

Section 3 Plan Materials

Section 3 of the Housing and Urban Development Act of 1968, as amended, applies to federal activities for 1) Housing rehabilitation including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement; 2) Housing construction and 3) Other public construction. In addition, the assistance received from DECD must exceed \$200,000. Contracts in excess of \$100,000 must include the Section 3 clause.

Materials:

- ❖ Section 3 Plan Sample
- ❖ Training/Employment Goals
- ❖ Contracting Goals
- ❖ Contractors/Subcontractors Certification Regarding Section 3 & Segregated Facilities-Sample
- ❖ Resident Certification
- ❖ Contractor Certification
- ❖ Flow Chart
- ❖ Clause
- ❖ Examples of:
 - Efforts to Offer Training Employment Opportunities to Section 3 Residents
 - Efforts to Award Contracts to Section 3 Business Concerns
 - Procurement Procedures that Provide for Preference to Section 3 Business Concerns
- ❖ Good Faith Effort
- ❖ Definitions

Applicant Submits:

- 1). Section 3 Plan (***Note: To be completed by the developer and signed by both the developer & the general contractor.*)

SAMPLE

Section 3 Plan

DEVELOPER'S NAME: _____

NAME OF DEVELOPMENT	FUNDING SOURCE	FISCAL YEAR	AMOUNT
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The Plan will serve as the Section 3 Plan for the above developments in compliance with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended.

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended (12. U.S.C. 1701u) (Section 3), is to ensure that training, 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 the greatest extent possible 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.

NUMERICAL GOALS FOR TRAINING AND EMPLOYMENT OPPORTUNITIES

The _____ (developer's name) will, to the greatest extent feasible, when awarding contracts or providing training and/or employment opportunities for activities or projects subject to the requirements of Section 3, strive to comply with the goals established in this section.

The numerical goals established in this section represent minimum numerical targets.

Training and employment opportunities will be made available to Section 3 residents as follows:

- (i) 10 percent of the aggregate number of new hires/training opportunities resulting from funds awarded for FY. Number of Section 3 jobs and/or training opportunities anticipated _____

- (ii) 20 percent of the aggregate number of new hires/training opportunities resulting from funds awarded for FY. Number of Section 3 jobs/training opportunities anticipated_____
- (iii) 30 percent of the aggregate number of new hires/training opportunities resulting from funds awarded for FY and continuing thereafter. Number of Section 3 jobs/training opportunities anticipated _____.

PREFERENCE FOR SECTION 3 RESIDENTS IN TRAINING AND EMPLOYMENT OPPORTUNITIES

In providing training and employment opportunities, generated from the expenditure of Section 3 activities to Section 3 residents, the following order of preference will be followed:

- (i) First priority will be given to Section 3 residents from the service area or neighborhood in which the Section 3 covered project is located.
- (ii) Second priority will be given to participants in HUD Youthbuild Programs.
- (iii) Third priority will be given to Homeless persons residing in the area or neighborhood in which the Section 3 covered project is located for housing constructed under the Stewart B. McKinney Homeless Assistance Act.
- (iv) Other Section 3 residents.

NUMERICAL GOALS FOR CONTRACTING ACTIVITIES:

These goals apply to contract awards in excess of \$100,000 in connection with a Section 3 eligible project, and it applies to developers, contractors and subcontractors.

The_____ commits 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 arising in connection with housing rehabilitation, housing construction and other public construction; and
2. At least 3 percent of the total dollar amount of all other Section 3 covered contracts

PREFERENCE FOR SECTION 3 BUSINESS CONCERNS:

The following order of preference will be followed when providing contracting opportunities to Section 3 businesses:

- 
- (i) First priority will be given to 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.
 - (ii) Second priority will be given to applicants selected to carry out HUD Youthbuild Programs.
 - (iii) Other Section 3 Residents.

