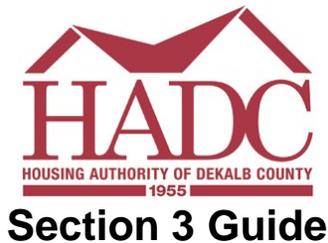




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INTRODUCTION

These guidelines have been prepared to provide information and guidance to Developers, General Contractors and Subcontractors on how the Housing Authority of DeKalb County (HADC) will administer the Section 3 Program. This guide should not be treated as a comprehensive recitation of the Section 3 Act and Section 3 Regulations. It is a summary of the pertinent provisions of the Section 3 Act and Section 3 Regulations, and focuses on the Section 3 Requirements imposed on the Developer, General Contractor and Subcontractor receiving the requisite amount of Section 3 Funds. The Housing Authority of DeKalb County reminds each Developer, General Contractor and Subcontractor that it bears the responsibility to familiarize itself with the Section 3 Act and Section 3 Regulations prior to accepting Section 3 Covered Assistance from HADC.

PART 1: DEFINITIONS

Developer means any entity engaged in the business of development of affordable housing which is an applicant for Section 3 Covered Assistance or has been awarded Section 3 Covered Assistance in excess of \$200,000 by HADC.

General Contractor means any entity which has been awarded a construction contract of \$100,000 or more by a Developer to provide general contractor services, which are generated by the expenditure of Section 3 Covered Assistance or in connection with a Section 3 Covered Projects.

Department of Housing and Urban Development (HUD) means the federal government branch of the Department of Housing and Urban Development, including its field offices to which authority has been delegated to perform functions under this part.

Employment Opportunities means all employment opportunities arising in connection with a Section 3 Covered Project, as described in 135.3(a)(2), including management and administrative jobs connected with the Section 3 Covered Project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialists, payroll clerk, etc.

HADC means Housing Authority of DeKalb County

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



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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.

HUD (See Department of Housing and Urban Development above).

Low-income person is defined in the definition of “Section 3 Resident” herein.

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

Neighborhood Area or Section 3 Area means 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.

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

Non-metropolitan Area means any area outside of a metropolitan area.

Public and Indian Housing Assistance includes funds used for:

- (1) Development assistance provided pursuant to Section 5 of the U.S. Housing Act of 1937 (the “1937 Act”);
- (2) Operating Assistance provided pursuant to Section 9 of the 1937 Act; and
- (3) Modernization Assistance provided pursuant to Section 14 of the 1937 Act.

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

Secretary means the Secretary of Housing Urban Development (HUD).

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



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Section 3 Covered Assistance means: a) Public and Indian Housing Assistance and b) Housing Assistance and c) Community Development Assistance.

Section 3 Business Concern means a company that is:

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

Section 3 Clause means the contract provisions set forth in 24 CFR 135.38 and is attached hereto (see *Exhibit C*).

Section 3 Covered Contract means a contract or subcontract (including a professional service contract) awarded by a Recipient, Developer, General Contractor or Subcontractor for work generated by the expenditure of Section 3 Covered Assistance of \$100,000 or more, or for work in like amount, arising in connection with a Section 3 Project. Section 3 Covered Contract does not include any contracts for the purchase of supplies or materials, unless the contract includes the installation of the supplies or materials.

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

Section 3 Regulations means the regulations found at 24 CFR Part 135 which govern the application of the Section 3 Act.

Section 3 Requirements means the employment, training and contracting opportunities imposed by the Section 3 Act upon Recipients and Covered Contractors.

Section 3 Resident means:

- (1) A public housing resident; or
- (2) An individual who resides in the metropolitan area or a non-metropolitan county in which the Section 3 Covered Assistance is expended, and who is:



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(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)), which is 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)), which is families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes (*see Table No. 1 of Exhibit A – Section 3 Plan*).

Subcontractor means any entity awarded a Section 3 Covered Contract of \$100,000 or more by a General Contractor.

PART 2: SECTION 3 PURPOSE

The Section 3 Act was enacted by HUD (12 U.S.C. 1701u), as amended, to ensure that certain employment and economic opportunities generated by certain HUD-funded Section 3 Covered Assistance are, to the greatest extent feasible, directed to Section 3 Residents and Section 3 Business Concerns. Therefore, upon receipt of the requisite amount of Section 3 Covered Assistance and awards of Section 3 Covered Contracts, the Developer, General Contractor and Subcontractor must comply with the Section 3 Requirements.

