

**APPENDIX B:
FEDERAL CERTIFICATION FORMS**



**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CERTIFICATION OF CONTRACTOR REGARDING
SEGREGATED FACILITIES
(For Prime Contracts Exceeding \$100,000)**

Name of Prime Contractor: _____

Project Name and Number: _____

The undersigned hereby certifies that:

- (a) **No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.**

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date



**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CERTIFICATION OF CONTRACTOR REGARDING
EQUAL EMPLOYMENT OPPORTUNITY
(For Prime Contracts Exceeding \$100,000)**

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any other of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Name and address of bidder

1. Bidder has participated in a previous contract or subcontract subject to the EEO Clause.
 Yes No
2. Compliance reports were required to be filed in connection with such contract or subcontract.
 Yes No
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.
 Yes No
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
 Yes No

Name and Title of Authorized Representative (print or type)

Signature of Authorized Representative

Date



DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM **SECTION 3 AFFIRMATIVE ACTION PLAN REQUIREMENTS**

Each year the U.S. Department of Housing and Urban Development (HUD) invests billions of federal dollars into distressed communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist families achieve the American Dream.

The Section 3 regulation recognizes that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

As a condition of receiving HUD assistance recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b).

Applicability of Section 3 to Community Planning & Development Assistance

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. Accordingly, the recipient must attempt to reach the **Section 3 minimum numerical goals** found at 24 CFR Part 135.30 by:

- 1) Awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses; and
- 2) Offering 30 percent of new employment opportunities to Section 3 businesses.

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.

Triggering the Requirements of Section 3

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

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

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each agency must still submit Section 3 annual reports indicating this information.

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 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.

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 HUD income limits set forth for low- or very low-income households.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents; the business meets the definition of a resident-owned business, as set forth in HUD's regulations at 24 CFR 963.5.
2. The business demonstrates that at least 20 percent of its permanent full-time employees are Section 3 residents and the business either: (i) sponsored a minimum of 10 percent of its current Section 3 employees to attend a DOL or DOL-recognized, State Apprenticeship Agency-approved, registered apprenticeship or pre-apprenticeship training program that meets the requirements outlined in DOL's Employment Training Administration (ETA) Training and Employment Notice 13-12¹; or (ii) 10 percent of the employees of the business are participants or graduates of a DOL YouthBuild program.²

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.

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.

For additional information, please visit the Section 3 website at: www.hud.gov/section3.

¹See http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5842.

²See http://www.doleta.gov/youth_services/youthbuild.cfm.

Section 3 Clause

A. The work to be performed under this contract, subcontract, memorandum of understanding, cooperative agreement or similar legally binding agreement, is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968 (Section 3). The purpose of Section 3 is to ensure, to the greatest extent feasible, that training, employment, contracting, and other economic opportunities generated by Section 3 covered financial assistance shall be directed to low- and very low-income residents of the neighborhood where the financial assistance is spent, particularly to those who are recipients of government assistance for housing, and to businesses that are either owned by low- or very low-income residents of the neighborhood where the financial assistance is spent, or substantially employ these persons.

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

C. The contractor agrees to identify current employees on its payroll when the contract or subcontract was awarded who will be working on the Section 3 covered project or activity and certify that any vacant employment opportunities, including training positions, that are filled:

1. After the contractor is selected; and
2. With persons other than those that meet the definition of a Section 3 resident, were not filled to circumvent the contractor's Section 3 obligations.

D. The contractor agrees to maintain records documenting Section 3 residents that were hired to work on previous Section 3 covered projects or activities that were retained by the contractor for subsequent Section 3 covered projects or activities.

E. The contractor agrees to post signs advertising new employment, training, or Sub-contracting opportunities that will be available as a result of the Section 3 covered projects and activities in conspicuous places at the work site where potential applicants can review them.

F. The contractor agrees to hire, to the greatest extent feasible, Section 3 residents as 30 percent of new hires, or provide written justification to the recipient that is consistent with § 135.7(b)(4), describing why it was unable to meet minimum numerical hiring goals, despite its efforts to comply with the provisions of this clause.

