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SECTION 3

APPLICABILITY

Section 3 applies to all projects when the single or combined award of HUD-funding is \$200,000 or greater for projects involving construction, demolition, 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.

\$200,000.00 Threshold

Projects with less than \$200,000 in federal funds *may* not be subject to Section 3 compliance. This threshold includes all HOME, NSP, HOME-ARP, and HTF funds, as well as federal funds not administered by IHFA (ex. CDBG), and is based on the entirety of the project, not on a per unit basis. The HOME Department must approve this exemption on a per project basis.

If approved for \$200,000 exemption, the HOME Department will not fund more than \$195,000 per approved project. This amount will be reduced if other federal funds are also invested.

It is critical to disclose *all* funding sources which may be used for the project; even those that are not officially approved or awarded. If the threshold is exceeded for any reason, Section 3 is triggered, and the recipient and contractor will be responsible for providing any and all Section 3 information for the entirety of the project. If the \$200,000 threshold is exceeded on any project, which has received an approved exemption, particularly if due to non-disclosure of other funds by the recipient, the HOME Department may choose to enforce Section 3 requirements on every project for the recipient, regardless of the amount of federal funds invested; or, may choose not to award future funds.

DESCRIPTION

Section 3 requires that economic opportunities generated by certain HUD financial assistance (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low and very-low income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons. **This is a statutory requirement for the award of jobs and contracts generated from projects that receive HUD funding.** The Section 3 regulations are found at 24 CFR Part 75.

Note: Section 3-covered contracts do not include contracts for the purchase of supplies and materials.

Projects:

Section 3 projects are defined as the site or sites together with any building(s) and improvements located on the site(s), which are under common:

- Ownership
- Management and
- Financing.

All three criteria must be met to meet the definition of a project, otherwise, it is a separate project.

SECTION 3 BENCHMARK

HUD has established Section 3 labor hour benchmarks and recipients of federal funds must demonstrate compliance with the "greatest extent feasible" requirement by providing training, contracting, and employment opportunities to Section 3 workers, Targeted Section 3 workers and Section 3 Business concerns. All recipients must track all employee hours per project and provide this information to the HOME Department in order to meet Section 3 benchmarks as set by HUD. A good faith estimate of labor hours for each full- or part-time employee can be used if a detailed time and attendance system is not in place.

HUD required percentage of project labor hours worked by Section 3 Workers and Targeted Section 3 Workers:

- Section 3 workers is set at 25% or more of total number of labor hours worked by all workers employed on a project with HUD financial assistance.
- Targeted Section 3 workers is 5% or more of the total number of labor hours worked by all workers employed on a project with HUD financial assistance. The Targeted Section 3 percentage is included within the Section 3 Worker benchmark.

** Employers are not required to acquire a time-and-attendance system in order to comply with the Section 3 rule. The "good faith assessment" found in § 75.15(a)(5) and § 75.25(a)(5) is a limited exception to be used by employers who do not have systems in place to track labor hours. This is not a permanent exception and if in the future the contractor or subcontractor is required to track labor hours under a third-party authority or begins to voluntarily track labor hours, the exception would no longer apply.*

SECTION 3 PREFERENCES

Businesses meeting Section 3 criteria must seek a Section 3 preference at the time of bid. To qualify as a Section 3 business concern, the contractor/subcontractor must complete and submit the Contractors Certification form (located at <https://www.idahohousing.com/documents/contractor-certification-form.pdf>) with the bid to self-certify that they meet the applicable criteria*.

**Businesses who misrepresent themselves as a Section 3 business concern and report false information may have their contracts terminated and be barred from ongoing and future considerations for contracting opportunities.*

BID PROCUREMENT

Recipients of federal funds must adopt a procurement policy for each awarded project and conform to the procurement standards identified in 2 CFR § 200.317 through 2 CFR § 200.327. Recipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Recipients should include Section 3 applicability and preference language in bid solicitation, collect completed Contractor Certification Forms with each bid. The recipient must maintain all records with bid procurement and if a Section 3 business concern is not selected, must document why. The HOME department may request to see bid responses as part of monitoring during the project.

ADMINISTRATION AND MONITORING

It is important to note Section 3 goals are not intended to be a requirement to employ a Section 3 eligible person or business concern. Section 3 eligible persons or business concerns must meet the qualifications of the position to be filled or the work to be performed.

