

Section 3 Policy and Procedures

Title 24 CFR Part 75 Economic Opportunities For Low- And Very Low-income Persons, is the statutory repository for HUD's Section 3 requirements.

§ 75.1 Purpose.

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

HUD requires that to the extent a recipient must prepare a strategic plan, action plan, or other such plan in accordance with HUD program regulations, such plans must include a general description of the recipient's official Section 3 policies and procedures.

Official policies and procedures must include, at a minimum, steps that the recipient will take to:

- 1) inform sub-recipients and contractors about Section 3 obligations;
- 2) evaluate potential bidders for Section 3 compliance during contract selection;
- 3) notify Section 3 residents and businesses about economic opportunities;
- 4) implement verification and/or certification procedures for residents and businesses;
- 5) provide priority consideration to qualified Section 3 residents and businesses;
- 6) monitor sub-recipients and contractors for compliance;
- 7) establish consequences for noncompliance; and
- 8) utilize local community resources to meet its Section 3 requirements.

The Office of Community Development (OCD) requires sub-recipients to attend training which explains construction contracting, Section 3 requirements, Section 3 Businesses, and hiring.

Section 3 requirements apply to sub-recipients that plan to obligate or commit an aggregate amount of \$200,000 or more in CDBG assistance to projects involving housing rehabilitation, housing construction, demolition, other public buildings, facilities, or infrastructure during a given annual reporting period, which for Maine is a calendar year. The \$200,000 funding threshold is comprised of the combined expenditure of all sources of housing and community development financial assistance set forth in § 135.5. Bidding documents and project manuals will include required Section 3 materials.

Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 *et seq.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. *Citation: 24 CFR Part 75.3 (a) (2)*

Applicability of Section 3 requirements to individual projects.

The requirements apply to the entire project that is funded with Section 3 covered financial assistance, regardless of whether the Section 3 project is fully-or partially-funded with housing and community development financial assistance. Accordingly, \$200,000 of Section 3 covered financial assistance is invested into a project involving housing demolition, rehabilitation or construction, or the rehabilitation or construction of public buildings, facilities, or infrastructure, the requirements of Section 3 apply to the entire project, both HUD and non-HUD funded portions.

OCD will assist sub-recipients in understanding and applying criteria to evaluate potential bidders for Section 3 compliance during contract selection. Section 3 businesses must be selected in accordance with the procurement standards of 24 CFR 85.36, including price, ability and willingness to comply with this part, and other factors, to be considered lowest responsible bidders on contracting opportunities being sought. Sub-recipients, contractors, and others shall direct their efforts to award contracting or subcontracting opportunities generated from the expenditure of housing and community development financial assistance to Section 3 businesses.

A Section 3 Business must provide evidence that it is located within a neighborhood, zip code, or census tract that has been identified by OCD as the Section 3 Local Area; or if the business is able to provide evidence that it substantially employs residents from neighborhoods, zip codes, or census tracts identified by HUD, absent evidence to the contrary. Examples of evidence of eligibility for priority consideration as a Section 3 business may include: Federal tax returns for workers, owners, or businesses; payroll data; employee-self-certification statements; articles of business ownership; evidence that owners or employees received housing or other Federal subsidies within 3 years from the date that the business sought designation as a Section 3 business.

The purpose of Section 3 is to ensure, to the greatest extent feasible, that training, employment, contracting, and other economic opportunities generated by Section 3 covered financial assistance shall be directed to low-and very low-income residents of the neighborhood where the financial assistance is spent, particularly to those who are recipients of government assistance for housing, and to businesses that are either owned by low-or very low-income residents of the neighborhood where the financial assistance is spent, or substantially employ these persons. Therefore, it is imperative to notify Section 3 residents and businesses about economic opportunities. The contractor must post signs advertising new employment, training, or subcontracting opportunities that will be available as a result of the Section 3 covered projects and activities in conspicuous places at the work site where potential applicants can review them.

24 CFR Part 75.19 Requirements.

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

- (i) Section 3 workers residing within the service area or the neighborhood of the project, and
- (ii) Participants in YouthBuild programs.

