

**DHA SECTION 3 PROGRAM CERTIFICATION OF EFFORTS TO COMPLY WITH
EMPLOYMENT & TRAINING PROVISIONS OF SECTION 3**

The proposer represents and certifies as part of its proposal/offer that it:

- ف Is a Section 3 Business concern A Section 3 Business concern means a business concern:
1. That is 51% or more owned by Section 3 Resident(s); or
 2. Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within the last 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% of the dollar value of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 herein.

ف Is Not a Section 3 Business concern but who has and will continue to seek compliance with Section 3 by certifying to the following efforts to be undertaken.

EFFORTS TO AWARD SUBCONTRACTOR TO SECTION 3 CONCERNS:

(Check ALL that apply)

ف By contacting business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and requesting their assistance in identifying Section 3 businesses, which may solicit, bids for a portion of the work.

ف By 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 of the applicable development(s) owned and managed by the Housing Authority.

ف By providing written notice to all known Section 3 business concerns of contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations.

ف By following up with Section 3 business concerns that have expressed interest in the contracting opportunities.

ف By coordinating meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.

ف By conducting workshops on contracting procedures and specific contracting opportunities in a timely manner so that Section 3 business concerns can take advantage of contracting opportunities.

ف By advising Section 3 business concerns as to where they may seek assistance to overcome barriers such as inability to obtain bonding, lines of credit, financing, or insurance and aiding Section 3 businesses in qualifying for such bonding, financing, insurance, etc.

ف Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses

ف By developing and using a list of eligible Section 3 business concerns

ف By actively supporting and undertaking joint ventures with Section 3 businesses

EFFORTS TO PROVIDE TRAINING AND EMPLOYMENT TO SECTION 3 RESIDENTS

ف By entering into a "first source" hiring agreements with organizations representing Section 3 residents

ف By establishing training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 residents in the building trades.

ف By advertising employment and training positions to dwelling units occupied by Section 3 residents

ف By contacting resident councils and other resident organizations in the affected housing development to request assistance in notifying residents of the training and employment positions to be filled

ف By arranging interviews and conducting interviews on the job site

ف By undertaking such continued job-training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

AUTHORIZED SIGNATURE OF THE OFFEROR

DATE

COMPANY NAME

MINORITY BUSINESS ENTERPRISE PARTICIPATION

Under guidelines established by the U. S. Department of Housing and Urban Development for implementation of Executive Order 12432, the DHA promotes the participation of Minority and Women-Owned Business Enterprises (M/WBEs) in contracts involving its housing programs. It is the goal of the DHA that twenty-five percent (25%) of the dollar value of contracts and subcontracts let in connection with its programs is awarded to M/WBEs.

The term "Minority and Women-Owned Business Enterprises" means businesses at least fifty-one percent (51%) of which are both owned and controlled in management and daily operations by minorities or women. The term "Minorities" includes Blacks, Hispanics, Asian or Pacific Islanders, American Indians and Alaska Natives.

NOTICE

The DHA (DHA) notifies all bidders that in regard to any contract entered into, Minority and Women-Owned Business Enterprises (M/WBEs) will be afforded equal opportunity to submit bids and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

Information obtained will be retained by DHA as permanent records of the prime contractor's "Good Faith Effort."

"THE SECTION 3 CLAUSE"

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and 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 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the section 3 covered project.
- B. The parties to this contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary to Housing and Urban Development set forth in 24 Part CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with this requirements.
- C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal Financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

SECTION 3 DEFINITIONS

1. **Section 3 Business firm:**
 - a. Is any business located within the Section 3 area and any business owned in substantial part, at least 51 percent, by persons residing in the Section 3 area? This includes residents of the housing development and any other residents of the Section 3 area.
 - b. Must qualify as small under the Small Business Administration definition.
2. **Section 3 area:**
 - a. For purpose of job training and employment, the Section 3 area is the same unit of local government or metropolitan area or nonmetropolitan county as determined by HUD in which the Housing Authority's development is located.
 - b. For contracting, it is the same metropolitan or nonmetropolitan county where the Housing Authority's development is located. [For the definition of project area, please call the Program Operations Division at Fort Worth, Telephone Number (817) 885-5837].
3. **Same unit of local government** is the city/town where the Housing Authority is located if not within the Metropolitan Statistical Area (MSA).
4. **Metropolitan Area:** The office of Management defines metro areas for use in Federal statistical activities based upon the minimum population of 50,000 or a Census Bureau defined urbanized area with a total population of at least 100,000. The metro area must consist of one or more counties. Examples in Texas include (Lubbock County) and Longview-Marshall (Gregg, Harrison and Upshur Counties).
5. **Nonmetropolitan County** is defined as a county located outside of the Metropolitan Area such as Palo Pinto County, Texas.

