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Section 3 Handbook

Presque Isle County Home Improvement Program

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Presque Isle County Home Improvement Program

Introduction

Section 3 is the legislative directive from the U.S. Department of Housing and Urban Development (HUD) for providing preference in new employment, training, and contracting opportunities that are generated by HUD-funded projects to low- and very low-income local residents (regardless of race or gender). Section 3 also provides contracting preferences to local businesses that substantially employ low- and very low-income residents of the local community. Section 3 requirements apply to HUD funding provided to Presque Isle County Home Improvement Program, through the Michigan State Housing Development Authority.

Section 3 is activated when construction and rehabilitation projects create the need for new employment, contracting, or training opportunities. Recipients or contractors are not required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete a covered project. If the expenditure of a covered project does not result in new employment, contracting, or training opportunities, the requirement of Section 3 is not activated. Nevertheless, the recipient and its contractors are required to submit Section 3 report information.

As a condition of receiving HUD housing and community development program funds, recipients must certify they will comply with the requirements of Section 3. HUD has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations. Furthermore, MSHDA and HUD have a similar level of responsibility and may impose sanctions or penalties against Presque Isle County Home Improvement Program for non-compliance.

Presque Isle County Home Improvement Program's primary responsibility as a recipient of HUD funding includes:

- a. Notifying Section 3 residents and businesses about jobs and contracts generated by Section 3 covered assistance so that residents may seek jobs and businesses may submit bids/proposals for available contracts;
- b. Notifying potential contractors of the objectives of Section 3 and ways in which each contractor can assist the sub-recipient to meet its goal;
- c. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns; and
- d. Documenting the action that the sub-recipient takes to comply with the Section 3 requirements, the results of the actions, and impediments, if any.

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It also includes the responsibility of “ensuring compliance” of our contractors by subcontractors. This means that a sub-recipient must:

- a. Notify contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 Clause in contract documents.
- b. Refrain from entering into contracts with contractors that are in violation of the regulations in 24 CFR Part 135.
- c. Respond to complaints made to the recipient by Section 3 residents or business concerns that the sub-recipient, a contractor or subcontractor, is not in compliance with 24 CFR Part 135.
- d. Cooperate with HUD in obtaining the compliance of contractors and subcontractors when allegations are made that the sub-recipient’s contractors and subcontractors are not in compliance with the regulation of 24 CFR Part 135.

These guidelines have been prepared to provide information and guidance to Section 3 recipients on how the Presque Isle County Home Improvement Program will administer the Section 3 regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and regulations. It is a summary of the pertinent provisions, and focuses on the requirements imposed on the Developer, General Contractor and Subcontractor receiving the requisite amount of Section 3 funds. Developers, General Contractors and Subcontractors bear the responsibility to familiarize themselves with the Section 3 Act and regulations prior to accepting Section 3 covered assistance.

Policy Statement & Purpose

The Presque Isle County Home Improvement Program shall provide opportunities to low- and very low-income people living in all the targeted areas and to businesses meeting the definition of “Section 3 Business Concern.” Accordingly, the Presque Isle County Home Improvement Program shall implement policies and procedures to ensure Section 3, when required, is followed for all contracts where labor and/or professional services are provided.

This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It applies to contractors who install materials or equipment (see the definition of “Section 3 Contractor” below). Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the entire project or activity is subject to Section 3 requirements. Nothing in this policy shall be construed to require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

Successful compliance with the Section 3 Act and regulations by the Developer and/or General Contractor will be a factor in determining future awards of Section 3 covered assistance.

According to the Section 3 regulations, located at 24 CFR Part 135, Section 3 Recipients are required to provide employment, training and contracting opportunities to Section 3 Residents or Section 3 Business Concerns. However, the Section 3 requirements are not imposed upon a recipient who does not engage in hiring or training, but instead awards contracts to Developers and General Contractors that hire and train in connection with Section 3 Covered Projects. According to the Section 3 regulations, these recipients may comply with Section 3 by ensuring that the Developers, General Contractors and Subcontractors receiving Section 3 Covered Assistance comply with the Section 3 Act.

To Whom Does Section 3 Apply?

The following definitions are intended to describe the differences between “recipient” and “contractor.”

Section 3 Recipient - The recipient is the Presque Isle County Home Improvement Program because it is a sub-recipient of HUD funding from MSHDA, which receives more than \$200,000 from HUD.

