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840 WEST 11<sup>TH</sup> STREET  
PANAMA CITY, FL 32401

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## PURCHASING DEPARTMENT

840 West 11<sup>th</sup> Street  
Panama City, Florida 32401  
Telephone: (850) 248-8270  
Fax: (850) 248-8276

December 6, 2021

Prospective Respondents

### **RE: Addendum #2 22-06 Bay County Emergency Radio 911 Towers Generators**

Please accept this as Addendum No. 2 for the above referenced solicitation.

**Bid Deadline is hereby extended to 2:00 pm (CST) Wednesday,  
January 5, 2022.**

**As discussed during the pre-bid meeting the Contractor's Section 3  
Training package is attached. Section 3 Training Pre-bid Certification  
form shall be signed and submitted with bid package.**

The following questions have been received. The County's answers follow  
in **bold**.

1. Are any of the sites in a flood zone? **Bay County is not aware of any  
of the sites being in a Flood Zone. This statement does not release  
contractor of meet the required statement per the HMGP Contract,  
"The Generator(s) shall be protected against a 500-year flood event  
by implementing specific activities or by locating the generator(s)  
outside the Special Flood Hazard Area (SFHA) and shall be protect  
against wind with a rated enclosure based on its location  
requirements.**

2. Please confirm that we are to replace the ATS's as well as the  
generators. **Per the approved HMGP signed and executed Contract,  
"As a Hazard Mitigation Grant Program (HMGP) Project, the Sub-  
Recipient shall provide backup power to four Emergency Radio  
Towers in Bay County, Florida 32404, 32466, 32410, and 32401.**

**The HMGP Project shall provide protection to four Emergency Radio  
Towers by the purchase and installation of four 50 kW permanent  
generators, or the adequate size determined by the vendor and/or an  
electrical engineer during the bid process to appropriately support  
these critical communications towers. The proposal also includes  
the purchase and installation of automatic transfer switches for each**

**of the four communication towers. These new generators will provide necessary reliable backup power to these emergency radio towers and allow them to fully function and provide uninterrupted emergency communications.**

3. What are we to do with the old generators/ATS's?

**The old existing Automatic Transfer Switches and Generators will remain the property of Bay County at all four sites. After Contractor has removed equipment, store onsite and Bay County will relocate at a later date.**

4. Are there any generator specifications or specified manufacturers?

**There is not a specified manufacturer brand for project, Generator must meet the requirement set forth in ITB 22-06**

5. During the pre-bid a comment was made regarding associated wiring, normally the existing wiring would be re-used. Is the County requesting new wiring and if so from what point? **Bay County is not requesting the existing wire be replaced but during investigation and/or construction if the contractor/bidder realize that wiring needs to be addressed in order for system to fully operate properly than it should be a part of the bid, design and scope of work.**

Regards,

Karen Grindle  
Chief Procurement Officer

**SECTION 3 TRAINING**  
**PRE-BID CERTIFICATION**

On this the \_\_\_\_\_1st\_\_\_\_\_ day of December 2021, certify that I/WE the undersigned were given instructions by CDR Maguire, Grant Administrator and Project Manager for Bay County, Florida of the Requirements of Section 3 under the Housing and Urban Development Act of 1968 as amended, 12. U.S.C. 1701u (Section 3) HUD Part 24 CFR 75 with regards to the

**HMGP-CDBG HUD Project No. 4399-031-R**

**911 Radio Tower Generator Project**

\_\_\_\_\_

**Contractor**

\_\_\_\_\_

**Date**

## Section 3 *Project* Implementation Plan OVERVIEW

**NOTE TO BIDDERS: You must return ALL applicable forms in this packet with your bid. Failure to do so may result in your bid being disqualified.**

### Section 3 Goals

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires recipients of certain HUD financial assistance to provide job training, employment, and contracting, to the greatest extent feasible, for low- or very low-income residents in connection with projects and activities in their neighborhoods. Section 3 is race and gender-neutral and is NOT the same as WBE/MBE.

Contracts over \$200,000 trigger Section 3. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these *minimum* numeric goals:

1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.

### Preference for Contracting with Section 3 Business Concerns

Bay County, Florida is required by HUD Regulation 24 CFR Part 75 to make best efforts to contract with businesses that direct economic opportunities to Section 3 workers.

As part of its qualitative efforts, Bay County Florida encourages contractors that are Section 3 Businesses and will use Section 3 Sub-Contractors to submit bids on this project.

### Programmatic Responsibilities

Contractors and/or Subcontractors are expected to meet the minimum goals listed above, to the greatest extent feasible. (Note: Section 3 may not be required for all projects, but best efforts to comply with the minimum numerical goals are still highly recommended.) All efforts to utilize Section 3 businesses and workers should be documented, and this Section 3 Project Plan should be submitted for all relevant project bids.

**Submit FORMS 1 & 2 for all projects or FORMS 1 – 5 for all Section 3-triggered projects (over \$200,000) at the time of the bid submission or application for funding.**

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 1 – SECTION 3 ASSESSMENT AND CERTIFICATIONS**

This form is required for ALL projects and must be submitted with bid or application for funding.

Project Information

Project Name:
Project Location or Address(es):

Developer/Contactor Information:

Name of Firm:	Address:
Authorized Representative:	Title:
Phone:	Email:

1. Check all that apply to your business:

- Your business is at least 51% owned and controlled by low- or very low-income persons
- Over 75% of the labor hours performed for your business over the past three-month period were performed by Section 3 workers
- Your business is at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing
- None of the above

2. Will you be hiring new employees or providing new training opportunities because of this contract?  Yes  No

3. Will you be using subcontractors to complete this project?  Yes  No

4. Is your bid/contract amount greater than \$200,000?  Yes  No

If response to item 4 above is "YES," Section 3 requirements will be fully enforced on this project. Failure to comply may result in the suspension of funding. Please complete the certifications below and submit FORMS 1-5 with your bid or application for funding.

If NO, Section 3 participation is strongly encouraged but not required. Please attempt to meet the Section 3 goals to the greatest extent feasible. You must still complete the certifications below as applicable and return FORMS 1 and 2 with your bid or application for funding.

Certifications		YES	NO	N/A
All Projects:	By completing and signing this form, I agree to comply with all applicable requirements of the Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 75)	<input type="checkbox"/>	<input type="checkbox"/>	
	I understand that I must complete and submit FORMS 1 and 2 and submit them with my bid even if my bid is under \$200,000.	<input type="checkbox"/>	<input type="checkbox"/>	
Projects over \$200K:	I have included/will include the Section 3 Clause (FORM 5) in all subcontracts for which Section 3 compliance is required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I understand that I am required to submit quarterly and final Section 3 reports (FORM 6), associated forms as applicable (FORMS 2, 3 and 4) and supporting documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I agree that my company has made and will continue to make efforts "to the greatest extent feasible" to comply with Section 3 as required by HUD.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I understand the minimum numerical goals for Section 3 participation and I have completed FORMS 1 through 4 and attached them to my bid.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*I declare that all statements contained in this form and any accompanying documents are true and correct, and made with full knowledge that all statements given are subject to investigation and that any false or dishonest answer to any question may be grounds for denial or revocation of funding or other penalties as prescribed under 18 U.S. Code § 1001.*

\_\_\_\_\_  
 Authorized Representative Signature

\_\_\_\_\_  
 Date

[Contractor Name \_\_\_\_\_]

Section 3 *Project* Implementation Plan  
**FORM 2 – SUBCONTRACTOR INFORMATION, VERSION (1, 2, 3)**

This form is required for ALL projects (regardless of whether Section 3 is triggered) and must be submitted with bid or application for funding. If project is over \$200,000 in HUD funds, this form must be updated and re-submitted at the time of contract execution and again with the final Section 3 compliance report.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

Check the box that applies and complete the table if applicable:

- This project WILL NOT utilize subcontractors.
- This project MAY utilize the following subcontractors:

No.	Sect3 Bus.	Subcontractor Name	Subcontractor Address and Phone Number	Trade	Subcontract Amount
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 3—LIST OF PERMANENT EMPLOYEES, VERSION (1, 2)**

This form is required for all Section 3-triggered projects (over \$200,000) and must be submitted with bid or application for funding and again with the final Section 3 compliance report.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

Please list all current permanent employees (both full and part-time) employed by your company (or local/regional office) as of the signature date on FORM 1, as well as employees of all subcontractors working on this project. Use additional sheets as necessary. A computer-generated employee registry can be provided in lieu of this form if it includes the worker's name, employer and job category and indicates Section 3/targeted Section 3 status.