CHAPTER 4. WHAT SECTION 3 REQUIRES OF RECIPIENTS AND CONTRACTORS

Section 3 requires that, to the greatest extent feasible, opportunities for job training and employment be given to lower income residents of the Section 3 area and contracts for work in connection with the Section 3 covered project be awarded to business concerns which are located in or owned in substantial part by persons residing in the Section 3 area. Section 3 requires that a recipient/contractor take affirmative steps to give preference to qualified Section 3 area residents and business concerns in providing training, employment and contracting in connection with Section 3 covered projects. This chapter describes the obligations of recipients and contractors, imposed as a condition of receiving financial assistance for a Section 3 covered project. The "condition" is imposed by means of a certification or contract document, which includes Section 3 obligations.

4-1. Community Development Block Grant

Section 3 was amended in 1974 to explicitly add Community Development Block Grants (CDBG) to Section 3's coverage of HUD programs providing direct financial assistance in aid of housing, urban planning, and various types of development. The HUD regulations governing the CDBG Program deal specifically with Section 3 at 24 CFR 507.607. That provision of the regulations points out that Section 3 itself applies to the CDBG Program and requires grantees to adopt appropriate procedures and requirements to "assure good faith efforts toward compliance with the statutory directive." Notwithstanding the applicability of the statute, this regulation further provides that the HUD Section 3 regulations, at 24 CFR Part 135, "are not applicable to" CDBG activities assisted under 24 CFR Part 570. The Part 135 regulations, while not binding on CDBG grantees, "may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts."

4-2. OTHER HUD PROGRAMS

A. Assurance of Compliance with Section 3. Every agreement for direct financial assistance must include the requirement that the applicant or recipient carry out the provisions of Section 3 and the governing regulations at 24 CFR (Section 135.20(a)). In addition, applications and recipients are required to cooperate with HUD in obtaining the compliance of their contractors and subcontractors with the regulations governing Section 3, including cooperation in distributing and collecting information (see 135.30).

B. Incorporation of Section 3 Clause. Section 135.20(b) requires that every covered party incorporate a "Section 3 clause" in all contracts for work on a Section 3 covered project (see Appendix E). Note that the General Conditions of the Contract for Construction of Public and Indian Housing Programs (Form HUD-5370) contain the Section 3 clause. A Section 3 clause includes statements to the effect that:

1. the work under the contract is covered by Section 3 and a brief description of Section 3;
2. the parties have agreed to comply with Section 3 and Part 135 and are not contractually or otherwise prevented from complying;
3. contractors will notify labor organizations of their commitments under Section 3;
4. contractors agree to include a Section 3 statement in every subcontractors and will not let contracts without obtaining assurances of compliance from subcontractors;
5. the parties agree not to subcontract with any subcontractor found in violation and unable or unwilling to comply with Part 135; and
6. the parties acknowledge compliance, which is binding upon the applicant or recipient, its successors, and assignees.

C. A good faith effort to utilize Section 3 area residents as trainees and employees. To the greatest extent feasible, opportunities for training and employment arising in connection with a Section 3 covered project are to be given to Section 3 area residents.

1. Although Section 3 does not require that a training program be established, it does require that, where there is a training program, Section 3 area residents receive preference for such training. An applicant, recipient, contractor or subcontractor is obligated, under Part 135 Subpart B, to use the maximum number of persons in training categories and to fill all vacant training positions with Section 3 area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible/qualified Section 3 area residents.
2. Obligations for utilizing Section 3 area residents as employees are set forth at Part 135 Subpart C. In general, an applicant, recipient, contractor or subcontractor must:
 - a. identify the number of positions, by skill level, required to plan and implement the work to be done under the Section 3 covered project;
 - b. determine how many of these positions are currently filled and which are not filled by regular, permanent employees; and

- c. establish a target within each occupational category for the number of positions to be filled by Section 3 area residents.

