

Understanding the Basics of Section 3 and Vicinity Hiring Preferences for the NSP Program

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Introduction

The purpose of Section 3 is to provide jobs to low- and very low-income people who live in the targeted area of HUD-funded construction projects, such as those developed with funds from the Neighborhood Stabilization Program (NSP).

This guide presents an overview of the Section 3 employment, training, and contracting requirements that apply when NSP funds are used. Practical tips and sample forms are provided to help with implementation.

This guide also explains the “Vicinity Hiring Preference” a local hiring requirement that is applicable only to NSP3 projects. It is HUD’s expectation that Vicinity Hiring Preference activities “mirror” the Section 3 requirements, and that “vicinity” is the target area for NSP3 funds.

The Dodd-Frank Act, “Wall Street Reform and Consumer Protection Act,” signed into law on January 5, 2010, requires a NSP 3 grantee to describe in its NSP3 application narrative the approach that will be taken for hiring employees and business concerns who reside in the “vicinity” identified as the target area for NSP3 funds.

The Dodd-Frank Act provides guidance to grantees on how to implement the Section 3 and Vicinity Hiring Preference requirements and reviews the grantee’s obligations to oversee their housing partners’ compliance with these laws and regulations.

For purposes of this publication, the grantee’s “housing partners” include all persons and entities that use NSP funds, including the grantee and its subrecipients, nonprofits, contractors, subcontractors, developers, local Public Housing Authorities (PHA), and other public partners, such as redevelopment agencies. Unless otherwise specified, the requirements discussed here extend to the grantee and all its housing partners. In addition, the Section 3 requirements apply to many different sources of U.S. Department of Housing and Urban Development (HUD) assistance; however, this publication discusses these requirements in terms of NSP only.

The Section 3 regulations define recipient as “any entity which receives Section 3 covered assistance, directly from HUD or from another recipient.” For the purposes of this publication, grantees and subrecipients will also be referred to as recipients.

It is important to note that Section 3 is administered through HUD’s Office of Fair Housing and Equal Opportunities (FHEO), whose requirements also impact training, employment, contracting, procurement and purchasing activities undertaken by grantees. However, for purposes of this publication, the focus will solely be on NSP requirements for Section 3 and Vicinity Hiring Preference, which do not apply to purchasing practices, unless the purchase includes labor. Section 3 is race and gender neutral. It is based solely on income and geography – that is, proximity to the project site, which will be further discussed in later sections of this publication.

The complete Section 3 regulations can be found at 24 C.F.R. PART 135 and online at: http://www.access.gpo.gov/nara/cfr/waisidx_98/24cfr135_98.html

Helpful NSP resources can be accessed at: <http://hudnsphelp.info/>

In Appendix 2 of this guidebook you will find Section 3 Definitions – this appendix will be a useful tool as you read through this guidebook.

PLEASE NOTE: Throughout this guide, all references to Section 3 requirements mean both Section 3 and Vicinity Hiring Preference, unless so stated.

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Chapter 1 - Understanding Section 3 and Vicinity Hiring Preference

Purpose of Section 3 and Vicinity Hiring Preference

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended (“Section 3”) is to ensure that “employment, training and contracting opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.” The implementing regulations for Section 3 are found at 24 CFR Part 135. Every NSP grantee must certify that it will comply with Section 3 as part of its Consolidated Plan.

The purpose of Vicinity Hiring Preference of the Dodd-Frank “Wall Street Reform and Consumer Protection Act,” January 5, 2010, §1497 (a) (8) is to ensure that grantees, “shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined by the Secretary, of projects funded under this section or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects.” Vicinity is defined as each neighborhood identified by NSP3 grantees as being the areas of greatest need. Every NSP3 grantee must describe their local approach to vicinity hiring in the NSP3 application narrative.

The complete text of the Dodd-Frank “Wall Street Reform and Consumer Protection Act” can be found online at:

http://docs.house.gov/rules/finserv/111_hr_finsrv.pdf

Applicability

Section 3 applies to projects that are a certain scope **and** size (in terms of dollar amount), as follows:





Scope

Section 3 requirements apply to work arising in connection with the new construction, demolition or rehabilitation of a NSP project.

Once construction is completed, contracts related to the operation (that is, the rental management) of the completed housing development are not subject to Section 3 requirements.

In addition, Section 3 is not applicable when NSP Program funds are invested in direct assistance to homebuyers and administration, because these are not construction activities.

What Section 3 is NOT...

-  Not race or gender specific
-  Not an entitlement for eligible individuals and businesses
-  Not only applicable to grantees and subrecipients
-  Not optional – It’s the law!

Size

Two monetary thresholds apply to Section 3:

- A grantee or subrecipient invests more than \$200,000 in NSP funds (or NSP funds in combination with other Section 3 covered assistance, such as Community Development Block Grant funds or HOME funds) for a NSP demolition, construction or rehabilitation project; and
- A contractor or subcontractor is awarded a contract for work arising in connection with a NSP new construction, rehabilitation or demolition project in an amount that exceeds \$100,000.

If the NSP investment (alone or in combination with other Section 3 covered assistance) in a demolition, construction or rehabilitation project exceeds \$200,000 but no single contractor is awarded more than \$100,000, then the Section 3 requirements apply to the training, employment, and contracting activities of the grantee or subrecipient but not to those of the contractor. This means the hiring and contracting by the grantee or subrecipient that is related to work arising in connection with the NSP new construction, rehabilitation or demolition project would be subject to the Section 3 regulations.

Once it is determined that Section 3 applies to a project, the requirements apply to **all** contracts for work arising in connection with NSP construction, rehabilitation or demolition projects over \$100,000, including those that are not funded with NSP funds.

Example: A grantee is awarded \$2.5 million for NSP. They in turn award a subrecipient \$1 million for NSP activities. The subrecipient has an acquisition, rehabilitation and resale activity with a budget of \$500,000, and of that, \$250,000 are NSP funds from the subrecipient's award for rehabilitation, \$125,000 are state funds, and \$125,000 are private bank loans. Both the grantee and subrecipient are responsible for Section 3 compliance.

The scenario for this same activity changes if the subrecipient's NSP funds of \$250,000 are to be used only for the acquisition of properties; the state funds are \$175,000 and the private bank loan is \$175,000 the NSP acquisition activity is exempt from Section 3 because it does not involve demolition, construction or rehabilitation.

Appendix 1 contains a Section 3 Applicability Decision Tree to assist in determining the applicability thresholds for Section 3 Covered Housing and Community Development Assistance.

Figure 1 provides a number of examples to illustrate the applicability of Section 3 to NSP new construction, rehabilitation and demolition activities:

Figure 1

Examples to Illustrate Section 3 Applicability to NSP-Assisted New Construction and Rehabilitation

Project	Funding	Section 3 Applicability
Demolition/New Construction – homeownership	\$750,000 NSP funds for construction \$250,000 private funds for site acquisition, demolition, environmental remediation	Applies to all construction contracts for work that exceeds \$100,000, including the privately funded contracts for site acquisition, demolition, and remediation.
New Construction – rental	\$1.5 million NSP funds \$800,000 private funds	Applies to all construction contracts for work that exceed \$100,000 during the course of the project (including contracts issued prior to construction start). Does not apply to maintenance and management contracts once facility is operational.
Rehabilitation – housing to be sold to home-buyers after rehabilitation	\$250,000 NSP funds for site acquisition \$750,000 private funds for construction	Applies to all construction contracts that exceed \$100,000, including the privately funded construction contract.
Rehabilitation – rental	\$150,000 NSP funds \$150,000 CDBG funds \$1.5 million construction loan financed by state housing development agency	Applies to all construction contracts for work that exceeds \$100,000 because the grantee has invested more than \$200,000 in NSP and CDBG funds combined, (including contracts issued prior to construction start). Does not apply to maintenance and management contracts once facility is operational.
New Construction– homeownership, where grantee enters into contrast with one contractor to undertake site preparation activities	\$150,000 NSP funds for the site preparation activity \$900,000 private funds construction	Does not apply to any contract because the grantee has invested less than \$200,000 in NSP funds.

Section 3 Goals

The regulations implementing Section 3 establish minimum employment and contracting goals. Grantees demonstrate compliance by making an effort “to the greatest extent feasible” to achieve the numerical goals stated below, meaning that every effort possible was taken to achieve compliance goals.

Training and Employment Goals

The Section 3 regulations states that, “Recipients (grantees and/or subrecipients), 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.” This means that, employment and training goals may be met by either directly providing the employment or training or by facilitating the employment or training. That is, grantees, subrecipients, developers, contractors or subcontractors can satisfy Section 3 employment and training goals by arranging for the employment or training of Section 3 residents in connection with Section 3 covered projects. This can be accomplished by contacting agencies administering the YouthBuild program, consulting state and local agencies administering training programs or local education institutions that provide job counseling, educational and related programs. Appendix 3 offers additional Examples of Efforts to Offer Training and Employment Opportunities to Section 3 Residents.

It should be noted that the numerical goals established in the Section 3 regulations are Minimum Goals that can be exceeded as a matter of local public policy.

