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**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**

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**SECTION 3 Plan: A Guide for Sub-Grantees on  
Compliance, Annual Reporting and Action Planning**

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**June 2017**

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**COMMONWEALTH OF PENNSYLVANIA  
Tom Wolf, GOVERNOR**

**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
Dennis M. Davin, SECRETARY**

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**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
SECTION 3 PROGRAM GUIDE**

**Policy Statement**

Section 3 is designed to promote local economic development, neighborhood economic improvement, and individual self-sufficiency for low and moderate income individuals. The Commonwealth of Pennsylvania, Department of Community and Economic Development (DCED) in accordance with its fiduciary responsibilities as an administrator of funds issued under the Community Development Block Grant (CDBG), HOME Opportunities Program (HOME) and Emergency Shelter Grant Program (ESG) and in compliance with all governing statutes and regulations of these programs, shall ensure that all relevant grants made for economic and community development will comply with the Housing and Urban Development Act of 1968, as amended (12 U.S.C.1701u), (Section 3) and the governing regulations found at 24 CFR 135.

**Overview**

The purpose of Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) and as outlined in 24 CFR 135.1, 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.

This Commonwealth of Pennsylvania Section 3 Plan, as outlined, is a guide on action planning for all municipalities, agencies and organizations that are or will be administering funds for the state-administered CDBG program, state-administered HOME program and state-administered ESG program. DCED will conduct mandatory compliance training in the Section 3, and Minority and Women’s Business Enterprise (MBE/WBE) Programs. All DCED Sub-grantees of funds for these respective programs should be represented at this training. In addition, DCED will provide on-going technical support and monitoring of these programs to assure that Sub-grantees are knowledgeable of the necessary processes and procedures to comply with the requirements outlined in Section 3.

Upon review of this guide, please feel free to contact the DCED, Community Development Compliance Officer at (717) 787-5327 to discuss its content and effective methods of implementation within your community.

## **Commonwealth of Pennsylvania Section 3 Plan**

### **I. Section 3 Numerical Goals for all state-administered CDBG, HOME and ESG funds administered by the Commonwealth of Pennsylvania**

- The Sub-grantee will develop and maintain a Section 3 Action Plan if the amount of any combined (multi-year?) CDBG, combined HOME, or combined ESG grants that are currently active exceed \$200,000.
- The Developer, Contractor, or Sub-Contractor will develop and maintain a Section 3 Action Plan as attached, if the amount to the Sub-grantee exceeds \$200,000 and any contract or sub-contract received, exceeds \$100,000.

### **II. Employment and Training Goals**

It must be the policy of the Sub-Grantee, contractors, and subcontractors to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded by the Department of Housing and Urban Development (HUD). DCED has established employment and training goals that contractors and subcontractors under contract with DCED Sub-grantees, should meet in order to comply with Section 3 requirements (Reference 24 CFR 135.30 – Numerical goal for Section 3 employment 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 was not feasible. All contractors submitting bids or proposals to DCED Sub-Grantees 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 the Procedures-Contractor Compliance section of this guide.

### **III. Contracting Goal**

Sub-grantees may demonstrate compliance with this requirement by committing to award to Section 3 businesses at least 10 percent of the total dollar amount of all section 3 covered contracts in connection with housing rehabilitation, housing construction and other public construction.

- Ten percent (10%) of the total dollar amount of all Section 3 covered contracts in connection with housing rehabilitation, housing construction and other public construction.

#### **IV. Outreach and Recruitment**

Outreach to the community is vital to establish a successful Section 3 program. Sub-grantees will be proactive to insure that training and employment opportunities are offered to Section 3 residents. Sub-grantees will involve contractors, subcontractors, other HUD program administrations, state and local agencies, and community organizations to assist and provide advice to seek out Section 3 residents and coordinate recruitment activities.

See Attachment "A" for additional guidance and Examples of Efforts to Offer Training and Employment Opportunities to Section 3 Residents.

#### **V. Contracting and Procurement**

- The Sub-grantee, 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.

