

Resolution No. 529

Adopted: March 13, 2018

Section 3 Policy

The Bastrop Housing Authority shall attach to each contract, or cause to be included into each contract, the following Section 3 Requirements, based on the Housing and Urban Development act of 1968, as amended, 12 U.S.C. 1701u (Section 3). Such language may be incorporated into existing contracts by attaching a contract rider, executed, and signed by both contractor and the Housing Authority.

- 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 implements 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 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 worker's 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 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 subcontractor'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.

Examples Of Efforts To Offer Training and Employment Opportunities To Section 3 Residents

1. Entering into "first source" hiring agreements with organizations representing Section 3 residents.
2. Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
3. Establish training programs, which are consistent with the requirements of the Department of Labor for public and Indian housing residents, and other Section 3 residents in the building trades.
4. Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the applications process) to every occupied dwelling unit in the housing development or developments.
5. Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments.
6. Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
7. Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a housing authority or contractor representative or representatives at a location in the housing development.
8. Arranging assistance in conducting job interviews and completing job applications for residents of the housing developments or developments and in the neighborhood or service area in which a Section 3 project is located.
9. Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
10. Contracting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild programs participating for the Housing Authorities or contractor's training and employment positions.
11. Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Housing Authorities or contractor's and employment positions.

- 12.** Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- 13.** Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns identified in part 135) that will undertake, on behalf of the Housing Authorities, other recipients or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the Housing Authorities or contractor intends to fill.
- 14.** For a Housing Authority, employment of Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and 905.201(a) (6).)
- 15.** Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.
- 16.** Undertaking job counseling, education and related programs in association with local educational institutions.
- 17.** Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
- 18.** After selection of bidders but prior to contract execution, incorporating into the contract a negotiated provisions for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
- 19.** Coordinating plans and implementation of economic development (e.g. job training and preparation, business development assistance for residents) with the planning for housing and community development.

Examples Of Efforts To Award Contracts To Section 3 Business Concerns

Utilizing procurement procedures for Section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

1. In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.
2. Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
3. Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information in the common area or other prominent areas of the housing development or developments owned and managed by the HA.
4. For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying eligible business concerns.
5. Providing written notice to all known Section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to the bid invitations or request for proposals.
6. Following up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
7. Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
8. Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in language other than English where appropriate.
9. Advising Section 3 business concerns as to where they may seek assistance in overcoming limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
10. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.
11. Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.

- 12.** Contacting agencies, administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- 13.** Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation and radio advertising.
- 14.** Developing a list of eligible Section 3 business concerns.
- 15.** For Housing Authorities, participating in the "Contracting with Resident-Owned Business" program provided under 24 CFR part 963.
- 16.** Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- 17.** Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
- 18.** Supporting businesses that provide economic opportunities to low-income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- 19.** Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide low- income loans by providing working capitals and other financial business needs.
- 20.** Actively supporting joint ventures with Section 3 business concerns.
- 21.** Actively supporting the development or maintenance of business incubators that assist Section 3 business concerns.

Examples Of Procurement Procedures That Provide For Preference To Section 3 Business Concerns

This section (Section III of the Regulations), provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the Section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

1. **Small Purchase Procedures** For Section 3 covered contracts aggregating no more Than \$25,000, the methods set forth in this paragraph or the more formal procedures set forth in paragraphs (2) and (3) of this section may be utilized.

(i) Solicitation

- (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation the parties must be informed of:

The Section 3 covered contract to be awarded with sufficient specificity:

- The time within which quotations must be submitted; and
- The information that must be submitted with each quotation.

- (B) If the method described in paragraph (i) (A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) Award

- (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 responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

- (B) Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25

percent of the total number of available rating points to be set aside for the provision of preference for Section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

2. Procurement by sealed bids (Invitations for Bids). Preference in the award of Section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

- (i) Bids shall be solicited from all businesses (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 and with the lowest responsive bid if that bid-
 - (A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and
 - (B) is no 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

When the lowest responsive 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

At least \$1 million but less than \$2 million.....4% of that bid, or \$60,000

At least \$2 million but less than \$4 million.....3% of that bid, or \$80,000

At least \$4 million but less than \$7 million.....2% of that bid, or \$105,000

\$7 million or more..... 1 1/2 % of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a Section 3 business concern meets the requirements of paragraph (2) (l) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