No.	Name of Worker	Employer	Job Category/Trade	Section 3 Worker (Y/N)	Targeted Section 3 Worker (Y/N)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

Please note that your business may be eligible for Section 3 Business certification if at least 75% of your labor hours performed on all contracts over the past three-month period were performed by employees who meet one of the following categories below:

- The worker lives within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);
- The worker is a HUD YouthBuild participant; or
- The worker's income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 4– DOCUMENTATION OF QUALITATIVE EFFORTS**

This form is required for all Section 3-triggered projects (over \$200,000) and must be submitted with bid or application for funding, as well as with all quarterly or final compliance reports that indicate numeric goals were not met. Please fill out this form completely. Attach additional pages if needed.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

- Describe all efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, to Section 3 workers. Attach additional pages if needed.

Attach supporting documentation such as:

- Copies of all publications, notices, pictures of posted notices, and other outreach materials.
- List of all Section 3 workers that responded to your responded to your outreach efforts (e.g., submitted job applications, phone logs, etc.); were any of them hired? If not, please explain why.

- Describe all efforts made to notify Section 3 businesses of any subcontracting opportunities generated by HUD financial assistance for this project, to the greatest extent feasible. Attach additional pages if needed.

Attach supporting documentation such as:

- Section 3 Business List used in solicitation. Must have been provided by [Contractor Name \_\_\_\_\_] prior to solicitation and should be no more than 30 days old at the time of solicitation.
- List of Section 3 business included in solicitation and documentation of efforts (emails, letters, phone, logs, etc.).
- List of Section 3 businesses that responded to your solicitation and/or outreach efforts; were any of them hired? If not, please explain why.
- Copies of all publications, notices, pictures of posted notices, and any other outreach material utilized.

**FORM 4 – DOCUMENTATION OF QUALITATIVE EFFORTS (CONTINUED)**

3. Describe all additional qualitative efforts made to comply with Section 3 requirements. See below for examples. Attach all applicable supporting documentation.

4. If there are employment opportunities associated with your project, include a draft of the proposed signage. Section 3 signage should be posted at the construction site. Signage must be large enough to be visible from the street. The sign must (a) identify the name of the project, (b) state the project is a HUD Section 3 Project, and (c) include the name, phone number and email address of an appropriate point of contact regarding employment opportunities.

Examples of Qualitative Efforts

- Engage in outreach efforts to generate job applicants who are Targeted Section 3 workers
- Provide training or apprenticeship opportunities
- Provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching)
- Assist or connect Section 3 workers with drafting resumes, preparing for interviews, and finding job opportunities
- Hold one or more job fairs
- Provide or refer Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare)
- Provide assistance to apply for or attend community college, a four-year educational institution, or vocational/technical training
- Help Section 3 workers to obtain financial literacy training and/or coaching
- Engage in outreach efforts to identify and secure bids from Section 3 business concerns
- Provide technical assistance to help Section 3 business concerns understand and bid on contracts
- Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns
- Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns
- Promote use of business registries designed to create opportunities for disadvantaged and small businesses
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act
- Other:

[Contractor Name \_\_\_\_\_]  
Section 3 *Project* Implementation Plan  
**FORM 5 – SECTION 3 CONTRACT CLAUSE**

All Section 3 covered contracts and subcontracts must include the following clause:

- I. 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 USC.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.
- II. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, 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 75 regulations.
- III. 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; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- IV. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate actions, 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 75. 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 75.
- V. 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 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- VI. 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.
- VII. 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 USC 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).

[Contractor Name \_\_\_\_\_]  
Section 3 *Project* Implementation Plan  
**FORM 7—SECTION 3 BUSINESS OUTREACH FORM**

Please complete this form to determine if your business may qualify as a Section 3 Business. Businesses that qualify will be contacted by [Contractor Name \_\_\_\_\_] Section 3 Coordinator to complete a Section 3 Business Application and asked to provide additional documentation to verify their status as a Section 3 Business.

What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (24 CFR Part 75) that requires recipients of certain HUD financial assistance, to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very low-income residents in connection with projects and activities in their neighborhood.

A business can qualify as Section 3 if it meets one of the following criteria:

- A. It is at least 51% owned and controlled by low- or very low-income persons;
- B. Over 75% of the labor hours performed for the business over the past three-month period were performed by workers who met at least one of the criteria below; or
- C. It is at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Workers must meet one of the following criteria for a business to qualify as Section 3 under item B above:

- Reside within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);
- Be a HUD YouthBuild participant; or
- Income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

Subcontractor Information

Company Name:		
Contact Person:		
Address:		
City:	State:	Zip:
Phone:	Email:	

I have reviewed the above information and my business MAY QUALIFY as a Section 3 Business. Please contact me about completing an application.

I have reviewed the above information and my business DOES NOT QUALIFY as a Section 3 Business.

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

Please return completed forms to: [Contractor Name _____] Section 3 Program Address City, State ZIP Phone   Email
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[Contractor Name \_\_\_\_\_]

Section 3 *Project* Implementation Plan  
**FORM 8–SECTION 3 WORKER OUTREACH FORM**

Please complete this form to determine if you may qualify as a Section 3 or Targeted Section 3 Worker. Workers who qualify will be contacted by the Contractor's Section 3 Coordinator to complete a Section 3 Worker Application and asked to provide additional documentation to verify their status as a Section 3 or Targeted Section 3 Worker.

What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (24 CFR Part 75) that requires recipients of certain HUD financial assistance, to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very low-income residents in connection with projects and activities in their neighborhood.

A worker can qualify as Section 3 if they meet one of the following criteria:

- Are employed by a Section 3 business concern;
- Are a HUD YouthBuild participant; or
- Their income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

A worker can qualify as targeted Section 3 if they meet one of the following criteria:

- Are employed by a Section 3 business concern.
- Are a HUD YouthBuild participant; or
- Reside within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);

Worker Information

Name:		
Employer Name:		
Address:		
City:	State:	Zip:
Phone:	Email:	

I have reviewed the above information and I MAY QUALIFY as a Section 3 or Targeted Section 3 worker. Please contact me about completing an application.

I have reviewed the above information and I DO NOT QUALIFY as a Section 3 or Targeted Section 3 worker.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please return completed forms to:  
[Contractor Name \_\_\_\_\_] Section 3 Program  
Address  
City, State, ZIP  
Phone | Email



**SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION FORM**

Please return this form to the **Office of Disaster Recovery Contract Manager** via email.  
For any questions regarding Section 3 or this form, please contact Keem Tory, Section 3 Coordinator at [Akeem.Tory@deo.myflorida.com](mailto:Akeem.Tory@deo.myflorida.com)

**Section 3 Business Criteria:** Your business is eligible for Section 3 Business Certification if it meets any one of the following criteria. Please note that the definition of Section 3 qualified person is on Section 3 Form #3, "Section 3 Resident Self-Certification Form."

1. \_\_\_\_\_ Fifty-one percent or more of your business is owned by a Section 3 resident or residents.
2. \_\_\_\_\_ Thirty percent or more of your permanent, full-time employees are Section 3 residents.
3. \_\_\_\_\_ You can provide evidence of a commitment to subcontract in excess of 25 percent of the amount of all subcontracts to Section 3 businesses: (a) that are fifty-one percent or more owned by public housing residents or (b) that has thirty percent or more of their permanent, full-time employees as public housing residents.