PART 3: HOUSING AUTHORITY OF DEKALB COUNTY SECTION 3 POLICY STATEMENT

HADC shall provide opportunities to low- and very low-income persons residing in the County of DeKalb (as defined in § 135.5 of 24 CFR Part 135) and to businesses meeting the definition of "Section 3 Business Concern" (as defined by 24 CFR Part 135).

Accordingly, HADC shall implement policies and procedures to ensure that Section 3, when required, is followed and develop programs and procedures necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided. This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It will apply to contractors who install materials or equipment. (See the definition of "Section 3 Covered Contracts"). There is nothing in this policy that should be construed to require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.



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Successful compliance with the Section 3 Act and the Section 3 Regulations by the Developer and General Contractor will be a factor in determining future awards of Section 3 Covered Assistance.

According to the Section 3 Regulations, located at 24 CFR Part 135, Section 3 Covered Assistance Recipients are required to provide employment, training and contracting opportunities to Section 3 Residents or Section 3 Business Concerns. However, the Section 3 Requirements are not imposed upon a recipient that does not engage in the hiring or training of persons, but instead awards contracts to Developers and General Contractors that hire and train in connection with Section 3 Covered Projects. According to the Section 3 Regulations, these recipients may comply with Section 3 by ensuring that the Developers, General Contractors and Subcontractors receiving Section 3 Covered Assistance comply with the Section 3 Act.

PART 4: HADC SECTION 3 TEAM

HADC has established a Section 3 Team headed by the Procurement Specialist, who will serve as the immediate point of contact for the Developer, General Contractor and Subcontractor, and is available to assist in meeting its Section 3 Requirements. In addition, the HADC Section 3 Team will provide the Developer, General Contractor and Subcontractor with Section 3 materials, including the Section 3 Act, Section 3 Regulations, and these HADC Section 3 Guidelines. Further, the HADC Section 3 Team is available to provide technical assistance to the Developer, General Contractor and Subcontractor. Technical assistance may consist of help in understanding the Section 3 regulations, identifying employment opportunities and training programs available to Section 3 Residents, and information on outreach to Section 3 Residents and Section 3 Business Concerns. The HADC Section 3 Team may also develop Section 3 forums and make presentations at seminars and panel discussions on Section 3.

The HADC Section 3 Team may engage additional HADC staff who will assist the HADC Section 3 Team in the acquisition, assemblage, review and analysis of reports submitted by the Developer, General Contractor and Subcontractor. HADC staff may also conduct random on-site reviews of the Section 3 Covered Project to assess compliance with the Section 3 Act.

The Developer, General Contractor, and Subcontractor will appoint a Section 3 coordinator and provide the name, address, telephone number and email address of this individual to the HADC Procurement Specialist. This person will be the direct point of contact with the HADC Section 3 Team and advise the Developer, General Contract, Subcontractor personnel and staff on Section 3 compliance. In addition, the coordinator will be responsible for the submission of all required Section 3 reports to HADC. Further this individual will serve as the point of contact for Section 3 complaints and as the on-site monitor of the Developer, General Contract, and Subcontractor implementation of its respective Section 3 Plan.



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PART 5: SECTION 3 MEETING

Once HADC has awarded the Section 3 Covered Assistance, if necessary, HADC will schedule a meeting with the Developers to discuss Section 3 Requirements. Attendees may include the HADC Procurement Specialist (or his/her designee), General Contractors, various HADC personnel, and the Developer's Section 3 Coordinator and the General Contractor's Section 3 Coordinator, if selected. The purpose of the meeting will be to address any questions the attendees may have regarding compliance with Section 3 Regulations. All attendees will be provided with a copy of the HADC Section 3 Guidelines, the Section 3 Act and the Section 3 Regulations.

PART 6: SECTION 3 CONTRACTING OPPORTUNITY GOALS

Developers, General Contractors and Subcontractors with Section 3 Covered Contracts must establish certain contracting opportunity goals for Section 3 Business Concerns in connection with the Section 3 Covered Project. These numerical goals apply to contracts awarded by the Developer, the General Contractor or Subcontractor. These goals can be met by achieving the following benchmarks:

- a) At least 10% of the total dollar amount of all Section 3 Covered Contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
- b) At least 3% of the total dollar amount of all other Section 3 Covered Contracts.

