SECTION 3

Policy and Procedures
Community Services Division
2012
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CSD Section 3 Policy and Procedures 9/4/2012
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INTRODUCTION

The Mississippi Development Authority (MDA), Community Services Division (CSD) administers federally funded programs for various housing and community development activities. As a grant recipients of these federal funds from the U.S. Department of Housing and Urban Development (HUD), CSD must comply with the Section 3 requirements set forth at 24 CFR 135 of the federal regulation. To further ensure compliance of this requirement, CSD must also ensure that all sub-recipients comply with the Section 3 requirements.

Section 3 of the Housing and Urban Development Act of 1968 recognizes that job training; employment and contract opportunities are generated by HUD programs designed to aid housing, urban planning and community development. Section 3 is a mandate to target these economic opportunities flowing from the HUD assisted projects to lower income residents and businesses in those jurisdictions and areas where HUD is "investing" public resources.

It is the policy of CSD that all sub-recipients who are recipients of federal funds from CSD are required to make good faith efforts to provide "to the greatest extent feasible" opportunities to Section 3 area residents and Section 3 business concerns.

To the Greatest Extent Feasible means that the Grant Recipients must make every effort to recruit, target, and direct economic opportunities to Section 3 residents and businesses. This generally means more than normal advertising or soliciting on the part of the grant recipient.
GLOSSARY OF TERMS AND DEFINITIONS

Applicant – any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing Development organization, resident management corporation, resident council, or cooperative Association.

Assistant – Assistant Secretary for Fair Housing and Equal Opportunity.

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

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

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e. operating assistance, development assistance and modernization assistance, as described in Section 135.3 (a)(1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a)(2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, (e.g. construction manager, relocation specialist, payroll clerk, etc.).

Housing and Community Development – 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, including 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 guarantee.

Housing Development – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.
**Low-income person** – Families (including single persons) whose incomes do not exceed 80% of the median income for the area, as determined by the Secretary of HUD, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80% 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.

**Neighborhood area** – 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** – Full-time employees for permanent, temporary, or seasonal employment opportunities.

**Non-Metropolitan County** – Any county outside of a metropolitan area.

**Other HUD programs** - HUD programs, other than HUD Public and Indian Housing programs, that provide housing and community development assistance for “Section 3 covered project” as defined in this section.

**Public housing resident** – Any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease Has the meaning given this term in 24 CFR part 963.

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

**Section 3** – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).
Section 3 Business Concern –

- 51 percent or more owned by Section 3 residents; or
- 30 percent or more of permanent, full-time employed staff are currently Section 3 residents or were Section 3 residents within three years of the date of first employment with said business concern; or
- 25 percent or more of the dollar award of all subcontracts are awarded to businesses that meet the qualifications in points 1 and 2 above.

Section 3 Covered Assistance –

- Public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- Assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Clause – the contract provisions set forth in Section 135.38. This Section 3 Clause must be inserted into all contracts. (A sample of the contract provision is provided within this policy guide.)

Section 3 Covered Contracts – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance or for work arising in connection with a Section 3 covered project. Note: Section 3 covered contracts do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

Section 3 Covered Project – the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) supported by housing or community development assistance.
**Section 3 Resident** –
- A public housing resident; or
- An individual who resides in the metropolitan area or nonmetropolitan County in which the Section 3 covered assistance is expended, and who is:

  A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families; or

  A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

- A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

**Service Area** – the geographical area in which the persons benefitting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary [of HUD] with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.
The U.S. Department of Housing and Urban Development (HUD) invests billions of federal dollars into distressed communities for urban planning, community development and projects that build and rehabilitate housing to help families achieve the American Dream. Section 3 of the Housing and Urban Development Act of 1968 recognizes that federal financial assistance can also become a tool to expand economic opportunities for low- and very low-income families and businesses of the neighborhoods and communities where HUD invests public resources.

As a recipient of federal funds, the Community Services Division (CSD) shall comply with Section 3 requirements set forth at 24 CFR Part 135 of the federal regulation which states that, to the greatest extent possible, businesses and employers working on HUD-funded projects must make a good faith effort to train and employ low-income individuals (Section 3 residents) living in the local area and also to contract with businesses owned by or that employ Section 3 residents. The regulatory threshold of Section 3 applicability to HUD-assisted projects is $200,000 for Sub-Recipients and $100,000 for Contractors and Sub-Contractors.

CSD has determined that all projects, regardless of the dollar amount, will be subject to compliance with Section 3 Requirements. This means that all sub-recipients, contractors, and/or subcontractors of CSD funded HUD projects will be obligated to comply with Section 3 requirements as set forth at 24 CFR 135 and CSD Section 3 Policy and Procedures.

CSD believes that eliminating the regulatory threshold for Section 3 compliance will allow more residents of low-income communities generally – and more people who live in assisted housing in particular – to build work histories and obtain the work experience and skills they need to succeed in the labor market. Strengthening Section 3 will, therefore, make job training available to those who need it most and create a path of economic opportunity for Mississippians struggling with unemployment and low incomes.

*Failure to comply with the requirements of Section 3 may result in a monitoring finding or sanctions that may include, debarment, suspension of funds or limited denial of participation in CSD programs pursuant to 24 CFR Part 24.*
NUMERICAL GOALS REQUIREMENTS

Federal regulations, effective June 30, 1994, set numerical goals for Jurisdictions for the hiring/training of Section 3 residents and contracting with Section 3 business concerns on HUD-assisted projects. Good Faith Efforts by contractors and sub-contractors will aid Jurisdictions to meet their goals.

Training and Employment: Goals are based on the percentage of new-hires.

- A new-hire means a full-time employee for permanent, temporary or seasonal employment opportunities.

- Housing assistance: Employ Section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the Section 3 project.

- Community development assistance: Employ Section 3 residents as 30 percent of the aggregate number of new hires for each year over the duration of the Section 3 project.

Contracts: Each contractor and subcontractor that meets the threshold requirement may demonstrate compliance with the requirements of Section 3 by committing to award Section 3 Businesses:

- At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public housing or building trades work arising in connection with housing rehabilitation, housing construction and other public construction.