Grantees, contractors, and subcontractors commit to employ Section 3 residents for [30 percent \(30%\)](#) of the aggregate number of [new hires](#) for each year over the duration of the project.

Within the group identified as Section 3 residents per the Section 3 regulations, priority consideration must be given, where possible, in the following order:

- Category 1: Section 3 residents, as defined in Figure 2, who live in the neighborhood or service areas of greatest need (or no greater than the unit of general local government such as a city), as identified in the grantee’s substantial amendment to the Con Plan, in which the NSP-funded project is located.
- Category 2: Participants in YouthBuild programs (programs receiving assistance under subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended).
- Category 3: Other Section 3 residents. This would include low-income residents of the metropolitan area or Non-metropolitan County who do not reside in the NSP target area, as defined in Category 1.

The vicinity hiring preference for NSP3 restricts the hiring priority. The Dodd-Frank act states:

HUD has defined “vicinity” as the area of greatest need identified in a grantee’s Action Plan, meaning that first priority goes to hiring residents of that area and to businesses that are located in that area.





NSP1, NSP2, and NSP3 grantees may delineate more detailed priority areas if they feel it would be helpful in understanding hiring priorities. The target areas should be clearly defined in writing.

Grantees and subrecipients should establish a system for identifying Section 3 residents, which may include reaching out to the U.S. Department of Labor Work Force Investment Board or the local Public Housing Authority to identify potential residents meeting the Section 3 definition of a qualified resident. While not required by the Section 3 regulations, a grantee or subrecipient may want to ask residents to complete a self-certification form to determine that a resident meets the Section 3 definition of a qualified resident. See Appendix 4 for an example of a Section 3 Resident Certification Form.

Figure 2

What is a Section 3 Resident?

For the purposes of NSP, a Section 3 resident is a resident of the metropolitan area or non-metropolitan county in which NSP funds are expended who has an income below 80% of the area median income and who is:

-  Residents of the housing development or development receiving HUD assistance,
-  A public housing resident,
-  Participants in YouthBuild programs, or
-  Homeless persons residing in the service area or neighborhood in which the NSP project is located under the Stuart B. McKinney Homeless Assistance Act.

➤ **Practical Tip #1:**

- ✓ While not required by Section 3, it is good practice to create a Certification Form such as the example provided in Appendix 4. Section 3 regulations only require a self-certification from a resident. However, it may be a good idea to require proof of residency such as a driver's license or evidence of mail received at the resident's home.
- ✓ Another option is to presume that residents in a low-mod census tract will be a Section 3 resident, which can be documented in a grantee's NSP application. (NOTE: Since Section 3 regulations do not require a certification form, this step may make the verification process simpler).

Figure 3 illustrates the required hiring priorities given to NSP1, NSP2, and NSP3 grantees:

Figure 3		
Section 3 & NSP Hiring Priorities		
Priority	NSP1 and NSP2	NSP3
First	Neighborhood or Service Area (an area no greater than the unit of general local government, such as a city)	Vicinity Preference – NSP3 Target Area
Second	YouthBuild participants	Neighborhood or Service Area (an area no greater than the unit of general local government, such as a city)
Third	Other Section 3 residents in the metro area or non-metro county	YouthBuild participants
Fourth		Other Section 3 residents in the metro area or non-metro county

Contracting Goals

Grantees, subrecipients, contractors, and subcontractors must commit to award contracts to Section 3 business concerns (defined in Figure 4), as follows:

- At least **ten percent (10%)** of the total dollar amount of all Section 3 covered contracts (see definition for “covered contracts” in Appendix 2) over \$100,000 for building trades work arising in connection with NSP rehabilitation and new construction projects; and
- At least **three percent (3%)** of the total dollar amount of all other Section 3 covered contracts – that is, contracts for any work other than building trade work. This might include, for example, landscaping or professional services contracts such as architectural, environmental, or legal services.




Grantees, subrecipients, contractors, subcontractors, owners, and developers (Section 3 covered entities) must give priority consideration, where possible, to Section 3 business concerns, in the following order of preference:

- **Category 1:** Section 3 business concerns that provide economic opportunities for Section 3 residents in the neighborhood where the NSP project is located.
- **Category 2:** Applicants selected to carry out YouthBuild programs.
- **Category 3:** Other Section 3 business concerns located outside target neighborhoods.

Figure 4

What is a Section 3 Business Concern?

A Section 3 business concern is a business that is formed in accordance with state law, and licensed under state, county, or municipal law to engage in the type of business activity for which it was formed. This may include non-profit organizations. It must meet one of the following criteria:

-  The business is 51% or more owned by Section 3 residents; or
-  The business' permanent, full-time employees include persons, at least 30% 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
-  The business may provide evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to business concerns that meet the qualifications set forth above.

A grantee's main obligation is to have a strategy for identifying and notifying business concerns in the NSP target area about contracting opportunities for eligible Section 3 business concerns. As with Section 3 residents, grantees and subrecipients should establish a system for identifying Section 3 business concerns. One possibility is to develop a Request for Qualifications document to be circulated to the local business community. This document can include a Certification form for businesses to be registered as a Section 3 business concern, so they may be notified when employment and contracting opportunities become available. See Appendix 5 for a sample Section 3 Business Concern Certification Form.

Failure to Meet Section 3 Goals

HUD holds the grantee accountable for compliance with Section 3. In its written agreement with its housing partners, the grantee should clearly state the partners' Section 3 obligations. At a minimum, it is recommended that if a grantee and its housing partners are unable to meet their Section 3 hiring and contracting goals, the grantee should sponsor or participate in upward mobility programs, hire eligible residents in trainee positions, or form Section 3 joint ventures with regard to contracting. HUD places the burden of proving compliance with Section 3 on the grantee, as such; part of a HUD monitoring includes a review for Section 3 compliance (See Appendix 9 for a sample of the HUD monitoring checklist). More information on Section 3 Compliance monitoring is discussed in Chapter 5 of this document. Grantees will have to describe why it was not feasible to meet the goals, despite the efforts taken. The grantee has some flexibility in how it will describe its "good faith efforts" to meet these requirements, and monitor its housing partners. Ultimately, HUD will evaluate the grantee based on its ability to describe the good faith efforts it took to meet the hiring and contracting requirements and the impediments incurred in spite of actions taken.

It should be noted here that Section 3 rules for local Public Housing Authorities (PHAs) are different than those for Housing and Community Development Programs, but frequently PHAs are good partners because many have established Section 3 procedures that can help a NSP grantee or subrecipient meet Section 3 goals.

➤ **Practical Tip #2:**

- ✓ Establish a local Section 3 business registry and post it on your website.
- ✓ Notify the local Chamber of Commerce of your organization's Section 3 efforts.
- ✓ The HUBZone Program provides contracting opportunities for business concerns located in economically distressed communities in order to increase employment opportunities and stimulate capital investments in those areas. This is a good source for grantees to identify Section 3 business concerns. HUD's FHEO office believes 99% will be eligible Section 3 business concerns. Grantees would have to filter the list to identify those who operate within the NSP target area.

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Chapter 2 - Implementation of the Section 3 Requirements

Section 3 Policies and Procedures

Grantees can assure smooth implementation of the Section 3 requirements with adequate planning, consistent communication with partners, and careful record-keeping. This section reviews the implementation issues for training and employment requirements, and for contracting under Section 3. While not a regulatory requirement, it is recommended by FHEO and CPD that each grantee develop a written plan that addresses how Section 3 requirements will be implemented. A sample NSP - Section 3 Plan from one of our best practices can be found online at: http://www.michigan.gov/mshda/0,1607,7-141-5587_28470---,00.html

Figure 5

Elements to include in Section 3 Policies and Procedures

- 📄 Policy Statement/Purpose
- 📄 Section 3 Contracting Policy and Procedure
- 📄 Employment and Training Goals
- 📄 Certification Procedure for Section 3 Program Participants
- 📄 Assisting Contractors in Achieving Section 3 Goals
- 📄 Preference for Contracting with Section 3 Businesses
- 📄 Section 3 Business Certification
- 📄 Section 3 Recruitment, Training and Employment Procedure for Employment of a Section 3 Resident
- 📄 Contractor Requirements in Employing Section 3 residents and businesses that are described in the required Section 3 clause in all construction contracts
- 📄 Internal Complaint Procedure
- 📄 Appendix with Exhibits and Forms such as:
 - Certification for Section 3 Residents
 - Certification for Section 3 Businesses
 - Contracting Policy and Procedure with Section 3 Contract clause language

➤ **Practical Tip #3**

- ✓ Take time for strategic planning.
 - Hold internal/external meetings; involve the community
 - Identify short- and long-term goals for developing your Section 3 program
 - Keep local, state, federal procurement and other laws in mind
- ✓ Publish your plan on your website.
- ✓ Appoint a Section 3 Coordinator.