In compliance with the Section 3 Plan requirements, you must develop a list of strategies to be adopted for compliance with the stated employment, training and contracting goals. Contracts in excess of \$100,000 must include the Section 3 Clause.

If Federal and State funds are combined to fund an eligible Section 3 project, the combined amount is subject to the Section 3 requirements.

In compliance with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, we the undersigned have read and have received a copy of the Section 3 Plan for this project. We acknowledge being a party to this Plan and further pledge our commitment to adhere to the objectives set forth.

Developer's Chief Executive Officer

Date

General Contractor's Chief Executive Officer

Date



Section 3 Training/Employment Goals

Developer's Name: _____

Contractor's Name: _____

Name: _____

	Total Employees Required	Number Filled	Section 3 Goal	Developer's Vacancy (X)	Contractor's Vacancy (X)
Other					
Skilled					
Semi-Skilled					
Skilled Trainees					
Unskilled Trainees					
Semi-Skilled Trainees					
Professional & Admin.					
Clerical					
Apprentices					

SAMPLE

**Contractor/Subcontractor Certification Regarding
Section 3 And Segregated Facilities**

COMPANY'S NAME

PROJECT NAME

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) The above stated company is a signatory to the developer's Section 3 Plan.
- (c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

NAME AND TITLE OF SIGNER (PRINT OR TYPE)

SIGNATURE

DATE



Section 3 Resident Certification

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires recipients of community development funds to make a good faith effort to provide employment and training opportunities resulting from this project to low- and very low-income persons.

In order to demonstrate that you meet the definition of a low-or very low-income person, please provide one of the following:

1. Proof of residency in a public housing development;
2. A copy of your section 8 voucher certificate or voucher;
3. Evidence of your eligibility or participation in a federally-assisted program for low- and very low-income persons (e.g. Jobs, JTPA, Job Corps, etc);
4. Evidence of your eligibility or participation in a State or Local Assistance Program for low- or very low-income persons or receipt of AFDC;
5. Income tax records.
6. Other.

I _____ (participant's name) certify that I meet the requirement stipulated in #_____ above. I have provided the following document to demonstrate evidence of this _____.

Participant's Signature

Date



Section 3 Contractor Certification

Project Name: _____

Developer's Name: _____

I understand that my contract with _____ (name of developer/contractor) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended AND to the Section 3 Plan for this project.

I certify that the firm of _____ (company's name) is a bonafide Section 3 company, and that it meets the following definition of a Section 3 business (check one):