The Sub-grantee 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 county or municipal 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 with educating and mentoring Section 3 covered 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, and obtain licenses, bonding, and insurance.

## **VI. Annual Reporting**

Records must be maintained to demonstrate compliance with the requirements noted in 24 CFR 135.92: "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."

In accordance with the rule, Pennsylvania Sub-grantee's will be required to maintain records relating to:

- Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents
- Examples of Efforts To Award Contracts to Section 3 Business Concerns
- Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

Additionally, the following reporting forms are required to be maintained and can be found in the Exhibit section of this Guide:

- Section 3 Workforce Needs and Employment Certification
- \* HUD-60002 will be prepared for the previous calendar year and submitted by January 2, with your CAPERs to:

Compliance Officer, at [chrhowe@state.pa.us](mailto:chrhowe@state.pa.us) Questions should be directed to (717) 720-7406.

If electronic submission can not be accomplished, mail the completed forms to:

Community Development Compliance Officer  
 Pennsylvania Department of Community and Economic Development  
 Commonwealth Keystone Building  
 400 North Street, 4<sup>th</sup> Floor  
 Harrisburg, PA 17120-0225

## **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 Secretary**– 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 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 of HUD, with adjustments for smaller and larger families, except that the Secretary of HUD 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.

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

**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 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.

### **Developing a Section 3 Action Plan for Your Community**

**Section 3 Action Plan:** To be completed by the Sub-grantee, and will identify the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3. The Sub-grantee should complete the plan outline; add required additional information; and submit original to DCED, along with the Section 3 Implementation Action Plan (See Attachment G Sample) and (Attachment H fillable version).

#### **Action Plan Threshold Requirements:**

The Sub-grantee will develop and maintain a Section 3 Action Plan if the amount of any combined CDBG, combined HOME, or combined ESG grants that are currently active exceed \$200,000.

The Developer, Contractor, or Sub-Contractor will develop and maintain a Section 3 Action Plan, if the amount to the Sub-grantee exceeded \$200,000 and any contract or sub-contract received exceeds \$100,000.

The Sub-grantee threshold applies only to the amount of the assistance for Section 3 covered activities.

For example Anyplace Borough receives a 2008 CDBG grant for \$250,000. The funds are used as follows:

- *Housing Rehabilitation - \$180,000*
- *Fire Equipment Purchase - \$50,000*
- *General Administration - \$20,000*

Anyplace Borough would not be subject to Section 3 requirements because less than \$200,000 was spent for covered activities (housing rehab).

However, if the Borough was using other funds for the housing rehab activities, which could include additional CDBG grant money from a prior or subsequent year, that brought the activity amount to over \$200,000, then the threshold would have been met and Section 3 compliance is required. *The same aggregation method applies to the subcontractor's \$100,000 threshold.*

### **Section 3 Compliance Officer:**

Sub-grantees will designate a Section 3 Compliance Officer as the first step in the action planning process. The roles and responsibilities of the Section 3 Compliance Officer will include:

- Completing, submitting, and monitoring the Section 3 Action Plan
- Monitoring Bidding and Procurement Procedures
- Maintaining a listing and certifications of Section 3 residents
- Maintaining a listing and certifications of Section 3 business concerns
- Management of Grievance Procedures
- Reporting on Section 3 activities and grievances to DCED
- Recordkeeping on Section 3 activities

Section 3 Action Plan: To be completed by the Sub-grantee, Developer, Contractor, or Sub-Contractor, as required, and will identify the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3.

### **Section 3 Action Plan**

Policy Statement

It is the public policy of \_\_\_\_\_ to promote the opportunity for full participation by low- and very low- income persons and to business concerns which provide economic opportunities to low- and very low-income persons in its Community Development Block Grant (CDBG), HOME Program, and Emergency Shelter Grant Program.

The \_\_\_\_\_ (Sub-Grantee) 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.

\_\_\_\_\_ (Sub-Grantee) intent is to develop this plan to include input from various municipal departments, as well as DCED. When it is applicable, input from other agencies and companies will be included in this plan.