Section 3 Training and Employment Requirements

There are several steps required of the grantee in its implementation of the training and employment requirements of Section 3:

1. Determine Section 3 Eligibility of a Resident

The grantee must establish guidelines for itself and its contractors and subrecipients to apply Section 3 eligibility preferences to the hiring process, and articulate recordkeeping needs. The guidelines should:

- Explain that, at a minimum, a Section 3 resident is a low- or very low-income person and a resident of the metropolitan area or non-metropolitan County.
- State that the priority preferences for hiring are those who live in the neighborhood of the NSP-assisted project and participants of YouthBuild. The grantee should provide any additional guidance needed to clarify how these preferences should be applied.
- Define the neighborhood boundaries of each NSP project.
- Determine the level of documentation that it will collect, and that it will require contractors to collect from job applicants and employees to determine that the person meets the low- or very low-income guidelines. At a minimum, HUD expects employed applicants to provide a self-certification of eligibility based on income and residency. Grantees can impose a higher standard of documentation if desired. Grantees need not require contractors to submit this documentation for review.

Grantees are responsible for ensuring that these requirements are met, grantees are strongly encouraged to monitor contractor files on a periodic basis. Contracts with contractors should include a clause that gives the grantee and HUD the right to inspect all records related to the project (See Figure 6 for Section 3 contract clause language).

2. Determine the Population of “New Hires”

The Section 3 hiring goal applies to [new hires](#) only. New hires are all full-time employees, for permanent, temporary, or seasonal employment opportunities triggered by the investment of HUD funds in a construction project. In many instances, such permanent, temporary, or seasonal workers were not employed by the hiring entity at the time that entity was selected to receive NSP funds or a NSP-funded contract. They may have been laid off between jobs. Therefore, grantees should be clear about the timing of Section 3 hires with their partners. All parties should retain records to document their determination of new hires. Refer to sample “New Hires Report Form” in Appendix 6.

3. Recruit Section 3 Applicants

Since the nature of Section 3 is to employ project area residents if there are any new employment opportunities, recruiting and hiring strategies are typically neighborhood-based. Grantees and their partners can share this responsibility. For construction jobs, signs at the upcoming construction site are typically an effective means of notifying potential applicants of opportunities with general contractors. Housing partners can be especially effective at getting the word out, as well. Additional outreach is needed, however, as the employment goals apply to **all** jobs and contracts for work that is related to a NSP demolition, new construction or rehabilitation project, not only the construction jobs.

Section 3 applicants must also be recruited for management and administrative positions – architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups, as well as jobs directly related to administrative support of this work. Places to advertise to fill these types of positions might include:

- Job fairs
- Faith-based organizations,
- Community centers,
- Related businesses in the neighborhood,
- Social services groups,
- Employment centers, and
- Civic associations.

Section 3 residents should meet the qualifications of the position to be filled, just like other new hires. Grantees and their contractors are not required to employ persons who are not qualified to meet the requirements of the position to be filled. However, if a contractor provides apprenticeships and training opportunities for other new hires, these same opportunities should be provided to the Section 3 residents.

If a contractor is unable to meet the Section 3 hiring goals, it should consider offering alternative economic opportunities as a means for demonstrating that it has met the Section 3 requirements “to the greatest extent feasible.” Under such a program, the grantee puts in place economic opportunities other than training or employment that promote compliance with Section 3 requirements. For example, as part of the effort to meet the 30 percent hiring goal, a grantee can set up a training fund, use “upward mobility” or “bridge” positions to fill vacancies, or start a mentoring program to help residents acquire the needed skills to qualify for certain employment opportunities.

➤ **Practical Tip #4**

- ✓ Conduct local career/business development trainings.
- ✓ Sponsor and participate in job fairs.
- ✓ Develop partnerships with local One-Stop career centers or the Job Opportunities Task Force.
- ✓ Connect with YouthBuild and other apprenticeship programs.
- ✓ Develop strategies for recruiting new hires.

Section 3 Contracting Requirements

Section 3 outreach requirements have significant impacts on a grantee's contracting activities and processes, as well as those of its partners. There are several steps required of the grantee in its implementation of the requirements affecting contracting outreach:

1. Determine Firm Eligibility

The first step in soliciting eligible Section 3 businesses is identifying who is qualified. Section 3 requirements do not describe a specific format, allowing grantees the chance to choose a system that best meets local preferences.

Businesses seeking Section 3 preferences are responsible for documenting their eligibility. Unless the grantee has reason to doubt a firm's eligibility (for instance, as the result of a complaint), it can accept the firm's own certification of eligibility. The grantee must retain the certification for monitoring purposes. The grantee is ultimately responsible for providing this documentation to HUD should it be monitored.

2. Advertise and Make Solicitations to Targeted Audiences

Grantees, subrecipients, developers, and contractors should maintain and solicit lists of qualified Section 3 firms, and make these firms aware of opportunities to bid for NSP-related work in the targeted area. New businesses are created and existing businesses change over time. Every new project and contracting opportunity should be used as an opportunity to recruit new firms to participate, and to update and maintain existing contact lists. Since there is substantial overlap between these lists in most jurisdictions, outreach efforts should be conducted in a coordinated fashion to provide for an efficient use of resources.

➤ Practical Tip #5

- ✓ Establish certification procedures.
- ✓ Maintain lists of certified Section 3 residents.
- ✓ Post Section 3 businesses on your website.
- ✓ Personally notify certified residents and businesses of local NSP activities/contracting opportunities
- ✓ Post Notices.
- ✓ Post Section 3 bid boards on website.
- ✓ Post certified Section 3 businesses on website.

DID YOU KNOW?

That part of the American recovery and Reinvestment Act of 2009 (ARRA) was an introduction to the Work Opportunity Tax Credit (WOTC), a hiring incentive program of the U.S. Department of Labor. This is an employer-friendly benefit for hiring job seekers most in need of employment. Basically an employer qualifies if they hire from among 12 groups of job seekers. These include such groups as:

- TANF recipients
- Veterans
- 18-39 year-old SNAP benefits' recipients
- 18-39 Year-old designated community residents
- 16-17 year-old summer youths
- Vocational rehabilitation referrals
- Ex-felons
- SSI recipients
- Hurricane Katrina employees
- Unemployed veterans
- Disconnected youths

The WOTC reduces an employer's cost of doing business and requires little paperwork, on a 3- step certification process. The amount of tax credits vary by group type but can be as much as \$2,400 - \$9,000 for each new hire.

More information is available at:

<http://www.doleta.gov/business/Incentives/opptax>

Implementation Steps

Certain steps in the implementation process can be streamlined for all Section 3 requirements:

1. Make Contractors Aware of Their Obligations

Grantees must be sure that their housing partners understand the Section 3 requirements, as it is the grantee that is held accountable for meeting these requirements. Grantees should take every opportunity throughout the contracting process to inform potential bidders and selected contractors of their obligations. It is recommended that, at a minimum, these requirements be reviewed at the following stages of the contracting process:

- Bid solicitations and requests for proposals;
- Pre-bid meetings; and
- Pre-construction conferences.

2. Execute a Contract

Once a contractor is selected, the grantee can assist the contractor in identifying and using the services of Section 3 residents and businesses. In addition, all contracts subject to the requirements of Section 3 must include the Section 3 clause verbatim that is contained at 24 CFR 135.38 and provided as Figure 6 on the following page. Generally, the grantee must rely on reports from its partners to document that it is in compliance with Section 3. It is advisable for grantees to include contract language that specifies what reports must be submitted by the contractor, as well as what records the contractor must retain and for how long. The contract should also specify the grantee's remedies in the event that the contractually required reports have not been submitted and the required records have not been maintained in the entity's offices.

IMPORTANT TO NOTE

- ☰ Section 3 Clause is mandatory for all construction contracts. Make sure it is included in all of your contracts.
- ☰ All construction contracts, even those not procured per 24 CFR Part 85, are still subject to Section 3 compliance.

➤ Practical Tip #6

- ✓ Hold mandatory pre-bid hearings/meeting.
- ✓ Hold Section 3 workshops for contractors.
- ✓ Provide copies of your Section 3 Plan and have contractors certify receipt.
- ✓ Include Section 3 Clause in all contracts. Assess hiring and contracting needs at time of contract award.
- ✓ Review payroll date to verify a contractor's need for new hires. Re-hires are considered new hires. Payroll information can be checked at the time of contract award (before final execution or ratification) where appropriate.
- ✓ Match potential Section 3 employees or business with developers/contractors.
- ✓ Ensure developers advertise vacancies per your plan.
- ✓ Make sure the debarred and suspended lists of contractors are checked and documented in the file.
- ✓ Monitor, Monitor & Monitor developers/contractors – establish penalties for noncompliance and/or incentives for good performance.

Figure 6

Section 3 Clause

All Section 3 covered contracts must include the following clause:

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

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

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization of 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 practices can see the notice. The notice shall describe the Section 3 preference, shall set forth a 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 contract 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 subcontract 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 regulation of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

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

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Maintain Records

Two types of records should be kept:

1. Documentation of **efforts** made by the grantee and its housing partners to comply with Section 3. This might include copies of direct mail solicitations, email and internet outreach efforts, formal advertisements, flyers or brochures about meetings, sign-in lists from job fairs and other public meetings, and agendas and/or meeting notes from meetings with contractors.
2. Documentation of **actual** Section 3 hiring and all contracting activity. The section below, Grantee Oversight Responsibilities, provides specific data that should be collected to document performance on meeting Section 3 contracting requirements. This data might be found in the form of reports from contractors, identifying documentation, and copies of executed contracts.