Other Section 3 Recipients - In addition to the Presque Isle County Home Improvement Program, any entity that receives housing and community development funding from a funding source in excess of \$200,000 for Section 3 covered activities is a recipient.

A Section 3 recipient has the responsibility to comply with Section 3 in its own operations and to ensure the compliance of its Section 3 contractors and subcontractors.

Section 3 Contractor - A contractor is any entity that performs work for a Section 3 recipient in an amount greater than \$100,000, provided the work is for a Section 3 covered activity. (A subcontractor performing work for a Section 3 contractor in an amount greater than \$100,000 is considered a contractor.)

Section 3 Covered Activities - Section 3 covered activities include all projects and activities involving construction, such as housing construction, demolition, rehabilitation, or other public construction (e.g. streets, sidewalks, sewers, community centers, etc.). Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials. **Where federal housing and community development assistance provides partial funding for a Section 3 project or activity, the entire project or activity is subject to Section 3 requirements.**

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The following are examples of federal housing and community development programs with construction activities that require Section 3 compliance:

MSHDA Funded Programs

- Homebuyer Purchase Rehabilitation
- Acquisition/Development Resale
- Homeowner Rehabilitation
- Homeowner Emergency Repair

Intended Beneficiaries of Section 3

For the federal housing and community development programs listed above, the intended beneficiaries of Section 3 are two-fold.

Section 3 Residents. Low- and very low-income people living in the county in which the Presque Isle County Home Improvement Program is administering a Section 3 Covered Contract with the following priorities:

First Priority - Residents of the development where the work is to be performed.

Second Priority - Other residents of the neighborhood where the work is to be performed.

Third Priority - Other residents of the neighborhood who are participants in federal, state, and local job programs.

Fourth Priority - Other persons from the targeted area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Section 3 Business Concerns. Businesses that are 51% owned by low- and very-low income people; businesses whose permanent full-time staff consist of at least 30% or more low- and very-low income persons (preferably who live in neighborhoods where the Section 3 covered assistance is provided), or businesses that contract out over 25% of the total amount of a Section 3 covered contract to other Section 3 business concerns.

Section 3 Contracting Policy & Procedure

Preference shall be awarded to Section 3 Business Concerns according to the following system:

A. Where the Section 3 Covered Contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 Business Concern with the lowest responsible quotation, if it is reasonable and no more than 10 % higher than the quotation of the lowest responsible quotation from any qualified source. If no responsible quotation by a qualified Section 3 Business Concern is within 10 % of the lowest responsible quotation from any qualified source, the award shall be made to the source with the lowest quotation.

B. Where homeowners are selecting the contractor based on a list provided by the Presque Isle County Home Improvement Program the homeowners will be encouraged to solicit a bid from a minimum of one Section 3 Contractor whenever possible. The homeowner when making the selection will be made aware of Section 3 guidelines and all else being equal will be encouraged to consider an approved Section 3 Contractor in their selection process.

Competitive Bids: Procurement by Sealed Bids (Invitations for Bids)

Preference in the award of Section 3 Covered Contracts that are awarded under a sealed bid process may be provided as follows:

1. Bids shall be solicited from all businesses (i.e. Section 3 Business Concerns and non-Section 3 Business Concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsible bid if that bid:

A.) is within the maximum total contract price established in MSHDA's budget for the specific project for which bids are being taken; and

B.) is not more than "X" higher than the total bid price of the lowest responsible bid from any responsible bidder. "X" is determined as follows:

X = lesser of:

When the lowest responsible bid is less than \$100,000 10% of that bid or \$9,000

When the lowest responsible bid is:

At least \$100,000, but less than \$200,000 9% of that bid or \$16,000

At least \$200,000, but less than \$300,000 8% of that bid or \$21,000

At least \$300,000, but less than \$400,000 7% of that bid or \$24,000

At least \$400,000, but less than \$500,000 6% of that bid or \$25,000

At least \$500,000, but less than \$1 million 5% of that bid or \$40,000

2. If no responsible bid by a Section 3 Business Concern meets the requirements of paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest responsible bid.

3. In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

Employment and Training Goals

All contractors will seek low- or very low-income persons residing in the targeted area for 30% of all new hires. When applicable, the contractor must show evidence of seeking project residents for 15% of the new hires.

Employment and Training opportunities for Low- and very low-income people living in the Presque Isle County Home Improvement Programs targeted area have the following priorities:

First Priority - Residents of the development where the work is to be performed.

Second Priority - Other residents of the neighborhood where the work is to be performed.