**Section 3 Business Certification Statement:** I hereby certify to the U.S. Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I understand that it is my responsibility to conduct any due diligence necessary to make this certification and to maintain documentation establishing my Section 3 Business concern status. I also understand that failure to complete this form completely and accurately may result in debarment or other administrative remedies available to HUD, and criminal or civil penalties under federal, state, and local laws.

\_\_\_\_\_ My business is a Section 3 business in accordance with the standard checked above under Section 3 Business Criteria.

\_\_\_\_\_ My business is not a Section 3 business

Signature:		Date Signed:
Name:	Title:	
Company Name		
Address:	Email:	
Telephone Number		
Type of Business:	(Check One): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other	



Florida Department of Economic Opportunity | Caldwell Building |  
107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](https://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](https://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to Individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



# ***Section 3 Monthly Report***

***(must be turned in monthly with invoice)***



**CONTRACTORS' COMPLIANCE FORM – SECTION 3**

Contractor and all subcontractor(s) must sign, date and deliver this form **monthly** to the project's Contract Manager.

**Project Name** \_\_\_\_\_

**Project Location** \_\_\_\_\_

**For the Month of** \_\_\_\_\_

**I. Hiring**

\_\_\_ I have **NOT** hired any new employees during the month specified.

\_\_\_ I have hired \_\_\_ Section 3 employees, and/or \_\_\_ non-Section 3 employees during the month.

**II. Recruitment**

\_\_\_ I have advertised to fill vacancy(ies) at the site(s) where work is taking place, in connection with this project. Below, I have checked the steps I have taken to find Section 3 low-income residents, from the targeted groups and neighborhoods, to fill any vacancies.

\_\_\_ Placed signs or posters in prominent places at project site(s).

\_\_\_ Taken photographs of the above item to document that the above step was carried out.

\_\_\_ Distributed employment flyers to the administrative office of the local Public Housing Authority.

\_\_\_ Kept a log of all applicants and indicated reasons why Section 3 residents who applied were not hired.

\_\_\_ Retained copies of any employment applications completed by Section 3 residents.

**III. Verification**

\_\_\_ I have attached proof of all checked items.

**I hereby certify that the above information is true and correct.**

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Title** \_\_\_\_\_

**Business** \_\_\_\_\_



Florida Department of Economic Opportunity | Caldwell Building |  
107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](http://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](http://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to Individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



# SECTION 3 WORKER AND TARGETED WORKER APPLICATION

Completed applications should be submitted to:

[Contractor Name\_\_\_\_\_]

Attn: Section 3 Program

[Address]

[City, State ZIP]

If you have any questions on the application process

Please contact the Section 3 Program at

[Phone number and email]

[Contractor Name\_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

Name \_\_\_\_\_

Physical Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Mailing Address, if different \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone Number, including area code \_\_\_\_\_

Email \_\_\_\_\_

**I qualify as a Section 3 worker or Targeted Section 3 worker because (choose one):**

- I am employed by a Section 3 business concern.  
(Attach proof of employment such as a current pay stub.)
  
- I have completed a YouthBuild program within the past twelve (12) months or I am a current Youthbuild participant.  
(Attach a copy of your certificate of completion or documentation of Youthbuild participation.)
  
- My income is below 80% of the Area Median Income for a household size of one for the area in which I reside.  
(Attach proof of income such as most recent W-2, recent paystubs and/or proof of public assistance OR complete the Zero Income Statement on Page 5 of this application.)
  
- I reside 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.  
(Attach proof of residency.)

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Fields of Experience and Interest

If you have skills in a particular area and you are interested in working in that field, please check the "Interest" box and provide your length of experience.

Construction-Related Services	Interest	Length of Experience	Non-Construction/Post-Construction Services	Interest	Length of Experience
Architecture			Appraisal Services		
Bricklaying			Archeology		
Carpentry			Building Inspection Services		
Cement/Masonry			Building Maintenance		
Demolition			Catering		
Drywall			Computers/IT		
Electrical			Courier Services		
Elevator Construction			Engineering		
Engineering			Janitorial		
Environmental Services			Landscaping		
Fencing			Legal Services		
Flooring Installation			Management Consulting		
Heating			Marketing/Photography		
Insulation/Siding			Printing		
Iron Works			Real Estate Services		
Landscaping			Security		
Machine Operation			Surveying Services		
Painting			Transportation		
Plastering			Other:		
Plumbing			Other:		
Roofing			Other:		
Other:			Other:		

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Required Documents

Submit the following with this application:

- Proof of Identity (a photo ID: state-issued, college, employee badges are all accepted)
- Proof of Address if qualifying based on residency (a piece of official mail such as a utility bill, paycheck stub or government document with your current address on it)
- Income Documentation for last 30 days (most recent W-2, paystubs, Social Security/SSI/SSDI income statement, unemployment statement, worker’s comp award letter, and any other item which would be considered cash income). Non-cash items like food stamps aren’t needed.
- Zero-income statement (if applicable)

#### Applicant Certification

I understand that Section 3 Resident certifications are valid for five (5) years. It is my responsibility to contact the office that holds my certification in order to update my contact information and my qualifications, or, if I no longer wish to be a certified Section 3 Resident.

I understand that a Section 3 Resident certification **is not an offer of employment**. By signing this document, I give [Contractor Name \_\_\_\_\_] permission to place my contact information on a list to be shared with businesses and community partners when they are hiring for Section 3 covered projects in the area. I may or may not be contacted about a position. If contacted, I will have to undergo the job application or interview process of that potential employer. If selected, I agree to comply with all federal and local reporting requirements.

I understand that a more detailed review of my information may be requested for any reason. I affirm that the information I provided was true to the best of my knowledge and belief, and that I have not withheld information in order to obtain certification. I further understand that if I have failed to provide truthful information, or to provide all information, I will be removed from the certification list and will not be able to reapply for one (1) year.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

<b><u>FOR INTERNAL USE ONLY</u></b>		
Date Application Received: _____	Reviewed by: _____	Date: _____
Applicant qualifies as <input type="checkbox"/> Section 3 Worker <input type="checkbox"/> Targeted Section 3 Worker <input type="checkbox"/> Does not qualify for Section 3		

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Exhibit A: Zero Income Statement:

**If you have no income, complete this section.** If homeless, attach a letter from the shelter where you receive assistance, regardless of the type of assistance you receive.

I, \_\_\_\_\_, certify that I have no income. I understand this means wages from work, unemployment, TANF, SSI/SSDI, Social Security, or any other program which I would receive a cash payment from.

The reason I am able to survive with no income is because (choose one):

I am currently homeless. I am able to meet my basic needs by doing the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I am living with someone not in my household who provides me with support.

Their name is: \_\_\_\_\_

Their telephone number is: \_\_\_\_\_

Their relationship to me is (mother, uncle, friend, etc.): \_\_\_\_\_

**To be filled out by the supporting party:** How do you provide support to the applicant? Provide approximate cash amounts for all major expenses (\$50 or more). *Example: "I pay \$500 in rent; I spend \$200 on food that he/she shares with me", etc.:* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Supporting Party: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

***Bay County, Florida***

***911 Radio Tower Generator Project***

***HMGP-CDBG***

***Project Number 4399-031-R***

***PRE-BID CONSTRUCTION PACKET***

***December 1, 2021***

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***CODE OF FEDERAL REGULATIONS***  
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***BIDS***  
***(INVITATION FOR BIDS)***

***Tab 1***

## ***2 CFR Procurement Regulations***

**§ 200.316**

Awards, Contracts and Cooperative Agreements.”

(d) The Federal government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(e) Freedom of Information Act (FOIA).