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Chapter 3 - Procurement Requirements and Section 3

The implementation of Section 3 requirements must be conducted in conformance with applicable procurement rules. All procurement transactions carried out by grantees and subrecipients are subject to 24 CFR Part 85 and must be conducted in a manner that provides for and ensures fair and open competition. Developers and contractors, on the other hand, are not subject to the procurement rules of Part 85. Grantees need to make sure agreements with NSP partners are very clear regarding procurement requirements, roles and responsibilities. If an NSP subrecipient has questions about the applicability of 24 CFR Part 85, they should contact their grantee.

Meeting Section 3 Requirements for Grantees and Subrecipients

There are many ways grantees and subrecipients can conduct competitive procurement processes and also comply with the Section 3 requirements. Solicitations should serve to (1) communicate all applicable requirements to potential bidders; and (2) create an open, competitive process through which the bidding agency can select the most responsive bidder.

Selected bidders must be capable of performing the work needed, in conformance with all applicable requirements, including Section 3 requirements. The selection process must be designed to provide grantees with sufficient evidence to make this determination. If a contractor cannot demonstrate an ability to meet these requirements, it should not be selected to perform NSP-funded work. At an absolute minimum, grantees must not enter into any contracts with a contractor upon notification by HUD that the contractor has been in violation of the Section 3 regulations. This could be accomplished by contacting your local HUD FHEO Office to determine if there have been any complaints filed against a contractor or by checking if the contractor is on a debarred or suspended list due to non-compliance issues. In order to communicate applicable Section 3 requirements, grantees and subrecipients should be sure that all contract solicitations clearly state:

- Criteria for determining eligibility as a Section 3 firm, as defined above;
- Grantee's preferences for contracting with Section 3 businesses;
- Selected contractor's hiring and contracting obligations, as they relate to Section 3; and
- Selected contractor's reporting obligations, as they relate to Section 3.

In the context of a sealed bidding process, in order to determine whether or not a contractor is likely to meet the Section 3 requirements, grantees should ask contractors to describe their qualifications in this area as part of the bid submission. Such evidence might include a description of successful past performance with Section 3 firms. Absent a track record in this area, an acceptable plan of action to include these firms should be provided by the contractor. A knowledgeable staff person should review these submissions.

When seeking competitive proposals where selection criteria other than price will also be considered, grantees should, at a minimum, make a determination that a contractor is able to meet the Section 3 requirements. However, grantees may wish to evaluate and compare the quality of these efforts in its ranking of proposals. In these types of solicitations, grantees should request additional information, such as:

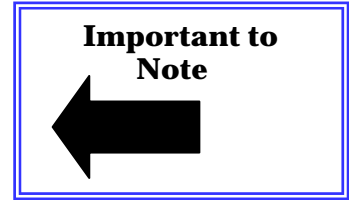
- A description of past performance in the area of Section 3 compliance;
- A description of the contractor's intended efforts to advertise Section 3 firms;
- Specific commitments by the contractor to contract Section 3 firms; and

- A plan to partner with others or structure project activities to facilitate participation by Section 3 firms.

Again, a knowledgeable staff person should review these submissions.

Meeting Section 3 Procurement Requirements for Contractors

Although contractors are not subject to the procurement rules at 24 CFR Part 85, they must comply with Section 3 rules. This means that even if a contractor does not publicly bid out contracts, it must, to the maximum extent possible, make every effort to publicize and maximize contracting opportunities in order to ensure participation by Section 3 firms. With regard to Section 3 compliance, the grantee can implement other economic opportunities to establish, stabilize, or expand Section 3 businesses.



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Chapter 4 - Grantee Oversight Responsibilities

The grantee must comply with Section 3 in its own operations, and ensure compliance with these requirements by its housing partners. In order to meet these requirements and goals, grantees need to have a system in place to collect appropriate data and submit annual reports to HUD, monitor activities and record-keeping by their partners to ensure they are in compliance with the economic opportunity requirements, and investigate any complaints related to hiring and contracting activity.

Data Collection and Reporting

Section 3

Grantees are required to submit data annually to HUD that documents all Section 3 activities undertaken by themselves and their housing partners. Section 3 data is captured on the Section 3 Summary Report (Form HUD-60002).

FHEO no longer accepts the paper form. Grantees are required to complete and submit an online form to HUD with the Consolidated Annual Performance and Evaluation Report (CAPER). This form must be completed online at: <http://www.hud.gov/offices/adm/hudclips/forms/files/60002.pdf>

If an organization is not required to submit CAPER report, then the Annual Summary Report must be completed online by January 10 of each year or within 10 days of project completion. To facilitate completion of these annual reports, grantee managers should become familiar with the data collection and reporting requirements and review progress reports on a regular basis to monitor the grantee's progress in meeting these goals.




Vicinity Hiring Preference

At this time there is no specific reporting requirement under the NSP3 program for capturing success in meeting hiring goals in targeted areas. HUD's guidance is that a detailed description of activities taken to demonstrate a "good faith effort" to meet the intent of the law should be included in the narrative section of the Section 3 Annual Summary Report (Form HUD-60002).

A grantee may wish to create a form that allows for the collection of data for New Hires under NSP3 for Vicinity Hiring Preference such as the example provided in Appendix 7.

Figure 7

List of Data Needed to Monitor Progress and Meet Reporting Requirements

-  By Project/Activity and location, each contract and subcontract awarded:
 - To whom the contract was awarded
 - Company name
 - Address
 - Trade
-  Determination of eligibility as Section 3 firm
 - Who made determination?
 - When?
 - Award date
 - Contract value
 - Trade or profession
 - Employee data
 - List of new hires
 - Address
 - Eligibility as low-income or very low-income
-  List of all subcontracts, if applicable

Chapter 5 - Compliance and Monitoring

Grantees are responsible for maintaining documentation to demonstrate their compliance with the Section 3 requirements. In addition to the files that will substantiate the data collected in the reports, grantees should maintain a copy of their Section 3 Plan (policies and procedures) and any documentation that demonstrates program implementation. In order to ensure compliance by their housing partners, grantees should periodically monitor their activities and performance. The monitoring should include an evaluation of:

- Actual hiring, in relation to goals;
- Actual contracting (in terms of numbers of contracts and contract value), in relation to goals; and
- Efforts to meet the requirements.

If reporting is done consistently and accurately, review and analysis of the submitted data should give the grantee a good picture of the status of its partners' compliance with the Section 3 requirements. When determining which of its partners might benefit most from an onsite visit, a grantee should consider:

- Whether the housing partner is meeting the Section 3 goals;
- Whether the dollar amount of the contract exceeds Section 3 threshold requirements;
- Whether the contract is likely to generate jobs or business contract opportunities; and
- Whether or not complaints against the contractor have been raised.

A tool for ensuring compliance with Section 3 is the CPD Monitoring Handbook, Chapter 22 – Fair Housing and Equal Opportunities (FHEO) Exhibit 22-7, which can be found online at: <http://www.hud.gov/offices/cpd/library/monitoring/pdf/22-7.pdf>. A version of the form adapted for the NSP program can be found in Appendix 9.

Corrective Action

HUD will review the grantee's performance in these areas as part of its monitoring of NSP activities and data collected from the Annual Summary Report. Instances of noncompliance will be addressed in the context of standard monitoring procedures: grantees will be given an opportunity to respond to findings or concerns identified by HUD, and will be expected to take corrective action as needed. In the event the grantee has evidence that a housing partner has not met the Section 3 requirements, it is expected that the grantee will pursue appropriate remedies. In addition, the grantee has the responsibility to refer the possible noncompliance with Section 3 to HUD's Fair Housing and Equal Opportunity Office, Economic Opportunity Division for further review.

➤ Practical Tip #7

- ✓ Maintain records of notification of recruiting efforts, copies of vacancy announcements.
- ✓ Participate in local events.
- ✓ Develop comprehensive signed contracts.
- ✓ Impose penalties.
- ✓ Produce outcomes.

Chapter 6 - Best Practices

The following are examples of administrative efforts at managing and supporting Section 3 activities at the small city, large city, and State levels:

Valdosta, Georgia – Ms. Sabrina Riley-Randolph

In developing a compliant Section 3 program for the City of Valdosta, GA, Ms. Riley-Randolph first attended a HUD-sponsored training. With information acquired at the training, she developed a five-step process to ensure the City's compliance with Section 3 rules and regulations:

1. Be familiar with Section 3 rules and regulations. Ms. Riley-Randolph felt it would be extremely difficult to have an organized approach to Section 3 program implementation without written and adopted Section 3 policies and procedures. She created guidance outlining the Section 3 requirements for Valdosta's program partners, as well as working to ensure that the Plan had a policy in place to enforce Section 3 requirements.
2. Meet with the local government departments and divisions that will partner in the Section 3 Plan implementation. Examples: Engineering, Purchasing, Grants Administrator, NSP Coordinator, CDBG Coordinator, Economic Development Coordinator, etc.
3. Determine which organizations and agencies outside the City departments will need to partner with the City and meet with non-City program partners. In Valdosta, it was important to partner with an agency that could focus on job training and economic development concerns, leading Valdosta to work with Wiregrass Technical College. Additionally, the City met with a local development agency. The City of Valdosta now has working Memorandums of Understanding with both groups for a work-ready program where participants not only receive job skills training and earn a certification in their field, but can also complete GED requirements, if needed.
4. Devise a Plan of Action. This is an opportunity for the City to divide priority areas into manageable pieces that can be implemented in sections. This proved successful in Valdosta, as the City was able to accommodate and engage with program participants on a smaller scale. Additionally, the City felt that working with smaller groups allowed them to better handle the amount of certification paperwork requiring processing.