Third Priority - Other residents of the neighborhood who are participants in HUD Youthbuild or other federal, state, and local job programs being carried out in the targeted area.

Fourth Priority - Other persons from the targeted area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Eligibility for employment or contracting nothing in this policy shall be construed to require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot perform the contract.

Assisting Contractors in Achieving Section 3 Goals

Presque Isle County Home Improvement Program is available to provide technical support to Developers, General Contractors and Subcontractors participating in the development of Section 3 Covered Projects and will also maintain a limited database of Certified Section 3 Business Concerns and outreach agencies.

Developers, General Contractors and Subcontractors are required to retain copies of all outreach attempts, copies of all responses to notices published in the paper and posted publicly, copies of all responses to bid invitations, and any other relevant information. This information shall be provided upon request.

The Presque Isle County Home Improvement Program may conduct on-site reviews of the Section 3 Covered Project to determine whether the Developer, General Contractor or Subcontractor is complying with its approved Section 3 Plan.

In the event that the Presque Isle County Home Improvement Program determines that the Developer, General Contractor or Subcontractor is not meeting its employment, training or contracting opportunity goals as set out in the approved Section 3 Plan, the respective party will be provided with a written notice of non-compliance. The notice will require the respective party to meet with the Presque Isle County Home Improvement Program to determine if best efforts were used to meet Section 3 requirements, and if further outreach attempts are necessary to meet Section 3 goals.

Preference for Contracting with Section 3 Businesses

The Presque Isle County Home Improvement Programs minimum goals are as follows:

- 10% of the total dollar amount of all Section 3 covered construction contracts will be awarded to Section 3 business concerns.
- 3% of the total dollar amount of all covered non-construction contracts will be awarded to businesses that qualify as a Section 3 business concern.

Section 3 Certification

Section 3 Resident. Any person seeking Section 3 preference in hiring and training shall complete the Section 3 Resident Certification (see appendix). The individual seeking Section 3 preference shall provide adequate documentation regarding permanent residence and income. Verification of income eligibility may consist of any of the following:

- a) A public housing or Section 8 lease agreement;
- b) Evidence of income (most recent W-2 or income tax return); or
- c) Evidence of receipt of public assistance; or
- d) Any other evidence acceptable to the County.

Section 3 Business Concern. Any business seeking Section 3 preference shall complete the Presque Isle County Home Improvement Program's Certification for Business Concerns Seeking Section 3 Preference in Contracting (See Appendix). This is a self-certification, and Section 3 business concerns ultimately bear the responsibility of maintaining their Section 3 status and complying with all related HUD regulations. Certifications for Section 3 preference for business concerns must be submitted to the Presque Isle County Home Improvement Program prior to the submission of bids for review. Business concerns shall provide any additional documentation upon request.

Section 3 Recruitment, Training and Employment Procedure for Employment of a Section 3 Resident

To comply with the Section 3 Act and the Section 3 Regulations, the Section 3 Contractor or Subcontractor, as applicable, shall implement an aggressive campaign to encourage participation of Section 3 Residents and Section 3 Business Concerns. Some strategies to implement this campaign include the following:

- a) Publish in a local newspaper a notice of the potential employment and training opportunities for Section 3 Residents, potential contracting opportunities for Section 3 Residents, and potential

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contracting opportunities for Section 3 Business Concerns. Written notice must be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.

b) Post in a prominent location at the Section 3 Covered Project site notice of the potential employment and training opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns.

c) Provide the residents of the Section 3 Covered Project and the surrounding area with information on how to become certified as a Section 3 Resident or a Section 3 Business Concern;

d) Provide information to residents of a Section 3 Covered Project and the surrounding area regarding established job training programs located within the Section 3 Covered Project area;

e) Provide minority and women-focused labor and trade organizations with notice of Section 3 contracting opportunities, as well as job postings and training opportunities;

f) Contact the following group that has been identified as instrumental in assisting Section 3 target groups regarding employment, training, or contracting opportunities; Michigan Works.

Section 3 Covered Project; Contractor Requirements in Employing Section 3 Residents and Businesses that are described in the required Section 3 Clause in all Construction Contracts

Prior to entering into an Agreement with the Presque Isle County Home Improvement Program the Sub-Recipient, General Contractor, or Developer shall submit a comprehensive Section 3 Plan that includes Section 3 goals and strategies that will be implemented to meet those goals. The plan shall be signed by the General Contractor or Developer, as applicable, and submitted to the Presque Isle County Home Improvement Program for review and approval.