PART 7: EMPLOYMENT AND TRAINING OPPORTUNITY GOALS

The Section 3 Act requires the Developer, General Contractor and Subcontractor to utilize Section 3 Residents and Section 3 Business Concerns in relation to the development of Section 3 projects, to the greatest extent feasible. Specifically, the Developer, General Contractor and Subcontractor must establish certain Section 3 goals for each Section 3 Project. All Section 3 employment and training goals must be explicitly set forth the Section 3 Plans. The Section 3 Plan (*Exhibit A*) shall require the Developer, General Contractor and Subcontractor to prove the following:

"The numerical goal for Employment for this Section 3 Covered Project is ____% of new hires",
or;

"The numerical goal for Training for this Section 3 Covered Project is ____% of residents hired."

Employment and training goals may be met by either directly providing the employment or training or by facilitating the employment or training. That is, the Developer, Contractor or Subcontractor may satisfy the Section 3 employment and training goals by arranging for the employment or training of Section 3 Residents in connection with:



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- a) the Developer's Section 3 Covered Projects;
- b) the Developer's non-Section 3 projects;
- c) other non-Section 3 Projects.

HADC is available to provide technical assistance in order to meet these employment and training goals via the Section 3 Team.

As specified in the Section 3 Plan (*Exhibit A*) the Developer, General Contractor and Subcontractor must provide a breakdown of job categories and positions needed for the Section 3 Covered Project, including positions occupied by permanent employees. If the Developer, General Contractor or Subcontractor does not have any employment or training opportunities available in connection with the Section 3 Covered Project, this must be reflected in the Section 3 Plan (*Exhibit A*).

PART 8: SECTION 3 PLAN

After the General Contractor has been selected the Developer shall submit the fully completed and comprehensive Section 3 Plan (*Exhibit A*). It shall be signed by the Developer and the General Contractor. The comprehensive Section 3 Plan will include the Section 3 goals of the Developer and the General Contractor. This comprehensive Section 3 Plan will be submitted to the HADC Procurement Specialist for review and upon acceptance it shall be incorporated into the ensuing contract.

Upon submission of the comprehensive Section 3 Plan, HADC will review it and either approve it, conditionally approve it (with suggested modifications), or disapprove the plan. HADC will not issue a firm commitment to the Developer until a Section 3 Plan has been approved. After the Section 3 Plan has been approved, it will be made a part of the ensuing contract, and HADC will review and monitor it regularly to assess its implementation and the attainment of the Section 3 goals. As subcontracts in excess of \$100,000 are awarded, those Subcontractors will be required to submit their own Section 3 Plan to HADC for review and approval. Other items that must be submitted to HADC include copies of all bid documents that are submitted and all contracts that are awarded to the Subcontractor(s).

PART 9: COMPONENTS OF THE SECTION 3 PLAN

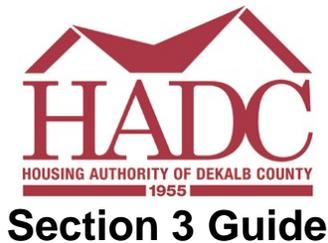
HADC shall provide to potential Contractors a sample copy of HADC's Section 3 Plan (*Exhibit A*). HADC's Section 3 plan includes specific information and requires an agreement from Contractors for them to provide details with how they are going to comply with Section 3. This information may include, but is not limited to the following:

- a) Developer, General Contractor, or Subcontractor's statement certifying it intends to comply with the Section 3 Act and Section 3 Regulations, as well as the HADC Section 3 Guidelines;



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- b) Developer, General Contractor, or Subcontractor's statement certifying each is aware of the employment, training, and contracting goals, and agree to work together to meet these goals;
- c) Name and contact information of the Developer, General Contractor, or Subcontractor's Section 3 coordinator;
- d) Description of the Developer, General Contractor, or Subcontractor's current workforce;
- e) Description of the Developer, General Contractor, or Subcontractor's Contractor's workforce necessitated by the Section 3 Covered Project;
- f) Plan of the Developer, General Contractor, or Subcontractor's Section 3 employment, training and contracting opportunity goals;
- g) Specific strategies for notifying Section 3 Residents of Section 3 employment and training goals;
- h) Specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- i) Commitment to inform all Subcontractors of its Section 3 Plan;
- j) Developer's commitment to prepare and submit monthly Section 3 reports to HADC;
- k) General Contractor's commitment to prepare and submit monthly reports to its Section 3 coordinator to be forwarded to HADC;
- l) Commitment of Developer, General Contractor and Subcontractor to include the Section 3 Clause in all construction contracts and subcontracts exceeding \$100,000.00 awarded as a result of the Section 3 Covered Assistance.
- m) Commitment by Developer, General Contractor and Subcontractor to conduct aggressive outreach and notification campaign to Section 3 Residents and Section 3 Business Concerns regarding its Section 3 goals, including the usage of site signage, flyers, etc.
- n) Commitment to provide employment agencies and local public housing authorities of possible employment, training and contracting opportunities to established job pools of Section 3 area residents;
- o) Inclusion of other strategies which facilitate the achievement of the Section 3 goals established by the Developer, General Contractor and Subcontractor