(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) Published research findings means when:

(1) Research findings are published in a peer-reviewed scientific or technical journal; or

(1) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. “Used by the Federal government in developing an agency action that has the force and effect of law” is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary anal-

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yses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(1) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(1) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

**§ 200.316 Property trust relationship.**

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

**PROCUREMENT STANDARDS**

**§ 200.317 Procurements by states.**

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions.

**§ 200.318 General procurement standards.**

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is un-

able or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local inter-governmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor

**§200.319**

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selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(1) The actual cost of materials; and  
(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

**§200.319 Competition.**

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of

work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and

standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

**§ 200.320 Methods of procurement to be followed.**

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

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offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

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(4) After solicitation of a number of sources, competition is determined inadequate.

**§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

**§200.322 Procurement of recovered materials.**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition,

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where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**§ 200.323 Contract cost and price.**

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

**§ 200.324 Federal awarding agency or pass-through entity review.**

(a) The non-Federal entity must make available, upon request of the

Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

## § 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

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to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

## § 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

### PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

## § 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

## 200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also § 200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) *Construction performance reports.* For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) *Significant developments.* Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(e) The Federal awarding agency may make site visits as warranted by program needs.

(f) The Federal awarding agency may waive any performance report required by this part if not needed.

#### § 200.329 Reporting on real property.

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g.,

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every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

**SUBRECIPIENT MONITORING AND  
MANAGEMENT**

**§ 200.330 Subrecipient and contractor determinations.**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use

and creates a procurement relationship with the contractor. See § 200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

**§ 200.331 Requirements for pass-through entities.**

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
  - (i) Subrecipient name (which must match registered name in DUNS);
  - (ii) Subrecipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS) number);
  - (iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date (see §200.39 Federal award date);

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action;

(vii) Total Amount of Federal Funds Obligated to the subrecipient;

(viii) Total Amount of the Federal Award;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (b) of this part.

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this section, §§200.300 Statutory and national policy requirements

through 200.309 Period of performance, and Subpart F—Audit Requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraph (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and programmatic reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient

**§ 200.332**

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from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

**§ 200.332 Fixed amount subawards.**

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in §200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

**RECORD RETENTION AND ACCESS**

**§ 200.333 Retention requirements for records.**

Financial records, supporting documents, statistical records, and all other non-Federal entity records perti-

nent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer

usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

**§ 200.334 Requests for transfer of records.**

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

**§ 200.335 Methods for collection, transmission and storage of information.**

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there

is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

**§ 200.336 Access to records.**

(a) *Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) *Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

**§ 200.337 Restrictions on public access to records.**

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the

**§ 200.338**

records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

**REMEDIES FOR NONCOMPLIANCE**

**§ 200.338 Remedies for noncompliance.**

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency

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regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

**§ 200.339 Termination.**

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

**§ 200.340 Notification of termination requirement.**

(a) The Federal agency or pass-through entity must provide to the

***Appendix II to Part 200—Contract Provisions***

## **Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by

Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

***E-VERIFY***

***(As Required by State Law)***

***Tab 2***

Visit our [Temporary Policies \(/node/5093\)](#) Related to COVID-19 page for E-Verify and Form I-9 changes due to COVID-19.

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[Deferred Action for Childhood Arrivals \(DACA\)](https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca), (<https://www.uscis.gov/humanitarian/consideration-of-deferred-action-for-childhood-arrivals-daca>) recipients with a valid Employment Authorization Document (EAD), including an EAD that has been automatically extended, are still permitted to work. See I-9 Central for [Completing Form I-9 for Employees with Extended Work Authorization Under DACA](https://www.uscis.gov/i-9-central/form-i-9-related-news/completing-form-i-9-for-employees-with-extended-work-authorization-under-daca) (<https://www.uscis.gov/i-9-central/form-i-9-related-news/completing-form-i-9-for-employees-with-extended-work-authorization-under-daca>).

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# Learn More About E-Verify and myE-Verify

[I AM AN EMPLOYER \(/employers\)](#)

[I AM AN EMPLOYEE \(/employees\)](#)

## ABOUT E-VERIFY

E-Verify is a web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States. E-Verify employers verify the identity and employment eligibility of newly hired employees by electronically matching information provided by employees on the Form I-9, Employment Eligibility Verification, against records available to the Social Security Administration (SSA) and the Department of Homeland Security (DHS).

E-Verify is a voluntary program. However, employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation (FAR) E-Verify clause are required to enroll in E-Verify as a condition of federal contracting. Employers may also be required to participate in E-Verify if their states have legislation mandating the use of E-Verify, such as a condition of business licensing. Finally, in some instances employers may be required to participate in E-Verify as a result of a legal ruling.

E-Verify, which is available in all 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and Commonwealth of Northern Mariana Islands, is currently the best means available to electronically confirm employment eligibility.

[LEARN MORE ABOUT E-VERIFY \(/about-e-verify\)](#)



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E-Verify compliance activities

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**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 10/31/2022

▶ **START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.**

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name <i>(Family Name)</i>		First Name <i>(Given Name)</i>		Middle Initial	Other Last Names Used <i>(if any)</i>	
Address <i>(Street Number and Name)</i>			Apt. Number	City or Town		State ZIP Code
Date of Birth <i>(mm/dd/yyyy)</i>	U.S. Social Security Number □□□□ - □□ - □□□□		Employee's E-mail Address		Employee's Telephone Number	

**I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.**

**I attest, under penalty of perjury, that I am (check one of the following boxes):**

<input type="checkbox"/> 1. A citizen of the United States	
<input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i>	
<input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____	
<input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i>	
<p><i>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i></p> <p>1. Alien Registration Number/USCIS Number: _____  <b>OR</b>          2. Form I-94 Admission Number: _____  <b>OR</b>          3. Foreign Passport Number: _____          Country of Issuance: _____</p>	
QR Code - Section 1 Do Not Write In This Space	

Signature of Employee	Today's Date <i>(mm/dd/yyyy)</i>
-----------------------	----------------------------------

**Preparer and/or Translator Certification (check one):**  
 I did not use a preparer or translator.     A preparer(s) and/or translator(s) assisted the employee in completing Section 1.  
*(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)*

**I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.**

Signature of Preparer or Translator		Today's Date <i>(mm/dd/yyyy)</i>	
Last Name <i>(Family Name)</i>		First Name <i>(Given Name)</i>	
Address <i>(Street Number and Name)</i>		City or Town	State ZIP Code

Employer Completes Next Page



**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 10/31/2022

**Section 2. Employer or Authorized Representative Review and Verification**

*(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")*

<b>Employee Info from Section 1</b>	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
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List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)
Document Title		Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				
Document Title				
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				

**Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.**

**The employee's first day of employment (mm/dd/yyyy):** \_\_\_\_\_ **(See instructions for exemptions)**

Signature of Employer or Authorized Representative		Today's Date (mm/dd/yyyy)	Title of Employer or Authorized Representative	
Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative		Employer's Business or Organization Name	
Employer's Business or Organization Address (Street Number and Name)		City or Town	State	ZIP Code

**Section 3. Reverification and Rehires** *(To be completed and signed by employer or authorized representative.)*

<b>A. New Name (if applicable)</b>			<b>B. Date of Rehire (if applicable)</b>	
Last Name (Family Name)	First Name (Given Name)	Middle Initial	Date (mm/dd/yyyy)	

**C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.**

Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
----------------	-----------------	---------------------------------------

**I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.**

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Name of Employer or Authorized Representative
--	---------------------------	---

## LISTS OF ACCEPTABLE DOCUMENTS

### All documents must be UNEXPIRED

Employees may present one selection from List A  
or a combination of one selection from List B and one selection from List C.