The burden of proof of eligibility to be a Section 3 Worker or a Section 3 business concern rests with the individual or business. Forms have been developed and are available from the HOME department to document eligibility for each of the Section 3 requirements. Each recipient is required to maintain records demonstrating how the Section 3 requirements were met and report aggregate totals to the HOME department.

OUTREACH REQUIREMENTS

A good faith, comprehensive and continuing endeavor utilizing available and appropriate public and private sector local resources is suggested when soliciting bids, and hiring new employees and business for assisted activities. **Each owner/developer/sponsor is required to identify a project specific Section 3 Developer plan and provide IHFA with evidence of compliance.**

DEVELOPER PLAN STANDARDS

Provided in this chapter is a *Developer Plan* Template. This may be used, or the recipient can create their own, but must include the items below. The Developer Plan must be submitted with each project application. The same standards may be used in each individual project, but the recipient must review to ensure practices in each application will be viable for the area, project size, etc. See template or <https://www.idahohousing.com/federal-programs/section-3/> for certifications and forms.

The Developer plan must be approved and signed by the recipient or if a non-profit, the organizations board.

Developer plans must include the following:

- Individual(s) within the organization responsible for collecting information from general contractor/subcontractors. This individual will be required to ensure outreach has been done correctly through project timeline, all certifications are correctly filled out, debarments, including Unique Entity Identifier (UEI) of subcontractors have been provided, as well as collection of labor hours. This individual may rely on the general contractor for collection of certain information, but ultimately the recipient is responsible for providing the HOME department with this material. The recipient may risk monetary loss of award or inability to apply in future rounds if proper procedures are not followed.
- Choice of how and when labor hours will be collected (one of two choices):
 - Collect labor hours on a per draw basis and provide with each individual draw
 - Collect Labor hours on a subcontractor basis. If using this selection, hours must be collected prior to retainage for subcontractor is released. The HOME department will request the final lien waiver, hours and certifications are all provided at one time. Note: the HOME department will do spot checks and adherence of hour collections should be ongoing throughout project.
- Process in which Certifications and debarments (UEI's) will be gathered. The HOME department will confirm debarment of the recipient, as well as, the General Contractor(s).

- Outreach plan: To assist the HOME department in conforming with Section 281 of the National Affordable Housing Act, recipients need to establish an outreach plan to provide Section 3, Minority, and Women owned businesses opportunities to respond to bid opportunities. :
 - Contractors will notify the Section 3 Coordinator/Primary Contact when training/job opportunities are available for the project
 - Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
 - Conduct an annual training for Section 3 workers and Section 3 businesses
 - Clearly indicate Section 3 eligibility on all job postings with the following statement: **“This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 Voucher”**
 - Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
 - Utilize the Section 3 Opportunity Portal and the Section 3 Business Registry to notify qualified candidates and Section 3 businesses of upcoming bid opportunities
 - Establishing a current list of Section 3 eligible applicants
 - Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
 - Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - Advertising job opportunities via social media, including LinkedIn and Facebook;
 - Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices
 - Advertising job opportunities via _____’s website at ____ (URL) _____
 - Send a digital copy of project/job advertisements to the HOME Department’s Finance Officer for the project to be posted on IHFA’ s website at: <https://www.idahohousing.com/federal-programs/section-3/>
 - Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.
- Complaint verbiage

At project closeout and during spot checks, the HOME department will review documentation supplied against approved Developer Plan and require the recipient to adjust plans based on this review. If at project closeout there is missing or incomplete documentation, the HOME department reserves the right to withhold a portion of final retainage or impose other penalties such as not allowing the recipient to apply in future rounds if corrective actions are unable to be remedied.

Project Timeline**1. Application:**

The Developer Plan will be submitted by the recipient along with all other materials required in the application. This will be reviewed by the HOME department. During the review process the Developer Plan will be approved or rejected, with comments on corrective actions needed within the plan. The HOME department will monitor the recipient against the Developer Plan for compliance with Section 3.

2. Prior to closing and pre-construction call:

The recipient will submit outreach efforts for project bids. During this stage, the recipient will provide a list of accepted subcontractor bid list, that include their UEI/debarment from Sam.gov, signed Contractor Section 3-MBE/WBE certification. The HOME department will verify the recipient and General Contractor is fully registered on Sam.gov, as well as, collect Developer and General Contractor Certifications.

3. During Construction:

The recipient will collect hours throughout the construction process and dependent on their process; submit information to the HOME department for review. The HOME department will spot check compliance with Section 3 prior to each draw or based on the recipients collection procedure.