PART 10: IMPLEMENTATION STRATEGIES

In order to comply with the Section 3 Act and the Section 3 Regulations, the Developer, General Contractor or Subcontractor, as applicable, must implement an aggressive campaign to encourage participation of Section 3 Residents and Section 3 Business Concerns. Some strategies to implement this campaign are included in HADC's Section 3 Plan and include the following:

- a) Publish in a local newspaper a notice of the potential employment and training opportunities for Section 3 Residents and potential contracting opportunities for Section 3 Business Concerns. Written notice must be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- b) Post in a prominent location at the Section 3 Covered Project site notice of the potential employment and training opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns.
- c) Submit letters or flyers to the residents of the Section 3 Covered Project advising them of the employment, training and contracting opportunities for the Section 3 Covered Project (applies to rehabilitation when there are existing residents);
- d) Provide the residents of the Section 3 Covered Project and the surrounding area with information on how to get certified as a Section 3 Resident or a Section 3 Business Concern;
- e) Provide the local public housing authority with flyers, notices and other information related to the Section 3 employment, training and contracting Opportunities for the Section 3 Covered Project;
- f) Provide information to residents of a Section 3 Covered Project and the surrounding area regarding established job training programs located within the Section 3 Covered Project area;
- g) Provide minority and women-focused labor and trade organizations with notice of Section 3 employment, training and business opportunity goals
- h) Provide minority and women-focused labor and trade organizations with notice of when and where plans and specifications for bid review will be distributed;
- i) Establish public forums regarding Section 3 Covered Projects being developed within the Section 3 area, in which the Developer, General Contractor and Subcontractor will participate;



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- j) Utilize other strategies set forth in the Section 3 Regulations;
- k) 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.

PART 11: CERTIFICATION OF SECTION 3 RESIDENTS

Individuals seeking to participate in Section 3 Covered Projects must first be certified by an organization authorized to provide the required designation that they are eligible Section 3 Residents (HADC has its own internal list of certified Section 3 Residents available for Developers, General Contractors and Subcontractors and shall release this list upon request or at its discretion to Developers, General Contractors and Subcontractors). If no certifying agency exists for an area, the Developer, General Contractor or Subcontractor shall complete and submit a Certification for Resident Seeking Section 3 Preference in Training and Employment to the HADC Procurement Specialist.

The following information must be provided to the Developer, General Contractor or Subcontractor by the individual:

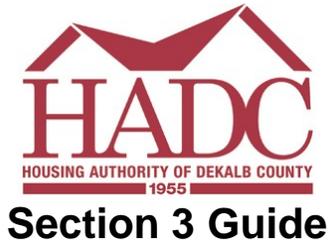
- a) Name of Individual
- b) Address
- c) City and Zip Code
- d) Phone
- e) Fax
- f) Technical Skill
- g) Training Required

Evidence of income eligibility must be provided by the Section 3 Resident/Applicant. To be income eligible the Section 3 Resident must qualify either as a "low-income person" or a "very low-income person". For further explanation, please refer to the definition of a Section 3 Resident found above. Verification of Section 3 eligibility may consist of any of the following:

- a) A public housing authority lease agreement;
- b) Evidence of income (most recent W-2 or income tax return);
- c) Evidence of the receipt of public assistance; or
- d) Any other evidence acceptable to the HADC Procurement Specialist.

PART 12: CERTIFICATION OF SECTION 3 BUSINESS CONCERNS

Any business seeking to be certified as a Section 3 Business Concern must be certified by an organization authorized to provide the required designation. If no certifying agency exists for an area, the Developer, General Contractor or Subcontractor shall complete and submit Part 1.0 of HADC's Section 3 Plan (*Exhibit A*) and supplemental material as described within Part 1.0 of HADC's Section 3 Plan to the HADC Procurement Specialist.