3. Examples of actions demonstrating a good faith effort include:

- a. targeted recruitment of Section 3 area residents for training and employment positions by taking such steps as:
 - = advertising in local media,
 - = prominently placing a notice of commitments under Section 3 at the project site or other places where applications for training and employment are taken,
 - = contacting local job training centers, employment service agencies and community organizations,
 - = developing on-the-job training opportunities or participating in job training programs,
 - = contacting assisted housing resident councils and resident management corporations;
- b. keeping a list of Section 3 area residents who apply on their by referral for available positions;
- c. sending to labor organizations or representative of workers with whom the recipient, contractor or subcontractor has a collective bargaining agreement or other understanding, a notice about contractual commitments under Section 3; and
- d. selection of Section 3 area residents for training and employment position.

D. A good faith effort to award contracts for work in connection with the project to Section 3 business concerns. Recipients and contractors must fulfill their obligations to utilize Section 3 business concerns by developing and implementing an affirmative action plan (see 135.70).

1. An affirmative action plan (AAP) includes:

- a. an approximate number and dollar value of contracts to be awarded over the duration of the Section 3 covered project (this estimate should be broken down by type of business or profession);
- b. based on an analysis of the estimated contract needs, a target number and value of contracts to be awarded to Section 3 business concerns (these targets should consider the availability of Section 3 business concerns within the categories identified in the initial estimate of contract needs); and
- c. a program or strategy for achieving the targets established for awards to Section 3 business concerns.

2. The strategy for implementing the affirmative action plan must include, but need not be limited to, insertion of the affirmative action plan and identification of the Section 3 area in bid documents.

3. Further actions that must be taken in implementing the AAP are:

- a. steps to secure the cooperation of contractors in meeting the goals for contract awards to Section 3 business concerns;
- b. steps to ensure that Section 3 business concerns are notified of pending contractual opportunities, e.g. publishing future contract opportunities through local business development centers, local business and contractors' associations, local media, and assisted housing resident management corporations; and

- c. requiring submission of an AAP as described in subparagraph 1a. above by all bidders responding to a competitive solicitation and evaluating each bid to determine whether the proposed AAP will accomplish the stated goals.

E. Recipient Records and Reports

1. Section 135.120 of the regulations implementing Section 3 requires recipients and contractors to keep records and to submit reports which would allow the Department to ascertain compliance with Section 3 regulations, Recipients and contractors must advise HUD within 15 days of contract award, of the steps taken or to be taken to comply with Section 3. There is currently no prescribed format for keeping or reporting Section 3 data. Appendix F is a sample format that may be used for keeping Section 3 related records.
2. Records and reports include actions taken and their results. Examples of records to be maintained are:
 - copies of advertisements for training and employment;
 - lists of Section 3 residents who applied or otherwise expressed an interest in training positions or employment.
 - copies of solicitations or requests for Bids;
 - documentation of pre-construction conferences;
 - records of bid evaluations and selections;
 - correspondence or other documentation related to Section 3 grievances;
 - photographic evidence of displayed signs;
 - copies of letters to community organizations;
 - copies of notifications of awards to grantees and contractors;
 - copies of business AAPs, including records of solicitation mailing lists, direct solicitation of bids or Bids; and
 - evidence of affirmative steps to include Section 3 business concerns; such as, dividing total work requirements into smaller sub-tasks, joint ventures between a large business and Section 3 business concern, and limiting competition to Section 3 business concerns pursuant to HUD regulations at 24 CFR Part 963.
3. Certain HUD reports contain data that may be used in monitoring performance under Section 3. These reports include, but may not be limited to:
 - Form HUD 40013A - the CDBG Finding Summary Sheet records findings resulting from in-house or on-site monitoring.
 - Form HUD 40013 - the CDBG Annual Performance Summary includes information gathered both in-house and on-site throughout the year. Funding recommendations and decisions regarding the grant for the next year are based on these determinations.
 - Form (WH-347) - the Contractor's Payroll Certification Form used by contractors to report employment data on construction projects (see Appendix G). Labor Relations staff collects this for Section 202 projects and certain other housing programs. This staff can assist FHEO staff in obtaining access to payroll records maintained by public housing agencies, community development block grant recipients and other recipients of direct HUD financial assistance covered by Section 3.