- At least 3 percent of the total dollar amount of all other Section 3 covered contracts.

TRIGGERING THE REQUIREMENTS OF SECTION 3

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities. The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities. If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section have not been triggered. However, each sub-recipient must still submit Section 3 annual reports indicating this information.
**SUB-RECIPIENT’S REQUIREMENTS AND RESPONSIBILITIES**

Each Sub-Recipient (and their covered contractors, subcontractors) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding.

1. All Sub-Recipients seeking funding from CSD must adopt a resolution adopting the Section 3 Plan as outlined within this policy guide. Both the resolution and the executed Section 3 plan must be submitted with the application for funding for the federal project in which funds are being requested. (HOME, ESG, CDBG etc).

2. All Sub-Recipients must implement procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;

3. All Sub-Recipients must notify potential contractors working on Section 3 covered projects of their responsibilities and require a written Section 3 plan from the Contractors prior to any signing of contracts; (or submit Section 3 Plan as a bidding requirement)

4. All Sub-Recipients must incorporate the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38, also provided within this policy guide];

5. All Sub-Recipients are responsible for facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;

6. All Sub-Recipients are responsible for assisting and actively cooperating with CSD in making contractors and subcontractors comply;

7. All Sub-Recipients must refrain from entering into contracts with contractors that are in violation of Section 3 regulations;

8. Documenting actions taken to comply with Section 3; and


**NOTE: A SECTION 3 AGREEMENT MUST BE NEGOTIATED AND FINALIZE BEFORE A CONTRACT IS EXECUTED.**
CONTRACTOR’S REQUIREMENTS AND RESPONSIBILITIES

1. The Prime Contractor must submit a Section 3 plan to the Sub-Recipient outlining Section 3 hiring and employment opportunities.

2. Notify sub-contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 Clause in sub-contract documents. (Attachment within this policy guide)

3. Refrain from contracting with sub-contractors as to whom they have received notice or have knowledge that the sub-contractors have been found in violation of the regulations in 24 CFR Part 135.

4. Maintain records that document a good faith effort to utilize Section 3 area residents as trainees and employees. (Required of both contractor and sub-contractor.)

EXAMPLES OF ACTIONS DEMONSTRATING A GOOD FAITH EFFORT

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;
- Keeping a list of Section 3 area residents who apply on their own or by referral for available positions;
- Sending to labor organizations or representatives of workers with whom the recipient, contractor or subcontractor has a collection bargaining agreement or understanding, a notice about contractual commitments under Section 3; and
- Selection of Section 3 area residents for training and employment positions.
SECTION 3 RESIDENTS AND BUSINESS CONCERNS

As mention above in the definition section of this policy guide, Section 3 residents are:

- Residents of Public and Indian Housing; or

- Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

A Section 3 Business Concerns Are One of the Following:

- Businesses that are 51 percent or more owned by Section 3 residents;

- Businesses 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 firm were Section 3 residents; or

- Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or sub-recipient (if requested) verifying that they meet the definitions provided above. Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. 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.
### TYPES OF SECTION 3 OPPORTUNITIES

- Job training
- Employment
- Contracts

Examples include:

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SECTIOM 3 COMPLIANCE

CSD considers Sub-Recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30 and submit all required reporting to CSD. Specifically:

- 30 percent of the aggregate number of new hires shall be Section 3 residents;
- 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.
- Submit HUD Form 60002 as required by the designated deadlines.

Sub-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 CSD to make a compliance determination. Sub-Recipients that submit Section 3 reports containing all zeros, without a sufficient explanation to justify their submission in the narrative section, are in noncompliance with the requirements of Section 3.

It is important to document efforts made to comply with Section 3. Files should contain memoranda, correspondence, advertisements, etc. illustrating attempts to meet Section 3 goals (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). Documentation will show the steps taken to implement the plan, and will most likely cross-reference information in other files, such as procurement and construction contracting. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 goals must be made.

Failure to comply with the requirements of Section 3 may result in a monitoring finding or sanctions that may include: debarment, suspension of funds, or limited denial of participation in CSD programs pursuant to 24 CFR Part 24.
SECTION 3 REPORTING

All Sub-Recipients must submit the required HUD form 60002 for Section 3 reporting. The compliance time period for Section 3 Reporting is July 1st thru June 30th of the following year. For those projects that have received a release of funds from CSD, Section 3 information that reflects hiring and contracting in the above reporting period should be submitted to CSD by July 15th of each year. *All Sub-Recipients must submit a Section 3 report to CSD.*

WHAT SHOULD BE REPORTED ON HUD FORM-60002

Section 3 Annual Summary Reports are intended to measure each recipient’s efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations AND those of its covered sub-recipients, contractors, subcontractors. Each submission of HUD Form-60002 should indicate the following:

- The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and sub-recipients, as a result of performing or completing covered project/activities.
- The number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and sub-recipients), as a result of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).
- The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, sub-recipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient’s construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, sub-recipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

*Important Notes For Submitting HUD Form-60002*

- Recipients must submit a separate HUD-60002 form for each type of covered funding (e.g., separate reports must be submitted for each funding program, CDBG, ESG, and HOME etc. funding programs).

- All Section 3 Summary Reports must be submitted annually to CSD. Under normal circumstances, all reports are due by July 15 of each year. CSD will work to notify sub-recipients of the due dates but encourages the sub-recipient to be mindful of the annual reporting requirements.

- If the recipient (or its covered contractors, subcontractors and sub-recipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form 60002 and certify that this information is true and accurate by penalty of law.