PART 13: TECHNICAL SUPPORT AND MONITORING

HADC is available to provide technical support to Developers, General Contractors and Subcontractors participating in the development of Section 3 Covered Projects. HADC will also maintain a limited database of Certified Section 3 Business Concerns and outreach agencies located in the County of DeKalb, Georgia.

Developers, General Contractors and Subcontractors are required to submit copies to HADC of all outreach attempts, copies of all responses to notices published in the paper and posted other places, copies of all responses to bid invitations, and any other documentation helpful in monitoring compliance with the approved Section 3 Plan.

HADC requires monthly reports (*Exhibit B*) to be submitted by the Developer, General Contractor or Subcontractor to assess compliance with the Section 3 Act and the Section 3 Regulations (*Exhibit D*). Reports are due no later than the 30th (or 31st when applicable) of

each month. A report must be submitted every month; if there is nothing to report, that must be stated on the form. When the Section 3 Covered Project is completed, a final report will be due along with other customary due diligence documentation. The HUD Form 60002 (*Exhibit F*) shall be used for the final Section 3 report and included in the final pay application and/or the closeout submittal package.

HADC staff may conduct on-site random reviews of the Section 3 Covered Project to determine whether the Developer, General Contractor or Subcontractor are complying with its approved Section 3 Plan. In the event the HADC Section 3 Coordinator determines that the Developer, General Contractor or Subcontractor is not meeting its employment, training or contracting opportunity goals as set out in the approved Section 3 Plan, she will provide the respective party with written notice of non-compliance. The notice will require the noncomplying party to meet with HADC staff to determine if the noncomplying party used its best efforts to meet Section 3 requirements, and if further outreach attempts would result in goals being successfully met.



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LIST OF EXHIBITS

Exhibit A	HADC Section 3 Plan
Exhibit B	Monthly Section 3 Report
Exhibit C	Section 3 Clause
Exhibit D	Section 3 Act of 1968 (24 CFR Part 135)
Exhibit E	Section 3 Act FAQs
Exhibit F	HUD Form 60002 (Section 3 Summary Report)



Exhibit A **Section 3 Plan**

This Section 3 Plan pertaining to the above noted contract is hereby formulated to meet the standards detailed within 24 CFR 135; most specifically within Section 135.1, to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, . . . be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing . . ."

Part 1.0 - Current Status as a Section 3 Business Concern

We hereby complete the following to verify our firm's current status as a "section 3 business concern" (as detailed within 24 CFR 135.5):

- 1.1 Yes___ No___: Our firm is "51 percent or more owned by section 3 residents." If "Yes," we hereby submit the following noted documentation to verify this claim; if "No," proceed directly to the following Section 1.2.
- 1.1.1 ___ Housing Authority resident lease;
 - 1.1.2 ___ Evidence of participation in a public assistance program;
 - 1.1.3 ___ Articles of Incorporation;
 - 1.1.4 ___ Fictitious or Assumed Business Name Certificate;
 - 1.1.5 ___ List of owners/stockholders and % of each;
 - 1.1.6 ___ Latest Board minutes appointing officers;
 - 1.1.7 ___ Organization chart with names and titles and brief functional statement;
 - 1.1.8 ___ Partnership Agreement;
 - 1.1.9 ___ Corporation Annual Report.
- 1.2 Yes___ No___: Our firm's "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." If "Yes," to justify this claim we hereby submit the following documentation within Table No. 2; if "No," proceed directly to the following Section 1.3.
- 1.2.1 Low- and very low-income within DeKalb County, GA, is defined as residents within the following income levels for FY 2013 (Median Income = \$66,300):

[Table No. 1]



**Exhibit A
Section 3 Plan**

Income Limit Category	(1) Person	(2) Persons	(3) Persons	(4) Persons	(5) Persons	(6) Persons	(7) Persons	(8) Persons
Very Low (50%)	\$23,250	\$26,550	\$29,850	\$33,150	\$35,850	\$38,500	\$41,150	\$43,800
Extremely Low (30%)	\$13,950	\$15,950	\$17,950	\$19,900	\$21,500	\$23,100	\$24,700	\$26,300
Low (80%)	\$37,150	\$42,450	\$47,750	\$53,050	\$57,300	\$61,550	\$65,800	\$70,050

Income Limit figures are based on FY2013 Fair Market Rent (FMR). For a detailed account of how these limits are derived, please see our associated FY2013 FMR documentation.

