

**CITY OF BOISE  
PLANNING AND DEVELOPMENT SERVICES,  
HOUSING AND COMMUNITY DEVELOPMENT DIVISION  
REQUEST FOR FORMAL BID CONSTRUCTION**



**FB 17-397  
Re-Bid: HCD Painting Project**

**Attachment #1  
Section 3 Overview, Clause and Sample Utilization Plan**



## SECTION 3 OVERVIEW

### FOR RECIPIENTS OF HUD HOUSING & COMMUNITY DEVELOPMENT FUNDING

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#### Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects that build and rehabilitate housing; improve roads and community centers; and help families achieve the American Dream.

The Section 3 regulation acknowledges that HUD funding typically results in projects/activities that generate new contracting, employment, and other economic opportunities that not only impact bricks and mortar, but also create a multiplier effect for local housing providers and businesses that provide goods and services.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons.

#### Applicability of Section 3 to Housing and Community Development Assistance

The requirements of Section 3 apply to recipients of HUD Housing and Community Development funding exceeding **\$200,000**.

Section 3 does not apply on a "per-project" basis, whenever any portion of HUD funding is invested into projects involving **housing construction, demolition, rehabilitation, or other public construction (i.e., roads, sewers, community centers, etc.)**, the requirements of Section 3 apply.

Further, contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered projects/activities, but no individual contract exceeds **\$100,000**, the requirements of Section 3 only apply to the recipient. Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses.

**State and County agencies** that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. The state or county must inform its subrecipients about the requirements of Section 3; assist them and their contractors with achieving compliance; and monitor their performance with respect to the objectives and requirements of Section 3.

## Some Types of Section 3 Covered Housing and Community Development Funding

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled
- Project Based Section 8 Vouchers

**\*NOTE:** The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

## Section 3 Covered Recipient Agencies

"Recipient" refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Owners; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above
- Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies (i.e., residents or laborers); and does **NOT** refer to contractors.

## What Triggers the Requirements of Section 3?

Each recipient of \$200,000 of covered HUD funding is required to comply with Section 3. Section 3 applies to all projects and activities involving housing construction, rehabilitation, or other public construction that is funded with covered HUD funding.

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements have not been triggered.

### **Recipient Responsibilities Pursuant to Section 3**

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

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

### **Section 3 Residents and Business Concerns**

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local income criteria of low- or very low-income.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

### **Section 3 Summary Reports (Form HUD-60002)**

Annually, each direct recipient of Housing and Community Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC.

Where the program providing Section 3 covered funding requires the submission of an annual performance report (e.g., CAPERs reports, etc.), form HUD-60002 shall be submitted at the time that the annual report is due.

The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

If the recipient is not required to submit an annual performance report, the Section 3 report is due when other reports are submitted to HUD or at the end of each program, fiscal, or calendar year.

**NOTE: Section 3 reports must be submitted by all agencies that receive Housing and Community Development funding in excess of \$200,000 whether new employment, training, or contracting opportunities were created or not.**

### **Determining What Should Be Reported on Form HUD-60002**

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

- The total dollar amount of HUD funding that was [spent] by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients) as a result of the completion of covered project/activities.
- The amount of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of the completion of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).

- The total number of Section 3 residents that participated in training opportunities that were made available by the PHA, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

### **Form HUD-60002 and Section 3 Compliance Determinations**

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30<sup>1</sup>. Specifically:

- a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
- b. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- c. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

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

Recipients that submit Section 3 reports containing **all zeros**, without a sufficient explanation to justify their submission, are in **noncompliance** with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.

## Important Notes for Submitting Form HUD-60002

- Recipients must submit a separate form HUD-60002 for each type of covered funding (e.g., separate reports must be submitted for CDBG and HOME funding).
- Use the online Section 3 Summary Reporting System at: [www.hud.gov/section3](http://www.hud.gov/section3) to ensure that form HUD- 60002 is received by the appropriate HUD office in a timely manner.
- If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

## Additional Section 3 Guidance and Technical Assistance

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: [www.hud.gov/section3](http://www.hud.gov/section3). This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to [section3@hud.gov](mailto:section3@hud.gov)

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<sup>1</sup> See Safe Harbor language at 24 CFR Part 135.30(d)

### **Section 3 Clause:**

#### **§ 135.38 Section 3 clause.**

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

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

**C.** The contractor agrees to send to each labor organization or representative 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).



# CITY OF BOISE, IDAHO

**PLANNING AND DEVELOPMENT  
SERVICES DEPARTMENT**

**HOUSING AND COMMUNITY  
DEVELOPMENT DIVISION**

## **SECTION 3 BUSINESS UTILIZATION PLAN**

**150 N Capitol Boulevard  
Boise, ID 83701-0500  
(208) 570-6830  
TTY: (800) 377-3529**



**THIS DOCUMENT CAN BE PROVIDED IN A FORMAT ACCESSIBLE TO PERSONS WITH DISABILITIES  
AND/OR PERSONS WITH LIMITED ENGLISH PROFICIENCY UPON REQUEST.**



*The City of Boise prohibits discrimination on the basis of race, color, national origin, religion, gender,  
gender identify/expression, sexual orientation, family status, disability or age.*

# SECTION 3 BUSINESS UTILIZATION PLAN

## Company Contact Information

Company Name	
Street Address	
City, ST, Zip Code	
Contact Name	
Phone	
E-Mail Address	
Project Name	

## Instructions

*Complete this form and return to the City of Boise's Housing and Community Development Division no later than (5) business days before the project bid opening.*