Whenever possible, use Section 3 Businesses. The City has a Valdosta Small Emerging Business Program that assists small businesses in identifying bidding opportunities. This group has partnered with Valdosta and helps companies become certified as Section 3 Businesses, allowing the City more opportunities to contract with Section 3 Businesses. The City keeps a list of all certified Section 3 Businesses and Section 3 Residents who are available to be hired by businesses bidding on contracts.

State of Michigan - Michigan State Housing Development Agency (MSHDA) – Mr. Guy Stockard

The State has a unique opportunity to implement Section 3 aims as the recipient of \$224 million of NSP2 consortium funding, the single largest award in the nation. The funds launched what the State refers to as the “New Michigan Urban Neighborhood Strategy.” It is a strategy integrating planning, targeted demolition and rehabilitation, and critical land assemblage in neighborhoods ready for new market opportunities in twelve of the state's largest municipalities. MSHDA is the lead entity of the consortium. As such, MSHDA is responsible for compliance with all HUD regulations, including Section 3. This allows MSHDA to provide leadership to the twelve municipalities and to create a forum for all to share ideas and best practices. Over the past year, MSHDA has provided technical assistance and tools to help the consortium members ensure successful compliance with their Section 3 programs.

Since the launch of the New Michigan Urban Neighborhood Strategy, MSHDA has hosted four consortium-wide Section 3 technical assistance training sessions to offer attendees clarification Section 3 rules and requirements. The main goals of these sessions are to: 1) provide tools, i.e., templates and forms, to successfully implement Section 3 goals; 2) share best practices; and 3) foster cooperation with the goal of statewide continuity in Section 3 implementation. The first training session provided a brief introductory overview of the basics. The second session was more in-depth, covering the history of the law, the regulations, and providing an opportunity to have questions answered. During the third session, specific recipient responsibilities were outlined, and tools, templates, and form documents were shared to assist with implementation. In the last session, two consortium member communities were represented on a panel, and had the opportunity to share their experiences. Compliance reviews were also covered, with an actual case study as an example.

MSHDA believes that the NSP funding has afforded the State a unique opportunity to work collectively to provide targeted economic opportunities to communities served. In addition to the training sessions, staff is working with communities one-on-one to develop relationships both within the community and with partners such as PHAs, the County, and workforce development agencies known as “Michigan Works” offices. Successful results have been felt around the State, with much creativity in implementation, and a feeling of local ownership over the Section 3 program. MSHDA believes that a large part of this success is a result of each participant developing their own Section 3 Plan that is reviewed by MSHDA as part of the monitoring for compliance process.

Washington, DC – Ms. Lesley Edmond, J.D.

DHCD’s Section 3 Program utilizes a multi-pronged approach to ensure the compliance of its recipients and their contractors. DHCD reviews all housing construction, housing rehabilitation, and public construction projects, requesting clearance from the Office of Program Monitoring (in DHCD) for Section 3 applicability. Recipients of funds for Section 3 covered projects are required to submit a plan (Section 3 Opportunities Plan) detailing their project’s Section 3 goals and the activities they will undertake to achieve these goals prior to receipt of the agency’s funds. Setting specific goals is the first prong of DHCD’s Section 3 compliance approach. Additionally, covered contractors are required to submit plans detailing their Section 3 goals. These projects are then monitored for compliance. Monitoring includes site visits, reviews of documents, and quarterly reporting.

Education is the second prong of DHCD's compliance approach; DHCD conducts a mandatory annual training on Section 3 policies and procedures for recipients and certified Section 3 Businesses. Additionally, general contractors, local businesses, community groups, YouthBuild organizations, and representatives from the City's Housing Authority are usually in attendance. Partners in DHCD's Section 3 efforts from the District of Columbia Housing Authority, including the Resident Services Manager and Section 3 Compliance Coordinator, are introduced and given an opportunity to discuss their programs. Additionally, YouthBuild representatives and certified Section 3 Businesses are also present. This training is designed as a refresher on agency policy and procedure but also appraises non-recipients on the Section 3 program and opportunities.

The third prong of DHCD's compliance approach is Section 3 Business Concern certification. The certification was designed to facilitate compliance with Section 3 among DHCD recipients and their contractors by providing a list of registered contractors that meet the definition of Section 3 in the regulations. The certification is an application process that requires any business wishing to receive the preferences available to businesses under 24 CFR §135.36 to submit an application with supporting documentation. This approach limits the opportunity for recipients and their contractors to assert that Section 3 Businesses are not available or that there are not any bona fide Section 3 Businesses with which they can contract. It additionally limits the ability of contractors to superficially assert that they are Section 3 Businesses. DHCD annually provides an orientation on the Section 3 Business Concern certification. The orientation targets local businesses, small business assistance groups, minority contractor groups, frequent contractors on agency projects, and Certified Business Enterprises to apprise them of Section 3 related opportunities at the agency and DHCD policy.

Lastly, the fourth prong of the agency's approach is policy. DHCD has an Administrative Issuance (policy document) that applies Section 3 not only to HUD funded projects but to all projects at DHCD using District funds for housing construction, housing rehabilitation, and public construction. Furthermore, DHCD applies Section 3 to all projects over \$100,000. This policy provides more economic opportunities to District residents than if Section 3 were applied to HUD funded projects alone.

Westminster, Colorado - Community Resources and Housing Development Corporation – Ms. Rebecca Wiener

Introduction

Community Resource and Housing Development Corporation (CRHDC) received twelve million dollars in NSP funds in February of 2010 in order to rehab, resell, and lease one hundred and twenty foreclosed homes in the North Denver Metro Area and the San Luis Valley in Colorado. The targeted areas selected by CRHDC for NSP2 funds have been seriously impacted by both foreclosures and the decline in economy. In order to implement any substantial change in the quality of life within these targeted neighborhoods, it is imperative that the rehab work on these homes is not handled entirely by an outside labor force especially when the next-door neighbors are often unemployed or under employed contractors or construction workers. The Section 3 requirement of this program provides incentive to hire locals to provide labor for rehabilitation projects in hopes that future employment opportunities can be secured and improve the economic viability within the targeted areas. As an organization, CRHDC has promoted their Section 3 program and are committed to making it a success.

CRHDC's NSP Program

The CRHDC development team bids out individual properties (usually in groups of three) to independent general contractors who have had prior experience working with other non-profits and the Neighborhood Stabilization Program. Rehabilitation budgets for individual properties are typically between \$17,000 and \$80,000, putting contractors under the \$100,000 contractor/subcontractor Section 3 threshold. Although CRHDC has made a conscious effort to hire Section 3 qualified employees directly, most of the actual employment opportunities are found through the general contractors and subcontractors who are working on the properties. Accordingly, the responsibility and ability to hire Section 3 employees and certified Section 3 businesses often falls to them.

Goals, Strategies, and Results

Goal #1 - Making sure that all general contractors are aware of the Section 3 requirements of the NSP program and ensuring that they are willing to participate to "the greatest extent feasible."

Strategies

- All contractors are notified about the Section 3 requirements during the pre-qualification interview session and are asked whether they would be willing to participate in this program. They are asked to discuss their previous experience with the program and how they are planning on helping CRHDC meet our Section 3 objectives. Their answers to these questions are scored and considered in the vetting process to select which contractors will be chosen to participate in our program.
- A Section 3 guidebook is handed out during pre-construction meeting. Contractors are asked to read through the packet and sign a number of Section 3 forms that ensure their participation to "the greatest extent feasible"
- The Section 3 requirements and obligations are included in the general construction contract

Results: Awareness of the CRHDC Section 3 program; it is discussed at least three times before construction begins. Contractors are required to sign onto our Section 3 plan and policy and understand that we will remove them from the program if they do not participate to "the greatest extent feasible." On the other hand we are aware that by using smaller contractors (because it is more cost effective), the hiring opportunities will be somewhat limited. As the program has progressed it has become obvious that although all of the participating contractors are aware of the program, some are more willing to participate than others.

Goal #2 - Keeping track of all of the contractors new hires and their outreach efforts and rewarding those who make an extra effort to hire Section 3 residents and qualified businesses.

Strategies

- First have the contractors specify how many people are employed by their company (and their subcontractors' companies) during the pre-construction meeting. Second, ask them to certify as to how these employees could be considered new hires and qualify as new Section 3 hires.

- Require that a Section 3 compliance form be submitted with each draw request. This form outlines the number of new hires during the period since the last draw, how many openings they predict they will have in the future, and what outreach efforts they have made during this time. Contractors will not be paid until this form is submitted.
- Ensure that contractors who make a significant effort to hire Section 3 employees are awarded bids.