- NOTE! HUD has a narrative box at the end of the current reporting form. Describe affirmative efforts to recruit section 3 residents and businesses. Don’t just report “zeros” across the board with no explanation. *Explain why if your efforts have failed.*

**SECTION 3 COMPLIANCE AND THE PROCUREMENT PROCESS**

All sub-recipients are encouraged to provide Section 3 language in all RFPs and Bid announcements. The “Section 3 clause” is provided verbatim within this policy guide and must be included in all RFPs/bids and all Section 3 covered contracts. Additionally, all RFPs/bids must contain a requirement that the bidder indicate:

1. If it wishes to receive preference as a Section 3 business and that it agrees to provide information on how it meets the criteria;

2. How many new hires are anticipated, the job categories and approximate dates the positions will be available. (Remember, the new hires include engineers, administrative, architects, construction managers, payroll clerks, etc.) This information must be provided if the bidder is awarded the contract but may also be submitted with the bid;

3. A verification that similar information (1. and 2.) will be included in all subcontracts.
4. That the bidder agrees to utilize in its procurement and employment process, the list of Section 3 businesses and residents provided by the sub-recipient.

5. An agreement to submit a final report with its last request for payment, unless notified that more frequent reports are required. The community must also document that it discussed Section 3 at the pre-construction conference and the pre-bidders conference, if such is held. CSD will monitor for Section 3 compliance in its desk and on-site monitoring procedures. Forms to assist sub-recipients in complying are included in this section and will be amended as necessary.

Current Section 3 regulations state that HUD's Assistant Secretary "shall periodically conduct Section 3 compliance reviews of selected recipients and contractors ..." Thus, it is possible that HUD could directly monitor a recipient or contractor. If a sub-recipient is contacted by HUD for a compliance review, the grantee must notify the CSD Compliance Bureau immediately.
EXAMPLES OF EFFORTS TO OFFER TRAINING AND EMPLOYMENT OPPORTUNITIES TO SECTION 3 RESIDENTS

- Entering into "first source" hiring agreements with organizations representing Section 3 residents.

- Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.

- Establishing training programs, which are consistent with the requirements of the Department of Labor, for public housing residents and other Section 3 residents in the building trades.

- Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to occupied dwelling units in public housing developments, where they exist, or where category 1 or category 2 persons (as these terms are defined in §135.34) reside. (*See Category Person definition below)

- 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 public and/or transitional housing in the neighborhood or service area of the Section 3 covered project.

- Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in public housing developments or where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

- Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a contractor representative or representatives at a location in public housing developments, areas where category 1 or category 2 persons reside, or in the neighborhood or service area of the Section 3 covered project.

- Arranging assistance in conducting job interviews and completing job applications for residents of public housing or areas where category 1 or category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.

- Arranging for a location in public housing developments, areas where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by the Grantee or a contractor representative or representatives.
• Consulting with State and local agencies administering training programs funded through Workforce Investment Act, Job Training Partnership Act or JOBS Act, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the contractor's training and employment positions.

• Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

• 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 contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the contractor intends to fill.

• 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.

• Undertaking job counseling, education and related programs in association with local educational institutions.

• Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

• After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.

• 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.

*Category 1 Residents - Residents of the housing development or developments for which the section covered assistance is expended.

*Category 2 Residents - Residents of other housing developments managed by the Housing Authority that is expending the section 3 covered housing assistance.

*Category 3 Residents – Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended
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.

- In determining the responsibility of potential contractors, considering their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.

- 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.

- Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of public housing and/or transitional housing in the neighborhood or service area of the Section 3 covered project.

- Contacting resident councils, resident management corporations, or other resident organizations, where they exist in public housing in the area, and requesting their assistance in identifying category 1 and category 2 business concerns.

- 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.

- 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.

- Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

- Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

- Advising Section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
• Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.

• Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.

• 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.

• Developing a list of eligible Section 3 business concerns.

• Establishing or sponsoring programs designed to assist residents of public Indian housing in the creation and development of resident-owned businesses.

• Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.

• Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the US Department of Commerce and comparable agencies at the State and local levels.

• Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

• Actively supporting joint ventures with Section 3 business concerns.

• Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.
SAMPLE RESOLUTION (LOCAL UNIT OF GOVERNMENT)

SECTION 3 PLAN RESOLUTION
(Name of local unit of government)

WHEREAS, the Name of city/county recipient is submitting a (name of grant program) application for possible 2012 funding from the Mississippi Development Authority, by virtue of this submission, if awarded, the Name of city/county recipient is required by the Mississippi Development Authority and Section 3 of the Housing and Urban Development Act of 1968 to adopt a Section 3 Plan; and

WHEREAS, the Section 3 Plan is intended to ensure, to the greatest extent feasible, that training and employment opportunities generated by the U.S. Department of Housing and Urban Development projects be given to low income residents of the Section 3 project area and that contracts for work in connection with this project be awarded to qualified Section 3 Business Concerns.

WHEREAS, if awarded, it is the intention of the name of city/county recipient to implement its (name of grant program) projects in accordance with all program regulations including the said Section 3 requirements.

NOW, THEREFORE, BE IT RESOLVED that the name of city/county recipient adopts the name grant program Section 3 Plan, which is attached hereto as “Attachment A” and made a part hereof.

ADOPTED this the ____ day of _______________________, 2012. 

Name of City/County, Mississippi

ATTEST:

______________________________   ________________________________
CITY CLERK OR CHANCERY CLERK    MAYOR OR BOARD PRESIDENT
SAMPLE RESOLUTION (NON-PROFIT/CHDO’S)

SECTION 3 PLAN RESOLUTION
(Name of Non-Profit/CHDO)

WHEREAS, the Name of non-profit/CHDO recipient is submitting a (name of grant program) application for possible 2012 funding from the Mississippi Development Authority, by virtue of this submission, if awarded, the Name of non-profit/CHDO recipient is required by the Mississippi Development Authority and Section 3 of the Housing and Urban Development Act of 1968 to adopt a Section 3 Plan; and

WHEREAS, the Section 3 Plan is intended to ensure, to the greatest extent feasible, that training and employment opportunities generated by U.S. Department of Housing and Urban Development projects be given to low income residents of the Section 3 project area and that contracts for work in connection with this project be awarded to qualified Section 3 Business Concerns.

WHEREAS, if awarded, it is the intention of Name of non-profit/CHDO recipient to implement its (name of grant program) projects in accordance with all program regulations including the said Section 3 requirements.

