace) and thus is covered by section 3.

*Section 3 covered project* means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

*Section 3 resident* means: (1) A public housing resident; or (2) An individual who resides in the metropolitan area or non-metropolitan county in which the section 3 covered assistance is expended, and who is:

- (i) A *low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or
- (ii) A *very low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per

centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

*Subcontractor* means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

*Covered subcontractor* means any subcontractor whose contract for the Section 3 covered project exceeds \$100,000.00

## Attachment B

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide employment, training and contracting opportunities to low- or very low- income persons and to Section 3 business concerns in connection with the HUD assisted project.

### **Contracting and Employment:**

To meet the contracting and employment requirements of Section 3, the following minimum steps must be taken by the developer, covered contractors and covered subcontractors:

1. Obtain a list of certified Section 3 business concerns from the City's web page.
2. Attend all pre-bid meetings and pre-construction conferences to obtain information about the Section 3 program requirements.
3. Solicit at least 3 bids from the City's list of Section 3 business concerns. If such list has fewer than three (3) qualified businesses, then the contractor/subcontractor must contact the entire list.
4. Provide plans and specifications or information regarding the location of plans and specifications to certified Section 3 businesses.
5. Attempt to the greatest extent feasible to meet the following project contracting and employment goals:
  - 10 % of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction will be awarded to qualifying Section 3 business concerns.
  - At least 3% of the total dollar amount of all other Section 3 covered contracts (eg. Architect, appraisal, etc) will be awarded to qualifying Section 3 business concerns.
  - The goal for employment in Section 3 covered contracts is thirty percent (30%) of the aggregate number of new hires in any fiscal year will be Section 3 residents. Goals apply to all construction costs of project, not just amount of HUD financial assistance. Records must be maintained on goals reached, and efforts/actions taken to reach goals. If goals are not met, a description of impediments encountered despite actions taken must be included. Reporting of such efforts/actions must be made to the City on forms supplied by the City including those in Attachment D.
6. File Section 3 reports with City/HRA at such frequency and on such forms as required by the City.
7. File Section 3 reports with the City using the electronic reporting system known as B2Gnow/LCPtracker.
8. Designate a Section 3 compliance officer for the project.

9. Execute and submit to the City such other documents and Section 3 action plan to meet Section 3 goals as requested by the City, including without limitation the Section 3 action plan attached as Attachment F and the Section 3 Contracting and Employment Opportunities Template as Attachment G. The Section 3 action plan shall contain specific information (a) about the current workforce, (b) strategies for hiring Section 3 residents, (c) strategies for engaging Section 3 business concerns, and (d) efforts to conduct aggressive outreach and notification to potential Section 3 business concerns and residents of contracting and employment opportunities.
10. Meet with City staff to discuss the City's review of the submitted Section 3 action plan and modify the plan based on feedback from the City.
11. Comply with the Section 3 contract language set forth in Attachment C.
12. Where noncompliance is found by the City, the City will issue notification of the nature of the deficiency and issue directives for corrective actions, and such corrective actions shall immediately be taken.

Attachment C

*[Insert this into compliance section of contract.]*

Section 3, Housing and Urban Development Act.

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. The borrower/developer, and every contractor and subcontractor involved in the performance of the borrower's/developer's obligations under this agreement shall comply with these section 3 requirements. The borrower/developer agrees to have this section 3 clause contained in every contractor and subcontractor contract.

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 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).

H. The parties to this contract including the borrower/developer, contractor and subcontractors agree to report to the City/HRA at such frequency as required by the City/HRA its compliance with these Section 3 requirements on the form(s) required by the City/HRA, including electronic reporting using the B2Gnow/LCPtracking system.