Results: It is obvious that some contractors are willing to make an effort from the beginning and some are not. At CRHDC we have made it our policy that we will favor contractors who actively participate in our program. So far, we have had Section 3 hiring success with a few companies. We hope that when the disinterested contractors start losing bids to other companies who have fulfilled their Section 3 obligations it will change their attitude about the program and will encourage them to seek out their own Section 3 hiring opportunities.

Goal #3 - Figuring out how to encourage contractors to hire new employees in this economy and finding other ways for them to participate in the CRHDC Section 3 program if they cannot justify taking on additional employees.

Strategies

- Promise contractors that if they make a significant effort to comply with the Section 3 requirement we can guarantee that we will award bids to them even if it comes in marginally higher so that they can afford to keep a new employee on their payroll.
- The HUD YouthBuild program needs contractors to participate in their job shadowing and mock interview programs. All contractors are encouraged to seek out this kind of opportunity.

Results: Overall this has been the most complicated issue for the CRHDC Section 3 program. As much as the general contractors would like to help with the hiring requirements, most of them do not have the capacity to hire additional employees. As an organization CRHDC cannot force these contractors to over extend themselves so much that they are not making a living, especially since they are bidding on projects competitively. CRHDC is committed to assisting with the Section 3 hiring process for those who are interested and able to hire additional employees, and are working to figure out other options for contractors who are willing to participate but are not able to take on additional employees.

Goal #4 - Finding an applicant pool of Section 3 qualified potential job candidates that live within the program's target areas.

Strategies

- Contractors are required to sign the CRHDC First Source Agreement as part of their Section 3 paperwork during the pre-construction agreement. This agreement specifies that if a contractor has a job opening during the time of construction they must notify the CRHDC Section 3 coordinator prior to interviewing or hiring. The Section 3 coordinator will find possible applicants for this open position and the contractor will be obligated to interview these candidates and document these conversations,

- Working with the Colorado office of the YouthBuild program to find eligible job applicants to fill vacant positions within the contractors companies.

Results: CRHDC reached out to the local unemployment offices in the Denver Metro Area. These efforts were unsuccessful because the job openings with our contractors are sporadic and the unemployment agencies do not advertise employment opportunities that are not currently available. Also there are no selection criteria for who can apply for the advertised jobs. The Denver office of the YouthBuild program has an abundance of graduates from their program and they are willing to help match qualified graduates to CRHDC contractor's needs. This streamlines the job search process and eliminates the need for the CRHDC Section 3 coordinator to facilitate this process and ensures that the contractors are receiving the high quality candidates that meet their needs. At this time no YouthBuild graduates have been hired by our contractors, however two companies have been interviewing candidates from this program and are planning on hiring a YouthBuild graduate in the future.

Goal #5 - Figuring out how it might be possible for CRHDC to hire additional Section 3 residents and businesses directly.

Strategies

- Certifying all of the CRHDC NSP employees that have been hired specifically for this program that qualify as Section 3 residents.
- Attempting to form a subsidiary company that will hire all of CRHDC's Section 3 new hires and cover them with a workman's compensation and liability insurance policy
- Hiring Section 3 qualified businesses for yard maintenance and property monitoring






Results: There are many possibilities for CRHDC to take on additional employees that are Section 3 qualified however; there are issues with workman's compensation requirements. We are hoping to start a subsidiary company that can hire these employees and cover them with these policies. Until this is set up we have added a property monitor to the CRHDC staff and are contracting with Section 3 businesses for our lawn and yard maintenance services.

Tips for Overcoming Obstacles and Additional Resources

Figure 8 highlights some of the Section 3 obstacles from attendees of the 2010-2011 NSP Clinics held through-out the country:

Figure 8

Tips for Overcoming Obstacles

-  **Our contractors say that Section 3 requirements are complicated.**
 - Try: Review the Section 3 requirements for each contract during the preconstruction conference. Set clear numeric goals based on the actual contract amount and number of new hires anticipated. Put this in writing.
-  **Our contractors do not take Section 3 seriously.**
 - Try: Require a Section 3 report in order to release a final draw retainage payment. For larger contracts, require a Section 3 progress report with each draw request.
-  **Our contractors are small businesses and use the same crew for all their work. They say they do not have new hires.**
 - Try: New hires are any employees who are added to the payroll full-time to work on a contract. That means if a crew member was inactive or laid-off before the NSP funded work began, then that person is a new hire and Section 3 requirements apply.
-  **Our Section 3 program has not resulted in any Section 3 contracts or new hires.**
 - Try: Partner with a workforce program, housing authority, minority business program, small business incubator, contractor training program, community college, etc., that serves residents of your area.
 - Try: Start a pilot program the first year, then build the program over time.
 - Try: Conduct training for contractors who want to work in your target areas. Have the partner make a presentation to contractors about training opportunities.
-  **In our rural county, we are working with Section 3 Businesses and Residents from other areas.**
 - Try: First preference must go to those in your area, then to Section 3 businesses and residents from other areas.

Additional Resources

Section 3 related documents can be found on the NSP Resource Exchange. Go to the Advanced Search (<http://hudnsphelp.info/index.cfm?do=advSearch>) and enter Employment Opportunities (Section 3) as a topic.

Regulations governing NSP can be found On the NSP Resource Exchange at: <http://hudnsphelp.info/index.cfm>. From this site, one can access the statute, regulations, technical guidance, training opportunities, and a wealth of resources for NSP.

The regulations governing Section 3 can be found at 24 CFR Part 135. These regulations can be accessed through the Government Printing Office website at: <http://www.gpoaccess.gov/cfr/index.html>.

The HUD website for economic opportunities can be found at: www.hud.gov/offices/fheo/section3/section3.cfm. This site includes a link to a data collection summary form that can be submitted online by recipients.

Appendices

Appendix 1 - Applicability Thresholds for Section 3

24 CFR 135.3(a)(3)(ii) – Applicability thresholds for Section 3 covered housing and community development assistance.

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

1.	<p>Are you the recipient of housing and community development assistance?</p> <ul style="list-style-type: none"> • 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, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors. (24 CFR 135.5) • Housing and community development assistance – any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty 	<p>If YES, then proceed to question 2.</p>	<p>If NO, then refer to 24 CFR part 135 for applicability of Section 3 to other HUD programs.</p>
2.	<p>Will the assistance be expended on work arising in connection with section 3 covered project(s)?</p> <ul style="list-style-type: none"> • Section 3 covered project – 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. 	<p>If YES, then proceed to question 3.</p>	<p>If NO, then Section 3 requirements do not apply.</p>

3.	Will the amount of the assistance for the Section 3 covered project(s) exceed \$200,000?	If YES , then the Section 3 requirements apply to the training, employment, and contracting activities of the grantee or subgrantee. Proceed to questions below to determine applicability to contracts and subcontracts.	If NO , then Section 3 requirements do not apply.
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(B) **Contractor and subcontractor thresholds.** The requirements of this part apply to contractors and subcontractors performing work on Section 3 covered projects(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

1.	Are you a contractor or subcontractor performing work on a Section 3 covered project(s)?	If YES , then proceed to question 2.	If NO , then Section 3 does not apply.
2.	Does the amount of the assistance for the Section 3 covered project(s) exceed \$200,000 <u>AND</u> the contract or subcontract exceed \$100,000?	If YES , then Section 3 applies to the contract and subcontract, even if the contract or subcontract is privately funded. See 24 CFR 135.3(b) below.	If NO , then Section 3 does not apply to the contract or subcontract but does apply to the grantee or subgrantee. See below.

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

1.	<p>Are you the recipient of Section 3 covered housing or community development assistance in excess of \$200,000?</p> <ul style="list-style-type: none"> • Section 3 covered assistance - ...(4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with: (i) housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement); (ii) housing construction; or (iii) other public construction project (which includes other buildings or improvements, regardless of ownership). 	<p>If YES, then the Section 3 requirements apply to the training, employment, and contracting activities of the grantee or subgrantee.</p>	<p>If NO, then Section 3 does not apply.</p>
2.	<p>Are there contracts or subcontracts for work arising in connection with the Section 3 covered assistance in excess of \$100,000?</p>	<p>If YES, then the Section 3 requirements apply to all contracts and subcontracts in excess of \$100,000, regardless of funding source, as well. See 24 CFR 135.3(b) below.</p>	<p>If NO, then Section 3 does not apply to the contract or subcontract but does apply to the grantee or subgrantee.</p>

24 CFR 135.3(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.

Appendix 2 - Section 3 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 Authority (HA) – Public Housing Agency.

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.

YouthBuild Programs – grants awarded by the U.S. Department of Labor's Employment and Training Administration (ETA) since Fiscal Year 2007 and that were originally funded by the U.S. Department of Housing and Urban Development under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and that 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.

JTPA – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

Low-income person – families (including single persons) whose incomes do not exceed 80 per centum 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 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.

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

Neighborhood area – (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 570.204I (1).

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 – 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 –

- 1) 51 percent or more owned by Section 3 residents; or
- 2) 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
- 3) 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 –

- 1) Public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with 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.

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 Joint Venture – See Sec. 135.40.