The recipient will also be tasked to update subcontractor list with any newly hired subcontractor and include all outreach done during the construction phase if there are new bids accepted or if there are any new hires acquired during this time.

4. Closeout:

The recipient will submit all material that has not been provided to the HOME department including but not limited to outreach, hours, and certifications. The HOME department will review documentation provided, and confirm all information is correctly filled out and developer has followed their plan in accordance with approval of said plan. If documentation is missing or incomplete, the HOME department will work with Developer to take corrective actions for the missing or incomplete documentation. The HOME department reserves the right to partially or fully withhold retainage of awarded amount as well as not allow responsible parties the ability to apply in future rounds.

Bids during Construction

Recipients must describe in the Section 3 Developer Plan how they will approach bids (procurement) during construction, in the event a new subcontractor must be identified after initial commitment of funds. In most cases, this will require the recipient or contractor to do new outreach and follow the same bid procurement process as was followed at the beginning of the project. The HOME departments bid procurement can be found in Exhibit H. Minimally, procurement thresholds found in 2 CFR 200.320 will need to be defined by the recipient. A best practice should find the general contractor with a documented and followed process for soliciting bids.

**Preference must always be given to Section 3 business concerns, unless they do not meet the bid procurement criteria outlined in this chapter. Any Section 3 bid not accepted must be accompanied by documentation establishing the reason(s) bid was not accepted.*

While not directly tied to Section 3, recipients must ensure all contractors/subcontractors have not been debarred, suspended, or excluded from using federal funds. This review is completed by verifying each Unique Entity Identifier (UEI) or full entity registration has been completed in Sam.Gov. The HOME Department will review throughout the project as well.

Labor Hour Collection/Reimbursement Requests

Recipients may choose one of two options for labor hour collection during construction:

1. Collect labor hour certifications for all on site work and hours worked by the owner/developer in relation to the project on a monthly/per draw basis. Recipients will retain these records, and provide upon request from IHFA.
2. Collect labor hour certifications for contractors/subcontractors prior to release of final payments/retainage and collecting final lien waivers. Recipients, contractors, and subcontractors will be required to track labor hours for the entirety of the project, but would only be required to provide certifications upon final payment. Recipients will retain these records, and provide upon request from IHFA.

Retainage of at least 10% is required until labor hour certifications, or any other information needed from the subcontractor or contractor is collected. The method of labor hour collection chosen by the -recipient must to be specified in the Section 3 Developer Plan. The plan must detail the timing of labor hour collection, and how the recipient will ensure the labor hour requirements are met.

The HOME department will perform, at least one, but may perform several, random quality control reviews of collected Section 3 requirements throughout construction. Upon request, recipients shall furnish:

- Fully executed Section 3 Labor Hour Certification forms collected to date or since previous random quality control review (the HOME Department will take into consideration whether owner/developer has chosen to collect monthly, or upon final payment.)
- Any new outreach or bid procurement documentation if the owner/developer has identified new subcontractors not disclosed to the HOME Department upon commitment of funds
- Any other information requested by the HOME Department as part of that request

All final labor hour certifications, total hours, and any other information deemed necessary by the HOME Department must be submitted at the end of the project for HUD reporting purposes, and the HOME Department's records. Final retention and/or developer fees will not be released until this requirement has been met.

Recipients who are in compliance upon quality control review may continue to process reimbursement requests as usual with no interruption of payment. Recipients who produce deficient submissions are subject to the following:

1. First deficiency (Level 1) – the recipient must bring the project into compliance within 10 business days. 50% will be withheld from any current reimbursement request. The balance will be paid when recipient proves compliance with Section 3 requirements. If recipient does not meet 10 day timeline, and the HOME Department has not agreed to any extension, project automatically advances to level 2 for the next reimbursement request submitted.
2. Second deficiency (Level 2) – reimbursement requests are held until proof of compliance is submitted and accepted by the HOME Department. Upon notification, recipient will have five (5) business days to cure the deficiency. If recipient does not meet five day timeline, regardless of any extension request, project automatically advances to level three.

3. Third deficiency (Level 3) – recipient is required to enter into a modification plan with the HOME Department. Recipient will propose a plan to the HOME Department detailing how the recipient will adjust their Section 3 Developer Plan and/or existing process, or follow their existing plan to achieve compliance going forward. Plan must also detail what the recipient will do to cure the current deficiency. As part of the plan approval process, the HOME Department may impose additional requirements, such as submission of labor hours prior to payment of every reimbursement request, or other requirements the HOME Department determines are necessary for the recipient to successfully comply with Section 3 Regulations. Reimbursement requests will not be paid until plan is approved, deficiency is cured, and additional training has been completed (as needed or applicable).