**Part II: Contracts Awarded**

**1. Construction Contracts:**

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

**2. Non-Construction Contracts:**

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other; describe below.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(5) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Attachment E

CERTIFICATION FORMS

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3  
PREFERENCE IN CONTRACTING  
CITY OF SAINT PAUL**

Name of Business \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Telephone # \_\_\_\_\_  
Email address \_\_\_\_\_

Type of Business

- Corporation
- Partnership
- Joint Venture
- Sole Proprietorship
- Other (describe \_\_\_\_\_)

*(check one that applies, and attach documents evidencing formation of business entity)*

A Section 3 resident is a public housing resident or an individual who resides in the metropolitan areas and who is considered to be a low (families whose incomes do not exceed 80% of area median income) to very-low (families whose incomes do not exceed 50% of area median income) income person.

The above business certifies that it is a Section 3 business concern based on: (check all that apply)

- (1)\_\_\_ The business is 51% or more owned by Section 3 residents.
- (2)\_\_\_ At least 30% of the business' permanent, full time employees are currently Section 3 residents or were Section 3 residents within the past 3 years.
- (3)\_\_\_ The business commits to subcontracting 25% of the dollar award of all subcontracts to Section 3 business concerns who meet the qualification of (1) or (2) above.

For all boxes that apply, please provide documentation showing proof of the information stated.

The undersigned certifies that the above statements are true, complete and correct to the best of his/her knowledge.

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

**RESIDENT EMPLOYMENT OPPORTUNITY DATA**

**THE HOUSING AUTHORITY (or CITY OF)  
SAINT PAUL**

**ELIGIBILITY FOR PREFERENCE**

**Eligibility for Preference**

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or or evidence of participation in a public assistance program.)

**Certification for Resident seeking Section 3 Preference in Training and Employment**

I, \_\_\_\_\_ am a legal resident of the \_\_\_\_\_  
\_\_\_\_\_ and meet the income eligibility guidelines for low- or very-low-income person as published on the reverse.

My permanent address is: \_\_\_\_\_  
\_\_\_\_\_

I have attached the following documentation as evidence of my status

- |   |   |
|---|---|
| <input type="checkbox"/> Copy of lease  | <input type="checkbox"/> Copy of receipt of public Assistance |
| <input type="checkbox"/> Copy of Evidence of participation in a public assistance program | <input type="checkbox"/> Other evidence                       |

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**SECTION 3 INCOME LIMITS**

All residents of public housing developments of the \_\_\_\_\_ Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the \_\_\_\_\_ City of \_\_\_\_\_

Who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

**Eligibility Guideline**

<b>Number in Household</b>	<b>Very Low Income</b>	<b>Low Income</b>
<b>1 individual</b>	29,350.00	48,800.00
<b>2 individuals</b>	33,550.00	51,200.00
<b>3 individuals</b>	37,750.00	57,600.00
<b>4 individuals</b>	41,950.00	64,000.00
<b>5 individuals</b>	45,300.00	69,100.00
<b>6 individuals</b>	48,650.00	74,250.00
<b>7 individuals</b>	52,000.00	79,350.00
<b>8 individuals</b>	55,350.00	84,500.00

Attachment F

**Section 3 action plan for City of Saint Paul and its HRA**  
(For Borrower/Developer and each Contractor and Subcontractor  
)

Entity \_\_\_\_\_  
Section 3 project coordinator \_\_\_\_\_  
Email Address \_\_\_\_\_  
Phone number \_\_\_\_\_  
Project Description \_\_\_\_\_  
City project number # \_\_\_\_\_

Section 3 contracting goals-

10% of building trades/construction work \$ \_\_\_\_\_

3% all other non-construction work (eg architect, appraisal, etc) \$ \_\_\_\_\_

*Note: Contracts for purchase of supplies and materials only are not subject to goals unless the contract includes installation of product, and in that event goals apply.*

Section 3 employment goals-

Proposed # of new hires \_\_\_\_\_

30% of new hires

Provide the following information in an attachment to this Section 3 action plan:

1. Description of current workforce.
2. Strategies for hiring Section 3 residents.
3. Strategies for contracting with Section 3 business concerns.
4. Efforts to conduct aggressive outreach and notification to potential Section 3 residents and business concerns of contracting and employment opportunities.