[Table No. 2]

(1) Classification	(2) Total Number of Current Permanent Employees	(3) Total Number of Section 3 Resident Employees
Trainees		
Apprentices		
Journeypersons		
Laborers		
Supervisory		
Superintendent		
Professional		
Clerical		
Other:		

1.2.2 If there are quantities entered within the above Table No. 1, we hereby attach a listing of all employees listed within column (3), including each person's name, total annual income, and a copy of a tax return for each justifying the section 3 (low or very-low income) claim (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).



Exhibit A
Section 3 Plan

1.3 Yes__ No__: We hereby provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

[Table No. 3]

(1)	(2)	(3)
Name of Section 3 Firm Receiving the Subcontract	Total Amount of Subcontract(s)	Percentage the Subcontract(s) is/are of the Total Proposed Contract Amount
	\$	%
	\$	%

1.3.1 Attach fully executed copies of any contracts noted above.

1.3.2 Proof of the income of the ownership of the Section 3 firm receiving the subcontract, such as a copy of the last tax return for the owner(s) (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).

1.4 **INSTRUCTIONS FROM THE AGENCY.** If your firm is unable to claim Section 3 status as detailed within this Part 1.0, please move on to and complete the information within the following Part 2.0.

Part 2.0 - Additional Efforts to Satisfy the Requirements of Section 3

2.1 Whereas the answer to each of the preceding issues within Part 1.0 is "No," we hereby verify as to each of the following "Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents" detailed within Appendix I of 24 CFR 135; specifically, in each case our firm (for each item marked "Will," attach a full narrative description of the work plan detailed how the noted commitment will be accomplished):



Exhibit A Section 3 Plan

[Table No. 4]

(1) IFB Section	(2) Will	(3) Will Not	(4) Description of Commitment (if marked within the "Will" Column)
2.1.1			Enter into "first source" hiring agreements with organizations representing Section 3 residents.
2.1.2			Sponsor a HUD-certified "Step-Up" employment and training program for section 3 residents.
2.1.3			Establish 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.
2.1.4			Advertise 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.
2.1.5			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 the Agency, 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.
2.1.6			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.



Exhibit A Section 3 Plan

2.1.7			Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by the Agency 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.
2.1.8			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.
2.1.9			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.
2.1.10			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.
2.1.11			Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the Agency's or contractor's training and employment positions.
2.1.12			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 Agency's or contractor's training and employment positions.
2.1.13			Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
2.1.14			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 Agency, other recipient or contractor, the efforts to match



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			eligible and qualified section 3 residents with the training and employment positions that the Agency or contractor intends to fill.
2.1.15			For the Agency, 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).)
2.1.16			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
2.1.17			Undertaking job counseling, education and related programs in association with local educational institutions
2.1.18			Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities
2.1.19			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.
2.1.20			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.

2.2 Section 3 Preference Claim, Training and Employment Opportunities. The undersigned proposer hereby claims that it will, as detailed within 24 CFR §135.34, provide such "opportunities" as denoted following; to:

[Table No. 5]

(1) IFB Section	(2) Will	(3) Will Not	(4) Description of persons such Opportunities will be provided to (if marked within the “Will” Column)
2.2.1			Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents).



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2.2.2			Residents of other housing developments managed by the Agency that is expending the section 3 covered housing assistance (category 2 residents).
2.2.3			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);
2.2.4			Other section 3 residents (attach complete description).

2.3 **Section 3 Preference Claim, Section 3 Business Concerns.** The undersigned proposer hereby claims that it will, as a result of the contract award, and as detailed within 24 CFR §135.36, provide such "opportunities" as denoted following; to:

[Table No. 6]

(1) IFB Section	(2) Will	(3) Will Not	(4) Description of persons such Opportunities will be provided to (if marked within the "Will" Column)
2.3.1			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).
2.3.2			Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the Agency 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).
2.3.3			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).
2.3.4			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.



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Section 3 Plan

2.4 INSTRUCTIONS FROM THE AGENCY. If your firm is unable to satisfy the requirements of Section 3 as detailed within this Part 2.0, please move on to and complete the information within the following Part 3.0.