(b) *Contracting*. (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

The OCD will provide forms to assist in implementing verification and/or certification procedures for residents and businesses. A section 3 resident seeking the preference in training and employment shall submit evidence to the recipient contractor or subcontractor that the person is a Section 3 resident. Examples of evidence of eligibility include but are not limited to: evidence of receipt of Federal housing assistance; evidence of receipt of other Federal subsidies or Federal assistance programs; Federal tax returns; proof of residence in a neighborhood, zip code, census tract, or other area that has officially been identified by HUD.

OCD staff will be monitoring sub-recipients and contractors for compliance. Staff will be making at least one site visit and spot-checking contractor payrolls and submittals.

Reporting Requirements and Demonstrating compliance to the greatest extent feasible.:

24 CFR Part 75.15 Reporting.

(a) *Reporting of labor hours*. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the PHA's or other recipient's reporting under paragraph (a) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

- (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- (2) Provided training or apprenticeship opportunities.
- (3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).
- (4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- (5) Held one or more job fairs.
- (6) Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, child care).
- (7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- (11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- (12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- (13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- (14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

(d) *Reporting by Small PHAs.* Small PHAs may elect not to report under paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

Consequences for noncompliance- any recipient with outstanding findings of noncompliance with Section 3 may be barred from receiving additional competitively awarded financial assistance.

Assistance to achieve the goals

Sub-recipients and contractors are directed to use resources available through the Maine Department of Labor and the Career Center offices located throughout the state. The **Maine Career Center** provides a variety of employment and training services at no charge for Maine workers and businesses. Career Center staff can refer contractors to appropriate training and help the contractor make a plan to meet the training needs. The Town's General Assistance Coordinator will also be a resource for contractors seeking potential new hires. HUD's Section 3 Business Registry and the MDOT DBE database are resources that contractors will be directed to for connecting with Section 3 business entities. Sub-recipients will be encouraged to utilize all available local community resources to meet its Section 3 requirements.

With respect to contracting opportunities, recipients of housing and community development financial assistance, as well as their sub-recipients, contractors, and subcontractors, must, to the greatest extent feasible, award at least 10 percent of the total dollar amount of all contracts to Section 3 businesses.

Minimum numerical goals.

Contractors or subcontractors on a project in excess of **\$200,000** for Section 3 covered projects are **required to comply** with Section 3. Accordingly, the recipient must attempt to reach the **Section 3 minimum numerical goals** found at 24 CFR Part 75, Subpart C:

Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\frac{\text{Section 3 Worker Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

And

Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at § 75.21.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

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

Orders of priority consideration for employment and contracting opportunities.

(a) General.

(1) Recipients of housing and community development financial assistance and their sub-recipients, and contractors shall provide priority consideration to Section 3 residents and Section 3 businesses for new training, employment, and contracting opportunities generated as a result of the expenditure of Section 3 covered financial assistance.

(2) Priority consideration should not be construed to be a quota or set-aside program, or as an entitlement to economic opportunities such as a particular job or contract.

(3) Section 3 residents must possess the same job qualifications, skills, eligibility criteria, and capacity as other applicants for employment and training opportunities being sought.

(4) Section 3 businesses must be selected in accordance with the procurement standards of 24 CFR 85.36 or 24 CFR 84.40, as appropriate, including price, ability and willingness to comply with this part, and other factors, to be considered lowest responsible bidders on contracting opportunities being sought.

(5) Recipients of housing and community development financial assistance and their sub-recipients, and contractors may give priority consideration to a Section 3 resident or business if such resident or business is qualified for the respective employment or contracting opportunities

(6) Recipients of housing and community development and their sub-recipients, and contractors must give priority consideration to a Section 3 resident or business when that Section 3 resident or business is equally qualified with other individuals or businesses that would be offered employment or contracting opportunities.

(b) Orders of priority consideration for employment and training opportunities.

(1) Recipients of housing and community development financial assistance that meet the funding thresholds shall direct their efforts to provide training and employment opportunities generated from the expenditure of Section 3 housing and community development financial assistance, to Section 3 residents in the following order of priority consideration:

- (i) Section 3 residents residing in the neighborhood or service area where the housing and community development financial assistance is spent;
- (ii) Section 3 residents participating in DOL Youth Build programs;
- (iii) Section 3 residents residing in a neighborhood or service area within the Section 3 local area that has been officially identified by OCD;
- (iv) Other Section 3 residents located in the Section 3 local area.