<b>LIST A</b> <b>Documents that Establish Both Identity and Employment Authorization</b>	OR	<b>LIST B</b> <b>Documents that Establish Identity</b>	AND	<b>LIST C</b> <b>Documents that Establish Employment Authorization</b>
<ol style="list-style-type: none"> <li>1. U.S. Passport or U.S. Passport Card</li> <li>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</li> <li>3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</li> <li>4. Employment Authorization Document that contains a photograph (Form I-766)</li> <li>5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:               <ol style="list-style-type: none"> <li>a. Foreign passport; and</li> <li>b. Form I-94 or Form I-94A that has the following:                   <ol style="list-style-type: none"> <li>(1) The same name as the passport; and</li> <li>(2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</li> </ol> </li> </ol> </li> <li>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</li> </ol>		<ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependent's ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> <li style="text-align: center;"><b>For persons under age 18 who are unable to present a document listed above:</b></li> <li>10. School record or report card</li> <li>11. Clinic, doctor, or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>		<ol style="list-style-type: none"> <li>1. A Social Security Account Number card, unless the card includes one of the following restrictions:               <ol style="list-style-type: none"> <li>(1) NOT VALID FOR EMPLOYMENT</li> <li>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</li> <li>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</li> </ol> </li> <li>2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</li> <li>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (Form I-197)</li> <li>6. Identification Card for Use of Resident Citizen in the United States (Form I-179)</li> <li>7. Employment authorization document issued by the Department of Homeland Security</li> </ol>

**Examples of many of these documents appear in the Handbook for Employers (M-274).**

**Refer to the instructions for more information about acceptable receipts.**

**SECTION 3 PROJECT PLAN BUSINESS  
CONCERN CHECKLIST AND  
DOCUMENTATION  
Tab 3**

**SECTION 3 TRAINING**  
**PRE-BID CERTIFICATION**

On this the \_\_\_\_\_1st\_\_\_\_\_ day of December 2021, certify that I/WE the undersigned were given instructions by CDR Maguire, Grant Administrator and Project Manager for Bay County, Florida of the Requirements of Section 3 under the Housing and Urban Development Act of 1968 as amended, 12. U.S.C. 1701u (Section 3) HUD Part 24 CFR 75 with regards to the

**HMGP-CDBG HUD Project No. 4399-031-R**

**911 Radio Tower Generator Project**

\_\_\_\_\_

**Contractor**

\_\_\_\_\_

**Date**

## Section 3 *Project* Implementation Plan OVERVIEW

**NOTE TO BIDDERS: You must return ALL applicable forms in this packet with your bid. Failure to do so may result in your bid being disqualified.**

### Section 3 Goals

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires recipients of certain HUD financial assistance to provide job training, employment, and contracting, to the greatest extent feasible, for low- or very low-income residents in connection with projects and activities in their neighborhoods. Section 3 is race and gender-neutral and is NOT the same as WBE/MBE.

Contracts over \$200,000 trigger Section 3. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these *minimum* numeric goals:

1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.

### Preference for Contracting with Section 3 Business Concerns

Bay County, Florida is required by HUD Regulation 24 CFR Part 75 to make best efforts to contract with businesses that direct economic opportunities to Section 3 workers.

As part of its qualitative efforts, Bay County Florida encourages contractors that are Section 3 Businesses and will use Section 3 Sub-Contractors to submit bids on this project.

### Programmatic Responsibilities

Contractors and/or Subcontractors are expected to meet the minimum goals listed above, to the greatest extent feasible. (Note: Section 3 may not be required for all projects, but best efforts to comply with the minimum numerical goals are still highly recommended.) All efforts to utilize Section 3 businesses and workers should be documented, and this Section 3 Project Plan should be submitted for all relevant project bids.

**Submit FORMS 1 & 2 for all projects or FORMS 1 – 5 for all Section 3-triggered projects (over \$200,000) at the time of the bid submission or application for funding.**

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 1 – SECTION 3 ASSESSMENT AND CERTIFICATIONS**

This form is required for ALL projects and must be submitted with bid or application for funding.

Project Information

Project Name:
Project Location or Address(es):

Developer/Contactor Information:

Name of Firm:	Address:
Authorized Representative:	Title:
Phone:	Email:

1. Check all that apply to your business:

- Your business is at least 51% owned and controlled by low- or very low-income persons
- Over 75% of the labor hours performed for your business over the past three-month period were performed by Section 3 workers
- Your business is at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing
- None of the above

2. Will you be hiring new employees or providing new training opportunities because of this contract?  Yes  No

3. Will you be using subcontractors to complete this project?  Yes  No

4. Is your bid/contract amount greater than \$200,000?  Yes  No

If response to item 4 above is "YES," Section 3 requirements will be fully enforced on this project. Failure to comply may result in the suspension of funding. Please complete the certifications below and submit FORMS 1-5 with your bid or application for funding.

If NO, Section 3 participation is strongly encouraged but not required. Please attempt to meet the Section 3 goals to the greatest extent feasible. You must still complete the certifications below as applicable and return FORMS 1 and 2 with your bid or application for funding.

Certifications		YES	NO	N/A
All Projects:	By completing and signing this form, I agree to comply with all applicable requirements of the Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 75)	<input type="checkbox"/>	<input type="checkbox"/>	
	I understand that I must complete and submit FORMS 1 and 2 and submit them with my bid even if my bid is under \$200,000.	<input type="checkbox"/>	<input type="checkbox"/>	
Projects over \$200K:	I have included/will include the Section 3 Clause (FORM 5) in all subcontracts for which Section 3 compliance is required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I understand that I am required to submit quarterly and final Section 3 reports (FORM 6), associated forms as applicable (FORMS 2, 3 and 4) and supporting documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I agree that my company has made and will continue to make efforts "to the greatest extent feasible" to comply with Section 3 as required by HUD.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	I understand the minimum numerical goals for Section 3 participation and I have completed FORMS 1 through 4 and attached them to my bid.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*I declare that all statements contained in this form and any accompanying documents are true and correct, and made with full knowledge that all statements given are subject to investigation and that any false or dishonest answer to any question may be grounds for denial or revocation of funding or other penalties as prescribed under 18 U.S. Code § 1001.*

\_\_\_\_\_  
 Authorized Representative Signature

\_\_\_\_\_  
 Date

[Contractor Name \_\_\_\_\_]

Section 3 *Project* Implementation Plan  
**FORM 2 – SUBCONTRACTOR INFORMATION, VERSION (1, 2, 3)**

This form is required for ALL projects (regardless of whether Section 3 is triggered) and must be submitted with bid or application for funding. If project is over \$200,000 in HUD funds, this form must be updated and re-submitted at the time of contract execution and again with the final Section 3 compliance report.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

Check the box that applies and complete the table if applicable:

- This project WILL NOT utilize subcontractors.
- This project MAY utilize the following subcontractors:

No.	Sect3 Bus.	Subcontractor Name	Subcontractor Address and Phone Number	Trade	Subcontract Amount
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 3—LIST OF PERMANENT EMPLOYEES, VERSION (1, 2)**

This form is required for all Section 3-triggered projects (over \$200,000) and must be submitted with bid or application for funding and again with the final Section 3 compliance report.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

Please list all current permanent employees (both full and part-time) employed by your company (or local/regional office) as of the signature date on FORM 1, as well as employees of all subcontractors working on this project. Use additional sheets as necessary. A computer-generated employee registry can be provided in lieu of this form if it includes the worker's name, employer and job category and indicates Section 3/targeted Section 3 status.

No.	Name of Worker	Employer	Job Category/Trade	Section 3 Worker (Y/N)	Targeted Section 3 Worker (Y/N)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

Please note that your business may be eligible for Section 3 Business certification if at least 75% of your labor hours performed on all contracts over the past three-month period were performed by employees who meet one of the following categories below:

- The worker lives within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);
- The worker is a HUD YouthBuild participant; or
- The worker's income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

[Contractor Name \_\_\_\_\_]  
 Section 3 *Project* Implementation Plan  
**FORM 4– DOCUMENTATION OF QUALITATIVE EFFORTS**

This form is required for all Section 3-triggered projects (over \$200,000) and must be submitted with bid or application for funding, as well as with all quarterly or final compliance reports that indicate numeric goals were not met. Please fill out this form completely. Attach additional pages if needed.