Section 3 Resident –

- (1) A public housing resident; or
- (2) An individual who resides in the metropolitan area or nonmetropolitan County in which the Section 3 covered assistance is expended, and who is:
 - (i) A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families; or
 - (ii) A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that 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.

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.

Appendix 3 - Examples of Efforts to Offer Training Appendix to Part 135

I. Examples of efforts to Offer training and employment Opportunities to Section 3 Residents

- (1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- (3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 residents in the building trades.
- (4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in §135.34) reside.
- (5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.
- (6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- (7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
- (8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.
- (9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
- (10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.

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

(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

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

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(15) For an HA, employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in H.U.O.'s Indian housing regulations. See 24 CFR 905.102, and §905.201 (a)(6).)

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

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

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

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a 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.

II. Examples of effort to Award Contracts to Section 3 Business Concerns

(1) Utilizing procurement procedures for Section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

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

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in

identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.

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

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

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

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

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

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

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

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

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

(13) Contacting agencies administering YouthBuild programs, and notifying these agencies of the contracting opportunities.

(14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Developing a list of eligible Section 3 business concerns.

(16) For HAs, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR Part 963.

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

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

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

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

(21) Actively supporting joint ventures with Section 3 business concerns.

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

Appendix 4 - 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 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 _____ (will be verified)

FY 2011 - HOUSEHOLD INCOME GUIDELINES

Place a Check on the line that is applicable	Family Size	Low Income*
	1	
	2	
	3	
	4	
	5	
	6	
	7	
	8	

*Circle the appropriate column based on household size and income – local income limits can be located online at: http://www.huduser.org/portal/datasets/il/il10/IncomeLimits_Section8.pdf

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

**Appendix 5 - 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:

<p>_____ Business is owned, at least 51% by Section 3 Residents.</p> <ul style="list-style-type: none">• Provide copy of resident lease, evidence of participation in a public assistance program, or signed Certification for Section 3 Resident• Provide business license number _____
<p>_____ At least 30% of their permanent, full-time employees are currently Section 3 Residents or were Section 3 Residents within the past 3 years.</p> <ul style="list-style-type: none">• Provide List of Full-time Employees (Form 2)• Provide signed Certification for Section 3 Residents (Form 3)
<p>_____ Commitment to subcontract 25% of the dollar award to qualified Section 3 Business Concerns. (Only applicable for Prime Contractors)</p>

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.

Owner Signature Date

Print

Appendix 6 - Sample New Hires Report

1. Organization Name:	0
2. Location:	0
3.a. Contact Name:	0
3.b. Contact Phone Number:	0

Project Name:	0		
4. Reporting Period:	1/0/00	to	1/0/00
5. Program Code:	0		
6. Date Submitted:	1/0/1900		
7. Contract Amount:	\$0.00		

Position Description 8a.	Name of Person 8b.	New Hire? Y/N 8c.	Fill Existing Position? Y/N 8d.	Section 3 Resident Hired? (see 2 below) Y/N 8e.	Section 3 Resident Worksheet Completed 8f.	Date Filled 8g.	Hours worked during report period 8h.

1. List all positions expected to be filled (including existing employees) during the period of the Section 3 project or program

2. Indicate "yes" or "no" here and explain on another sheet any changes from previously filed reports, e.g., a position which had been targeted for Section 3 was not filled with Section 3 resident; a new position was not filled, etc.

This information is true and correct to the best of my knowledge.
 Certified this _____ day of _____ by _____
(date) (month, year) (signature)
 Name and Title of certifying officer: _____

Appendix 7 - Sample New Hires Report for NSP3 - Vicinity Hiring Preference

NEW HIRES (includes workers who have worked with the contractor in the recent past but did not continue to work for the contractor since the last job.)

This form is distributed to the General Contractor (GC) at the Pre-Construction Meeting.
GC is also required to provide this form to any subcontractors they hire for this project with contracts over \$100,000.

Firm Name:
Project No:
Project Name:
Project Address:

Month of: _____ From: _____ To: _____

Review the information below and check all that apply for the pay period shown above:

- ___ We have not hired any new employees.
- ___ We have hired ___ employees that live within the NSP3 Target Area Vicinity.
- ___ We have hired ___ employees who meet Section 3 criteria.*(see next page for definition)
- ___ We have hired ___ employees who do not meet Non-Section 3 criteria.

We have taken one or more of the following recruitment steps to hire employees who live within the target area vicinity or who meet Section 3 criteria: (check all that apply)

- ___ We have advertised to fill vacancy(ies) at the site(s), where work is taking place, in connection with this project.

- ___ Place signs or posters in prominent places within the target area vicinity.
- ___ Taken photographs of the above item to document that the above step was carried out
- ___ Distribute employment flyers in locations accessible to NSP3 vicinity residents.
- ___ Post employment flyers in various locations within the NSP3 vicinity area.
- ___ Kept a log of all applicants and indicated the reasons why NSP3 Target Area Vicinity residents and/or Section 3 residents who applied were not hired___ Retain copies of any employment applications completed by NSP3 Target Area Vicinity residents.
- ___ Requested training on NSP3 Vicinity Hiring and Section 3 employment requirements

Print Name and Title

Contractor

Date

Signature

FOR THE WEEK OF: _____ (Date)

Name of New Hire	Home Address	Low Income: YES or NO	Hired: YES or NO

* Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

- A “section 3 resident” is: 1) a public housing resident; or 2) a low income person residing in the covered area assistance is expended.
- Section 3 business concerns are businesses that can provide evidence that they meet one of the following:
 - 51 percent or more owned by Section 3 residents; or
 - At least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; **or**
 - Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two bullets.

Print Name and Title

Contractor

Date

Signature

Appendix 8 - General Section 3 Instructions for Developers, General Contractors & Subcontractors

(Example from Washington, DC - Department of Housing and Community Development Program)

Section 3 requires DHCD funding recipients to ensure that employment and other economic and business opportunities generated by HUD and DHCD financial assistance, to the greatest extent feasible, be directed to low-income and very-low income persons, and business concerns that provide economic opportunities to low-income and very-low income persons. Section 3 requires preferences in the hiring and awarding of contracts in HUD funded community development projects (section 3 covered projects). HUD has published regulations regarding Section 3 at Title 24 CFR part 135.

Section 3 threshold

Recipients of HUD and DHCD housing and community and development assistance, exceeding \$200,000.00 for housing rehabilitation, housing construction and other public construction are subject to Section 3's requirements to provide employment, training and contracting opportunities.

Section 3 threshold for DHCD's recipients

Section 3 is applicable not only to DHCD contracts, grants or loans but also to subcontracts over **\$100,000** in connection with projects and activities funded, in part or in whole, with Section 3 funds of **\$200,000** or more. As a result Section 3 requirements flow down from DHCD as a recipient to DHCD's funding recipients: developers, and their recipients: general contractors and subcontractors.

Section 3 requires that recipients of funds covered by Section 3 must comply by either hiring Section 3 residents as new hires or contracting work with Section 3 business concerns. Recipients, such as developers that do not engage in training or hiring but in the award of contracts to prime contractors that will perform training, hiring and subcontracting must ensure that their Section 3 obligations are being fulfilled to the greatest extent feasible. DHCD will not contract or award funds to any business that has been debarred, and or sanctioned as a result of Section 3 violations.

How to comply with Section 3

Subcontractors are required to fulfill Section 3 requirements just as prime contractors and developers are at DHCD. Subcontractors are to the greatest extent feasible attempt to either 1) employ or train Section 3 residents or 2) award ten percent (10%) of the total dollar amount of their contracts for building trades work and three percent (3%) of other contracts to certified Section 3 business concerns. Below is a discussion of requirements to fulfill Section 3:

Section 3 Program Certification

All applicants and recipients of DHCD funds must submit a **Section 3 Program Certification** that they will comply with the requirements of Section 3 (24 CFR §135.9). A fillable form that you may use is posted at <http://sites.google.com/site/dhcdsection3/Home/section-3-documents-forms>.

Section 3 Opportunities Plan

A **Section 3 Opportunities Plan (SOP)** must be submitted to DHCD and approved **prior** to the closing of a grant/loan for any Section 3 covered project. The plan must include the actions that will be taken to comply with Section 3. Preliminary Section 3 Opportunities Plans should be submitted to DHCD as soon as possible. DHCD may reject a plan and request additional information and or request changes be made to the Section 3 Opportunities Plan. A fill-able form that you may use is posted here:

<http://sites.google.com/site/dhcdsection3/Home/section-3-documents-forms>.

Section 3 Opportunities Plans may be amended at any time after approval if necessary to ensure compliance. Recipients must maintain documentation of activities and outreach attempts. Please contact DHCD at the number below to obtain a Section 3 Opportunities Plan.

Section 3 Clause

All contracts with contractors and subcontractors for Section 3 covered projects must contain the Section 3 contract clause in the contracts of its contractors and subcontractors. Contractors agree not to subcontract with any subcontractor where the contractor has notice or knowledge that a subcontractor has been found in violation of the 24 CFR part 135. The HUD mandated Section 3 language ("Section 3 Clause") may be found at 24 CFR §135.38. A fill-able form that you may use is posted here: <http://sites.google.com/site/dhcdsection3/Home/section-3-documents-forms>.