(2) Recipients of housing and community development financial assistance may, at their own discretion, provide priority consideration specifically to residents of public housing or recipients of other Federal assistance for housing, including individuals or families receiving Section 8 housing choice vouchers within the neighborhood where work on the Section 3 covered project or activity is located.

(c) Orders of priority consideration for Section 3 businesses in contracting opportunities.

(1) Recipients of housing and community development financial assistance and their sub-recipients, and contractors shall direct their efforts to provide contracting or subcontracting opportunities generated from the expenditure of housing and community development financial assistance to Section 3 businesses in the following order of priority consideration:

- (i) Section 3 businesses that can provide evidence, to the satisfaction of the awarding agency, that a minimum of 75 percent of previously hired Section 3 residents residing in the service area of the project or neighborhood will be retained for the project.

(ii) Section 3 businesses that can provide evidence to the satisfaction of the awarding agency that a minimum of 50 percent of on-the-job training or registered apprenticeship opportunities will be provided to Section 3 residents in the neighborhood or area to be served by the Section 3 project or activity.

(iii) Section 3 businesses that are located in the neighborhood or service area where the Section 3 covered project or activity is located, and a minimum of 30 percent of its permanent full-time workforce is comprised of Section 3 residents residing in the neighborhood or service area where the Section 3 covered project or activity is located.

(iv) Grantees selected to carry DOL Youth Build programs.

APPENDIX A

§ 75.5 Definitions.

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5. The following definitions also apply to this part:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

Contractor means any entity entering into a contract with:

(1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

(2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

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:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

- (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in § 75.3(a)(2).

Section 3 worker means:

- (1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in §§ 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Official Section 3 policies and procedures.

(1) All recipients that plan to undertake Section 3 covered activities must develop and adopt official policies or procedures to implement the requirements of this part in 24 CFR Part 75. Official policies and procedures shall be updated as appropriate.

(2) Official policies and procedures must include, at a minimum, steps that the recipient will take to: inform sub-recipients and contractors about Section 3 obligations; evaluate potential bidders for Section 3 compliance during contract selection; notify Section 3 residents and businesses about economic opportunities; implement verification and/or certification procedures for residents and businesses; provide priority consideration to qualified Section 3 residents and businesses; monitor sub-recipients and contractors for compliance; establish consequences for noncompliance; and utilize local community resources to meet its Section 3 requirements. The preceding list is not inclusive of all elements that recipients should include in official policies and procedures. Updates to official policies and procedures shall discuss the relative success of the immediate past policies and procedures and how any changes are aimed to better promote compliance with Section 3.

(3) Section 3 official policies and procedures shall be incorporated into any strategic and annual plans required of recipients of HUD covered assistance by HUD program regulations.

(i) Recipients of Section 3 covered funding shall include a general description of their Section 3 official policies and procedures in required recipient plans, such as public housing plans required by HUD regulation in 24 CFR part 903, strategic and annual action plans required by HUD regulations in 24 CFR parts 91 and 570, or other similar plans that may be required under other covered HUD programs.

(4) Official policies and procedures shall be available for review by HUD, Section 3 residents and businesses, and the general public upon request.

**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
SECTION 3 REQUIREMENTS**

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects. As a condition of receiving HUD assistance recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b).

Section 3 projects are those where HUD program assistance is used for housing rehabilitation, housing construction and other public construction projects that generally exceed a \$200,000 project threshold or any Section 3 project funding from HUD's Lead Hazard Control and Healthy Homes programs.

Applicability of Section 3 to Community Planning & Development Assistance:

Contractors or subcontractors on a project in excess of **\$200,000** for Section 3 covered projects are **required to comply** with Section 3. Accordingly, the recipient must attempt to reach the **Section 3 minimum numerical goals** found at 24 CFR Part 75, Subpart C:

Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\frac{\text{Section 3 Worker Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

And

Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at § 75.21.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

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

Recipient Responsibilities Pursuant to Section 3

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

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 75.38];
4. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3.

Section 3 Workers are:

HUD defines a Section 3 worker for both public housing financial assistance and Section 3 projects as a worker that meets one of the following requirements:

- The worker's income is below the income limit established by HUD for the project area.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

For § 75.21, Section 3 projects, a Targeted Section 3 worker includes any worker who is employed by a Section 3 business concern or is a Section 3 worker who is:

- Living within the service area or neighborhood of the project; or
- A YouthBuild participant.