All Section 3 Plans submitted to the Presque Isle County Home Improvement Program must include a breakdown of job categories and positions needed for the Section 3 covered Project, including positions occupied by permanent employees. If no employment or training opportunities will be available in connection with the Section 3 Covered Project, this must be reflected in the Section 3 Plan.

Upon receipt of the Section 3 Plan, the Presque Isle County Home Improvement Program staff will review the Plan and either approve or disapprove of the document. Suggested modifications will be included with any disapproval of a Section 3 Plan in order to assist the General Contractor or Developer. After the Section 3 Plan is approved, it shall be made a part of the construction documents, and be reviewed regularly to assess its implementation and the attainment of the Section 3 goals. If subcontracts in excess of \$100,000 are awarded, those Subcontractors will be required to submit their own Section 3 Plan for review and approval.

The Presque Isle County Home Improvement Program shall provide MSHDA with copies of bid documents, construction contracts, and any other related documentation upon request.

Components of a Section 3 Plan

The Section 3 Plan must contain specific information, including but not limited to the following:

- a) Statement from the Section 3 Contractor or Subcontractor certifying it intends to comply with the Section 3 Act and regulations, as well as this document.
- b) Statement from the Section 3 Contractor and each Subcontractor certifying they are aware of the employment, training, and contracting goals, and agree to work together to meet these goals;
- c) Name and contact information of the Section 3 Contractor or Subcontractor's Section 3 coordinator (either official or designated);
- d) Identification of the Section 3 Project area (the neighborhood where the work will be performed).
- e) Section 3 Contractor or Subcontractor's current workforce, and additional workforce necessitated by the Section 3 Covered Project;
- f) Section 3 employment, training and contracting opportunity goals;
- g) Specific strategies for notifying Section 3 Residents of Section 3 employment and training goals, and specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- h) Commitment to inform all Subcontractors of the Section 3 Plan;
- i) Commitment to prepare and submit to the Presque Isle County Home Improvement Program, monthly Section 3 reports;
- j) Commitment to include the Section 3 Clause in all construction contracts. The Section 3 Contract Clause (Attachment A) specifies the requirements for contractors hired for Section 3 covered projects. Failure to comply with the general conditions outlined in the clause may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-funded contracts.
- k) Commitment to conduct aggressive outreach and notification campaigns to Section 3 Residents and Section 3 Business Concerns regarding Section 3 goals, including the usage of site signage, flyers, etc.

Internal Complaint Procedure

The following Complaint Resolution Procedure is established in accordance with MSHDA Policy Bulletin #3.

Filing Complaints

Any party applying for or participating in a rehabilitation project under this Program may file a complaint with the Housing Administrator. Complaints must be filed in writing within fifteen (15) days of the incident that causes the complaint and should contain a detailed description of the complaint. The Housing Administrator shall provide a copy of the complaint to the party against whom the complaint is written. If the complaint is against the Housing Administrator, the Presque Isle County Home Improvement Program shall convene a meeting of the Review Committee at the earliest date convenient to all parties. The Review Committee shall consist of the Building and Zoning Official, the Chairperson of the Board of Commissioners and one member of the project committee.

Response

The Housing Administrator shall investigate the complaint and respond in writing within 15 days, to both parties, with the recommended resolution of the problem.

Each party shall review the recommendation and respond, in writing, within fifteen (15) days to the Housing Administrator of their decision to accept or reject the recommended resolution. The Housing Administrator will attempt to mediate any unresolved issues between the parties.

If a complaint involves civil rights or fair housing discrimination, a referral shall be made to the Michigan Department of Civil Rights (MDCR) or HUD. A copy of any such complaint must be sent to the MSHDA CD Specialist who will forward a copy to the MSHDA EEO/Fair Housing Office.

Inform the Chairperson of the Presque Isle County Commissioners of any complaint the Housing Administrator fails to resolve; the Chairperson of the Presque Isle County Commissioners should review the case and recommend a resolution or the following process:

Inform the Project Committee of any Complaint that is not resolved by the Housing Administrator, and report findings. The Project Committee shall refer the Complaint to a Review Committee.

The Review Committee shall be comprised of:

A person from the project committee (completely separate from any contractor who is part of the complaint); a local community representative; and a representative of the Presque Isle County Board of Commissioners.