Project Name	Contract Execution Date	Construction Start Date	Today's Date

- Describe all efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, to Section 3 workers. Attach additional pages if needed.

Attach supporting documentation such as:

- Copies of all publications, notices, pictures of posted notices, and other outreach materials.
- List of all Section 3 workers that responded to your responded to your outreach efforts (e.g., submitted job applications, phone logs, etc.); were any of them hired? If not, please explain why.

- Describe all efforts made to notify Section 3 businesses of any subcontracting opportunities generated by HUD financial assistance for this project, to the greatest extent feasible. Attach additional pages if needed.

Attach supporting documentation such as:

- Section 3 Business List used in solicitation. Must have been provided by [Contractor Name \_\_\_\_\_] prior to solicitation and should be no more than 30 days old at the time of solicitation.
- List of Section 3 business included in solicitation and documentation of efforts (emails, letters, phone, logs, etc.).
- List of Section 3 businesses that responded to your solicitation and/or outreach efforts; were any of them hired? If not, please explain why.
- Copies of all publications, notices, pictures of posted notices, and any other outreach material utilized.

**FORM 4 – DOCUMENTATION OF QUALITATIVE EFFORTS (CONTINUED)**

3. Describe all additional qualitative efforts made to comply with Section 3 requirements. See below for examples. Attach all applicable supporting documentation.

4. If there are employment opportunities associated with your project, include a draft of the proposed signage. Section 3 signage should be posted at the construction site. Signage must be large enough to be visible from the street. The sign must (a) identify the name of the project, (b) state the project is a HUD Section 3 Project, and (c) include the name, phone number and email address of an appropriate point of contact regarding employment opportunities.

Examples of Qualitative Efforts

- Engage in outreach efforts to generate job applicants who are Targeted Section 3 workers
- Provide training or apprenticeship opportunities
- Provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching)
- Assist or connect Section 3 workers with drafting resumes, preparing for interviews, and finding job opportunities
- Hold one or more job fairs
- Provide or refer Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare)
- Provide assistance to apply for or attend community college, a four-year educational institution, or vocational/technical training
- Help Section 3 workers to obtain financial literacy training and/or coaching
- Engage in outreach efforts to identify and secure bids from Section 3 business concerns
- Provide technical assistance to help Section 3 business concerns understand and bid on contracts
- Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns
- Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns
- Promote use of business registries designed to create opportunities for disadvantaged and small businesses
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act
- Other:

[Contractor Name \_\_\_\_\_]  
Section 3 *Project* Implementation Plan  
**FORM 5 – SECTION 3 CONTRACT CLAUSE**

All Section 3 covered contracts and subcontracts must include the following clause:

- I. 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 USC.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.
- II. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, 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 75 regulations.
- III. 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; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- IV. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate actions, 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 75. 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 75.
- V. 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 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- VI. 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.
- VII. 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 USC 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).

[Contractor Name \_\_\_\_\_]  
Section 3 *Project* Implementation Plan  
**FORM 7—SECTION 3 BUSINESS OUTREACH FORM**

Please complete this form to determine if your business may qualify as a Section 3 Business. Businesses that qualify will be contacted by [Contractor Name \_\_\_\_\_] Section 3 Coordinator to complete a Section 3 Business Application and asked to provide additional documentation to verify their status as a Section 3 Business.

What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (24 CFR Part 75) that requires recipients of certain HUD financial assistance, to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very low-income residents in connection with projects and activities in their neighborhood.

A business can qualify as Section 3 if it meets one of the following criteria:

- A. It is at least 51% owned and controlled by low- or very low-income persons;
- B. Over 75% of the labor hours performed for the business over the past three-month period were performed by workers who met at least one of the criteria below; or
- C. It is at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Workers must meet one of the following criteria for a business to qualify as Section 3 under item B above:

- Reside within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);
- Be a HUD YouthBuild participant; or
- Income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

Subcontractor Information

Company Name:		
Contact Person:		
Address:		
City:	State:	Zip:
Phone:	Email:	

I have reviewed the above information and my business MAY QUALIFY as a Section 3 Business. Please contact me about completing an application.

I have reviewed the above information and my business DOES NOT QUALIFY as a Section 3 Business.

\_\_\_\_\_  
Signature of Business Owner

\_\_\_\_\_  
Date

Please return completed forms to: [Contractor Name _____] Section 3 Program Address City, State ZIP Phone   Email
---

[Contractor Name \_\_\_\_\_]

Section 3 *Project* Implementation Plan  
**FORM 8–SECTION 3 WORKER OUTREACH FORM**

Please complete this form to determine if you may qualify as a Section 3 or Targeted Section 3 Worker. Workers who qualify will be contacted by the Contractor's Section 3 Coordinator to complete a Section 3 Worker Application and asked to provide additional documentation to verify their status as a Section 3 or Targeted Section 3 Worker.

What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (24 CFR Part 75) that requires recipients of certain HUD financial assistance, to the greatest extent possible, to provide job training, employment, and contract opportunities for low- or very low-income residents in connection with projects and activities in their neighborhood.

A worker can qualify as Section 3 if they meet one of the following criteria:

- Are employed by a Section 3 business concern;
- Are a HUD YouthBuild participant; or
- Their income for the previous or annualized calendar year is below 80% of the current area median income for the area in which the worker resides. (Use the worker's annual gross income based on AMI for a single-person household.) HUD income limits can be found at <https://www.huduser.gov/portal/datasets/il.html>.)

A worker can qualify as targeted Section 3 if they meet one of the following criteria:

- Are employed by a Section 3 business concern.
- Are a HUD YouthBuild participant; or
- Reside within one mile of the Section 3 project (or, if fewer than 5,000 people live within one mile of the 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);

Worker Information

Name:		
Employer Name:		
Address:		
City:	State:	Zip:
Phone:	Email:	

I have reviewed the above information and I MAY QUALIFY as a Section 3 or Targeted Section 3 worker. Please contact me about completing an application.

I have reviewed the above information and I DO NOT QUALIFY as a Section 3 or Targeted Section 3 worker.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please return completed forms to:  
[Contractor Name \_\_\_\_\_] Section 3 Program  
Address  
City, State, ZIP  
Phone | Email



**SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION FORM**

Please return this form to the **Office of Disaster Recovery Contract Manager** via email.  
For any questions regarding Section 3 or this form, please contact Keem Tory, Section 3 Coordinator at [Akeem.Tory@deo.myflorida.com](mailto:Akeem.Tory@deo.myflorida.com)

**Section 3 Business Criteria:** Your business is eligible for Section 3 Business Certification if it meets any one of the following criteria. Please note that the definition of Section 3 qualified person is on Section 3 Form #3, "Section 3 Resident Self-Certification Form."

1. \_\_\_\_\_ Fifty-one percent or more of your business is owned by a Section 3 resident or residents.
2. \_\_\_\_\_ Thirty percent or more of your permanent, full-time employees are Section 3 residents.
3. \_\_\_\_\_ You can provide evidence of a commitment to subcontract in excess of 25 percent of the amount of all subcontracts to Section 3 businesses: (a) that are fifty-one percent or more owned by public housing residents or (b) that has thirty percent or more of their permanent, full-time employees as public housing residents.

**Section 3 Business Certification Statement:** I hereby certify to the U.S. Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I understand that it is my responsibility to conduct any due diligence necessary to make this certification and to maintain documentation establishing my Section 3 Business concern status. I also understand that failure to complete this form completely and accurately may result in debarment or other administrative remedies available to HUD, and criminal or civil penalties under federal, state, and local laws.

\_\_\_\_\_ My business is a Section 3 business in accordance with the standard checked above under Section 3 Business Criteria.