### Section 3 Numerical Goals

Subgrantees must comply with the following Commonwealth of Pennsylvania Section 3 numerical goals as mandated by 24 CFR 135.30);

#### Employment & Training

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. The Section 3 Employment numerical goal is:

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

#### Contracting Goals:

Sub-grantees may demonstrate compliance with this requirement by committing to award to Section 3 businesses at least 10 percent of the total dollar amount of all section 3 covered contracts in connection with housing rehabilitation, housing construction and other public construction.

- Ten percent (10%) of the total project cost of Section 3 covered projects in any fiscal year in connection with housing rehabilitation, housing construction and other public construction.

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 \_\_\_\_\_ (Sub-Grantee) 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 Section 3 Compliance Officer, \_\_\_\_\_, will certify Section 3 program participants who reside in the \_\_\_\_\_ 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 community who meet the Section 3 eligibility guidelines can, by appointment, visit with the Section 3 Compliance Officer to complete a job readiness assessment.

- Once this assessment is complete, the Section 3 Compliance Officer 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.

### **Assisting Contractors to Achieve Section 3 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 Compliance Officer, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.

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

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

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

\_\_\_\_\_, Section 3 Compliance Officer 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

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

- Contracts must document that qualified Section 3 Business Concerns that have been sought to fulfill subcontracts utilizing certification for business concerns seeking Section 3 preference in contracting and demonstration of capability, (See Exhibit 1).
- Contractor must submit Section 3 Contractor Solicitation and Commitment Statement with their bids (See Exhibit 5)

### **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 Compliance Officer. 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 Compliance Officer of the \_\_\_\_\_ prior to the submission of bids for approval. If the Section 3 Compliance Officer previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid.

### **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 \_\_\_\_\_ Business Development Department, business assistance agencies, Minority and Women’s Business Enterprise (MBE/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 MBE/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 Section 3 covered community, public housing developments as well as all \_\_\_\_\_ public housing management offices.
- Public housing 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 Section 3 covered community, \_\_\_\_\_ public housing developments as well as contacting resident councils, resident management corporations, and neighborhood community organizations.
- A database will be developed of certified Section 3 s.
- A database will be developed to maintain a skill assessment of all 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 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 Compliance Officer will hold a meeting with all residents prior to them being hired by a contractor.
- The meeting 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 Compliance Officer 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 Compliance Officer.
- In order to qualify for employment with contractors, residents must be certified as Section 3 covered residents, be at least eighteen years of age.
- 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 Compliance Officer 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/.
  - 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 Compliance Officer of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Compliance Officer 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 \_\_\_\_\_, Section 3 Compliance Officer.
  - Immediately notify the Section 3 Compliance Officer of any problems experienced due to the employment of Section 3 participants.
  - Immediately notify the Section 3 Compliance Officer 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 Compliance Officer to determine if an investigation is warranted.

## **Internal Section 3 Complaint Procedure (OPTIONAL)**

In an effort to resolve complaints generated due to non-compliance through an internal process, PA Department of Community and Economic Development encourages submittal of such complaints to its Section 3 Compliance Officer 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 Compliance Officer 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 Compliance Officer will provide written documentation detailing the findings of the investigation of the \_\_\_\_\_. The PA Department of Community and Economic Development 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 PA Department of Community and Economic Development a complaint may be filed with:

Philadelphia Regional Office of FHEO  
 U.S. Department of Housing and Urban Development  
 The Wanamaker Building  
 100 Penn Square East, 12th Floor  
 Philadelphia, Pennsylvania 19107-3380  
 (215) 861-7646  
 1-888-799-2085  
 TTY (215) 656-3450

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based.

**Section 3 Action Plan Completed By: \_\_\_\_\_, Section 3**

**Compliance Officer for \_\_\_\_\_.**  
 Municipality

\_\_\_\_\_  
 Signature Date

**Procedures – Invitations for Bids (IFB) or Request for Proposals (RFP)**

**A. Advertisement – IFB Only**

All invitations to bid will include the following information:

“The bidders must submit documentary evidence of Section 3 business concerns who have been contacted and to whom commitments have been made. Documentation of such solicitations and commitments shall be submitted concurrently with the bid.”