The claimant may choose to make a presentation or submit a written description (including documentation) to the Review Committee. If there is a dispute, both parties shall have an opportunity to air their concerns. Once all parties have had ample opportunity to air concerns that are pertinent to the complaint, the Review Committee will consider all input and decide the steps necessary to resolve outstanding issues. Recommended resolution of said complaint will be put in writing to all parties, asking for signature of agreement within 15 working days of the hearing.

Dispute Resolution

If the party or parties does not accept the resolution of the Review Committee, the following shall be contacted for services:

Sunrise Mediation Services
603 South Eleventh Avenue
Alpena, Michigan 49707
Phone: (989) 356-0586

The costs, if any, for using mediation to seek resolution of the dispute are eligible administrative costs under MSHDA's grant agreements. If the Complaint involves a program directly funded by HUD, the Presque Isle County Home Improvement Program will seek funding guidance from the appropriate HUD staff contact.

Final Recourse

MSHDA and/or HUD will review complaints only after the above process is complete and a dispute is still unresolved.

In the event that MSHDA and/or HUD are contacted directly by a complainant, he/she will be referred to the Grantee for implementation of policy procedures. After all previously outlined steps have failed to resolve the complaint, the grantee may contact MSHDA and/or HUD in writing, detailing the complaint and verifying its compliance with above listed steps.

Definitions

Low-Income Person— a family (including a single-person household) whose income does not exceed 80% of the Area Median Income, as determined by HUD.

New Hire—a person employed for a full-time permanent, temporary or seasonal employment opportunity.

Section 3 Business Concern—Any business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in Section 3 covered activities; AND:

- Is 51% or more owned by Section 3 residents; OR
- Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; OR
- That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in statements referenced above in this definition of “Section 3 Business concern.”

Section 3 Contractor – Any entity that contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Section 3 Recipient – An entity that receives Section 3 covered financial assistance directly from HUD or an entity that receives more than \$200,000 in federal housing and community development funding for construction related activities.

Section 3 Resident - For the purposes of this Plan, a Section 3 resident is an individual who resides in the Presque Isle County Home Improvement Programs service area and whose income do not exceed the area HUD income limits set forth for low- or very low-income households.

Section 3 Subcontractor—Any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Appendixes

- o Certification for Section 3 Residents
- o Certification for Section 3 Businesses
- o Section 3 Contract Clause Language

CERTIFICATION FOR RESIDENT SEEKING SECTION 3 PREFERENCES
IN TRAINING AND EMPLOYMENT

Section 3 Covered Project:

I, _____, am a legal resident of the City/Village/Township of _____, County of Presque Isle, State of Michigan, and meet the income eligibility guidelines for a low- or very-low-income person as set out in the most current Income Figures provided by The Secretary of Housing and Urban Development ("HUD").

My permanent residence address is: _____

I have attached the following documentation as evidence of my status:

- _____ Copy of Lease (if with public housing authority)
- _____ Copy of receipt of public assistance
- _____ Copy of Evidence of participation in a public assistance program
- _____ Other evidence: Please state _____
- _____ Proof of Household Income _____

(Last W-2s or tax returns with social security numbers blacked out)

A Section 3 resident seeking the preference in training and employment provided by this part must submit evidence to the general contractor or subcontractor, that the person is a Section 3 resident, as defined in Section 135.5.

I hereby certify the information provided by me to be true and correct, and understand any falsification of any of the information could subject me to punishment under the law.

Signature

Print Name

Date

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease
- Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program
- Other evidence

For business entity as applicable:

- Copy of Articles of Incorporation Certificate of Good Standing
- Assumed Business Name Certificate Partnership Agreement
- List of owners/stockholders and % ownership of each
- Corporation Annual Report Latest Board minutes appointing officers
- Organization chart with names and titles and brief function statement
- Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 businesses:

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 years from day of employment Other evidence of Section 3 status less than 3 years from date of employment

Authorizing Name and Signature

Attested by: _____

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the “Section 3 Clause”):

- A. The work to be performed under this agreement/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 agreement/contract agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidenced by execution of this agreement/contract, the parties to this agreement/contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The sub-recipient/assisted entity/contractor agrees to send to each labor organization or representative of workers with which the sub-recipient/assisted entity/contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the sub-recipient/assisted entity/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 applications for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum numbers and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; 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 sub-recipient/assisted entity/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 sub-recipient/assisted entity/contractor will not subcontract with any subcontractor where the sub-recipient/assisted entity/contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The sub-recipient/assisted entity/contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the agreement/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 sub-recipient/assisted entity/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 funded 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 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)