\_\_\_\_\_ My business is not a Section 3 business

Signature:		Date Signed:
Name:	Title:	
Company Name		
Address:	Email:	
Telephone Number		
Type of Business:	(Check One): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other	



Florida Department of Economic Opportunity | Caldwell Building |  
107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](https://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](https://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to Individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



# ***Section 3 Monthly Report***

***(must be turned in monthly with invoice)***



**CONTRACTORS' COMPLIANCE FORM – SECTION 3**

Contractor and all subcontractor(s) must sign, date and deliver this form **monthly** to the project's Contract Manager.

**Project Name** \_\_\_\_\_

**Project Location** \_\_\_\_\_

**For the Month of** \_\_\_\_\_

**I. Hiring**

\_\_\_ I have **NOT** hired any new employees during the month specified.

\_\_\_ I have hired \_\_\_ Section 3 employees, and/or \_\_\_ non-Section 3 employees during the month.

**II. Recruitment**

\_\_\_ I have advertised to fill vacancy(ies) at the site(s) where work is taking place, in connection with this project. Below, I have checked the steps I have taken to find Section 3 low-income residents, from the targeted groups and neighborhoods, to fill any vacancies.

\_\_\_ Placed signs or posters in prominent places at project site(s).

\_\_\_ Taken photographs of the above item to document that the above step was carried out.

\_\_\_ Distributed employment flyers to the administrative office of the local Public Housing Authority.

\_\_\_ Kept a log of all applicants and indicated reasons why Section 3 residents who applied were not hired.

\_\_\_ Retained copies of any employment applications completed by Section 3 residents.

**III. Verification**

\_\_\_ I have attached proof of all checked items.

**I hereby certify that the above information is true and correct.**

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Title** \_\_\_\_\_

**Business** \_\_\_\_\_



Florida Department of Economic Opportunity | Caldwell Building |  
107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](http://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](http://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to Individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.



# SECTION 3 WORKER AND TARGETED WORKER APPLICATION

Completed applications should be submitted to:

[Contractor Name\_\_\_\_\_]

Attn: Section 3 Program

[Address]

[City, State ZIP]

If you have any questions on the application process

Please contact the Section 3 Program at

[Phone number and email]

[Contractor Name\_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

Name \_\_\_\_\_

Physical Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Mailing Address, if different \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone Number, including area code \_\_\_\_\_

Email \_\_\_\_\_

**I qualify as a Section 3 worker or Targeted Section 3 worker because (choose one):**

- I am employed by a Section 3 business concern.  
(Attach proof of employment such as a current pay stub.)
  
- I have completed a YouthBuild program within the past twelve (12) months or I am a current Youthbuild participant.  
(Attach a copy of your certificate of completion or documentation of Youthbuild participation.)
  
- My income is below 80% of the Area Median Income for a household size of one for the area in which I reside.  
(Attach proof of income such as most recent W-2, recent paystubs and/or proof of public assistance OR complete the Zero Income Statement on Page 5 of this application.)
  
- I reside 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.  
(Attach proof of residency.)

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Fields of Experience and Interest

If you have skills in a particular area and you are interested in working in that field, please check the "Interest" box and provide your length of experience.

Construction-Related Services	Interest	Length of Experience	Non-Construction/Post-Construction Services	Interest	Length of Experience
Architecture			Appraisal Services		
Bricklaying			Archeology		
Carpentry			Building Inspection Services		
Cement/Masonry			Building Maintenance		
Demolition			Catering		
Drywall			Computers/IT		
Electrical			Courier Services		
Elevator Construction			Engineering		
Engineering			Janitorial		
Environmental Services			Landscaping		
Fencing			Legal Services		
Flooring Installation			Management Consulting		
Heating			Marketing/Photography		
Insulation/Siding			Printing		
Iron Works			Real Estate Services		
Landscaping			Security		
Machine Operation			Surveying Services		
Painting			Transportation		
Plastering			Other:		
Plumbing			Other:		
Roofing			Other:		
Other:			Other:		

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Required Documents

Submit the following with this application:

- Proof of Identity (a photo ID: state-issued, college, employee badges are all accepted)
- Proof of Address if qualifying based on residency (a piece of official mail such as a utility bill, paycheck stub or government document with your current address on it)
- Income Documentation for last 30 days (most recent W-2, paystubs, Social Security/SSI/SSDI income statement, unemployment statement, worker’s comp award letter, and any other item which would be considered cash income). Non-cash items like food stamps aren’t needed.
- Zero-income statement (if applicable)

#### Applicant Certification

I understand that Section 3 Resident certifications are valid for five (5) years. It is my responsibility to contact the office that holds my certification in order to update my contact information and my qualifications, or, if I no longer wish to be a certified Section 3 Resident.

I understand that a Section 3 Resident certification **is not an offer of employment**. By signing this document, I give [Contractor Name \_\_\_\_\_] permission to place my contact information on a list to be shared with businesses and community partners when they are hiring for Section 3 covered projects in the area. I may or may not be contacted about a position. If contacted, I will have to undergo the job application or interview process of that potential employer. If selected, I agree to comply with all federal and local reporting requirements.

I understand that a more detailed review of my information may be requested for any reason. I affirm that the information I provided was true to the best of my knowledge and belief, and that I have not withheld information in order to obtain certification. I further understand that if I have failed to provide truthful information, or to provide all information, I will be removed from the certification list and will not be able to reapply for one (1) year.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

<b><u>FOR INTERNAL USE ONLY</u></b>		
Date Application Received: _____	Reviewed by: _____	Date: _____
Applicant qualifies as <input type="checkbox"/> Section 3 Worker <input type="checkbox"/> Targeted Section 3 Worker <input type="checkbox"/> Does not qualify for Section 3		

[Contractor Name \_\_\_\_\_]

### Section 3 Worker and Targeted Worker Application

#### Exhibit A: Zero Income Statement:

**If you have no income, complete this section.** If homeless, attach a letter from the shelter where you receive assistance, regardless of the type of assistance you receive.

I, \_\_\_\_\_, certify that I have no income. I understand this means wages from work, unemployment, TANF, SSI/SSDI, Social Security, or any other program which I would receive a cash payment from.

The reason I am able to survive with no income is because (choose one):

I am currently homeless. I am able to meet my basic needs by doing the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I am living with someone not in my household who provides me with support.

Their name is: \_\_\_\_\_

Their telephone number is: \_\_\_\_\_

Their relationship to me is (mother, uncle, friend, etc.): \_\_\_\_\_

**To be filled out by the supporting party:** How do you provide support to the applicant? Provide approximate cash amounts for all major expenses (\$50 or more). *Example: "I pay \$500 in rent; I spend \$200 on food that he/she shares with me", etc.:* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Supporting Party: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

***SECTION 3***  
***Regulations per 24 CFR***  
***75.3***  
***Tab 4***

## **SECTION 3 APPLICABILITY (24 CFR 75.3)**

Section 3 applies to all projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. Therefore, all CDBG projects are submitted the applicability provisions of Section 3 public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance means:

- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
- (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 projects is a housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.

- (i) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.
- (ii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
- (b) Contracts for materials.

Section 3 requirements do not apply to material supply contracts.

- (c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.
- (d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

## **SECTION 3 REQUIREMENTS OF (24 CFR 75.19) EMPLOYMENT AND TRAINING**

Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

- To residents of the public housing projects for which the public housing financial assistance is expended;
- To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- To participants in YouthBuild programs; and
- To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

## **CONTRACTING**

Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

- To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
- To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
- To YouthBuild programs; and
- 
- To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

## **CONTRACT PROVISIONS 24 CFR 75.27**

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

## **SECTION 3 WORKER AND CERTIFICATION**

The Section 3 Final Rule defined a Section 3 worker as any worker who currently or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a Youth Build participant.

The Sub-recipient will utilize the Section 3 Certification Form to document the status of a Section 3 worker. The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. 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

## **TARGETED SECTION 3 WORKER AND CERTIFICATION**

The Section 3 Final Rule establishes the use of Targeted Section 3 workers. A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- Employed by a Section 3 business concern
- Low- or very low-income workers residing within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached the service area or the neighborhood of the project, as defined in or
- A Youth Build participant.