NOW, THEREFORE, BE IT RESOLVED that the Name of non-profit/CHDO recipient adopts the name grant program Program Section 3 Plan, which is attached hereto as “Attachment A” and made a part hereof.

ADOPTED this the ____ day of _______________________, 2012.

Name of non-profit/CHDO applicant

ATTEST:

______________________________     ______________________________
WITNESS                         EXECUTIVE DIRECTOR
GRANTEE SECTION 3 ACTION PLAN*

The (Insert Local Governing Body’s Name or non-profit agency) agrees to develop local procedures designed to implement the following steps to increase opportunities for training and employment for lower income residents of the Section 3 covered area (county), and increase the utilization of business concerns within the Section 3 covered area (county) or owned by Section 3 area residents.

A. To identify projected employment, training and contracting opportunities as the recipient of federal funds and to facilitate the training and employment of Section 3 residents and contracting with Section 3 businesses.

B. To recruit Section 3 residents for available opportunities through: local advertising media; posted signs; community organizations and public and private institutions operating within or serving the project area.

C. To identify eligible business concerns for federal funded contracts through: the Chamber of Commerce, business associations, and local advertising media including newspapers; public signage; citizen advisory boards; and all other appropriate referral sources.

D. To maintain a list of eligible business concerns for utilization in federally funded procurements, to notify appropriate project area business concerns of pending contractual opportunities, and to make available this list for procurement needs.

E. To require all bidders on contracts to submit a written Section 3 Hiring and Business Utilization Plan and to require the contractor to submit reports to document actual accomplishments.

F. To include Section 3 information in procurement solicitations, incorporate Section 3 clauses in contractual documents, and review Section 3 information at the preconstruction conference and then monitor contractor compliance.

G. To maintain records, including copies of correspondence, memoranda, reports, contracts, etc., which document that the above action steps have been taken and any barriers encountered. To submit reports on accomplishments as required.

H. To designate a local government official to coordinate implementation of this Section 3 Plan.

I. To the extent feasible, additional affirmative steps will be taken to encourage and utilize Section 3 residents and businesses and to reach employment, training and contracting goals. As the chief local official, I have read and fully agree to this Section 3 Action Plan and agree to actively pursue full implementation of this program.

________________________
Chief Elected Official /Executive Director - Title

________________________
Date

CSD Section 3 Policy and Procedures 9/4/2012
Sample Section 3 Resident Certification Form

ELIGIBILITY FOR PREFERENCE

A Section 3 Resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 Resident, as defined in Section 135.5.

I ________________________________, (Print Name) am a resident of ________________________________ (City, County, State) and qualify as a Section 3 Resident because I am a public housing resident OR because my household income does not exceed the income guidelines by family size as published at the bottom of this form*.

Name: ________________________________  Telephone: ____________________

Address: ____________________________________________

FY 2012 – HOUSEHOLD INCOME GUIDELINES

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<th>Place a Check on the line that is applicable</th>
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* Circle the appropriate column based on household size and income – income limits are attached and/or can be downloaded from the www.hud.gov website.

I hereby certify that the information provided by me to be true and correct, and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

________________________________________    __________________________________
Signature                                                                 Date

______________________________
Print Name

CSD Section 3 Policy and Procedures 9/4/2012
Sample Section 3 Business Concern Certification Form

NAME OF BUSINESS: __________________________________
ADDRESS OF BUSINESS: __________________________________
CONTACT PERSON: ___________________ TITLE: _______________
TELEPHONE #: _______________________ CELL #: ______________

MUST PROVIDE EVIDENCE OF SECTION 3 STATUS PRIOR TO CONTRACT AWARD

The Bidder certifies that it is a Section 3 Business Concern based on:

____ Business is owned, at least 51% by Section 3 Residents.
  • Provide copy of resident lease, evidence of participation in a public assistance
    program, or signed Certification for Section 3 Resident
  • Provide business license number: ______________________________

____ At least 30% of their permanent, full-time employees are currently Section 3
  Residents or were Section 3 Residents within the past 3 years.
  • Provide List of Full-time Employees (Form 2)
  • Provide signed Certification for Section 3 Residents (Form 3)

____ Commitment to subcontract 25% of the dollar award to qualified Section 3
  Business Concerns. (Only applicable for Prime Contractors)

I hereby certify that the information provided by me to be true and correct, and understand falsification of any information could subject me to disqualification from participation and punishment under the law.

_________________________________ Date
Owner Signature

_________________________________
Print
Sample Section 3 Business and Employment Notice

(Instructions: Publish as a display advertisement in the local paper’s non-legal section or post at the local government and other Section 3 area locations.)

(Insert Locality’s name) is preparing to carry out the (insert Name of Project) through the use of Community Development Block Grant Funds. In the implementation of this project the following job types may be available:

(Insert List of Job Classifications to be used during project)

All job openings will be posted at (local government office or list other posting locations). To the greatest extent feasible, employment and training positions will be made available to qualified persons who permanently reside in (Insert the County’s or local municipality name as Section 3 area). Persons qualified for the jobs listed should register at the following location:

(Insert Name and Address of posting locations and/or Other Locations)

Additionally, the following contracts and procurements will/may be made and to the greatest extent feasible, businesses located in and owned by persons residing in (Insert the County’s name as Section 3 area) will be utilized:

(Insert list of construction, non-construction, and service contracts to be procured during the project. Also, insert list of construction subcontracts, major, specific equipment and general types of materials to be used during the project.)

All above-referenced procurements will be made on a competitive basis. The names of businesses who respond to this notice will be included on procurement lists for this project. Names of job seekers will be given to contractors.