Section 3 Businesses are:

HUD defines a Section 3 business concern as a business concern that meets one of the following requirements:

- It is at least 51 percent owned by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or
- It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.

Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

For additional information, please visit the Section 3 website at: www.hud.gov/section3.

¹ See http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5842.

² See http://www.doleta.gov/youth_services/youthbuild.cfm.

Section 3 Clause

A. The work to be performed under this contract, subcontract, memorandum of understanding, cooperative agreement or similar legally binding agreement, is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968 (Section 3). The purpose of Section 3 is to ensure, to the greatest extent feasible, that training, employment, contracting, and other economic opportunities generated by Section 3 covered financial assistance shall be directed to low- and very low-income residents of the neighborhood where the financial assistance is spent, particularly to those who are recipients of government assistance for housing, and to businesses that are either owned by low- or very low-income residents of the neighborhood where the financial assistance is spent, or substantially employ these persons.

B. The parties to this contract, subcontract, memorandum of understanding, cooperative agreement, or similar legally binding agreement agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by execution of this contract or subcontract memorandum of understanding, cooperative agreement or similar legally binding agreement the parties certify that they are under no contractual or other impediment that would prevent them from complying with the requirements of 24 CFR Part 75.

C. The contractor agrees to identify current employees on its payroll when the contract or subcontract was awarded who will be working on the Section 3 covered project or activity and certify that any vacant employment opportunities, including training positions, that are filled:

1. After the contractor is selected; and
2. With persons other than those that meet the definition of a Section 3 resident, were not filled to circumvent the contractor's Section 3 obligations.

D. The contractor agrees to maintain records documenting Section 3 residents that were hired to work on previous Section 3 covered projects or activities that were retained by the contractor for subsequent Section 3 covered projects or activities.

E. The contractor agrees to post signs advertising new employment, training, or Sub-contracting opportunities that will be available as a result of the Section 3 covered projects and activities in conspicuous places at the work site where potential applicants can review them.

F. The contractor agrees to hire, to the greatest extent feasible, Section 3 residents as new hires, or provide written justification to the recipient that is consistent with 24 CFR Part 75, describing why it was unable to meet minimum numerical hiring goals, despite its efforts to comply with the provisions of this clause.

G. The contractor agrees that in order for a Section 3 resident to be counted as a new hire, the resident must work a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project.

H. The contractor agrees to award, to the greatest extent feasible, 10 percent of the total dollar amount of subsequent subcontracts awarded in connection with the Section 3 covered project or activity to Section 3 businesses, or provide written justification that is consistent with 24 CFR Part 75 describing why it was unable to meet that goal, despite their efforts to comply with the provisions of this clause.

I. The contractor agrees to notify Section 3 residents and businesses about the availability of new employment, training, or contracting opportunities created as a result of the receipt of Section 3 covered financial assistance, as stipulated by the awarding agency.

J. The contractor agrees to verify the eligibility of prospective Section 3 residents and businesses for employment, training, or subcontracting opportunities, in accordance with the recipient's policies and procedures.

K. The contractor agrees to provide priority consideration to eligible residents and businesses in accordance with 24 CFR Part 75, as applicable.

L. The contractor agrees to notify potential bidders on subcontracts that are associated with Section 3 covered projects and activities about the requirements of Section 3 and include this Section 3 clause in its entirety into every subcontract awarded.

M. The contractor agrees to impose sanctions upon any subcontractor that has violated the requirements of this clause in accordance with the awarding agency's Section 3 policies and procedures.

N. The contractor agrees to comply with all monitoring, reporting, recordkeeping, and other procedures specified by the awarding agency.

O. If applicable, the contractor agrees to notify each labor organization or representative of workers with which the recipient, sub-recipient, or contractor has a collective bargaining or similar labor agreement or other understanding, if any, about its obligation to comply with the requirements of Section 3 and ensure that new collective bargaining or similar labor agreements provide employment, registered apprenticeship, training, subcontracting, or other economic opportunities to Section 3 residents and businesses, and to post notices in conspicuous places at the work site advising the labor union, organization, or workers' representative of the contractor's commitments under this part.