150 N Capitol Boulevard  
Boise, ID 83701-0500  
(208) 570-6830  
TTY: (800) 377-3529

*To receive Section 3 preference on a HUD-assisted eligible bid project award, businesses must submit a Section 3 Utilization Plan. Section 3 Utilization Plans must be submitted individually with each project awarded. The Utilization Plan must be approved before a contract will be signed. The City's Housing and Community Development Division will not move forward with funding of any Section 3 preference awards until Section 3 Utilization Plan and Section 3 Application are approved by HCD. The Section 3 Utilization plan will be bound in the contract with the City. All subcontractors underneath the general contractor with contracts \$100,000 or more must likewise comply with Section 3 Utilization Plan.*

### Subcontractors Working on this Job

	Name & address of subcontractors for this bid	Are they Section 3?	Qualifying Condition	Total Contract Award
1				
2				
3				
4				
5				
6				

### Current Workforce Information

*Detail the company's current workforce information.*

Number of Current Employees & job functions:	
How many employees will work on this project? What are their job functions?	
Are you going to hire additional employees? For which positions?	
Are you going to Subcontract any work? Explain	
Do the owners work on-site? In what capacity?	
Do you have an office staff? How many people?	
Other pertinent information:	

### **Section 3 Hiring Plan**





By signing below our company gives firm commitment to include in all bids the Section 3 Plan (once approved by the City) which identifies activities to comply with the Section 3 program and the City's Section 3 clause. Our company also gives firm commitment to conduct aggressive outreach and notification to potential Section 3 residents and businesses for hiring opportunities. Our company gives firm commitment to inform area employment agencies of jobs available from the established job pool of Section 3 area residents. Our company commits to implement the Utilization Plan proposed in this document as well as any additional City requirements to the fullest extent possible. If awarded the project this Utilization Plan becomes part of our contract with the City for this project. It is our responsibility to follow, document and prove that the company has implemented the Utilization Plan. Any direct violation of this Utilization Plan may result in corrective actions and/or termination of the contract.

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***Printed Name and Title of Certifying Officer in the Company***

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***Name of the Company***

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***Certifying Officer Signature***

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***Date***



# SECTION 3 RESIDENT APPLICATION

## Applicant Information

Name	
Street Address	
City, ST, Zip Code	
Home Phone/Cell Phone	
Email Address	
Date of Application	
Social Security Number	
Position you are applying for:	

### Instructions

*A Section 3 resident seeking preference in training and employment as defines in the Section 3 regulation at 24 CFR 135, shall certify to the recipient, contractor or subcontractor, and submit evidence showing they meet the criteria of a Section 3 Resident (i.e. proof of receipt of public assistance or residency in a federally-assisted housing programs, and/or copies of the past two years tax returns). You must attach one of the following documents to your application as proof of your Section 3 qualifications:*

- *Proof of residency in federally-assisted housing program*
- *Proof of public assistance*
- *Proof of participation in HUD Youth Build or other such programs*
- *Proof of participation in federally assisted job programs*
- *Proof of participation in state or local assistance program for low income persons*
- *Copies of your past two years tax returns*

## Household Income

Any individual who is seeking Section 3 Resident status must be certified according to household income and/or public housing assistance criteria. All household income earned by members of your household, including public and/or private assistance, child support, bank or investment earnings, etc. must Be included below.

THE NUMBER OF PEOPLE IN MY HOUSEHOLD: \_\_\_\_\_

MY TOTAL HOUSEHOLD ANNUAL GROSS INCOME IS: \_\_\_\_\_

	Head of Household	Spouse ( if applicable)	Other member of household	Other member of household
Name				
Gross Earnings				
Food Stamps				
Disability				
Other Income				

## Work History

Please complete the following information for your most recent employer:

Employer	
Address	
Phone	
Dates of Employment	
Supervisor's Name	
Reason for Leaving	
Major Job Duties	

Please include information for all employers for the past three years,

	Name and Address of Company	Title	Dates of Employment	Wage	Supervisor	Phone
1						
2						
3						
4						

### Qualifications

Please describe all skills, training, education related to the position for which you are applying:

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*I certify that my answers are true and complete to the best of my knowledge. If this application leads to employment I understand that false or misleading information in my application or interview may result in my termination.*

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## SECTION 3 REPORT FORMS

## Company Contact Information

Company	
Project Name	
Reporting Period	
Contact Person	
Phone	

## Section 3 Hiring & Training Activity

Job Category	Number of New Hires	Number of New Hires that are Section 3 Residents	% of Aggregate Number of Staff Hours of New Hires that are Section 3 Residents	% of Total Staff Hours for Section 3 Employees and Trainees	Number of Section 3 Trainees
Professionals					
Technicians					
Office/ Clerical					
Construction by Trade:					
Trade:					
Trade:					
Trade:					
Trade:					
Total:					

## Section 3 Business Information

Total Dollar Amount of Contract	
Total Dollar Amount of Sub-Contracts Awarded to Section 3 Business	
Percentage of the Total Dollar Amount that was Awarded to Section # Businesses	
Total Number of Section 3 Businesses Receiving Contracts	

**Narrative/Summary**

*Indicate the efforts made to direct the employment and other economic opportunities generated by this award to the greatest extent feasible, toward low and very low-income persons, particularly those who are recipients of government assistance for housing. Please note if you used advertising, contacted agencies, participated with Youthbuild or other training entities. Please also note any details of why you did or did not meet your Section 3 Utilization Plan goals. Attach additional pages if needed.*

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