Any person residing or firm located in the above named areas may request to participate in procurement opportunities associated with this project by contacting (Insert local contact information) within ten (10) days of this notice.
Section 3 Clause

ALL SECTION 3 COVERED CONTRACTS SHALL INCLUDE THE FOLLOWING CLAUSE (REFERRED TO AS THE SECTION 3 CLAUSE):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

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

F. Noncompliance with HUD’s regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
ATTACHMENTS
SECTION 3 REGULATIONS
(24 CFR 135)
§ 135.1
Appendix to Part 135
Authority: 12 U.S.C. 1711e; 42 U.S.C.
3609(e).
Source: 66 FR 38206, June 30, 2001, unless
otherwise noted.
Effective Date Note: A4 SS FR 38206, June
30, 2001. Part 135 was revised effective August
1, 1991 through June 30, 1995. At 66 FR 38206,
May 31, 1991, the effective period was ex-
tended until the final rule implementing
changes made to section 3 of the Housing and
Urban Development Act of 1968 by the Hou-
sing and Community Development Act of 1991
is published and becomes effective.

Subpart A—General Provisions

§ 135.1 Purpose.
(a) Section 3. The purpose of section 3 of
the Housing and Urban Development Act of 1968 (12 U.S.C. 170a) (section 3) is to
ensure that employment and other economic opportunities gen-
erated by certain HUD financial assist-
ance shall, to the greatest extent possible,
and consistent with existing Federal,
State and local laws and regulations,
be directed to low- and very low-income
persons, particularly those who are
recipients of government assistance
for housing, and to business con-
cerns which provide economic opportu-
nities to low- and very low-income
persons.

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

§ 135.2 Effective date of regulation.
The regulations of this part will re-
main in effect until the date the final
rule adopting the regulations of this
part with or without changes is pub-
lished and becomes effective, at which
point the final rule will remain in ef-
fect.

60 FR 38206, May 31, 1991

§ 135.3 Applicability.
(a) Section 3 covered assistance. Sec-
tion 3 applies to the following HUD as-
sistance (section 3 covered assistance):
(1) Public and Indian housing assist-
ance. Section 3 applies to training, em-
ployment, contracting and other eco-
nomic opportunities arising from the
24 CFR Subtitle B, Ch. 1 (4-1-03 Edition)

expenditure of the following public and
Indian housing assistance:
(i) Development assistance provided
pursuant to section 5 of the U.S. Hou-
sing Act of 1937 (1937 Act);
(ii) Operating assistance provided
pursuant to section 9 of the 1937 Act;
and
(iii) Modernization assistance pro-
pursuant to section 14 of the 1937
Act;
(2) Housing and community develop-
ment assistance. Section 3 applies to
training, employment, contracting and
other economic opportunities arising in
connection with the expenditure of
housing assistance (including section 8
assistance, and including other housing
assistance not administered by the As-
sistant Secretary of Housing and com-

CSD Section 3 Policy and Procedures 9/4/2012
Office of Asst. Secy., Equal Opportunity, HUD

§ 135.5

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

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

(c) Applicability to Indian housing authorities and Indian tribes. Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(b)). (See 24 CFR part 505.)

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

§ 135.5 Definitions.

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

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1997 (1997 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1997 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1997 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

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

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

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

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

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

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

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in §105.3a(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 §135.6(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing authority (HA)** means, collectively, public housing agency and Indian housing authority.

**Housing and community development assistance** means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guarantee.

**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 programs regulations codified in 24 CFR Chapter IX.

**HUD Youthbuild programs** mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 13899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

**Indian tribes** shall have the meaning given this term in 24 CFR part 87.

**JTPA** means the Job Training Partnership Act (29 U.S.C. 1222).

**Low-income person** See the definition of “section 3 resident” in this section.

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

**Neighborhood area** means:

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

2. For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.396(a)(1).

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

**Nonmetropolitan county** means any county outside of a metropolitan area.

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

**Public housing resident** has the meaning given this term in 24 CFR part 963.

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

Section 2 applies to the Housing and Urban Development Act of 1968, as amended (42 U.S.C. 13301).

**Section 3 business concern** means a business concern, as defined in this section—

1. That is 51 percent or more owned by section 3 residents; or
(2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or

(3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

Section 3 clause means the contract provisions set forth in §135.38.

Section 3 covered activity means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1987 Act;
(2) Public and Indian housing operating assistance provided pursuant to section 5 of the 1987 Act;
(3) Public and Indian housing modernization assistance provided pursuant to section 5 of the 1987 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;
   (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 contract” do not include contracts awarded under HUD’s procurement program, which is governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

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

Section 3 joint venture. See §135.40.

Section 3 resident means: (1) A public housing resident; or
(2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:
   (A) A low-income person, as this term is defined in section 3(3)(2) of the 1987 Act (24 U.S.C. 1437a(3)(2)). Section 3(3)(2) of the 1987 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or
   (B) A very low-income person, as this term is defined in section 3(3)(2) of the 1987 Act (24 U.S.C. 1437a(3)(2)). Section 3(3)(2) of the 1987 Act (24 U.S.C. 1437a(3)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that
§ 135.7

such variations are necessary because of unusually high or low family incomes.

(3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Section 8 assistance means assistance provided under section 8 of the 1967 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart Q.

Service area means the geographical area in which the persons benefiting from the section 3 covered project reside. The service area shall not extend beyond the limit 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.

Low-income person. See the definition of “section 3 resident” in this section.

YouthBuild programs. See the definition of “HUD YouthBuild programs” in this section.

[59 FR 5326, Jan 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

§ 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to delegate functions and responsibilities to other employees of HUD; provided, however, that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

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

§ 135.8 Requirements applicable to HUD NOFAs for section 3 covered programs.

(a) Certification of compliance with part 135. All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally, the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant’s certification unless there is evidence substantially challenging the certification.

(b) Statement of purpose in NOFAs. (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, development, or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting, and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction, or other public construction, where the amount awarded to the applicant may exceed $20,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting, and other economic opportunities to section 3 residents and section 3 business concerns.
Office of Asst. Secy., Equal Opportunity, HUD

§ 135.11

(c) Section 2 as NOFA evaluation criteria. Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

§ 135.11 Other laws governing training, employment, and contracting.