G. The contractor agrees that in order for a Section 3 resident to be counted as a new hire, the resident must work a minimum of 50 percent of the average staff hours worked for the category of work for which they were hired throughout the duration of time that the category of work is performed on the covered project.

H. The contractor agrees to award, to the greatest extent feasible, 10 percent of the total dollar amount of subsequent subcontracts awarded in connection with the Section 3 covered project or activity to Section 3

businesses, or provide written justification that is consistent with § 135.7(b)(4) describing why it was unable to meet that goal, despite their efforts to comply with the provisions of this clause.

I. The contractor agrees to notify Section 3 residents and businesses about the availability of new employment, training, or contracting opportunities created as a result of the receipt of Section 3 covered financial assistance, as stipulated by the awarding agency.

J. The contractor agrees to verify the eligibility of prospective Section 3 residents and businesses for employment, training, or subcontracting opportunities, in accordance with the recipient's policies and procedures.

K. The contractor agrees to provide priority consideration to eligible residents and businesses in accordance with 24 CFR 135.37 or 24 CFR 135.57, as applicable.

L. The contractor agrees to notify potential bidders on subcontracts that are associated with Section 3 covered projects and activities about the requirements of Section 3, and include this Section 3 clause in its entirety into every subcontract awarded.

M. The contractor agrees to impose sanctions upon any subcontractor that has violated the requirements of this clause in accordance with the awarding agency's Section 3 policies and procedures.

N. The contractor agrees to comply with all monitoring, reporting, recordkeeping, and other procedures specified by the awarding agency.

O. If applicable, the contractor agrees to notify each labor organization or representative of workers with which the recipient, sub-recipient, or contractor has a collective bargaining or similar labor agreement or other understanding, if any, about its obligation to comply with the requirements of Section 3 and ensure that new collective bargaining or similar labor agreements provide employment, registered apprenticeship, training, subcontracting, or other economic opportunities to Section 3 residents and businesses, and to post notices in conspicuous places at the work site advising the labor union, organization, or workers' representative of the contractor's commitments under this part.

P. Failure to comply with this clause shall result in the imposition of sanctions. Appropriate sanctions for noncompliance may include: Requiring additional certifications or assurances of compliance; termination or cancelation of the contract, subcontract, memorandum of understanding, cooperative agreement, or similar legally binding arrangement for default; refraining from entering into subsequent contracts, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangement; repayment of funds, and withholding a portion of contract awards, subcontracts, memoranda of understanding, cooperative agreements, or similar legally binding arrangements.



**DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
SECTION 3 AFFIRMATIVE ACTION PLAN**

(Prime Contractor)

[For Prime Contracts that exceed \$100,000]

_____, Contractor, agrees to implement the following specific affirmative action steps directed at increasing the utilization of Section 3 Residents' and Section 3 Business Concerns within the Town/City/County of _____.

- A.** To ascertain from the locality's CDBG Program official the exact boundaries of the Section 3 Covered Project Area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B.** To attempt to recruit from within the Town/City/County the necessary individuals to fill employment opportunities generated by Section 3 covered assistance through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service and providing preference for these opportunities in the following order:
- (i) Section 3 Residents residing in the service area or neighborhood in which the Section 3 covered project is located;
 - (ii) Participants in HLJD Youthbuild Programs, and
 - (iii) Other Section 3 Residents.
- C.** To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and a vacancy exists.
- D.** To insert this Section 3 Affirmative Action Plan in all bid documents for contracts over \$100,000, and to require all bidders on subcontracts over \$100,000 to submit a Section 3 Affirmative Action Plan, including utilization goals and the specific steps planned to accomplish these goals.
- E.** To insure that subcontracts over \$100,000 which are typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F.** To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G.** To notify Section 3 residents and Section 3 business concerns about economic opportunities generated by Section 3 covered assistance and to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the following order of preference:
- (i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section 3 covered project is located;