**The HOME Department may at any time, and at their sole discretion, require repayment of funds, withhold approval of reimbursement requests/change orders, withhold or reduce developer fees or retainage, or require recipient to enter into a modification plan. Non-compliance may also result in loss of remaining award funds, and/or recipient may be ineligible to apply for future funds for a period of time. Time period to be specified at the time recipient is notified of ineligibility.*

SECTION 3 COVERED CONTRACT LANGUAGE

The HOME department will include the following language in its written agreements with recipients. It is strongly encouraged recipients include the same contract language in agreements for the implementation of a project, when Section 3 is triggered. Regardless of language being included in subcontracts, all entities working on a Section 3 project are required to comply with the requirements, including documentation and reporting:

1) Employment and training opportunities

- a. To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, all entities covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.
- b. Where feasible, priority for opportunities and training of this section should be given to:
 - (i) Section 3 workers residing within the service area or the neighborhood of the project, and
 - (ii) Participants in YouthBuild programs

2) Contracting

- a. To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, all entities covered by this subpart, shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.
- b. Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:
 - (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

- (ii) YouthBuild programs.
- 3) Noncompliance with 24 CFR Part 75 may result in sanctions, termination of this agreement for default, and debarment or suspension from future HOME department contracts, administered by the HOME department.
- 4) 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 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).

DEFINITIONS

The following definitions apply to Section 3 covered projects:

Employment, training and contracting opportunities generated by HUD assistance:

Employment, training and contracting opportunities generated by 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.

Any person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence they are eligible, have the ability and capacity to perform successfully under the terms and conditions of the proposed contract.

Section 3 benchmark

HUD required percentage of project labor hours worked by Section 3 Workers and Targeted Section 3 Workers

- Section 3 workers is set at 25% or more of total number of labor hours worked by all workers employed on a project with HUD financial assistance.
- Targeted Section 3 workers is 5% or more of the total number of labor hours worked by all workers employed on a project with HUD financial assistance. The Targeted Section 3 percentage is included within the Section 3 Worker benchmark.

Section 3 Worker

Any worker who meets at least one of the following criteria

- Low- or Very low-income, as established by HUD's income limits
- Or employed by a Section 3 business concern
- Section 3 resident is a public housing resident or person who lives in the area where the HUD-assisted project is located and who has a household income that falls below HUD's income limits.

Targeted Section 3 Worker

A Targeted Section 3 Worker is a Section 3 Worker* who is also

- A worker employed by a Section 3 business concern

- A worker who is currently or who was when hired by the worker's current employer, a resident in a public housing project or Section 8-assisted housing
- A resident within a one-mile radius of the project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached
- A resident of other projects managed by IHFA that is expending assistance
- A current YouthBuild participant

Section 3 Business Concern

A Section 3 Business Concern meets one of the following

- It is at least 51% or more owned by low- or very low-income persons
- Over 75 % of the labor hours performed for the business are performed by low- or very low-income persons
- It is a business at least 51% owned by current public housing residents or residents who currently live in Section 8- assisted housing

The status of the Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owners(s) or employees.

*A Section 3 worker who has been employed for 5 years may no longer be counted towards meeting the requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

YouthBuild

A non-profit organization which on a voluntary basis provides education, counseling and job skills to unemployed young American adults. <https://youthbuild.org/>

Section 3 Preference

Section 3 preference should be given in training and employment opportunities to people in public and assisted housing, people living in the area where the HUD financial assistance is expended, people that are homeless or participants in Department of Labor (DOL) Youth Build programs. Business that meet the definition of a Section 3 business concern should be given a preference in contracting.

Section 3 Resources

Businesses can seek Section 3 employee applications through the Section 3 Opportunity Portal, which allows for job opportunity postings and potential employee applications. Businesses can also post contracts on the Section 3 Opportunity Portal. The Section 3 Business Registry is a listing of firms who have self-certified they meet at least one of the regulatory definitions of a Section 3 business and registering on the site can increase visibility and increase opportunities.

Bid Procurement

Recipients must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and must conform to the procurement standards identified in 2 CFR § 200.317 through 2 CFR § 200.327. Recipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Outreach

Recipients will identify project specific outreach in the Section 3 Developer Plan. Describe strategies to notify Section 3 workers, targeted Section 3 workers and Section 3 business concerns of job opportunities.