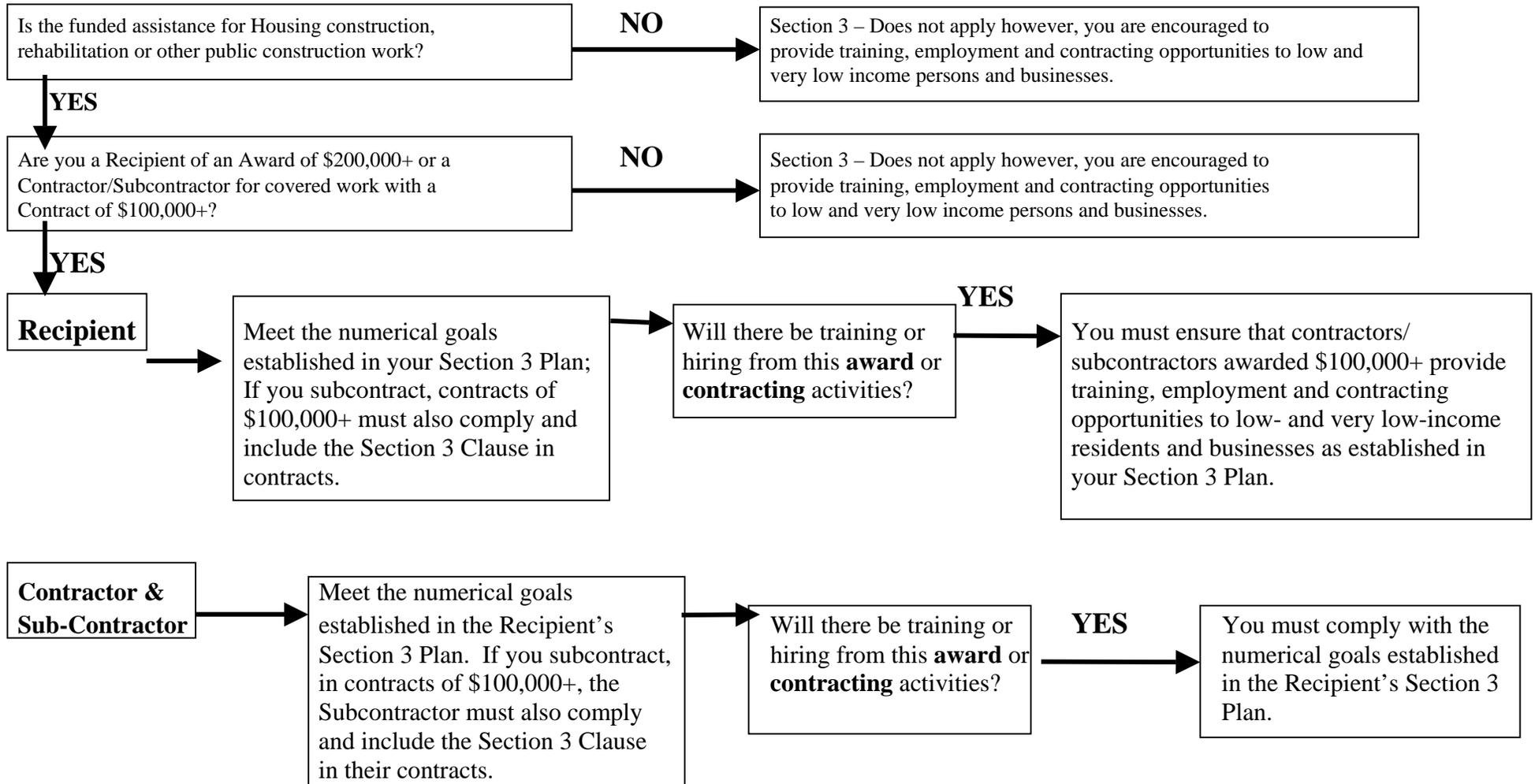
- 1. 51% or more of the ownership of this company is owned by Section 3 residents, as defined by the developer of this project.
- 2. Currently, at least 30% of the employees of the company are Section 3 residents, as defined by the developer of this project.
- 3. At least 30% of the employees of the company were Section 3 residents, as defined by the developer of this project, within three years of the date of first employment with this company.
- 4. I commit to subcontract at least 25% of the total value of this contract to Section 3 subcontractors, as these companies are defined above, and to provide the necessary evidence to substantiate this.

Signature of Chief Executive Officer

Date

Section 3 Flow Chart

Use the following chart to determine if your project is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended.



If State or private funds are combined with Federal funds to finance an eligible Section 3 project, the combined amount (Total Development Cost) is subject to the Section 3 requirements.

Section 3 Clause

All contracts subject to the Section 3 requirements will include the following clause:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted 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 part 135 of the regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor when 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.



Examples Of Efforts To Offer Training 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. 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.
 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 applications process) to every occupied dwelling unit in the housing development or developments.
 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.
 6. Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments 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 a housing authority or contractor representative or representatives at a location in the housing development.
 8. Arranging assistance in conducting job interviews and completing job applications for residents of the housing developments or developments 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. Contracting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild programs participating for the Housing Authorities or contractor's training and employment positions.
 11. Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Housing Authorities or contractor's and employment positions.
 12. Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
 13. 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 Housing Authorities, other recipients or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the Housing Authorities or contractor intends to fill.
 14. For a Housing Authority, employment of 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).)
 15. 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.
 16. Undertaking job counseling, education and related programs in association with local educational institutions.
 17. Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
 18. After selection of bidders but prior to contract execution, incorporating into the contract a negotiated provisions for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
 19. 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.
- 



Examples Of Efforts To Award Contracts To Section 3 Business Concerns

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).