P. Failure to comply with this clause shall result in the imposition of sanctions. Appropriate sanctions for noncompliance may include: Requiring additional certifications or assurances of compliance; termination or cancelation of the contract, subcontract, memorandum of understanding, cooperative agreement, or similar legally binding arrangement for default; refraining from entering into subsequent contracts, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangement; repayment of funds, and withholding a portion of contract awards, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangements.

**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
SECTION 3 AFFIRMATIVE ACTION PLAN**

**(Prime Contractor)
[For Projects that exceed \$200,000]**

_____, Contractor, agrees to implement the following specific affirmative action steps directed at increasing the utilization of Section 3 Residents' and Section 3 Business Concerns within the Town/City/County of _____.

- A.** To ascertain from the locality's CDBG Program official the exact boundaries of the Section 3 Covered Project Area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B.** To attempt to recruit from within the Town/City/County the necessary individuals to fill employment opportunities generated by Section 3 covered assistance through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service and providing preference for these opportunities in the following order:
 - (i) Section 3 Residents residing in the service area or neighborhood in which the Section 3 covered project is located;
 - (ii) Participants in HLJD Youthbuild Programs, and
 - (iii) Other Section 3 Residents.
- C.** To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and a vacancy exists.
- D.** To insert this Section 3 Affirmative Action Plan in all bid documents for contracts over \$200,000, and to require all bidders on subcontracts over \$200,000 to submit a Section 3 Affirmative Action Plan, including utilization goals and the specific steps planned to accomplish these goals.
- E.** To ensure that subcontracts over \$200,000 which are typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F.** To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G.** To notify Section 3 residents and Section 3 business concerns about economic opportunities generated by Section 3 covered assistance and to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the following order of preference:
 - (i) 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) Applicants selected to carry out HUD Youthbuild projects;
 - (iii) Other Section 3 business concerns.

- H.** To notify potential contractors about Section 3 requirements of this part and incorporating the Section 3 clause in all solicitations and contracts.
- I.** To facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns undertaking activities to reach the numerical goal established by HUD.
- J.** To cooperate in obtaining the compliance of contractors and subcontractors with the requirements of Section 3.
- K.** To submit reports to DECD and HUD on the results of actions taken to provide training, jobs and contracts to Section 3 residents and Section 3 business concerns.
- L.** To appoint an executive official of the company or agency as Equal Employment Opportunity Officer to coordinate the implementation of this Section 3 Affirmative Action Plan.
- M.** To document utilization of Section 3 Employees on the covered project by having existing employees, and new employees, (including those of all subcontractors) from the Section 3 Area, complete the Section 3 Income Worksheet as provided by DECD
- N.** To complete a Section 3 Utilization Report and submit said report to DECD, or their designee prior to final payment for the covered project; This report will list all Section 3 Employees documented on the Section 3 Income Worksheets and be in the format provided by DECD.
- O.** To maintain records, including copies of correspondence, income verification memoranda, etc., which document that all levels of the above affirmative action steps have been taken.

CONTRACTOR CERTIFICATION

As officers and representative of: _____
 (Name of Contractor)

On behalf of the Company, I have read and fully agree to the Section 3 Affirmative Action Plan, and become a party to the full implementation of this program.

 Name and Title of the Authorized Representative (print or type)

 Signature of Authorized Representative Date

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

- Type of Business:
- | | |
|---|-------------------------------------|
| <input type="radio"/> Corporation | <input type="radio"/> Partnership |
| <input type="radio"/> Sole Proprietorship | <input type="radio"/> Joint Venture |

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- | | |
|--|--|
| <input type="radio"/> Copy of resident lease | <input type="radio"/> Copy of receipt of public assistance |
| <input type="radio"/> Copy of evidence of participation in a public assistance program | <input type="radio"/> Other evidence |

For business entity as applicable:

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

For business claiming Section 3 status:

- It is at least 51 percent owned by low- or very low-income persons;
 - Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or
 - It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.
- | | |
|--|--|
| <input type="radio"/> List of all current full-time employees | <input type="radio"/> List of employees claiming Section 3 status |
| <input type="radio"/> PHA/IHA Residential lease less than 3 years from day of employment | <input type="radio"/> Other evidence of Section 3 status less than 3 years from date of employment |