Below are example outreach strategies:

- Contractors will notify the Section 3 Coordinator/Primary Contact when training/job opportunities are available for the project
- Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
- Conduct an annual training for Section 3 workers and Section 3 businesses
- Clearly indicate Section 3 eligibility on all job postings with the following statement: **“This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 Voucher”**
- Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- Utilize the Section 3 Opportunity Portal and the Section 3 Business Registry to notify qualified candidates and Section 3 businesses of upcoming bid opportunities
- Establishing a current list of Section 3 eligible applicants
- Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
- Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - Advertising job opportunities via social media, including LinkedIn and Facebook;
 - Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices
 - Advertising job opportunities via _____’s website at ____ (URL) _____
 - Send a digital copy of project/job advertisements to the HOME Department’s Finance Officer for the project to be posted on IHFA’s website at: <https://www.idahohousing.com/federal-programs/section-3/>
 - Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

All evidence of qualitative efforts to assist low and very low-income persons with employment and training opportunities will be documented and submitted to Idaho Housing and Finance Association for review.

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)

Recipients will take the necessary steps to include minority and women owned business enterprises (MBE/WBEs) and labor surplus area firms are provided an opportunity to provide goods and services to assisted activities.

DEFINITIONS

1. A minority-owned business is defined as a business which is at least 51% owned by one or more minority group members, or, in the case of a publicly-owned business; one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals.

2. A woman-owned business enterprise is defined as a business that is at least 51% owned, operated, and controlled by a woman or group of women who are U.S. Citizen(s) and controls or operates the business.

Affirmative outreach may include, but not limited to:

- Including MBE/WBE, when qualified, on solicitation mailing lists;
- Encouraging MBE/WBE participation through direct solicitation of bids or proposals when they are potential sources;
- Utilizing the local media, electronic and print, to market and promote contract and business opportunities for MBE/WBEs;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
- Establishing delivery schedules, where the requirements permit, which encourage participation by such firms;
- Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above;
- Sponsoring business opportunity-related meetings, conferences, seminars, etc.

Recipients will also be responsible for collecting MBE/WBE data and reporting to the HOME department.

MINIMUM ACCEPTABLE OUTREACH STANDARDS

Section 281 of the National Affordable Housing Act requires recipients to establish an MBE/WBE outreach plan. The minimum standards for such outreach efforts are:

- A good faith, comprehensive and continuing endeavor;
- Publishing a statement of public policy and commitment in the print media of widest local circulation;

- Appointment of an office and/or key-ranking staff person with oversight responsibilities for MBE/WBE outreach and access to the executive director/chief official;
- Utilization of all available and appropriate public and private sector local resources.
- Submit job/bid proposals, a brief description of project and work, name of company, response due date and contact information to the HOME Department.
- The proposal/bid will be emailed to all registered MBE/WBE participants in Idaho. The HOME Department will submit proposals/bid to Procurement Technical Assistance Center (PTAC) to assist in soliciting outreach requirements.
- For additional information on PTAC, see: <http://idahosbdc.org/specialized-services/government-contracting-ptac/ptac-services/>

Section 3
DEVELOPER PLAN

(Project Name)*

Version Number	Date Updated	Summary of Changes
1.0	[date]	Initial Draft

*This is designed to assist in the implementation and monitoring of Section 3. It is strongly encouraged this document is updated and shared with contractor(s)/subcontractors. Developers are encouraged to find a format working for their organization/project.

This tool has been modified by IHFA’s HOME Department for Section 3 purposes. The original document can be found at: <https://www.hudexchange.info/resource/6560/section-3-sample-plan/>

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OVERVIEW OF SECTION 3 REQUIREMENTS**A. WHAT IS SECTION 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure employment and other economic 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.

B. PURPOSE OF THIS DOCUMENT

This plan outlines how the [Developer Name] and its contractors/subcontractors will provide outreach, reporting, and compliance with HUD's Section 3 requirements. An application for the [Project Name]'s to receive [HOME/HTF/HOME-ARP/NSP] funding will utilize this Developer Plan for Section 3. [Developer Name] will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

Future applications may continue to use this Developer Plan, but may need to periodically update outreach efforts/information, as applicable to the project or subsequent applications. The HOME Department will use the submitted Developer Plan as the method for monitoring the recipient's compliance.

[Developer Name] will update this Developer Plan for [Project Name], as necessary, to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies. It is strongly encouraged the [Developer Name] share updates with necessary parties for continued compliance.