Statement of Commitment

By signature below, the undersigned acknowledges to the City of Saint Paul and its Housing and Redevelopment Authority (collectively the "City") that the undersigned has been provided with information and documents regarding the City's Section 3 Plan which explains the obligations and requirements of any construction project which is funded in part or whole by HUD sourced funds. The undersigned certifies to its commitment to comply with the City's Section 3 Plan, all Section 3 laws and regulations, and to use the City's Job Connect system located at [www.jobconnectmn.com](http://www.jobconnectmn.com) in connection with the above described project.

The undersigned further certifies that the information contained in this Section 3 action plan is accurate and correct. The undersigned understands that the City may impose penalties and sanctions for the submission of any false and inaccurate statements within this document, fails to achieve the Section 3 contracting and employment goals for the project, and/or fails to comply with the City's Section 3 Plan, Section 3 laws and regulations, or its contract obligations.

\_\_\_\_\_  
Company Name

By \_\_\_\_\_

Its \_\_\_\_\_ Date \_\_\_\_\_



Attachment G

Project ID \_\_\_\_\_

CITY OF SAINT PAUL/HRA

SECTION 3 CONTRACTING AND  
EMPLOYMENT OPPORTUNITIES  
TEMPLATE <sup>TM</sup>

(SHORT VERSION)

Project ID #

Master Format Code	Category	Building Trade/ Construction work	Non Construction Work	Materials Only (No Installation)	\$ Expenditure
01 50 00	Temporary Facilities and Controls				
02 00 00	Existing Conditions				
03 00 00	Concrete				
04 00 00	Masonry				
05 00 00	Metals				
06 00 00	Wood, Plastics, and Composites				
07 00 00	Thermal and Moisture Protection				
08 00 00	Openings				
09 00 00	Finishes				
10 00 00	Specialties				
11 00 00	Equipment				
12 00 00	Furnishings				
13 00 00	Special Construction				
14 00 00	Conveying Equipment				
21 00 00	Fire Suppression				
22 00 00	Plumbing				
23 00 00	Heating, Ventilating, and Air-Conditioning (HVAC)				
25 00 00	Integrated Automation				
26 00 00	Electrical				

Master Format Code	Category	Building Trade/ Construction Work	Non Construction Work	Materials Only (No Installation)	\$ Expenditure
27 00 00	Communications				
28 00 00	Electronic Safety and Security				
31 00 00	Earthwork				
32 00 00	Exterior Improvements				
33 00 00	Utilities				
34 00 00	Transportation				
35 00 00	Waterway and Marine Construction				
40 00 00	Process Integration				
44 00 00	Pollution Control Equipment				
41 00 00	Material Processing and Handling Equipment				
42 00 00	Process Heating, Cooling, and Drying Equipment				
45 00 00	Industry-Specific Manufacturing Equipment				
48 00 00	Electrical Power Generation				

NAICS CODE	SERVICES	Building Trade/ Construction Work	Non Construction Work	Materials Only (No Installation)	\$ Expenditure
5611	Office administrative Services				
5612	Facilities Support Services				
5613	Wired Telecommunications Carriers				
5614	Paging				
56141	Cellular and Other Wireless Telecommunications				
5615	Internet Service Providers, Web Search Portals, and Data Processing Services				
3616	Printing				
56171	Advertising Agencies				
56172	Public Relations Agencies				
56173	Media Buying Agencies				
56179	Media Representatives				
524126	Display Advertising				
442	Direct Mail Advertising				
442291	Photography Studios, Portrait				
443	Commercial Photography				
44312	Translation and Interpretation Services				
44313	Administrative Management and General Management Consulting Services				
444	Human Resources and Executive Search Consulting Services				

4442	Marketing Consulting Services				
44421	Process, Physical Distribution, and Logistics Consulting Services				
44422	Environmental Consulting Services				
447	Other Scientific and Technical Consulting Services				
452	Offices of Lawyers				
4531	Offices of Notaries				
45321	Title Abstract and Settlement Offices				
45322	Offices of Certified Public Accountants				
45322	Tax Preparation Services				
45392	Lessors of Real Estate				
454	Offices of Real Estate Agents and Brokers				
4542	Real Estate Property Managers				
4543	Offices of Real Estate Appraisers				

