

THE FLORIDA HOUSING COALITION



Section 3 and Vicinity Hiring

Facilitated by the Florida Housing Coalition



Section 3 Goal

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- Goal & Purpose:
 - to ensure that when employment or contracting opportunities are generated that these opportunities shall be given to low and very low income persons or businesses residing in the community where the project is located.

Give Preference

One of the purposes of the assistance is to give, to the *greatest extent feasible* job training, employment, contracting and other economic opportunities to

- **section 3 residents and**
- **section 3 business concerns**



WHAT IS A SECTION 3 RESIDENT?

- A public or Indian housing resident; or
- A resident of the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and qualifies as a very low or low income person.



What is a Section 3 Business Concern?

- 51% or more of the business is owned by section 3 residents; or
- 30% of permanent, full-time employees are section 3 residents or were residents within 3 years of being hired; or
- Commitment that 25% or more of all subcontracts \$\$ will be awarded to Section 3 business concerns



Biggest Problem

- Section 3 residents and business concerns don't know they meet the definition or that they have employment opportunities.
- Contractors who need to comply with section 3 do not know where to find section 3 businesses and residents.
- Local governments are not sure of the steps they need to take to comply.
- Not documenting efforts undertaken to comply.



First Step

- Who in your organization is responsible for section 3
- What actions will be undertaken to comply with Section 3
- Developing a list of section 3 residents and businesses
- Developing a system to qualify section 3 residents and businesses
- Monitoring of contractors and sub recipient agencies
- Changing your strategy to ensure compliance

Find resources in your local community



Responsibilities of Section 3 Coordinator

- Develop and adopt a Section 3 Plan
- Develop forms and documents to be used for program administration
- Include Section 3 clause in all contracts for covered projects
- Explain programs to residents, businesses and contractors
- Designate contact person for Section 3
- Have a plan for compliance monitoring

More Duties

- Audit reports
- Develop Policies and Procedures
- Create a Certification Process
- Create Training Opportunities
- Make sure information is recorded properly
- Prepare reports of findings and recommendations
- Prepare annual reports



How to Comply

- Notify section 3 residents about employment opportunities
- Notify section 3 business concerns about contracting opportunities
- Notify all contractors of Section 3 requirements
- Incorporate the section 3 clause in all solicitations and covered contracts
- Undertake other activities – such as training opportunities – which will facilitate compliance with the goals of Section 3
- Actively monitor contractors and notify HUD of contractors refusal to comply
- Document all Section 3 activities



Recordkeeping Strategies

- Communicate applicable requirements to potential bidders
- Assess bidders on their ability to meet the requirements of Section 3
- Determine if new hires are needed
- Identify contracting/sub-contracting needs
- Have contractors certify compliance
- Develop strategies for targeting Section 3 residents and businesses
- Monitor Section 3 compliance and impose penalties as appropriate
- Compile information from sub-recipients and contractors
- Request sub-recipients describe how they will ensure Section 3 compliance (if applicable)
- Provide guidance for determining Section 3 eligibility
- Develop strategies for recruiting new hires



Documentation

- Copies of new hire resident Certification and back up documentation
- Copies of list of current employees, not including new hires
- Payroll records to substantiate payment and continuous employment of new hires
- Refusal by the contractor to submit documentation is a breach of contract
- Contractor must also submit documentation on efforts to comply

Documentation

- Visit site to interview workers
- Verify identity of workers
- Have a list questions such as when were they hired
- Look for section 3 sign and section 3 plan at project site
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Who are your section 3 residents

- Public Housing Authority residents
- Other assisted housing projects residents
- One stop career centers participants
- Youthbuild participants
- Step up training program participants
- Applicants of other programs
- Clients served by sub recipients
- Recipients of public services



Required Documentation

- Acceptable documentation to determine eligibility as a Section 3 resident includes:
 - proof of residency in a public housing development;
 - evidence of participation in a HUD Youthbuild program operated in the metropolitan area (or non-metropolitan county) where the Section 3 covered assistance is carried out; (www.youthbuild.org)
 - evidence that the individual resides in the Section 3 area and is a low or very low-income person.



Where are your section 3 business concerns

- Housing Authority
- Rehabilitation Contractors
- Local businesses
- Local Labor Unions
- Chamber of Commerce
- HUBzone businesses

SBA HUB zones

Potential Section 3 businesses

- The firm must be a small business.
- The business must be at least 51% owned and controlled by citizens of the United States.
- The firm's principal office must be in a HUBZone.
- 35% of the firms total workforce must reside in a HUBZone.
- http://dsbs.sba.gov/dsbs/search/dsp_profilelist.cfm?RequestTimeout=180

Work Opportunity Tax Credit

- Part of American Recovery and Reinvestment Act
- Tax benefits to employers that hire among 12 groups of job seekers
- 3 step certification process
- <http://www.doleta.gov/business/incentives/opptax/>

Pilot Business Registry

- The information collected from the Section 3 Business Self-Certification Application will allow HUD and recipients of covered HUD funding to identify Section 3 Businesses within their communities.
- The information will be posted in a registry of Section 3 Businesses which will be posted on HUD's webpage.
- <http://www.federalregister.gov/articles/2011/01/20/2011-1156/notice-of-proposed-information-collection-comment-request-section-3-business-self-certification#p-11>



WHAT HUD FUNDED PROJECTS ARE SUBJECT TO SECTION 3?

