



Section 3 of the Housing and Urban Development Act of 1968

**CITY OF SEATTLE REQUIREMENTS FOR OWNER,
GENERAL CONTRACTOR AND SUBCONTRACTORS**

**SMALL CONTRACTORS INITIATIVE:
BONDING & ACCESS TO CAPITAL**

Section 3 of the Housing and Urban Development Act of 1968
City of Seattle Requirements for Owner, General Contractor and Subcontractors

This project is covered by the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3). Following is a guide to Section 3 requirements.

Background: The City of Seattle Office of Housing (OH) administers funding from the U.S. Department of Housing and Urban Development (HUD), which OH uses to make loans to affordable housing developers through the OH Rental Housing Program. Owners that receive HUD funding from OH are responsible for compliance with associated federal regulations, including Section 3 of the Housing and Urban Development Act of 1968.

Section 3 requires that when employment or contracting opportunities are generated by HUD-funded projects, preference is given to low-income persons and businesses residing in the community where the project is located (i.e., to “Section 3 residents” and “Section 3 business concerns”). Owners and their general contractors are responsible for ensuring compliance with Section 3 in the hiring and contracting decisions made on the project. OH is responsible for overseeing and reporting to HUD on Section 3 outcomes, and providing the tools and resources to achieve those outcomes.

Procurement of General Contractor: The owner must include Section 3 considerations in their procurement of a general contractor. General contractors bidding on this project must submit a **Section 3 Project Plan** to indicate their intended overall project goals, and plan to achieve those goals. Bidders should use their past experience and consult with potential subcontractors to produce reasonable goals. The owner must carefully consider the ability of a general contractor to collaborate and deliver results.

Section 3 Project Plan (Minimum Numerical Goals, Evidence of Efforts): Once a general contractor is selected, the owner and general contractor refine the Project Plan, which includes numerical goals and minimum efforts to recruit Section 3 residents and businesses. Efforts should include active outreach such as advertisement in local media, display of prominent signs at the project site, and contact with community organizations and trade groups (for suggestions, contact OH for a Section 3 Resource List). The owner shall submit the Project Plan to OH for review and approval. At a minimum, the plan must achieve the following numerical goals:

- (i) 10% of construction contracts awarded to Section 3 business concerns
- (ii) 3% of non-construction contracts awarded to Section 3 business concerns
- (iii) 30% of new hires are Section 3 residents

Hiring and Procurement of Subcontractors: After the Project Plan is approved by OH, the owner must work with their general contractor to ensure that Section 3 preferences are implemented in the selection of subcontractors and hiring of workers. All bidders on subcontracts must identify their eligibility for preference using the **Section 3 Business Concern Certification** form, and agree to develop a **Section 3 Hiring Plan** and, if applicable, a **Section 3 Subcontracting Plan** for any work they intend to subcontract. The owner and general contractor shall review these qualifications together and, to the greatest extent feasible, select subcontractors that will further the goals of the Project Plan.

Subcontractors selected on this project agree to carry out in good faith the Section 3 plans submitted with their bid. Both the general contractor and subcontractors agree to actively solicit and give preference to qualified Section 3 residents when hiring workers for the project, and to qualified Section

3 businesses bidding on subcontracts. For hiring preference, qualified Section 3 residents must self-certify using the **Section 3 Resident Certification** form.

Subcontractor Status Reports and Project Summary Report: Once the project is underway, all subcontractors must submit a **Section 3 Status Report** on their hiring and subcontracting activities to the general contractor while they are working on the project, no later than 10 days after the end of each month. The report shall explain any impediments encountered in implementing the plan submitted with the subcontractor's bid, and identify further efforts to carry out the plan. The general contractor agrees to hold subcontractors accountable to their respective plans.

The owner and general contractor are responsible for maintaining subcontractor status reports and backup Section 3 certifications, and compiling the data into a **Section 3 Project Summary Report**, which the owner must submit to OH on a monthly basis. Subcontractor reports must be available upon request by OH. A final summary report must be submitted before OH releases its retention.

Non-Construction Subcontractors: If a subcontractor is procured directly by the owner rather than the general contractor, the owner shall be responsible for the collection of Hiring/Subcontracting Plans and Status Reports, which shall be collected at least once during the contract period, and at contract completion. The owner shall compile such data into a separate summary report to submit to OH. (Forms shall be provided separately by OH.)

List of Forms:

1. **Section 3 Project Plan** – for general contractors bidding on the project to create an overall plan for Section hiring and subcontracting on the entire project. Finalized after selection of GC.
2. **Section 3 Hiring Plan** – for subcontractors bidding on the project to fill out goals for hiring of Section 3 workers.
3. **Section 3 Subcontracting Plan** – for subcontractors bidding on the project to fill out goals for subcontracting of Section 3 businesses (if intending to subcontract any work).
4. **Section 3 Status Report** – for subcontractors to report monthly on hiring and subcontracting activity, and explain any variations from the plans submitted with their bids.
5. **Section 3 Project Summary Report** – for the general contractor to compile all subcontractor data into a summary report that tracks progress toward meeting the goals of the Project Plan.
6. **Section 3 Business Certification Form** – for subcontractors bidding on the project identify whether they qualify for contracting preference as a Section 3 business concern.
7. **Section 3 Resident Certification Form** – for workers to identify their qualifications for hiring preference as a Section 3 resident.
8. **Definitions** – reference sheet with definitions, including hiring category definitions.

Section 3 Clause: The following clause must be included in all solicitations and contracts over \$100,000 for work on this project, including professional service contracts, but not contracts for the purchase of supplies and materials.

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 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).