This Section 3 Developer Plan is a tool to assist with expectations, communication, and compliance throughout the [Project Name]. *Section 3 Developer Plans may use this template or an organizational equivalent, so long as it contains:*

- Developer's Coordinator or Primary Contact for Section 3 Compliance
- Reporting Requirements
- Section 3 Required Outreach
- Section 3 Required Forms
- Labor Hour Collection Method
- Procurement
- Contractor Non-Compliance Process
- Complaint Procedure

C. APPLICABILITY

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects exceeding more than \$200,000 of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

A project is defined as:

- The site or sites together with any building(s) and improvements located on the site(s) which are:
 - Under common ownership and
 - Common management and
 - Financing.

All three criteria must be met to meet the definition of a project otherwise, it is a separate project. If the project is going to be scattered site under one written agreement and one Developer Plan.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program. *Check ALL the funding sources which may be a part of the project:*

- City of Boise – HOME City of Boise – CDBG
- Department of Commerce – CDBG
- City of Meridian – CDBG City of Nampa – CDBG City of Caldwell – CDBG
- City of Pocatello – CDBG City of Idaho Falls – CDBG City of Twin Falls – CDBG
- City of Lewiston – CDBG City of Coeur d’Alene – CDBG
- Self-Help Homeownership Opportunity Program (SHOP)
- Public Housing Authority Project-Based Vouchers

Identify the Housing Authority:

If the project will be using resources from a Public Housing Authority, please consult with the HOME Department Finance Officer to ensure coordination of reporting requirements at application.

Section 3 requirements **do not** apply to:

- 1) Material Supply Contracts - § 75.3(b)
- 2) Indian and Tribal Preferences - § 75.3(c) and
- 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d).

SECTION 3 COORDINATOR

[Developer Name]'s Section 3 Coordinator/Primary Contact serves as the central point of contact for Section 3 compliance for [Project Name] and its contractors and subcontractors supporting the program. Contractors, subcontractors and others are encouraged to reach out to [Developer Name]'s Section 3 Coordinator/Primary Contact with questions regarding Section 3 compliance:

***[coordinator/contact name]**

[coordinator/contact title]

[coordinator/contact email]

[Coordinator/contact phone]

*This person will also be the point of contact for the HOME Department's Finance Officer.

EMPLOYMENT, TRAINING, AND CONTRACTING GOALS

A. SAFE HARBOR COMPLIANCE

[Developer Name] will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the **beginning of work**, contractors and subcontractors will be required to certify they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in [Section C](#).

If the contractor and subcontractor does not meet the safe harbor requirements, they must document and submit all qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. SAFE HARBOR BENCHMARKS

[Developer Name] has established employment and training goals, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined [24 CFR Part 75.19](#). The safe harbor benchmark goals are as follows:

- 1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

Section 3 Labor Hours/Total Labor Hours = 25%

And

- 2) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

All contractors submitting bids or proposals to the [Developer Name] are required to certify they will comply with the requirements of Section 3. *Prior to the release of the Developer's final retention, required reporting forms will need to be submitted to the HOME Department Finance Officer.*

C. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING

EMPLOYMENT AND TRAINING

Provide employment and training opportunities to Section 3 workers within the metropolitan area (or Nonmetropolitan County) in which the project is located in the priority order listed below:

- 1) Section 3 workers residing within the service area or the neighborhood of the project, and
- 2) Participants in YouthBuild programs.

CONTRACTING

Under [Developer Name]'s Section 3 Developer Plan, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order or priority:

- 1) Section 3 Business concerns whom provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which assistance is located in the following order of priority (*where feasible*):
 - a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - b) YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work. After work is completed and prior to the final developer retention release; all documentation demonstrating outreach will need to be provided to the HOME Department.

SECTION 3 ELIGIBILITY AND CERTIFICATIONS

Individuals and businesses meeting Section 3 criteria may seek Section 3 preference from [Developer Name] or its contractors/subcontractors for training, employment, or contracting opportunities generated by [HOME/HTF/HOME-ARP/NSP] assistance. To qualify as a Section 3 worker, Targeted Section 3 worker or a Section 3 business concern, each **must self-certify or the business may certify on behalf of the employee, AND request the preference** when submitting a bid response.