- A Section 3 covered project involves housing construction, rehabilitation, demolition or other public construction such as:
 - Street repair
 - Façade improvements
 - Sewer line repair or installation
 - Roads
 - Community Centers
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What Triggers Section 3

- Section 3 is triggered when a covered project requires new hires or subcontracting.
- You do not have to hire or subcontract unless it is necessary to complete the project.

Eligibility

- A section 3 resident must meet the qualification for the position to be filled.
- A section 3 business concern must have the ability and capacity to perform.
- Race and gender neutral, based on income and location.

Section 3 thresholds

- Public & Indian Housing Programs=No threshold. All projects and activities, contracts and subcontracts are covered by Section 3
- Recipients of HUD Community Planning and Development funding exceeding \$200,000
 - Contractors and subcontractors – in excess of \$100,000
- Note: Partially funded projects – whole project subject to Section 3

Section 3 Reporting and Recordkeeping Requirements

- Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents in accordance with Federal or State procurement laws and regulations

– Document efforts taken to achieve Section 3 numerical goals

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Numerical Goals for Recipients

Employment (full time permanent, temporary or seasonal)

- 30% of new hires annually shall be section 3 residents (1 out of 3)

Contracting

- 10% of total dollar value of all section 3 covered contracts shall be awarded to section 3 businesses and
- 3% of the total dollar amount of non-construction contracts shall be awarded to section 3 businesses

Minimum Goals



SECTION 3 SAFE HARBOR PROVISION

- If you meet numerical goals you are considered to be in compliance.
- If a complaint is filed HUD will determine if the **greatest extent feasible** policy was met.



Annual Reporting Requirements

- Submit annual report on Section 3 using HUD form 60002 to HUD FHEO office or online www.hud.gov/offices/fheo/section3/section3.cfm
- Can be submitted online (include a copy with the CAPER)
- Applies to covered activities during the fiscal year
- Must be submitted even if all 0
- **Required even if you did not undertake activities that trigger section 3 compliance**



Part III Summary

- Always include a narrative of your efforts during the year to comply with the program requirements
- Not meeting numerical goals requires detail explanation of actions taken to comply by recipient, contractor or subcontractor, sub-recipients or others



AN EXAMPLE OF SECTION 3

Let's say City wants to build a playground and child care center using in excess of \$100,000 of CDBG funds. It wants to find an outside company ("contractor") to do all of the planning, construction and landscaping. The contractor finds out that it has to hire 10 new people in order to complete the work. Section 3 says that at least 30% of all new hires have to be Section 3 residents. Thus, the contractor would have to hire at least **three** Section 3 residents.



Non-compliance with Section 3

- **Section 3 Complaint Process**
 - Section 3 residents, businesses, or a representative for either may file complaints
 - Use Form HUD 958
 - File no later than 180 days from date of violation
 - File with appropriate FHEO office
- A complaint that cannot be resolved will result in an administrative hearing



Consequences for Failure to Comply

- HUD holds direct recipients of covered funding accountable for compliance with Section 3
- Sanctions for noncompliance include:
 - Debarment
 - Suspension
 - Limited Denial of Participation
 - <http://www.hud.gov/offices/fheo/section3/section3.cfm>



Vicinity Hiring

- 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 Hiring

- 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.



Vicinity Hiring

- 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.



Vicinity Hiring

- Applies to NSP 3.
- Described local approach to vicinity hiring in the NSP3 application narrative.
- Does not replace your responsibilities under Section 3.
- Include a narrative in Section 3 report and quarterly reports.
- Must be documented and tracked just like Section 3 requirements.

Vicinity Hiring

- 1- Vicinity Preference = NSP 3 areas of greatest need
- 2- service area (are served by local government)
- 3- Youthbuild Participants
- 4- other Section 3 residents in the metro area or non-metro County

NSP 3 Model Guide

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



How to meet objectives

- Place an ad, develop flyers, post on your website information on vicinity hiring preferences
- Contact local business in the neighborhood by mail out and notify them of the program and potential benefits to their business
- Hold local meetings to discuss the program and its benefits



Program success

- Early, regular communication with contractors, contract officers, section 3 residents and businesses
- Monitoring procurement process
- Verification of data submitted
- Completeness of documentation
- Preconstruction conference



Success

- Develop a tracking system
- Enter information on a regular/monthly basis based on information submitted by contractors
- Ensure/track compliance
- Require that contractors with contracts over \$100,000 submit a Section 3 Utilization Plan
- Do not pay contractors until section 3 information is submitted



What is your agency doing?

- How are you complying with section 3 and vicinity hiring?
- What new steps or process have been implemented in your organization to meet the goals of these programs?
- What is holding you back from meeting your section 3 and vicinity hiring goals?



Resources

- <http://hudnsphelp.info/media/resources/NSPSection3ModelGuide.pdf>
- http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3
- <http://portal.hud.gov/hudportal/documents/huddoc?id=11secfaqs.pdf>
- <http://www.hud.gov/section3>