**B. Notification of Section 3 Business Concerns- IFB and RFP**

The procedure for the (Name of Sub-grantee) to notify Section 3 Business Concerns of contract opportunities will be as follows:

1. Notice of Invitation for Bid Request Proposals- The (Name of Sub-grantee) is responsible for developing a listing of qualified Section 3 business concerns and will provide a copy of the Notice of Invitation for Bids or Requests for Proposals will be sent by (Name of Sub-grantee) to all Section 3 Business Concerns listed.
2. Other Notices- Notices are to be sent to the following organizations (as appropriate):
  - ❖ Appropriate Minority Business Technical Assistance Organizations and/or Schools
  - ❖ Appropriate Minority/Women contractor Associations
  - ❖ Appropriate Minority/Women Trade Associations
  - ❖ Other media organizations such as community television networks, local newsletters, and radio advertising.
3. Plans and Specifications – Plans and Specifications or Invitations for Bids on all projects will be made available to minority/women contractor associations and trade organizations.
4. List of Planholders – The names of bidders/offerors requesting bid documents will be made available upon request to Section 3 business concerns shown on the provided listing.
5. List of Section 3 Business Concerns – Each bidder/offeror obtaining plans and specifications or requests for proposals for projects will be provided a list of Section 3 Business Concerns to be used in soliciting subcontract bids and for materials and services.

## **Participation Requirements for Section 3 Residents and Business Concerns**

### **A. Construction Contracts (IFB)**

The (Name of Sub-grantee) has established minimum levels of participation for the employment and/or training of Section 3 Residents and for the utilization of Section 3 Business for each project in each bid category to be used solely as a guide in determining bidder responsibility. The minimum participation level for employment/training of Section 3 Residents is 30% of the aggregate number of new hires and 30% for the utilization of Section 3 Business Concerns.

#### 1. Participation Level

- a. The (Name of Sub-grantee) has established minimum participation levels (MPLs) at 30% for the employment/training for Section 3 Residents and 30% for the utilization of Section 3 Business Concerns for this project to be used solely as a threshold in determining bidder responsibility. A bidder will not be rejected as not responsible solely because it fails to reach the MPLs.

- b. A Section 3 Business concern who is the prime bidder on a project will receive no MPL credit for its own work effort for services provided. A Section 3 business bidding as prime proposer must solicit other certified Section 3 Business Concerns for participation for material and/or supplies and attempt to hire Section 3 residents.

## 2. Responsiveness

- a. Bidders must complete and submit the Work Force Needs Table (See Exhibit 4) and the Section 3 Contract/Solicitation and Commitment Statement (See Exhibit 5) Failure to submit these forms with the bid will result in the bid being rejected as nonresponsive.
- b. A bidder should only solicit Section 3 subcontractors, vendors, manufacturers, or suppliers whose services, material, or supplies are within the scope of work and which the bidder reasonably believes it will choose to subcontract with or purchase from.
- c. Bidders failing to meet the minimum levels of participation must submit concurrently with the bid, an explanation of why the MPLs have not been met. The evidence submitted by the bidder must demonstrate the following:
  - (1) Indicate whether Section 3 Business Concerns were solicited for each type of work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no such solicitation was made;
  - (2) Indicate the reason why a Section 3 Business Concern has not been committed to for a type of subcontract work or materials in any area where a quote was received from a Section 3 Business Concern, and;
  - (3) In any case where no quotations are received nor commitments made to a Section 3 Business Concern, indicate on Contract/Solicitation and Commitment Statement that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
- d. If the bidder fails to submit such evidence, the bid submission shall be considered nonresponsive and the bid rejected.
- e. Information related to the above may be submitted on the Contract/Solicitation and Commitment Statement or on additional paper.

## 3. Access to Information

The (Name of Sub-grantee) may obtain documents and information from any bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain bidder or contractor responsibility. Failure to provide requested information may result in the contractor being declared not responsible.