Individuals or businesses who misrepresent themselves as Section 3 business concerns and report false information to [Developer Name] and/or the HOME Department; may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

<https://www.idahohousing.com/documents/developer-certification-form.pdf>

A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

A Section 3 worker seeking certification shall submit self-certification documentation or the business may certify on behalf of the employee to the contractor or subcontractor. Either documentation, verifies the

person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, [Developer Name] will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.idahohousing.com/federal-programs/home-program/>. *The income limits are based on where the employee resides.*

Eligible individual or employers seeking the Section 3 worker preference shall demonstrate it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant.

Persons seeking the Targeted Section 3 worker preference shall demonstrate it meets one or more of the following criteria:

- 1) Employed by a Section 3 business concern or
- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
 - b) A YouthBuild participant.

Section 3 workers and Targeted Section 3 workers who are seeking preference in training and employment must submit the Certification of Section 3 Annual Income Form. This form is to be submitted no later than at project close out, or as requested by the HOME Department. . The certification procedure will consist of the following, *or approved equal to*:

<https://www.idahohousing.com/documents/section-3-income-certification-and-calculation-requirements.pdf>

<https://www.idahohousing.com/documents/certification-of-section-3-annual-income.pdf>

<https://www.idahohousing.com/documents/labor-hour-certification-form.pdf>

PROJECTS INVOLVING MULTIPLE SOURCES OF FUNDING

Please consult with the HOME Department on ensuring compliance for multiple sources of funding.

SECTION 3 OUTREACH

A. OUTREACH EFFORTS FOR EMPLOYMENT AND TRAINING

When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible promote, train, and document efforts. These are provided to the [Developer Name], as evidence of compliance with Section 3 Outreach. [Developer Name] CHECK Section 3 Outreach efforts from the following list, what will be completed, as evidenced by documentation. *The HOME Department will hold retention and will release once all evidence has been submitted for best efforts for outreach:*

- Contractors will notify the Section 3 Coordinator/Primary Contact when training/job opportunities are available for the project
- Conduct outreach in the service area or neighborhood of the project. *Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.*
- Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
- Conduct an annual training for Section 3 workers and Section 3 businesses
- Clearly indicate Section 3 eligibility on all job postings with the following statement: **“This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 Voucher”**
- Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- Utilize the Section 3 Opportunity Portal and the Section 3 Business Registry to notify qualified candidates and Section 3 businesses of upcoming bid opportunities
- Establishing a current list of Section 3 eligible applicants
- Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
- Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - Advertising job opportunities via social media, including LinkedIn and Facebook;
 - Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices
 - Advertising job opportunities via _____’s website at ____ (URL) _____
 - Send a digital copy of project/job advertisements to the HOME Department’s Finance Officer for the project to be posted on IHFA’ s website at: <https://www.idahohousing.com/federal-programs/section-3/>
 - Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

B. OUTREACH EFFORTS FOR CONTRACTING

When contracting opportunities arise in connection with [HOME/HTF/HOME-ARP/NSP] funding, [Developer Name] will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to: *Please select the outreach efforts to be used on Project Name*

- Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
- Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. The Section 3 Coordinator will participate in these meetings to explain and answer questions related to Section 3 policy. *The HOME Department's Finance Officer can participate as available, necessary to explain Section 3.* Pre-bid meetings should include the following information:
 - Project Name
 - Sign-in Sheet (Business Name, Representative Name, Contact Information)
 - Date & Time of Meeting (*Documentation of Agenda and Notes of Meeting*)
 - How to Submit Bids and Due Date for Bids
 - Scope of Project
 - Unique Entity Identifier (UEI)
 - Section 3 Requirements
 - Actual hours worked or Good Faith Estimate (if no time and record keeping system)
 - Section 3 required certification forms (prior to release of retention)
 - Section 3 outreach documentation (prior to release of retention)
 - If business is a Section 3 business entity, a preference must be requested when responding to the bid.
- Advertising contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information.
- Providing written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
- Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
- Coordinating with the [Developer Name]'s all other business assistance agencies and contractor associations to inform them of contracting opportunities and request assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
- Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.). Contractors will also be encouraged to collaborate with the [Developer Name] as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

SECTION 3 CONTRACTING POLICY AND PROCEDURE

[Developer's Name] will incorporate Section 3 in its existing Procurement Policy to be included in all requests for bid generated for use with [HOME/HTF/HOME-ARP/NSP] funding. This policy and procedure contain requirements for making efforts to award contracts to Section 3 Business Concerns. *For questions regarding procurement types and thresholds, please see: [2 CFR 200.320](#).*

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the [Developer's Name] be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the Section 3 Contractor Certification Form.