NAICS CODE	SERVICES	Building Trade/ Construction Work Only	Non Construction Work	Materials Only (No Installation)	\$ Expenditure
5161	Internet Publishing and Broadcasting				
517	Telecommunications				
5171	Wired Telecommunications Carriers				
517211	Paging				
517212	Cellular and Other Wireless Telecommunications				
518	Internet Service Providers, Web Search Portals, and Data Processing Services				
32311	Printing				
54181	Advertising Agencies				
54182	Public Relations Agencies				
54183	Media Buying Agencies				
54184	Media Representatives				
54185	Display Advertising				
54186	Direct Mail Advertising				
541921	Photography Studios, Portrait				
541922	Commercial Photography				
54193	Translation and Interpretation Services				
541611	Administrative Management and General Management Consulting Services				
541612	Human Resources and Executive Search Consulting Services				
541613	Marketing Consulting Services				
541614	Process, Physical Distribution, and Logistics Consulting Services				
54162	Environmental Consulting Services				
54169	Other Scientific and Technical Consulting Services				
54111	Offices of Lawyers				
54112	Offices of Notaries				
541191	Title Abstract and Settlement Offices				
541211	Offices of Certified Public Accountants				

541213	Tax Preparation Services				
531	Lessors of Real Estate				
5312	Offices of Real Estate Agents and Brokers				
53131	Real Estate Property Managers				
53132	Offices of Real Estate Appraisers				

<b>NAICS CODE</b>	<b>Architectural, Engineering, and Related Services</b>	<b>Building Trade/ Construction Work</b>	<b>Non Construction Work</b>	<b>Materials Only (No Installation)</b>	<b>\$ Expenditure</b>
:4131	Architectural Services				
:4132	Landscape Architectural Services				
:4133	Engineering Services				
:4134	Drafting Services				
:4135	Building Inspection Services				
:4136	Geophysical Surveying and Mapping Services				
:4137	Surveying and Mapping (except Geophysical) Services				
:4138	Testing Laboratories				
:414	Specialized Design Services				
:4141	Interior Design Services				
:4142	Industrial Design Services				
:4143	Graphic Design Services				
:4149	Other Specialized Design Services				
:415	Computer Systems Design and Related Services				
:41511	Custom Computer Programming Services				
:41513	Computer Facilities Management Services				
:41519	Other Computer Related Services				

NAICS CODE	Specialty Trade Contractors	Building Trade/ Construction Work	Non Construction Work	Materials Only (No Installation)	\$ Expenditure
2381	Foundation, Structure, and Building Exterior Contractors				
23811	Poured Concrete Foundation and Structure Contractors				
2381	Structural Steel and Precast Concrete Contractors				
23813	Framing Contractors				
23814	Masonry Contractors				
23815	Glass and Glazing Contractors				
23816	Roofing Contractors				
23817	Siding Contractors				
23819	Other Foundation, Structure, and Building Exterior Contractors				
2382	Building Equipment Contractors				
23821	Electrical Contractors				
23822	Plumbing, Heating, and Air-Conditioning Contractors				
23829	Other Building Equipment Contractors				
2383	Building Finishing Contractors				
23831	Drywall and Insulation Contractors				
23832	Painting and Wall Covering Contractors				
23833	Flooring Contractors				
23834	Tile and Terrazzo Contractors				
23835	Finish Carpentry Contractors				
23839	Other Building Finishing Contractors				
2389	Other Specialty Trade Contractors				

Specialty Trade Contractors	Building Trade/ Construction Work	Non Construction Work	Materials Only (No Installation)
TOTAL			
Section 3 % Goals	10%	3%	0%
Section 3 \$ Goals	\$	\$	\$

<b>Guide for Review of Section 3 of the Housing and Urban Development Act of 1968</b>			
<b>Name of Program Participant:</b>			
<b>Staff Consulted:</b>			
<b>Name of Grant Program(s) Reviewed:</b>			
<b>Name(s) of Reviewer(s):</b>		<b>Date:</b>	

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the participant's program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "**finding**."