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) Procurement standards for States and local governments (24 CFR 85.36)—(1) General. Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 22 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) Flexible Subsidy Program. Multifamily project mortgagees in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagee, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) Procurement standards for other recipients (OMB Circular No. A-110). Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 9 in a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) Federal labor standards provisions. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a–276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs, as described in paragraph (d) of this section.

(d) Approved apprenticeship and trainee programs. Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) Compliance with Executive Order 11246. Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended...
by Executive Order 12066, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

§ 135.30 Numerical goals for meeting the greatest extent feasible requirement

(a) General. (1) Recipients and covered contractors may demonstrate compliance with the “greatest extent feasible” requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(b) Training and employment. The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate number of section 3 residents, to the greatest extent feasible, should be made at all job levels.

(i) Numerical goals for section 3 covered public and Indian housing assistance (as described in §135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for the one year period ending in FY 1994;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(ii) Numerical goals for other HUD programs covered by section 3. (1) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project.

(i) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

(A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1994;

(B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(2) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1994;
(II) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in §135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing; or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) Site harvest and compliance determinations. (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under this part, of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in §135.60, which were provided in its efforts to comply with section 3 and the requirements of this part.

§135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in §135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in §135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contractor award to section 3 business concerns that exceed those specified in §135.30.

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in §135.38 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth in §135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist
§ 135.34 Preference for section 3 residents in training and employment opportunities.

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section.

(i) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(1) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(2) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(3) Participants in HUD YouthBuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 2 residents);

(4) Other section 3 residents.

(b) Eligibility for preference. A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that she is a section 3 resident, as defined in §135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

§ 135.36 Preference for section 3 business concerns in contracting opportunities.

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(i) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(1) Business concerns that are 100 percent or more owned by residents of the housing development or developments located shall be given the highest priority;
for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses); or

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expediting the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 24 U.S.C. 1809) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

(b) Eligibility for preference. A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in §155.5.

(c) Ability to complete contract. A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is capable and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.38 [see 24 CFR 85.30(b)(1)].) This regulation requires consideration of, among other factors, the potential contractor’s record in complying with public policy requirements. Section 3 compliance is a factor properly considered as part of this determination.

§153.38 Section 3 clause. All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 24 U.S.C. 103a (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 38, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the parts 36 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, or, if none, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employers 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 to whom applicants 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
§ 135.40 Providing other economic opportunities.

(a) General. In accordance with the findings of the Congress, as stated in section 5, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) Other training and employment related opportunities. Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of “upward mobility” — “bridges” and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) Other business related economic opportunities. (1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchised development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from FHA resident-owned businesses and use of procedures under 24 CFR part 903 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilise such methods to provide other economic opportunities to low-income persons.

(2) A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement, engaged in and carry out a specific business venture for which the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C—[Reserved]

Subpart D—[Reserved]

§ 135.70 General.

(a) Purpose. The purpose of this subpart is to establish the procedures for handling complaints alleging non-compliance with the regulations of this
part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) Definitions. For purposes of this subpart:

(1) Complaint means an allegation of noncompliance with regulations of this part made in the form described in §135.76(d);

(2) Complainant means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part;

(3) Noncompliance with section 3 means failure by a recipient or contractor to comply with the requirements of this part;

(4) Respondent means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in §135.7, which includes FHA and HFA.

§135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in investigations of allegations of noncompliance made under §135.76, and work for the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR, §24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

§135.74 Section 3 compliance review procedures.

(a) Compliance reviews by Assistant Secretary. The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) Form of compliance review. A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) Where compliance review reveals noncompliance with section 3 by recipient or contractor. Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of the specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) Continuing noncompliance by recipient or contractor. A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor.
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Debarment, suspension and limited denial of participation pursuant to HUD’s regulations in 24 CFR part 26, where appropriate, may be applied to the recipient or the contractor.

(c) Conducting compliance review before the award of assistance. Section 3 compliance reviews may be conducted before the award of contracts, and especially when the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(1) Consideration of complaints during compliance review. Complaints alleging noncompliance with section 3, as provided in §315.70, may also be considered during any compliance review conducted to determine the recipient’s conformance with regulations in this part.

§ 315.76 Filing and processing complaints.

(a) Who may file a complaint. The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or

(b) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance.

(b) Where to file a complaint. A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) Time of filing. (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(4) Contents of complaint—(1) Written complaints. Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant’s name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(v) Amendment of complaint. Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) Resolution of complaint by recipient. (1) Within ten (10) days of timely filing of a complaint that contains complete
information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient’s contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(6) Informal resolution of complaint by Assistant Secretary—(1) Dismissal of complaint. Upon receipt of the recipient’s written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) Informal resolution. Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaints informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) Effective date of informal resolution. The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(4) Sanctions. Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension, and limited denial of participation in HUD programs.

(b) Investigation of complaint. The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary’s discretion, the investigation would further the purposes of section 3 and this part.

(1) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of
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Complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(3) Judicial relief. Nothing in this subpart D precludes a section 3 resident or section 3 business concern from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

(Approved by the Office of Management and Budget under control number 2520-0043)

Subpart E—Reporting and Recordkeeping

§ 135.90 Reporting.

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report to be submitted by January 10 of each year or within 15 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

(Approved by the Office of Management and Budget under control number 2520-0043)

§ 135.92 Recordkeeping and access to records.

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise

24 CFR Subtitle B, Ch. 1 (4–1–03 Edition)

APPENDIX TO PART 135

1. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents

(a) Entering into “first source” hiring agreements with organizations representing Section 3 residents.

(b) Sponsoring a HUD-certified “Step-Up” employment and training program for section 3 residents.

(c) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

(d) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled), the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in §135.94) reside.

(e) Advertising the training and employment positions by posting flyers (which identify the positions to be filled), the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside, for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

(f) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(g) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representative of a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(h) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside.

(i) In addition to the above, each section 3 program application must contain: "..."
persons reside and in the neighborhood or service area in which a section 3 project is located.

Issuing 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 representative.

(3) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA’s or contractor’s training and employment positions.