Notice of Commitment

A notice of your commitment to comply with Section 3 must be posted on the worksite when you start your Section 3 Plan. For more information on the requirements of the notice see 24 CFR 135.38. A fill-able form that you may use is posted here:

<http://sites.google.com/site/dhcdsection3/Home/section-3-documents-forms>

Monitoring

DHCD will monitor all Section 3 recipients and subrecipients. DHCD may review developer, contractor, and subcontractor Section 3 Opportunity Plans; selected contracts; reviews of payrolls and other supportive documentation; and conduct on-site interviews of workers, contractors and subcontractors.

Reporting

Recipients must submit **quarterly** reports regarding their Section 3 activities on the Section 3 Contractor Subcontractor Activity Form. Reports are due on the fifteenth day of the month following the end of a quarter. Recipients are required to submit to DHCD a **final** Section 3 report within five days of project completion. The reporting document will be posted in the future on the Section 3 Documents & Forms page. Click here to see the reporting schedule.

Complaints

DHCD will conduct inquiries into allegations of the violation of Section 3. Possible violations will promptly be referred to HUD, the Office of the Assistant Secretary of Fair Housing and Equal Opportunity. If you need to contact HUD or need more information please visit <http://www.hud.gov/offices/fheo/section3/section3.cfm>.

Appendix 9 - FHEO - Section 3 Monitoring Checklist

Guide for Review of Section 3 of the Housing and Urban Development Act of 1968			
Name of Program Participant:			
Staff Consulted:			
Name of Grant Program(s) Reviewed:			
Name(s) of Reviewer(s):		Date:	

NOTE: All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the participant's program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "**finding**."

Instructions: This Exhibit is designed to examine the program participant's records to determine the following:

- If the program participant implemented procedures to notify Section 3 residents and business concerns about employment, training, and contracting opportunities generated by its agency or covered contractors;
- If the program participant notified covered contractors and subrecipients about their responsibilities pursuant to Section 3;
- If the Section 3 Clause is included in covered contracts;
- If the program participant monitored its covered contractors for compliance with Section 3 and imposed penalties for noncompliance as appropriate;
- If the program participant or its contractors met the minimum numerical goals for employment and contracting opportunities;
- If an explanation was provided by program participants that failed to meet the minimum numerical goals for Section 3;
- If the annual Section 3 reporting requirements were met on a timely basis;

This Exhibit is divided into six sections: Program Participant Responsibilities; Use of Section 3 Residents as Trainees; Use of Section 3 Residents as Employees; Contracts Awarded to Section 3 Business Concerns; Procurement Procedures; and Reporting and Recordkeeping. (See Section 22-5 of the introduction to this Chapter.)

The HUD reviewer is to respond to these questions by reviewing covered contracts and conducting interviews of program participant/subrecipient staff. Failure to maintain records is an indication of noncompliance with the record keeping requirements found at 24 CFR 135.92.

The CPD reviewer must complete this checklist; the checklist may not be forwarded or given to the program participant to complete on its own. * When possible, any supporting materials provided as evidence of compliance (or noncompliance) with Section 3 shall be copied and retained in the official monitoring files and forwarded to FHEO for further action. This documentation must come from appropriate documents and be described in detail. Saying that the documentation came from the program participants' own monitoring procedures or data forms, with no specification of what those procedures are, is not sufficient. Documentation based on "employee interviews" or by stating that issues with subrecipients are handled by "contract language" with the subrecipient is also not sufficient.

All Section 3 reporting must be done on form HUD-60002. Data in the format of the CAPER narrative, IDIS, a program participant statement, or contract language is not a legitimate substitute, although data from these sources can be used to develop or complement the required data.

Copies of this completed checklist must be submitted to the FHEO Economic Opportunity Division in Headquarters and the appropriate FHEO field/regional office.

Questions:

A. PROGRAM PARTICIPANT RESPONSIBILITIES

1.

[OS] For the time period reviewed, did the program participant's records include written procedures governing:			
(a) How Section 3 residents are to be notified about employment and training opportunities generated by program participant or its contractors as a result of the expenditure of covered financial assistance? [24CFR 135.32 (a)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) How Section 3 business concerns are to be notified about contracting (or subcontracting) opportunities generated by the program participant or its contractors involving covered financial assistance? [24 CFR 135.32 (a)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) How potential contractors for covered projects or subrecipients of covered funds are to be notified about their requirements pursuant to Section 3? [24 CFR 135.32(b) and 24 CFR 135.32(f)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) How covered contractors and subrecipients are to be monitored for compliance with the requirements of Section 3? [24 CFR 135.32(d) and 24 CFR 135.32(f)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(e) Steps taken by the program participant to facilitate meeting the minimum numerical goals for employment and contracting opportunities? [24 CFR 135.32(c)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A

* Asking the program participant to complete all, or part, of this Form is a violation of OMB requirements

(f) Did the program participant provide evidence and/or documentation of the procedures described above?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Describe Basis for Conclusion:			

B. USE OF SECTION 3 RESIDENTS AS TRAINEES

2.

[OS] For the time period reviewed, did the program participant's records indicate:			
(a) The total number of training positions generated by the program participant or its contractors? [24 CFR 135.34(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The number of training positions generated by the program participant or its contractors identified above that was provided to Section 3 residents? [24 CFR 135.34(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined the eligibility for Section 3 residents? [24 CFR 135.34(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Describe Basis for Conclusion:			

C. USE OF SECTION 3 RESIDENTS AS EMPLOYEES

3.

[OS] For the time period reviewed, did the program participant's records include information about:			
(a) The total number of permanent full-time positions generated by the program participant or its contractors as a result of the expenditure of covered funding? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The number of permanent full-time positions generated by the program participant or its contractors identified above that was filled by Section 3 residents? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined eligibility of Section 3 residents? [24 CFR 135.34(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) Whether the minimum numerical goal for employment was met by the program participant or its contractors [30% of the aggregate number of new hires was Section 3 residents]? [24 CFR 135.30(b)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A

(e) If the minimum numerical goal for employment was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Describe Basis for Conclusion:			

D. CONTRACT AWARDS TO SECTION 3 BUSINESS CONCERNS

4.

[OS] For the time period reviewed, did the program participant's records include information about:			
(a) The total dollar amount of covered construction contracts generated as a result of the expenditure of covered financial assistance? [24 CFR 135.30(c)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The total dollar amount of covered construction contracts (or subcontracts) listed above that were awarded to Section 3 business concerns? [24 CFR 135.30(c)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined the eligibility of Section 3 business concerns? [24 CFR 135.36(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) Whether the minimum numerical goal for contracting was met by the program participant or its contractors [10% of the total dollar amount of covered construction contracts were awarded to Section 3 business concerns]? [24 CFR 135.30(c)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(e) If the minimum numerical goal for construction contracts was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Describe Basis for Conclusion:			

5.

[OS] For the time period reviewed, did the program participant's records include information about:			
(a) The total dollar amount of covered non-construction contracts generated as a result of the expenditure of covered financial assistance? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) The total dollar amount of covered non-construction contracts (or subcontracts) listed above that were awarded to Section 3 business concerns? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) Description of how the program participant or its contractors determined the eligibility of Section 3 business concerns? [24 CFR 135.36(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) Whether the minimum numerical goal for contracting was met by the program participant or its contractors [3% of the total dollar amount of covered non-construction contracts were awarded to Section 3 business concerns]? [24 CFR 135.30(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(e) If the minimum numerical goal for non-construction contracts was not met, did the program participant provide an explanation of why it was not feasible to meet the goal? [24 CFR 135.30(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Describe Basis for Conclusion:			

E. PROCUREMENT PROCEDURES

6.

[OS] For the time period reviewed, did the program participant's records include evidence of the following:			
(a) Notification of covered contractors regarding their responsibilities pursuant to the requirements of Section 3? [24 CFR 130.32(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(b) Monitoring covered contractors for compliance with Section 3? [24 CFR 135.32(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(c) The imposition of penalties upon contractors for noncompliance, including refraining from entering into contracts with any contractor that has violated the requirements of Section 3? [24 CFR 135.32(d)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
(d) Whether covered solicitations (RFPs, RFQs, IFBs, etc) contain the Section 3 clause found at 24 CFR 135.38 or otherwise indicates the applicability of Section 3 to the covered project? [24 CFR 135.32(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A

(e) Whether the Section 3 clause found at 24 CFR 135.38 was included in all covered contracts that were reviewed? [24 CFR 135.32(b)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion:	

F. REPORTING AND RECORDKEEPING

7.

(a) Did the program participant provide evidence of the submission of a Section 3 Summary Report to FHEO in Washington (form HUD-60002) at the time that the CAPER was submitted for the time period reviewed? [24 CFR Part 135.90]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion:	
(b) For the time period reviewed, did the program participant's records include documentation of the actions taken to comply with the Section 3 regulations? (Such documentation may include the results of the actions taken and any impediments encountered during the implementation of the program(s) covered by Section 3.) [24 CFR 135.32(e)]	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
Describe Basis for Conclusion:	