**Instructions:** This Exhibit is designed to examine the program participant's records to determine the following:

- If the program participant implemented procedures to notify Section 3 residents and business concerns about employment, training, and contracting opportunities generated by its agency or covered contractors;
- If the program participant notified covered contractors and subrecipients about their responsibilities pursuant to Section 3;
- If the Section 3 Clause is included in covered contracts;
- If the program participant monitored its covered contractors for compliance with Section 3 and imposed penalties for noncompliance as appropriate;
- If the program participant or its contractors met the minimum numerical goals for employment and contracting opportunities;
- If an explanation was provided by program participants that failed to meet the minimum numerical goals for Section 3;
- If the annual Section 3 reporting requirements were met on a timely basis;

This Exhibit is divided into six sections: Program Participant Responsibilities; Use of Section 3 Residents as Trainees; Use of Section 3 Residents as Employees; Contracts Awarded to Section 3 Business Concerns; Procurement Procedures; and Reporting and Recordkeeping. (See Section 22-5 of the introduction to this Chapter.)

The HUD reviewer is to respond to these questions by reviewing covered contracts and conducting interviews of program participant/subrecipient staff. Failure to maintain records is an indication of noncompliance with the record keeping requirements found at 24 CFR 135.92.

The CPD reviewer must complete this checklist; the checklist may not be forwarded or given to the program participant to complete on its own.\* When possible, any supporting materials provided as evidence of compliance (or noncompliance) with Section 3 shall be copied and retained in the official monitoring files and forwarded to FHEO for further action. This documentation must come from appropriate documents and be described in detail. Saying that the documentation came from the program participants' own monitoring procedures or data forms, with no specification of what those procedures are, is not sufficient. Documentation based on "employee interviews" or by stating that issues with subrecipients are handled by "contract language" with the subrecipient is also not sufficient.

All Section 3 reporting must be done on form HUD-60002. Data in the format of the CAPER narrative, IDIS, a program participant statement, or contract language is not a legitimate substitute, although data from these sources can be used to develop or complement the required data.

Copies of this completed checklist must be submitted to the FHEO Economic Opportunity Division in Headquarters and the appropriate FHEO field/regional office.

**Questions:**

**A. PROGRAM PARTICIPANT RESPONSIBILITIES**

1.

<p><b>[OS]</b> For the time period reviewed, did the program participant's records include written procedures governing:</p>			
<p>(a) How Section 3 <b>residents</b> are to be notified about employment and training opportunities generated by program participant or its contractors as a result of the expenditure of covered financial assistance? [24CFR 135.32 (a)]</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>(b) How Section 3 <b>business concerns</b> are to be notified about contracting (or subcontracting) opportunities generated by the program participant or its contractors involving covered financial assistance? [24 CFR 135.32 (a)]</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>(c) How potential contractors for covered projects or subrecipients of covered funds are to be notified about their requirements pursuant to Section 3? [24 CFR 135.32(b) and 24 CFR 135.32(f)]</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>(d) How covered contractors and subrecipients are to be monitored for compliance with the requirements of Section 3? [24 CFR 135.32(d) and 24 CFR 135.32(f)]</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<p>(e) Steps taken by the program participant to facilitate meeting the minimum numerical goals for employment and contracting opportunities? [24 CFR 135.32(c)]</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A

\* Asking the program participant to complete all, or part, of this Form is a violation of OMB requirements

(f) Did the program participant provide evidence and/or documentation of the procedures described above?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
<b>Describe Basis for Conclusion:</b>			

**B. USE OF SECTION 3 RESIDENTS AS TRAINEES**

2.

<b>[OS]</b> For the time period reviewed, did the program participant's records indicate:			
(a) The total number of training positions generated by the program participant or its contractors? [24 CFR 135.34(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The number of training positions generated by the program participant or its contractors identified above that was provided to Section 3 residents? [24 CFR 135.34(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined the eligibility for Section 3 residents? [24 CFR 135.34(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
<b>Describe Basis for Conclusion:</b>			

**C. USE OF SECTION 3 RESIDENTS AS EMPLOYEES**

3.