1. 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.
 2. 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.
 3. 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 area or other prominent areas of the housing development or developments owned and managed by the HA.
 4. For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying eligible business concerns.
 5. 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.
 6. 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.
 7. Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
 8. 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 language other than English where appropriate.
 9. Advising Section 3 business concerns as to where they may seek assistance in overcoming limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- 

- 
10. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.
 11. Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.
 12. Contacting agencies, administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
 13. 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.
 14. Developing a list of eligible Section 3 business concerns.
 15. For Housing Authorities, participating in the "Contracting with Resident-Owned Business" program provided under 24 CFR part 963.
 16. Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
 17. Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
 18. Supporting businesses that 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.
 19. Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide low- income loans by providing working capitals and other financial business needs.
 20. Actively supporting joint ventures with Section 3 business concerns.
 21. Actively supporting the development or maintenance of business incubators that assist Section 3 business concerns.
- 

Examples Of Procurement Procedures That Provide For Preference To Section 3 Business Concerns

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

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

(i) Solicitation

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

The Section 3 covered contract to be awarded with sufficient specificity:

- The time within which quotations must be submitted; and
- The information that must be submitted with each quotation.

- (B) If the method described in paragraph (i) (A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party 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 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 no more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

X = lesser of:

When the lowest responsive bid is:

Less than \$100,000.....10% of that bid or \$9,000

When the lowest responsive bid is:

At least \$100,000, but less than \$200,000.....9% of that bid, or \$16, 000

At least \$200,000 but less than \$300,000.....8% of that bid, or \$21,000

At least \$300,000 but less than \$400,000.....7% of that bid, or \$24,000

At least \$400,000 but less than \$500,000.....6% of that bid, or \$25,000

At least \$500,000 but less than \$1 million.....5% of that bid, or \$40,000

At least \$1 million but less than \$2 million.....4% of that bid, or \$60,000

At least \$2 million but less than \$4 million.....3% of that bid, or \$80,000

At least \$4 million but less than \$7 million.....2% of that bid, or \$105,000

\$7 million or more..... 1 1/2 % of the lowest responsive bid, with no dollar limit.

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

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

- (i) One of the evaluation factors shall address both the preference for Section 3 business concerns and the acceptability of the strategy for meeting the greater 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.
- (ii) 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.
- (iii) 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.



Good Faith Effort

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

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

The contractor must certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligation under 24 CFR Part 135.



Definitions

As used in this part:

Applicant means any entity that 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 organizations (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.

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.

Department or HUD means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

Employment opportunities generated by Section 3 covered assistance means all employment opportunities generated by the expenditure of Section 3 covered public and Indian housing assistance (i.e. operating assistance, development assistance and modernization assistance, as described in 135.3(a)(1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in 135.3(a)(2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plan, drawings, specification, 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 means programs that receives 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 individual and members of low-and very low-income families.

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

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

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

Neighborhood Area means:

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

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

Non-Metropolitan County means any county outside of a metropolitan area.

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

Public Housing Agency (PHA) has the meaning given this term in 24 CFR part 941.

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 transferees 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 and Urban Development.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 170lu).

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 paragraph (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 that 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 means an association of business concerns, one of which qualifies as a Section 3 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.

Section 3 Residents means:

1. A public housing resident; or
2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who is:
 - (i) A low-income person, as this term is defined in Section 3 (b) (2) of 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 cent 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 cent 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. 1437 a(b) (2) defines this term to mean families (including single persons) whose income does not exceed 50 per cent 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 cent 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 income family incomes.

- 3. A person seeking the training and employment preferences 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 benefiting from the Section 3 covered project reside. The service 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.