[Developer's Name] is responsible for verifying contractors/subcontractors have not been debarred, suspended, or excluded from participation in federal awards. This is achieved by reviewing a businesses' Unique Entity Identifier (UEI) at Sam.Gov. *The HOME Department will perform a quality assurance review throughout the project of all UEIs.*

SECTION 3 PROVISIONS/CONTRACT LANGUAGE

[Developer Name] will include standard Section 3 language in all of its contracts, more specifically, the [General Contractor's Name]. This ensures compliance with regulations in 24 CFR Part 75. [Developer Name] will take appropriate actions upon finding a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations.

Pursuant to 24 CFR 75.27, in the event the Section 3 language is omitted (intentionally or unintentionally) from a contract, all contractor(s) and subcontractors must comply with Section 3 reporting requirements.

On a periodic basis the [Developer Name]'s Section 3 Coordinator/Primary Contact will audit contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan. The HOME Department will monitor the Developer's compliance with Section 3 through random review of documentation.

Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts. *The HOME Department will not release the final retention until all Section 3 requirements have been met. It is strongly encouraged retention is not released by the [General Contractor's Name] until Section 3 requirements and documentation satisfy the HOME Departments review.*

REPORTING REQUIREMENTS

[Developer Name] will identify how frequently Section 3 reporting will be provided to the HOME Department.

- A. Collect labor hour certifications for all on-site work and hours worked in relation to the project on a monthly/per reimbursement request basis. Recipient(s) will retain these records, and provide upon request from the HOME Department.

B. Collect labor hour certifications for contractors/subcontractors prior to releasing final payments/retainage and collecting final lien waivers. Recipient, contractors, and subcontractors will be required to track labor hours for the entirety of the project, but would only be required to provide certifications upon final payment. Recipient will retain these records, and provide upon request from the HOME Department.

The HOME Department will review documentation supplied against this approved Developer Plan and require adjustments to the plan based on this review. If at project closeout there is missing or incomplete documentation, the HOME Department reserves the right to withhold all or a portion of final retainage, and/or impose other penalties such as not allowing group to apply in future rounds if corrective actions are unable to be remedied. All evidence of qualitative efforts to assist low and very low-income persons with employment and training opportunities are to be documented and submitted to the HOME Department for review.

A. MONTHLY/PER REIMBURSEMENT BASIS

- 1) Contractors are required to submit monthly activity reports to [Developer Name]'s Section 3 Coordinator [Coordinator's email address] by the [number] day of each month.

B. PROJECT COMPLETION

- 1) Once a project is completed, contractors must submit a final Section 3 cumulative report for the project. *A Section 3 Tracking Excel Workbook will be provided to the recipient.*
- 2) Upon the completion of a project, [Developer Name]'s [project name] Section 3 Coordinator/Primary Contact will conduct a final review of the project's overall performance and compliance.
- 3) [Developer Name]'s Section 3 Coordinator/Primary Contact will submit the Section 3 data and forms to the HOME Department Finance Officer.

SECTION 3 COMPLAINT PROCEDURE

In an effort to resolve complaints generated due to non-compliance through an internal process, [Developer Name] encourages submittal of such complaints to its Section 3 Coordinator/Primary Contact as follows:

- 1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75.
- 2) Complaints must be filed within [] () calendar days after the complainant becomes aware of the alleged violation.
- 3) An investigation will be conducted if complaint is found to be valid. [Developer Name] will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- 4) The [Developer Name] will provide written documentation detailing the findings of the investigation. The [Developer Name] will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than [] () days after the filing of complaint. If complainants wish to have their concerns considered

outside of the [Developer Name,] a complaint may be filed with: the HOME Department’s Finance Officer

The HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, www.hud.gov/. Complainants may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person’s race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.

Recipient Signature Date

Board President (if non-profit recipient) Signature Date

HOME Department Signature Date

APPENDIX A: DEFINITIONS

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low-and Very Low-Income Persons:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq. activities related to Public Housing*

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income. Area Median Income is for the metro statistical area where the employee resides.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in 24 CFR Part 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient is a Developer, Owner, or Sponsor of the project who is responsible for ensuring compliance with Section 3 reporting and outreach efforts.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Targeted Section 3 worker has the meanings provided in 24 CFR Part 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226). A non-profit organization which on a voluntary basis provides education, counseling, and job skills training to unemployed 16-24 year olds. For more information visit: <https://youthbuild.org>.