<b>[OS]</b> For the time period reviewed, did the program participant's records include information about:			
(a) The total number of permanent full-time positions generated by the program participant or its contractors as a result of the expenditure of covered funding? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The number of permanent full-time positions generated by the program participant or its contractors identified above that was filled by Section 3 residents? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined eligibility of Section 3 residents? [24 CFR 135.34(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) Whether the minimum numerical goal for employment was met by the program participant or its contractors [30% of the aggregate number of new hires was Section 3 residents]? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A

(e) If the minimum numerical goal for employment was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)(2)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
<b>Describe Basis for Conclusion:</b>	

**D. CONTRACT AWARDS TO SECTION 3 BUSINESS CONCERNS**

4.

<b>[OS]</b> For the time period reviewed, did the program participant's records include information about:	
(a) The total dollar amount of covered construction contracts generated as a result of the expenditure of covered financial assistance? [24 CFR 135.30(c)(1)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
(b) The total dollar amount of covered construction contracts (or subcontracts) listed above that were awarded to Section 3 business concerns? [24 CFR 135.30(c)(1)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
(c) Description of how the program participant or its contractors determined the eligibility of Section 3 business concerns? [24 CFR 135.36(b)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
(d) Whether the minimum numerical goal for contracting was met by the program participant or its contractors [10% of the total dollar amount of covered construction contracts were awarded to Section 3 business concerns]? [24 CFR 135.30(c)(1)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
(e) If the minimum numerical goal for construction contracts was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <b>Yes No N/A</b>
<b>Describe Basis for Conclusion:</b>	

5.

<b>[OS]</b> For the time period reviewed, did the program participant's records include information about:			
(a) The total dollar amount of covered <b>non-construction</b> contracts generated as a result of the expenditure of covered financial assistance? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(b) The total dollar amount of covered <b>non-construction</b> contracts (or subcontracts) listed above that were awarded to Section 3 business concerns? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(c) Description of how the program participant or its contractors determined the eligibility of Section 3 business concerns? [24 CFR 135.36(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(d) Whether the minimum numerical goal for contracting was met by the program participant or its contractors [3% of the total dollar amount of covered <b>non-construction</b> contracts were awarded to Section 3 business concerns]? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(e) If the minimum numerical goal for <b>non-construction</b> contracts was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<b>Describe Basis for Conclusion:</b>			

E. PROCUREMENT PROCEDURES

6.

<b>[OS]</b> For the time period reviewed, did the program participant's records include evidence of the following:			
(a) Notification of covered contractors regarding their responsibilities pursuant to the requirements of Section 3? [24 CFR 130.32(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(b) Monitoring covered contractors for compliance with Section 3? [24 CFR 135.32(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>
(c) The imposition of penalties upon contractors for noncompliance, including refraining from entering into contracts with any contractor that has violated the requirements of Section 3? [24 CFR 135.32(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Yes</b>	<b>No</b>	<b>N/A</b>

(d) Whether covered solicitations (RFPs, RFQs, IFBs, etc) contain the Section 3 clause found at 24 CFR 135.38 or otherwise indicates the applicability of Section 3 to the covered project? [24 CFR 135.32(b)]	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
(e) Whether the Section 3 clause found at 24 CFR 135.38 was included in all covered contracts that were reviewed? [24 CFR 135.32(b)]	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>			

**F. REPORTING AND RECORDKEEPING**

7.

(a) Did the program participant provide evidence of the submission of a Section 3 Summary Report to FHEO in Washington (form HUD-60002) at the time that the CAPER was submitted for the time period reviewed? [24 CFR Part 135.90]	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>			
(b) For the time period reviewed, did the program participant's records include documentation of the actions taken to comply with the Section 3 regulations? (Such documentation may include the results of the actions taken and any impediments encountered during the implementation of the program(s) covered by Section 3.) [24 CFR 135.32(e)]	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
<b>Describe Basis for Conclusion:</b>			