## **B. Professional/Personal Services – Requests for Proposals (RFP)**

For contracts and subcontracts awarded under the competitive proposals awarded under the Request for Proposals method the (Name of Sub-grantee) shall identify all evaluation factors (and their relative importance) to be used to rate proposals in their RFP.

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 be set aside for the evaluation of these two components.

The component of this evaluation factor designed to address the preference for Section 3 Business Concern must establish a preference for these business concerns.

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 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.

## **Procedures – Contractor Compliance Process**

**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 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).

### **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

- 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 made to seek Section 3 participants (**See Exhibit 2**).

- Utilizing Certification for residents seeking Section 3 preference in employment and training.
- Contractors must notify the Section 3 Compliance of their interests regarding employment of Section 3 participants prior to hiring, utilizing the Section 3 Work Force Needs Table/Certification – DCED-CCD 192 (**see Exhibit 4**). The Section 3 Compliance Officer 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 contact award.
- Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to \_\_\_\_\_, Section 3 Compliance Officer.
- Immediately notify the Section 3 Compliance Officer of any problems experienced due to the employment of Section 3 participants.
- Immediately notify the Section 3 Compliance Officer 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 Compliance Officer to determine if an investigation is warranted.

### **SECTION 3 GRIEVANCE PROCEDURES**

In an effort to resolve complaints generated due to non-compliance through an internal process, the PA Department of Community and Economic Development encourages submittal of such complaints to its Section 3 Compliance Officer as follows:

- Complaints of non-compliance should be filed in writing to the PA Department of Community and Economic Development 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 Compliance Officer 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 Compliance Officer will provide written documentation detailing the findings of the investigation of the \_\_\_\_\_. The PA Department of Community and Economic Development 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 PA Department of Community and Economic Development a complaint may be filed with:

Philadelphia Regional Office of FHEO  
U.S. Department of Housing and Urban Development  
The Wanamaker Building  
100 Penn Square East, 12th Floor  
Philadelphia, Pennsylvania 19107-3380  
(215) 861-7646  
1-888-799-2085  
TTY (215) 656-3450

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.

The Section 3 Compliance Officer will forward a copy of the grievance to DCED within 72 hours of receipt.

The Section 3 Compliance Officer will maintain an official Complaint Register (**see Exhibit 7**).

### **SECTION 3 RECORDKEEPING**

Records must be maintained by the Section 3 Compliance Officer to demonstrate compliance with the requirements noted in 24 CFR 135.92:

"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."

In accordance with the rule, the Sub-grantee will maintain records related to:

- ❖ Examples of efforts to offer training and employment opportunities to Section 3 residents
- ❖ Examples of efforts to award contracts to Section 3 business concerns
- ❖ Examples of procurement procedures that provide for preference for Section 3 business concerns
- ❖ Listings of certified Section 3 residents
- ❖ Listings of certified Section 3 business concerns
- ❖ Grievances filed by Section 3 residents or Section 3 business concerns
- ❖ Listings of Section 3 residents trained and/or employed

- ❖ Listings of Section 3 business concerns contracted under each contract meeting Section 3 thresholds

### **SECTION 3 REPORTING REQUIREMENTS**

DCED requires that all Sub-grantees of CDBG, HOME and ESG funds to annually report (applies to all reports except the Section 3 Complaint Register) on all Section 3 activities if the amount of any combined CDBG, combined HOME, or combined ESG grants that are currently active exceed \$200,000 and any contract or sub-contract received exceeds \$100,000. Reporting forms include:

1. Section 3 Summary Report (HUD form 60002 –(Exhibit 3)
2. Section 3 Work Force Needs Table and Certification (Exhibit 4)
3. Section 3 Contract Solicitation and Commitment Statement (Exhibit 5)
4. Section 3 Contractor Monthly Report (Exhibit 6)
5. Section 3 Complaint Register (HUD form 958 (Exhibit 7)

The Developer, Contractor, or Sub-Contractor will submit a Section 3 Work Force Needs Table and Certification to the Sub-grantee demonstrating how it is implementing its Section 3 Action Plan, if the any contract or sub-contract received from the Sub-grantee exceeds \$100,000. The Sub-grantee will maintain a copy of this report in its Section 3 Program files as well as submit a copy to DCED on an annual basis.