(13) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, private, religious, and parochial agencies, unemployment compensation programs, community organizations, and other officials or organizations to assess with recruiting section 3 residents for the HA’s or contractor’s training and employment positions.

(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (pref- erably one of the section 3 business concerns identified in part 131), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training or employment positions that the HA or contractor intends to fill.

For an HA employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as “force account labor” in HUD’s Indian housing regulations, 24 CFR 503.3 and 503.31(a)(6).)

(18) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.

(17) Undertaking job counseling, education and related programs in association with local educational institutions.

(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

I. Examples of Efforts To Award Contracts to Section 3 Business Concerns

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 503 for business concerns owned by Native Americans (see section III of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or development owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying section 3 business concerns.

(6) Providing written notice to all known sections 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
Pt. 135, App.

(13) Advising section 3 business concerns as to whether they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

(14) Arranging solicitations, issues for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.

(15) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

(16) Contracting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.

(17) 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.

(18) Developing a list of eligible section 3 business concerns.

(19) For RAs participating in the “Contracting with Resident-Owned Businesses” program provided under 24 CFR part 968.

(20) Establishing and approving programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

(21) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(22) Supporting businesses which provide economic opportunities to low income persons by providing them the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(23) Encouraging financial institutions to carry out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(24) Actively supporting joint ventures with section 3 business concerns.

(25) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

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

This Section III provides specific procedures that may be followed by recipients and contractors (collectively referred to as the “contracting party”) for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR §5.36(d).

(1) Small Purchase Procedures. For section 3 covered contracts aggregating no more than $35,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(1) Solicitations. (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 (1)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided that 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.

(2) 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 particular 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 bid (Institutions 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:
Office of Asst. Sec'y, Equal Opportunity, HUD

(1) Bids shall be solicited from all businesses (section 3 businesses, 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—

- 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
- is not more than “X” higher than the total bid price of the lowest responsive bid from any responsible bidder. “X” is determined as follows:

<table>
<thead>
<tr>
<th>Least Cost Bid is</th>
<th>10% of total or $10,000 whichever is less</th>
<th>5% of total bid or $5,000 whichever is less</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100,000 (lowest)</td>
<td>5% of total bid or $5,000 whichever is less</td>
<td>5% of total bid or $5,000 whichever is less</td>
</tr>
<tr>
<td>$200,000 (lowest)</td>
<td>5% of total bid or $5,000 whichever is less</td>
<td>5% of total bid or $5,000 whichever is less</td>
</tr>
<tr>
<td>$300,000 (lowest)</td>
<td>5% of total bid or $5,000 whichever is less</td>
<td>5% of total bid or $5,000 whichever is less</td>
</tr>
<tr>
<td>$400,000 (lowest)</td>
<td>5% of total bid or $5,000 whichever is less</td>
<td>5% of total bid or $5,000 whichever is less</td>
</tr>
<tr>
<td>$500,000 (lowest)</td>
<td>5% of total bid or $5,000 whichever is less</td>
<td>5% of total bid or $5,000 whichever is less</td>
</tr>
<tr>
<td>$1 million, but less than $2 million</td>
<td>4% of total bid or $4,000 whichever is less</td>
<td>4% of total bid or $4,000 whichever is less</td>
</tr>
<tr>
<td>$2 million, but less than $4 million</td>
<td>3% of total bid or $3,000 whichever is less</td>
<td>3% of total bid or $3,000 whichever is less</td>
</tr>
<tr>
<td>$4 million, but less than $8 million</td>
<td>2% of total bid or $2,000 whichever is less</td>
<td>2% of total bid or $2,000 whichever is less</td>
</tr>
<tr>
<td>$8 million or more</td>
<td>1% of total bid, with no dollar limit</td>
<td>1% of total bid, with no dollar limit</td>
</tr>
</tbody>
</table>

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

(3) Procurement under the competitive procurement method of procurement (Request for Proposals (RFP)). (1) For contracts and sub-contracts awarded under the competitive proposals method of procurement (28 CFR Part 36.600), a Request for Proposals (RFP) shall identify all evaluation factors and their relative importance to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The components of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for those business concerns in the order of priority ranking as described in 24 CFR 206.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor’s section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor’s responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

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

Subpart A—General

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

Subpart B—Standards for Determining Age Discrimination

146.11 Scope of subpart.
146.13 Rules against age discrimination.

Subpart C—Duties of HUD Recipients

146.31 General responsibilities.
146.32 Notification of subrecipients.
146.33 Assurance of compliance and recipient assessment of age discrimination.
146.37 Information requirements.

Subpart D—Investigation, Settlement, and Enforcement Procedures

146.51 Compliance reviews.
146.52 Complaints.
146.53 Conciliation.
146.55 Remediation.
146.57 Investigation.
146.59 Enforcement procedures.
146.61 Prohibitions against intimidation or retaliation.
SECTION 3 Summary Report
HUD FORM 60002
### Section 3 Summary Report

**Economic Opportunities for Low - and Very Low-Income Persons**

U.S. Department of Housing and Urban Development
Office of Fair Housing And Equal Opportunity

OMB Approval No: 2528-0043 (exp. 11/30/2010)

**CSD Section 3 Policy and Procedures 9/4/2012**

<table>
<thead>
<tr>
<th>1. Recipient Name &amp; Address</th>
<th>2. Federal Identification (grant no.)</th>
<th>3. Total Amount of Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Contact Person</td>
<td>5. Phone: (Include area code)</td>
<td></td>
</tr>
<tr>
<td>6. Length of Grant</td>
<td>7. Reporting Period</td>
<td></td>
</tr>
</tbody>
</table>

**Part II: Employment and Training**

**Columns B, C and F are mandatory fields. Include New Hires in E & F.**

<table>
<thead>
<tr>
<th>Job Category</th>
<th>Number of New Hires</th>
<th>Number of New Hires that are Sec. 3 Residents</th>
<th>% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents</th>
<th>% of Total Staff Hours for Section 3 Employees and Trainees</th>
<th>Number of Section 3 Trainees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professionals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Technicians</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Office/Clerical</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Construction by Trade (List)</td>
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<tr>
<td>Trade</td>
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<tr>
<td>Trade</td>
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</tr>
<tr>
<td>Other (List)</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**

