

Attachment D

The Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).



Section 3 Contracting Preference

A business seeking to elect the *Section 3 Contracting Preference* shall self-certify or submit evidence that the business is a Section 3 Business. All contractors/subcontractors (contractors) claiming a Section 3 Preference in contracting must maintain that status throughout the life of the contract.

To receive a Section 3 Preference:

1. Contractors must certify as a Section 3 Business prior to, or at the time of the submission of bids, quotes, or proposals. To determine your status as a Section 3 Business, please answer the following questions:

I. Is your business 51% or more owned by a Section 3 Resident(s)? YES NO

***A Section 3 Resident is:**

- 1) lives in Public Housing or Subsidized/Assisted Housing; or participates in the Housing Choice Voucher Program (Section 8); **-OR-**
- 2) lives in Stanislaus County, and meets one of the household income eligibility guidelines in the chart below:

Stanislaus County Income Guideline (FY 2016)								
Number of People in Household →	1	2	3	4	5	6	7	8
My household income is less than the amount listed for my household size.	\$12,600	\$16,240	\$20,420	\$24,600 0	\$28,780	\$32,960	\$37,140	\$39,550
My household income is within the range listed for my household size.	\$12,601- \$33,550	\$16,241- \$38,350	\$20,421- \$43,150	\$24,601- \$47,900	28,781- \$51,750	32,961- \$55,600	36,141 \$59,400	\$39,551- 63,250

II. Do you employ, or will employ, 30% or more Section 3 Residents as permanent full-time employees? YES NO

III. Will you subcontract 25% or more of this contract to a qualified Section 3 Business? YES NO

*** A Section 3 Business is:**

- 1) A business that is 51% or more owned by Section 3 Resident(s); or,
- 2) A business that employs 30% or more Section 3 Residents (or were Section 3 Residents within the last 3 years) as permanent, full-time staff; or,
- 3) A business that commits to subcontract 25% of its original contract amount to other Section 3 Businesses.

- If you marked "YES" for *any* of the questions above, your business *qualifies* for the Section 3 Business Preference.
- If you marked "NO" for *all* of the questions above, your business *does not qualify* for the Section 3 Business Preference.

Once you have determined your Section 3 Business status, complete the attached Section 3 Business Status & Preference Request form and submit the form with your bid documents.

3. Contractors must sign the Section 3 Assurance which is included in the bid package, regardless of the contract award. All required Section 3 forms must be submitted with your other bid documents at the time of your bid. Bids without the Section 3 Assurance and Section 3 Business Status & Preference Request form will be considered non-responsive and is grounds for rejection of the bid.
4. Any HACS contract recipient, regardless of its Section 3 Business status, must comply with the Section 3 requirements when any hiring or contracting is essential to completing the work on the Section 3 project. HACS contract recipients must make their best efforts to offer any available opportunities to certified Section 3 Residents and Businesses. There is no waiver from this requirement. Any contractor found in violation of HACS Section 3 policy may have their contract terminated.
5. For Contractors that do not win an award for this project, the submitted Section 3 information will remain on file and you will be notified of future Section 3 contracting opportunities.



SECTION 3 BUSINESS STATUS and PREFERENCE REQUEST

Business Name _____ Main Phone () _____

Contact Person & Title _____ Cell Phone () _____

Business Address _____ FAX () _____

Street Address

Suite #

Email/Web _____

City

State

Zip Code

Type of Business Corporation Partnership Sole Proprietorship Joint Venture

Attach applicable documentation of evidence of formation of business entity:

- Copy of Business License Copy of Articles of Incorporation, if applicable Business Formation Documents
 Partnership Agreement Certificate of Good Standing

I am not certifying as a Section 3 Business. I acknowledge that I will not receive a Section 3 Contracting Preference, but I will comply with the requirements of Section 3 if a need to hire workers or subcontract any work to complete the project arises during the life of the project.

I do not qualify as a Section 3 Business. I will comply with the requirements of Section 3 if a need to hire workers or subcontract any work to complete the project arises during the life of the project.

I am certifying and requesting preference as the following type of Section 3 Business Concern (check one):

Section 3 Resident-Owned Business: 51% or more of this business is owned by Section 3 Residents.