Sub-grantees must then submit a Section 3 Summary Report (HUD form 60002 on an annual basis to DCED.

In the event that a resident in a Section 3 covered area or Section 3 business concern has filed a grievance against the Sub-grantee, Developer or Contractor, the Sub-grantee must submit a copy of the Complaint Register to DCED within 72 hours.

Questions on completion of these forms should be directed to DCED Compliance Officer at (717) 720-7406.

# **Attachments**

## **Attachment A**

### **Outreach and Recruitment Additional Guidance**

#### **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 Housing Authorities, 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 section3 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 projects.

- (11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the Housing Authorities 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 Housing Authorities 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.

## **Attachment B**

### **Bidding Process Additional Guidance**

#### 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 Housing Authorities, 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 up-coming 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 Housing Authorities, 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.

## Attachment C

### Procurement and Awarding of Bids Additional Guidance

Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns:

This Section 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 Purchasing Authorities 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 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 Housing Authorities attempted, but Housing Authorities 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 Housing Authorities 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 purchasing Authorities 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-IFB)*. 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 non-Section 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 with x=lesser of:

<b>TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS</b>	<b>RESIDENT AS A % OF TOTAL LABOR DOLLARS</b>
Labor dollars \$25,000 but less than \$100,000	10% of the labor dollars or \$9,000
\$100,000, but less than \$200,000	9% of the labor dollars or \$16,000
At least \$200,000, but less than \$300,000	8% of the labor dollars or \$21,000
At least \$300,000, but less than \$400,000	7% of the labor dollars or \$24,000
At least \$400,000, but less than \$500,000	6% of the labor dollars or \$25,000
At least \$500,000, but less than \$1 million	5% of the labor dollars or \$40,000
At least \$1 million, but less than \$2 million	4% of the labor dollars or \$60,000
At least \$2 million, but less than \$4 million	3% of the labor dollars or \$80,000
At least \$4 million, but less than \$7 million	2% of the labor dollars or \$105,000
\$7 million or more	1.5 % of the labor dollars

(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 concerns) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

**ATTACHMENT D**

**Section 3 Regulations**

**Regulations Appear Here  
or**

**[GPO e-CFR Current June 2017](#)**

## § 135.1

## APPENDIX TO PART 135

AUTHORITY: 12 U.S.C. 1701; 42 U.S.C. 8300b.

Source: 40 FR 28300, June 21, 1975, unless otherwise noted.

Executive Order: At 40 FR 21631, June 20, 1975, part 135 was revised effective August 1, 1974 through June 30, 1975. At 40 FR 28300, May 21, 1975, 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 1968 is published and becomes effective.

## Subpart A—General Provisions

## § 135.1 Purpose.

(a) Section 3 of the purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701a) (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 consist in effect.

(50 FR 2828, May 21, 1975)

## § 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

## 24 CFR Subtitle B, Ch. I (4-1-03 Edition)

expenditures of the following public and Indian housing assistance:

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

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

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

(iv) 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:

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

(2) Housing construction; and

(3) Other public construction.

(b) 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 \$500,000.

(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 sub contract exceeds \$100,000.

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

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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.

[58 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

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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

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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

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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

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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

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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, full-time 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

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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

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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 non-compliance 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.

### § 135.76

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

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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 com-

plaint 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

### § 135.90

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

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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 counselling, 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 spe-

cific 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:

(1) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 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.

**PART 146—NONDISCRIMINATION ON THE BASIS OF AGE IN HUD PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—General**

- Sec. 146.1 Purpose of the Age Discrimination Act of 1975.
- 146.3 Purpose of HUD's age discrimination regulation.
- 146.5 Applicability of part.
- 146.7 Definitions.

**Subpart B—Standards for Determining Age Discrimination**

- 146.11 Scope of subpart.
- 146.13 Rules against age discrimination.