**Program Codes**

1 = Flexible Subsidy
2 = Section 202/811
3 = Public/Indian Housing
4 = Homeless Assistance
5 = HOPE
6 = HUD-Funded State Administered
7 = COG/Enhancements
8 = Other HUD Programs
9 = Other COG Programs
10 = Other Housing Programs

**Page 1 of 2**

Form HUD-6002 (5/0001)
Ref 24 CFR 136
## Part II: Contracts Awarded

<table>
<thead>
<tr>
<th>1. Construction Contracts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Total dollar amount of all contracts awarded on the project</td>
</tr>
<tr>
<td>B. Total dollar amount of contracts awarded to Section 3 businesses</td>
</tr>
<tr>
<td>C. Percentage of the total dollar amount that was awarded to Section 3 businesses</td>
</tr>
<tr>
<td>D. Total number of Section 3 businesses receiving contracts</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Non-Construction Contracts:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Total dollar amount of non-construction contracts awarded on the project/activity</td>
</tr>
<tr>
<td>B. Total dollar amount of non-construction contracts awarded to Section 3 businesses</td>
</tr>
<tr>
<td>C. Percentage of the total dollar amount that was awarded to Section 3 businesses</td>
</tr>
<tr>
<td>D. Total number of Section 3 businesses receiving non-construction contracts</td>
</tr>
</tbody>
</table>

## Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents
- Coordinated with YouthBuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other: describe below.

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Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients’ compliance with Section 3, to assess the results of the Department’s efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 838(e)(5) of the Fair Housing Act and Section 916 of the HUDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-130 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Page 2 of 2

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CSD Section 3 Policy and Procedures 9/4/2012
Form HUD-60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to all public and Indian housing programs that receive 1) development assistance pursuant to Section 8 of the U.S. Housing Act of 1937; 2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or 3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of $200,000 expended for: (1) housing rehabilitation (including reduction and statement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects and to contractors and subcontractors in excess of $100,000 awarded in connection with the Section 3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to employment and training. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E, and F). Part II of the form relates to contracting, and Part III summarizes recipient’s efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and the project ends before December 1, within 10 days of project completion. Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.

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

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

* The terms ‘low-income persons’ and ‘very low-income persons’ have the same meanings given in the terms of section 3 (b) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

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

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e., architects, engineers, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of “other” includes occupations such as service workers.

Column B: (Mandatory Field) Enter the number of new hires for each category of workers identified in Column A in connection with this award. New hire refers to a person who is not on the contractor’s or recipient’s payroll at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor’s or recipient’s payroll at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: (Mandatory Field) Enter the number of Section 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

Block A: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project and program.

Item B: Enter the total dollar amount of contracts awarded on the project and program.

Item C: Enter the percentage of all the dollar amount of contracts awarded on the project and program.

Item D: Enter the total dollar amount of contracts awarded on the project and program.

Item E: Enter the number of Section 3 businesses receiving awards. Column D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts – Self-explanatory

The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. Very low-income persons mean low-income families (including single persons) whose incomes do not exceed 30 percent of the median family income area, as determined by the Secretary with adjustments or smaller or larger families, except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.
HUD Compliance and Monitoring?
HUD monitors the performance of recipients and contractors. HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses. HUD provides technical assistance to recipients and contractors in order to obtain compliance with Section 3 requirements.

What if it appears that an entity is not complying with Section 3?
There is a complaint process. Section 3 residents and business concerns may file complaints if they think a violation of Section 3 requirements has occurred where a HUD-funded project is planned or underway. Complaints will be investigated; if appropriate, voluntary resolutions will be sought. There are appeal rights to the Secretary. Section 3 residents and businesses may also seek judicial relief.

How can Section 3 businesses or residents complain about a violation of Section 3 requirements?
They can file a complaint in writing to the local HUD FHEO Office or to:
The Assistant Secretary for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5100
Washington, DC 20410-2000
1-800-866-9777
1-800-927-9276 (TTY)
www.hud.gov www espanol hud gov
A written complaint should contain:
1. Name and address of the person filing the complaint;
2. Name and address of subject of complaint (HUD recipient or contractor);
3. Description of acts or omissions in alleged violation of Section 3;
4. Statement of corrective actions sought.
Section 3 Act

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (as amended), requires that economic opportunities generated by certain HUD financial assistance for housing (including Public and Indian Housing) and community development programs shall, to the greatest extent feasible, be given to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Other HUD programs covered by Section 3 (to distinguish between HUD Public and Indian housing programs) are those that provide housing or community development assistance for housing rehabilitation, housing construction, or other public construction project.

Who are Section 3 residents?

Public housing residents including persons with disabilities.

Low and very low income persons who live in the area where a HUD assisted project is located.

What is a Section 3 business?

A section 3 business is one:

That is owned by Section 3 residents
Employs Section 3 residents or;
Subcontracts with businesses that provide opportunities to low and very low income persons.

What types of Economic Opportunities are available under Section 3?

- Jobs and Employment opportunities
- Training and Educational opportunities
- Contracts and Business opportunities

Who will provide the Economic Opportunities?

Recipients of HUD financial assistance and their contractors and subcontractors are expected to develop a Section 3 Plan to assure that economic opportunities to the greatest extent feasible, are provided to low and very low-income persons and to qualified Section 3 businesses. One element of that Plan is the use of a Section 3 clause which indicates that all work performed under the contract are subject to the requirements of Section 3.

Who receives Economic Opportunities under Section 3?

For training and employment:
- persons in public and assisted housing;
- persons in the affected project neighborhood;
- participants in HUD Youth-build programs;
- homeless persons.

For contracting:
- businesses which fit the definition of a Section 3 business.

How can individuals and businesses find out more about Section 3?

Contact the Fair Housing and Equal Opportunity representative at your nearest HUD Office.