Attach one of the following documentation as evidence:

- Copy of resident lease.
- Copy of evidence of participation in a public assistance program.
- Owner(s) signed Section 3 Resident Self-Certification.

Section 3 Resident Employed Business: 30% or more of my permanent, full-time employees are current Section 3 Residents or were within the past 3 years; **or**, I will employ (*within 10 days of contract start date*) 30% Section 3 Residents as newly hired workforce for this contract and throughout the entire contract period.

Attach all of the following documentation as evidence:

- List of all current full-time employees.
- List of employees with Section 3 status & a Section 3 Resident Self-Certification (Form S3-R) for each.
- If employing 30% Section 3 Residents, provide number of available new jobs for this project, and every effort you will use to notify and offer these jobs to Section 3 Residents (ex. Post signs at public housing sites, request list of qualified Section 3 Residents from Section 3 database, run ads in local papers, etc.).

Subcontract to Section 3 Businesses: I can provide evidence of a commitment to subcontract 25% or more of the dollar amount awarded to qualified Section 3 Businesses.

Attach the following documentation as evidence:

- List of subcontracted Section 3 Business(es) and the subcontract amount.

Evidence of ability to perform successfully under the terms and conditions of the proposed contract (at least one):

- Current financial statement List of owned equipment
 Statement of ability to comply with public policy List of all contracts for the past 2 years

I certify that the information provided above is true and complete to the best of my knowledge.

Corporate Seal

Authorized Signature

Notary

Printed Name and Title

Term Expires

NOTE: This document must be submitted with bid documents.



SECTION 3 ASSURANCES

We, the undersigned _____ (Representative), as official representative of _____ (Business) agree to comply with Section 3 requirements for the _____ (Project Name). It is understood that failure to comply may result in the following sanctions: cancellation, termination, or suspension in whole or in part of this contract.

Estimated Project Workforce Breakdown: Please provide estimates of hiring needs below.

Job Category	Total Estimated Positions Needed to Complete Project	Number of Positions Occupied by Current Employees	Number of Available Positions for New Hires	Number of Positions To be Filled with Section 3 Residents*
Supervisor				
Professional				
Technical				
Office/Clerical				
Others				
TRADE:				
Journeypersons				
Apprentices				
Trainees				
Others				
TRADE:				
Journeypersons				
Apprentices				
Trainees				
Other				

Proposed Contracts/Subcontracts Breakdown: Please provide estimates of contracting needs below.

Type of Contract (Business or Professional)	Total Number	Total Approximate Dollar Amount	Estimated Number of Contracts to Section 3 Businesses	Estimated Dollar Amount to Section 3 Businesses

Signature of Person Completing Form

Date

Printed Name and Title

NOTE: This document must be submitted with bid documents.



SECTION 3 AFFIRMATIVE ACTION PLAN

_____ (Contractor) agrees to comply with the requirements of Section 3 of the HUD Act of 1968¹ (Section 3) by assuring, *to the greatest extent feasible*, that:

1. Training and employment opportunities will be directed to qualified Section 3 Residents as provided by the HACS order of providing preferences for hiring, with a hiring goal of 30%; and,
2. Contracts for work in connection with this project will be awarded to qualified Section 3 Businesses as provided by the HACS order of providing preferences for awarding contracts, with a contracting goal of 10% for construction trades work, and 3% for non-construction work.

_____ (Contractor) will initiate the following actions to insure utilization of Section 3 Residents as employees or trainees and to incorporate Section 3 Businesses as subcontractors and suppliers:

1. The Contractor will establish and maintain a directory of service organizations, job referral agencies and manpower training programs operating within, or servicing, project area residents.
2. The Contractor will submit prior to the award of a contract, a signed assurance that it will comply with Section 3 regulations and requirements.
3. The Contractor will provide, prior to the signing of a contract, a Statement of work force needs, including trainee positions.
4. The Contractor will notify Community based organizations of available employment opportunities, and shall maintain records of response from such organizations.
5. The Contractor will make continuing personal recruitment efforts directed to such service organizations and to schools with lower income resident training programs with which he is familiar.
6. The Contractor will maintain a file of the names and addresses of each low income resident worker referred to him and that action was taken with respect to each such referred worker and, if the worker was not employed the reasons therefore. (Attached.)
7. The Contractor will include the Section 3 clause in every subcontract for work in connection with H.U.D. projects. (Attached.)
8. For each subcontract, the Prime Contractor will submit, prior to Contract award, the Section 3 Affirmative Action Plans of its subcontractors.
9. The Contractor will not attempt to circumvent Section 3 Provisions.
10. The Contractor will make a good faith effort to employ or fill training positions with lower income project area residents, it will, as a minimum, provide evidence of the following:
 - Attempts to recruit from the project area through local advertising media, community organizations, public and private agencies operating within or serving the project area, such as the Department of Labor Employment Department, and the Private Industry Council.
 - Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and that he has employed such persons if otherwise qualified and if an opening exists.
11. The Contractor will make good faith effort to incorporate project area businesses as Subcontractors and Suppliers.
12. The Contractor will provide the Section 3 workforce and business utilization reports required under this contract.

Authorized Signature _____ Date: _____

Printed Name and Title _____

Business Name _____

NOTE: This document must be submitted with bid documents.

¹At 12 USC 1701u, and implemented by 24 CFR 135.



PREFERENCES FOR SECTION 3 BUSINESS CONCERNS

Eligibility for Preference

A business seeking to elect the Section 3 *Contracting Preference* must apply for certification as a Section 3 Business prior to, or at the time of submission of bids, quotes, or proposals. By electing a Section 3 Contracting Preference, a business will receive a competitive edge over a non-Section 3 Business. A Section 3 Business Status & Preference Request form is included in each bid package, and can also be obtained from the HACS Business Office.

Order of Preferences for Section 3 Business Concerns

The Housing Authority of the County of Stanislaus has established the following order of providing preferences when awarding contracting opportunities to a Section 3 Business Concern (Section 3 Business):

Tier I:

- A. Businesses that are 51% or more owned by Section 3 Residents of the HACS housing development(s) where the Section 3-covered assistance is expended.
- B. Businesses whose full-time permanent workforce includes 30% of current Section 3 Residents (or were Section 3 Residents within three (3) years of the date of first employment with the business) of the HACS housing development(s) where the Section 3-covered assistance is expended.

Tier II:

- A. Businesses that are 51% or more owned by Section 3 Residents of another HACS housing development(s).
- B. Businesses whose full-time permanent workforce includes 30% of Section 3 Residents of another HACS housing development(s), or were Section 3 Residents within three (3) years of the date of first employment with the business.

Tier III:

- A. Businesses that are 51% or more owned by Section 3 Residents of Stanislaus County, including Housing Choice Voucher Participants (formerly Section 8).
- B. Businesses whose full-time permanent workforce includes 30% of Section 3 Residents of Stanislaus County (or were Section 3 Residents of Stanislaus County within three (3) years of the date of first employment with the business).
- C. Businesses that subcontract in excess of 25% of the total amount of subcontracts to Section 3 Businesses.



SECTION 3 CONTRACTOR'S ADVANTAGE

Procurement of sealed bids:

HUD directs within 24 CFR 135 that the HACS may award a contract to a qualified Section 3 business with the highest preference ranking and the lowest responsive bid if that bid is:

- (a) Within the maximum total contract price established by the HACS; or
- (b) Not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

"X" = LESSER OF:	
When the lowest responsive bid is less than \$100,000	10% of that bid, or \$9,000.00.
When the lowest responsive bid is at least:	
• \$100,000.00, but less than \$200,000.00	9% of that bid, or \$16,000.00.
• \$200,000.00, but less than \$300,000.00	8% of that bid, or \$21,000.00.
• \$300,000.00, but less than \$400,000.00	7% of that bid, or \$24,000.00.
• \$400,000.00, but less than \$500,000.00	6% of that bid, or \$25,000.00.
• \$500,000.00, but less than \$1,000,000.00	5% of that bid, or \$40,000.00.
• \$1,000,000.00, but less than \$2,000,000.00	4% of that bid, or \$60,000.00.
• \$2,000,000.00, but less than \$4,000,000.00	3% of that bid, or \$80,000.00.
• \$4,000,000.00, but less than \$7,000,000.00	2% of that bid, or \$105,000.00.
• \$7,000,000.00, or more	1.5% of the lowest responsive and responsible bid, with no dollar limit.