**Subpart C—Duties of HUD Recipients**

- 146.21 General responsibilities.
- 146.23 Notice of subrecipients.
- 146.25 Assurance of compliance and recipient assessment of age distinctions.
- 146.27 Information requirements.

**Subpart D—Investigation, Settlement, and Enforcement Procedures**

- 146.31 Compliance reviews.
- 146.33 Complaints.
- 146.35 Mediation.
- 146.37 Investigation.
- 146.39 Enforcement procedures.
- 146.41 Prohibition against intimidation or retaliation.

**Good Faith Effort**

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The contracting party and each contractor or subcontractor seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Second notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, trade organizations and other community groups capable of referring eligible Section 3 applicants, including the Department of Labor.
2. Include in all solicitations and advertisements a statement to encourage eligible Section 3 residents to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers.
4. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such person, if otherwise eligible and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

The contractor must 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 obligation under 24 CFR Part 135.

## Section 3 Clause

All contracts subject to the Section 3 requirements will include the following 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 project 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 part 135 of the 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 of worker's 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 qualification for each; and the name and location of the persons(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.

**Department of Community and Economic Development  
Section 3 Implementation Action Plan**

<b>Desired Outcome</b>	<b>Action Steps to be Taken</b>	<b>Target Completion Date</b>	<b>Resources Needed</b>	<b>Resources Available</b>	<b>Person(s) Responsible</b>	<b>Evidence of Action Taken</b>
Identify Section 3 residents and certified businesses/contractors						
Develop and implement marketing strategies to inform residents and businesses of employment and training opportunities						
Establish a collaboration with experienced private section partners and Section 3 residents and businesses/contractors						

**Department of Community and Economic Development  
Section 3 Implementation Action Plan**

<b>Desired Outcome</b>	<b>Action Steps to be Taken</b>	<b>Target Completion Date</b>	<b>Resources Needed</b>	<b>Resources Available</b>	<b>Person(s) Responsible</b>	<b>Evidence of Action Taken</b>

**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:**

- Copy of resident lease  Copy of receipt of public assistance  
 Copy of evidence of participation in a public assistance program  Other evidence

**For business entity as applicable:**

- Copy of Articles of Incorporation  Certificate of Good Standing  
 Assumed Business Name Certificate  Partnership Agreement  
 List of owners/stockholders and % ownership of each  Corporation Annual Report  
 Organization chart with names and titles and brief function statement  Latest Board minutes appointing officers  Additional documentation

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 businesses:**

- 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:**

- List of all current full-time employees  List of employees claiming Section 3 status  
 PHA/IHA Residential lease less than 3 years from day of employment  Other evidence of Section 3 status less than 3 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 Title

(Corporate Seal)

Attested by: \_\_\_\_\_



The \_\_\_\_\_  
**(Name of Grantee)**

**SECTION 3 INCOME LIMITS**

All low and very low income residents of

\_\_\_\_\_  
*Name of Community*

qualify as Section 3 residents and meet the income limits set forth below.

A picture identification card and proof of current residency is required.

**Eligibility Guideline**

<b>Number in Household</b>	<b>Very Low Income 50% of Area Median Income</b>	<b>Low Income 80% of Area Median Income</b>
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

Current as of 1/03



**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.

Public reporting for this collection of information is estimated to average 2 hours 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.

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)(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

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contain sensitive questions. Data is cumulative; personal identifying information is not included.

form HUD 60002 (11/2010) Ref 24  
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**Instructions:** This form is to be used to report annual 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 any **public and Indian housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 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 **recipients of housing and community development assistance in excess of \$200,000** expended 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 in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 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.\* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office name .

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

**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 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

Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.

\* 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.





## SECTION 3 CONTRACT SOLICITATION AND COMMITMENT STATEMENT

(1) Name of Bidder	(2) IFB Number
Address	Bid Opening Date
Telephone Number	Contact Person

*(3) COMPANY NAME, & TELEPHONE NUMBER	*(4) EIN OR SSN	(5) SECTION 3 (X)	(6) TYPE OF CONSTRUCTION, EQUIPMENT, SERVICES AND/OR SUPPLIES TO BE PROVIDED TO THE PROJECT	(7) TOTAL DOLLAR AMOUNT OF QUOTE RECEIVED	*(8) TOTAL COMMITMENT DOLLAR AMOUNT

(8) NOTE: List those Section 3 business concerns from which you solicited quotes or which contacted you and gave you quotes in regard to this invitation for bid. Bidder's contract with subcontractors and suppliers should be at least five days prior to the bid opening date.