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

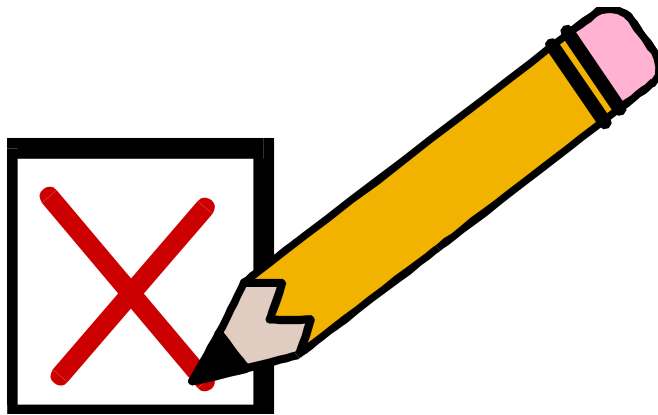
- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

(Corporate Seal)
Authorizing Name and Signature

Attested by: _____

SECTION 3 UTILIZATION REPORT

**Must be submitted by Prime Contractor
Prior to receiving final payment of CDBG funds**





DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION 3 UTILIZATION REPORT

(To be Completed by contractors and subs for all Projects at or Exceeding \$200,000)

A. SECTION 3 EMPLOYEE LABOR INFORMATION

Name of CDBG Grantee: _____

Name of Project: _____

CDBG Project Number: _____ Wage Decision Number: _____

Total number of Labor Hours on the project _____

Total number of Section 3 Labor Hours on the project _____ = _____% of total labor hours.

Number of Section 3 Employees Utilized on Project by Prime Contractor: _____

Number of Section 3 Employees Utilized on Project by Subcontractors: _____

Total Number of Section 3 Employees Utilized on Project: _____

B. CERTIFICATION OF PRIME CONTRACTOR

As officer and representative of: _____

Name of Prime Contractor

Address: _____

Telephone Number: _____

On behalf of the Company, I hereby certify that the above information is true and accurate and is reported fully as required by the Section 3 Affirmative Action Plan as part of the contract for this CDBG assisted construction project. It is further understood that final payment from the State of Maine CDBG Program for this project cannot be made until this Report is submitted to the CDBG Grantee or authorized designee.

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date

DIRECTIONS FOR COMPLETION OF SECTION 3 UTILIZATION REPORT

(For Projects at or Exceeding \$200,000)

1. Determine the level Section 3 participation in the construction project.
 - a. All employees of the General Contractor and all employees of any and all subs must fill out the one-page Section 3 Income Worksheet and return it to you. If you hire new employees who reside in the county where the construction is taking place to work on the CDBG project, have them complete the one-page Section 3 Income Worksheet and return it to you. Compare the Worksheet to the Section 3 Income Schedule provided you at the pre-construction conference to determine if the employee is Section 3 eligible.
 - b. Distribute copies of the Section 3 Income Worksheet to all subcontractors you engage for the project. All employees of any and all subs must fill out the one-page Section 3 Income Worksheet and return it to you. Instruct all subs to have any new employees they hire who reside in the county where the construction is taking place complete the worksheet and have the subcontractors return the forms to you. Compare as in (a.), above to determine Section 3 eligibility.
2. Retain all Section 3 Income Worksheets with your project records.
3. Complete (A) Section 3 Employee Information area of the report.
 - a. Enter name of the community where the project is located.
 - b. Enter project name.
 - c. Enter CDBG Project Number & Federal Wage Decision Number. (located in wage decision documents)
 - d. Enter the total number of labor hours on the project.
 - e. Enter the number of Section 3 labor hours on the project and calculate what percentage it is of the total labor hours on the project (using the number entered in d)
 - f. Enter number of Section 3 Employees you utilized on project.
 - g. Enter number of Section 3 Employees utilized by subcontractors on project
 - h. Enter total number (f + g) of Section 3 Employees utilized on project
4. Complete (B) Certification by Prime Contractor area of Report
 - a. List your name, address and telephone number of your company.
 - b. Print or type name and title of authorized company representative.
 - c. Have authorized representative sign and date Report.

IMPORTANT REMINDER!

Final payment of CDBG funds will not be made until Section 3 Utilization Report is submitted to CDBG grantee or designee.