3. Procurement under the competitive proposals method of procurement (Request for Proposals RFP). (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(i) One of the evaluation factors shall address both the preference for Section 3 business concerns and the acceptability of the strategy for meeting the greater extent feasible requirement (Section 3 strategy), as disclosed in proposals submitted by all business concerns (Section 3 and non-Section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(ii) The component of this evaluation factor, designed to address the preference for Section 3 business concerns, must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iii) With respect to the second component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the contractor's Section 3 strategy to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm (either Section 3 or non-Section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Good Faith Effort

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The contracting party and each contractor of subcontractor seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, trade organizations and other community groups capable of referring eligible Section 3 applicants.
2. Include in all solicitations and advertisements a statement to encourage eligible Section 3 residents to apply.
3. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise eligible and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

The contractor must 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 obligation under 24 CFR Part 135.

SECTION 3 BUSINESS PREFERENCE CERTIFICATION FORM

Section 3 is a means by which HUD fosters local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 is the legal basis for providing jobs for residents and awarding contracts to businesses in areas receive certain types of HUD financial assistance.

Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is expended for housing or community development, to the greatest extent feasible, economic opportunities will be given to Section 3 residents and businesses in that area.

Congress established the Section 3 policy to guarantee that the employment and other economic opportunities created by Federal financial assistance for housing and community development programs should, if possible, be directed toward low- and very-low persons, particularly those who are recipients of government assistance for housing.

Section 3 residents are:

- Public Housing residents
- Low and very-low persons who live in the metropolitan area or Non-metropolitan County where a HUD assisted project for housing or community development is located.

Section 3 Businesses:

- Is at least 51 percent or more owned by Section 3 residents,
- Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the 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 a Section 3 business concern.

If the proposing company **DOES NOT** qualify for the Section 3 preference stated above: do not complete the remaining parts of this document.

If the proposing company **DOES** qualify for the Section 3 Preference stated above: complete the remainder of this document and print the completed form.

Name of Business: _____

Address of Business: _____

Type of Business: Corporation Partnership Sole Proprietorship Joint Venture

*The HA has established the following priority for preference when providing contracting opportunities to Section 3 Business. Please indicate which Priority your business qualifies for. **NOTE: A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.***

_____ **Priority I**

Category 1a Business

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which Section 3-covered assistance is expended.

_____ **Priority II**

Category 1b Business

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

_____ **Priority III**

Category 2a Business

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

_____ **Priority IV**

Category 2b Business

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

_____ **Priority V**

Category 3 Business

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistances is expended.

_____ **Priority VI**

Category 4a Business

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

_____ **Priority VII**

Category 4b Business

Business concern that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

EMPLOYEE LISTING

Each contractor must submit with their bid this notarized company employee list comprised of current employees hired prior to Section 3-covered HUD contract award. Please attach Resident Income Certification for each of the Section 3 residents listed below. You may attach additional pages if needed

Company Name: _____ Date: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Project Name: _____ Project No. _____

#	Employee Name	Hire Date	Section 3 Resident?	Job Type
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

 Signature Title

Subscribed and sworn me this _____ day of _____, 20 _____

Notary's Signature _____ (Affix Seal Here)

Section 3 Resident Certification

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires recipients of public housing funds to make a good faith effort to provide employment and training opportunities resulting from this project to low- and very low- income persons.

In order to demonstrate that you meet the definition of a low-or very low-income person, please provide one of the following:

1. Proof of residency in a public housing development;
2. A copy of your section 8 voucher certificate or voucher;
3. Evidence of your eligibility or participation in a federally-assisted program for low- and very low-income persons (e.g. Jobs, JTPA, Job Corps, etc);
4. Evidence of your eligibility or participation in a State or Local Assistance Program for low- or very low-income persons or receipt of AFDC;
5. Income tax records.
6. Other.

I _____(participant's name) certify that I meet the requirement stipulated in #____above. I have provided the following document to demonstrate evidence of my Section 3 status:

Section 3 Resident Name

Section 3 Resident Signature

Date