(9) See attached instructions for providing quotes.

(10) NOTE Minimum Participation Levels (MPL): Section 3 Building Trade Contracts – 10% of the total dollar amount for building trades work. Section 3 Non-Building Trade Contracts – 3% of the total dollar amount of all non-building trades work. Section 3 Resident New Hires – 30% of the aggregate number of new hires. A presumption of responsibility may be made if commitments reflect the MPLs.

(11) Prepared By	Telephone Number/Email Address
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Use additional sheets if necessary.

## **EXPLANATION OF COLUMN ITEMS**

(Section 3 Contract Solicitation and Commitment Statement)

1. Provide your company name, address, telephone number.
2. Provide the Invitation for Bid (IFB) number, if available, bid opening date and bidder's contact person.
3. Company's name and telephone number with area code are mandatory items.
4. Employer Identification Number (EIN) or Social Security Number (SSN), mandatory item.
5. Indicate whether or not the firm is a Section 3 firm. Place a check mark in the Section 3 column.
6. Indicate type of work to be performed and/or material to be supplied.
7. Enter the total dollar amount of the quote received.
8. Enter the dollar amount of the commitment which you have made to the Section 3 firm. If no amount is provided in this space, it will be presumed that your firm made no commitment, mandatory item.
9. NOTE: You must include information on both solicited and unsolicited quotes. Failure to include a firm providing solicited or unsolicited quotes may result in the rejection of the bid. Five days is a guide. However, adequate time must be provided for subcontractors and suppliers to respond to bids.
10. NOTE: If the minimum participation levels for this project are not achieved, you must provide a written explanation on this on a separate sheet explaining the failure to achieve the MPL. Failure to provide this explanation will result in rejection of the bid as non-responsive.
11. Indicate the name and title of the person(s) who prepared this form, along with an e-mail address.

**\*KEY NOTE: Mandatory Items: Failure to provide mandatory items will result in rejection of the bid as non-responsive. These items appear in Columns 3, 4 and 8.**

**SAMPLE**

**SECTION 3 CONTRACTOR'S MONTHLY REPORT**

Prime Contractor Name: \_\_\_\_\_ Project Title: \_\_\_\_\_

Total Prime Contract \$ \_\_\_\_\_ Total Subcontracts \_\_\_\_\_

**INVOICE INFORMATION**

Invoice No.	Current Invoice \$:
Report Period:	Cumulative Invoiced \$:
% Contract Complete:	

**PRIME CONTRACTOR SECTION 3 GOAL TRACKING**

Total Subcontracts # _____	Total Section 3 Subcontracts # _____
Section 3 Goals Accomplished% _____	

**SUB-CONTRACTOR SECTION 3 GOAL TRACKING**

SUBCONTRACTOR/ COMPANY NAME	# SECTION 3 NEW HIRES	STAFF HOURS	TRADE	\$ THIS PAYMENT

\*Attach a sheet if additional lines are needed

**NON-SECTION 3 SUB-CONTRACTORS TRACKING**

SUBCONTRACTOR/ COMPANY NAME	# NEW HIRES	STAFF HOURS	TRADE	\$ THIS PAYMENT

\*Attach a sheet if additional lines are needed

**TYPE OF WORK:** Examples: Catering, Clerical, Consulting, Engineering, Hauling, Janitorial, Masonry, Site Clearing, Technical Support

**NOTES:**  
*THIS MONTHLY FORM MUST BE COMPLETED AND SUBMITTED WITH ALL REQUESTS FOR PAYMENT AND FINAL PAYMENT.*

**Exhibit 7**

**Complaint Register**

**PDF File needs to be inserted**