Part 3.0 - Potential Hiring Efforts to Satisfy the Requirements of Section 3

3.1 Though our firm has a desire to satisfy the requirements of Section 3, we are unable to do so as detailed within the previous Part 1.0 or Part 2.0. Accordingly, we hereby agree to satisfy the requirements of Section 3 by one or both of the following methods:

3.1.1 **SECTION 3 HIRING GOALS.** As a result of receiving award of this contract, our firm will need to hire additional employees and we hereby commit to the following number of Section 3 New Hires:

[Table No. 7]

(1) Classification	(2) Total Number of Current Permanent Employees	(3) Total Number of New Hires that will result from award of this contract	(4) Goal: Total Number of Section 3 New Hires that the contractor anticipates will result from award of this contract
Trainees			
Apprentices			
Journeypersons			
Laborers			
Supervisory			
Superintendent			
Professional			
Clerical			
Other:			



Exhibit A **Section 3 Plan**

- 3.1.2** **INSTRUCTIONS FROM THE AGENCY.** If your firm is unable to satisfy the requirements of Section 3 as detailed within the immediate preceding Part 3.1.1, please move on to and complete the information within the immediate following Part 3.1.3.
- 3.1.3** **INTERVIEWING AND POTENTIAL HIRING OF AGENCY RESIDENTS.** Our firm hereby agrees to, as a part of our new hire process for any open positions at any time during the period of time this contract is in effect, if our firm hires any new employees (for any position), we will:
- 3.1.3.1** Review the Agency's listing of resident(s) who have registered, thereby declaring his/her desire to interview and accept a job;
 - 3.1.3.2** In the same manner that we do with other applicants, conduct an interview with such resident(s) who have claimed experience within a certain skill set or field and have expressed a desire to interview; and
 - 3.1.3.3** If, as a result of the interview and any applicable testing or checking that our firm conducts for all persons interviewing, the resident(s) qualifies for the position and passes all such testing (e.g. skills test; drug tests; credit checks; background check; etc.), we hereby agree to offer the position to the Agency resident.
 - 3.1.3.4** Our firm hereby agrees that all Agency resident(s) will, during the interview process, be treated equal to and in the same manner as, any non-resident person who interviews with our firm.
 - 3.1.3.4.1** **NOTE:** Our firm shall have no responsibility to hire any resident who does not, as a result of the aforementioned testing and checks, qualify for the position, though the contractor will, as detailed following, be required to report to the Agency the results of such testing and checks, and fully inform the Agency as to why the resident(s) were not hired.



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- 3.1.3.5 Further, we hereby agree to inform the Agency in writing of the following within 5 days after a new employee has been hired, including the following information:
 - 3.1.3.5.1 The position title;
 - 3.1.3.5.2 The name of the person hired;
 - 3.1.3.5.3 The date the Agency listing of Agency resident(s) desiring interviews were reviewed by the contractor;
 - 3.1.3.5.4 The name(s) of the Agency resident(s) that the contractor contacted for an interview and the date, time, and method that such contact took place;
 - 3.1.3.5.5 The results of the contact (specifically, did or did not the interview take place; if so, when—if not, why);
 - 3.1.3.5.6 Pertaining to any Agency resident(s) who were not hired, the results of any tests and checking that the contractor completed (especially any such results that prevented the resident(s) from being offered the position).

The undersigned hereby certifies that the above noted firm will abide by the terms and conditions of this Section 3 Plan as detailed herein.

COMPLETED BY (Developer/Contractor/Subcontractor):

Signature	Date	Printed Name	Title (print)
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Exhibit C

THE SECTION 3 CLAUSE

[24 CFR 135]

- 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 regulation in 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 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 the 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 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 finding that the subcontractor is in violation of the regulations in 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 in 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.



Exhibit C

THE SECTION 3 CLAUSE

[24 CFR 135]

- F. Noncompliance with HUD's regulation 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 (7b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Exhibit D

Section 3 Act

(24 CFR, Part 135)

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APPENDIX TO PART 135

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

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

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

Subpart A—General Provisions

§ 135.1 Purpose.

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

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

§ 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect.

[60 FR 28326, May 31, 1995]

§ 135.3 Applicability.

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

(1) *Public and Indian housing assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising from the

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expenditure of the following public and Indian housing assistance:

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

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

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

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

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

(ii) Housing construction; and

(iii) Other public construction.

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

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

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

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

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

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

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

§ 135.5 Definitions.

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

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under

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

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

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

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

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

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

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

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in §135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection

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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.

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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.

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

§ 135.7 Delegation of authority.

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

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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.

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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

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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 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 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.

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(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

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\$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

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

—the section 3 covered contract to be awarded with sufficient specificity;

—the time within which quotations must be submitted; and

—the information that must be submitted with each quotation.

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

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

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

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

(i) Bids shall be solicited from all businesses (section 3 business concerns, and 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 responsive 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 sub-contracts 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

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- 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

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- 146.21 General responsibilities.
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Frequently Asked Questions and Answers
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Recordkeeping and Reporting

Section 3 Complaints

GENERAL QUESTIONS

1. What is Section 3?

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

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

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

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

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

- a) 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of its fully time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or

- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.
4. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

Please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, to learn more about these programs.

5. How is "low-income" determined?

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

6. Define "metropolitan area" and "Non-metropolitan County."

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

7. What is a "new hire"?

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

8. What is a Section 3 covered project?

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

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

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

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

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

11. What is a Service Area?

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

APPLICABILITY

12. What is Section 3 covered assistance?

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

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

Public Housing Authorities regardless of size or number of units

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

- HOPE VI funding
- Community Development Block Grant (CDBG) funding
- Community Development Block Grant Programs for Indian Tribes and Alaska Native Villages
- HOME Investment Partnership funding
- Self-Help Homeownership Opportunity Programs
- Economic Development Initiatives assistance
- Brownfields Economic Development Initiatives

- Continuum of Care Homeless Assistance Programs
- Housing Opportunities for Persons with AIDS
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Assisted Living Conversion Program
- Lead Hazard Control Grants
- Healthy Homes and Lead Technical Studies
- Healthy Homes Demonstration Programs

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

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

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

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

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

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

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

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

With respect to recipients of Housing and/or Community Development funding, all contractors (or subcontractors) receiving covered funds in excess of \$100,000 to complete projects involving housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

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

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

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

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

19. Are maintenance projects covered by Section 3?

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

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

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

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

21. Are professional service contracts covered under Section 3?

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

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

Yes. If the recipient intends to use its HUD allocation to hire additional staff person(s) to perform work related to housing construction, rehabilitation, or other public construction, then the position(s) is covered by Section 3. However, if the local municipality uses a civil servant applicant process to

hire new employees, compliance with the requirements of Section 3 may not be feasible.

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

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

- a. Housing rehabilitation- \$180,000;
- b. micro-enterprise revolving loan fund- \$20,000; and
- c. Fair housing counseling- \$10,000.

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

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

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

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

CONSISTENCY WITH OTHER LAWS

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

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

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

“Minority business enterprise” (MBE) means a business enterprise that is owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Section 3 preferences are not tied to race or ethnic origin of the owner. A minority business enterprise must provide evidence that it meets at least one criterion of a Section 3 business outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

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

RECIPIENT RESPONSIBILITIES

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

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

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

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

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

Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that **when** employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD

financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses owned by these persons or that substantially employ these persons.

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

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

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

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

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

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

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

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

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

SECTION 3 PREFERENCE

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

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

- proof of residency in a public housing development;
- evidence of participation in a HUD Youthbuild program operated in the metropolitan are (or non-metropolitan county) where the Section 3 covered assistance is spent;
- evidence that the individual resides in the Section 3 area and is a low or very low-income person, as defined in Section 3(b) (2) of the U.S. Housing Act of 1937 (1937 Act).
- Recipient agencies may choose to allow prospective Section 3 residents to self-certify their eligibility. Any self-certification should include a statement of penalty for falsifying information.

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

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

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

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

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

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

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

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

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

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

ECONOMIC OPPORTUNITIES/NUMERICAL GOALS

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

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

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

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

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

39. What are the Section 3 numerical goals?

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

The minimum goals for contracting are:

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

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

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

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

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

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

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

RECORDKEEPING AND REPORTING

42. What are the recordkeeping requirements of a recipient?

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

43. Who is required to submit Section 3 reports?

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

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

Section 3 Summary reports can be sent by mail to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, SW room 5232
Washington, DC 20410
Attn: Economic Opportunity Division

Section 3 reports can also be submitted online at:
www.hud.gov/offices/fheo/section3/section3.cfm

45. When should annual reports be submitted?

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

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

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

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

SECTION 3 COMPLAINTS

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

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

46. Where are Section 3 complaints filed?

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

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

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

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

Form HUD-60002, **Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.**

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.