The Sub-recipient will utilize the Targeted Section 3 Certification Form to document the status of a Targeted Section 3 worker. The status of a Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction. 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.

## **SECTION 3 BUSINESS CONCERNS**

The Section 3 Final Rule redefines a business concern. A Business Concern must meet the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- 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.

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. 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.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or sub-recipient (if requested) verifying that they meet the definitions provided above.

Sub-recipients can use their discretion for determining the type of verification that is required by prospective Section 3 workers and business concerns. Some examples include proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract **Qualifying as a Section 3 businesses does not mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price.**

## PROFESSIONAL SERVICES

In this final rule, HUD is amending the professional services definition to clarify that only non-construction services that require an advanced degree or professional licensing, rather than all non-construction services, are excluded from Section 3.

HUD wants to ensure this final rule's emphasis the statutory requirement to prioritize low- and very low-income workers, and provides this category of exempted workers from reporting given the challenge to hire low- and very low-income workers in jobs that require such degrees and licensing.

## CONTRACTOR'S REQUIREMENTS

- The Prime Contractor must submit a Section 3 plan to the Sub-Recipient outlining Section 3 hiring and employment opportunities.
- The Prime Contractor must notify all sub-contractors of their responsibilities under Section 3
- The Prime Contractor must provide a permeant workforce breakdown of all current employees and identify those Section 3 workers that were hired within the last five years.
- The Prime Contractor must provide an estimated breakdown of potential hires for the awarded project and timeline of anticipated hiring
- The Prime Contractor must refrain from contracting with sub-contractors as to whom they have received notice or have knowledge that the sub-contractors have been found in violation of the regulations in 24 CFR 75.

**Maintain records that document a good faith effort to utilize Section 3 workers and Target Section 3 workers as trainees and employees. (Required of both contractor and subcontractor.)** and any other qualitative efforts to comply with Section 3.

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. The contractor is required to maintain documentation to demonstrate compliance with the regulations and is responsible for requiring their subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers and Targeted Section 3 workers.

## SECTION 3 REPORTING 24 CFR 75.25

### REPORTING OF LABOR HOURS.

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD: For Section 3 projects, Sub-recipients must report:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

**Professional Services:** The reporting structure in the final rule allows a Sub-recipient to count as Section 3 labor hours and as Targeted Section 3 labor hours any work performed by a Section 3 worker or a Targeted Section 3 worker (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.

# BENCHMARK REPORTING GOALS - (24 CFR 75.23)

All Sub-recipients are required to report all labor hours

The benchmark goal for Section 3 workers is set at **25 percent** or more of the total number of labor hours worked by all workers on a Section 3 project.

$$\frac{\text{Section 3 Worker Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

The benchmark goal for Targeted Section 3 workers is set at **5 percent** or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the 5 percent is included as part of the **25 percent** threshold.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

Below is an example of the order of preference:

1. All Section 3 Targeted Workers
2. All Section 3 Workers
3. All Workers

## SECTION 3 SAFE HARBOR COMPLIANCE

FDEO considers all Sub-recipients of covered funding in compliance with Section 3 Safe Harbor by meeting the established benchmark goals of **25 percent** and **5 percent**. If reporting indicates that the Sub-recipient has not met the Section 3 benchmarks, the Sub-recipient must report in a method on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b). Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).

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- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training. Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

Please note that it is important to document efforts made to comply with Section 3. Files should illustrate attempts to meet Section 3 benchmarks. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 goals must be made.

***Failure to comply with the requirements of Section 3 may result in a monitoring finding or sanctions that may include: debarment, suspension of funds, or limited denial of participation in FDEO programs pursuant to 24 CFR Part 24***

## **SECTION 3 WORKER TRACKING AND REPORTING**

All Sub-recipients are required to comply with the reporting requirements set for at 24 CFR 75.25.

Where Targeted Section 3 and Section 3 Workers are currently employed or new hires, the Subrecipients must track those labor hours performed by those workers. In conjunction with the Davis-Bacon payroll requirement, Sub-recipients will utilize the Section 3 tracking form for this purpose and submitted with each payroll submission.

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## SECTION 3 APPLICABILITY (24 CFR 75.3)

Section 3 applies to all projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. Therefore, all CDBG projects are submitted the applicability provisions of Section 3 public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance means:

- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
- (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 projects is a housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.

- (i) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.
- (ii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.



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(c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

## **SECTION 3 REQUIREMENTS OF (24 CFR 75.19)**

### **EMPLOYMENT AND TRAINING**

Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

- To residents of the public housing projects for which the public housing financial assistance is expended;
- To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- To participants in YouthBuild programs; and
- To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.



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## **CONTRACTING**

Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

- To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
- To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
- To YouthBuild programs; and
- To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

### **CONTRACT PROVISIONS 24 CFR 75.27**

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.



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## **SECTION 3 WORKER AND CERTIFICATION**

The Section 3 Final Rule defined a Section 3 worker as any worker who currently or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a Youth Build participant.

The Sub-recipient will utilize the Section 3 Certification Form to document the status of a Section 3 worker. The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. 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.

## **TARGETED SECTION 3 WORKER AND CERTIFICATION**

The Section 3 Final Rule establishes the use of Targeted Section 3 workers. A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- Employed by a Section 3 business concern
- Low- or very low-income workers residing within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached the service area or the neighborhood of the project, as defined in or
- A Youth Build participant.

The Sub-recipient will utilize the Targeted Section 3 Certification Form to document the status of a Targeted Section 3 worker. The status of a Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction. 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.



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## **SECTION 3 BUSINESS CONCERNS**

The Section 3 Final Rule redefines a business concern. A Business Concern must meet the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- 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.

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. 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.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or sub-recipient (if requested) verifying that they meet the definitions provided above.

Sub-recipients can use their discretion for determining the type of verification that is required by prospective Section 3 workers and business concerns. Some examples include proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract

**Qualifying as a Section 3 businesses does not mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price.**

### **PROFESSIONAL SERVICES**

In this final rule, HUD is amending the professional services definition to clarify that only non-construction services that require an advanced degree or professional licensing, rather than all non-construction services, are excluded from Section 3.

HUD wants to ensure this final rule's emphasis the statutory requirement to prioritize low- and very low-income workers, and provides this category of exempted workers from reporting given the challenge to hire low- and very low-income workers in jobs that require such degrees and licensing.



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## **SUB-RECIPIENT REQUIREMENTS**

Sub-recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75. These responsibilities include but are not limited to the following:

1. **Resolutions and Certifications:** All Sub-Recipients seeking funding from CID must adopt a resolution adopting the Section 3 Plan as outlined within this policy guide. Both the resolution and the executed Section 3 plan must be submitted with all CDBG applications.
2. **Designing and implementing procedures to comply with the requirements of Section 3:** The Sub-recipient must take an *active role* in ensuring Section 3 compliance. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 and maintain records verifying that compliance.
3. **Facilitating the training and employment of Section 3 workers:** The Sub-recipient must act as a facilitator, connecting Section 3 workers to training and employment opportunities.
4. **Facilitating the award of contracts to Section 3 business concerns:** The Sub-recipient must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity-building training.
5. **Ensuring Contractor and Subcontractor Awareness of and Compliance with Section 3 Benchmarks and responsibilities:** The Sub-recipient is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.
6. **Ensuring Compliance and Meeting Numerical Benchmarks:** The Sub-recipient shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD and MDA in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
7. **Reporting Requirements:** The Sub-recipient must document all actions taken to comply with the requirements of Section 3 and report these activities as determined by the funding agency



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## **CONTRACTOR'S REQUIREMENTS**

- The Prime Contractor must submit a Section 3 plan to the Sub-Recipient outlining Section 3 hiring and employment opportunities.
- The Prime Contractor must notify all sub-contractors of their responsibilities under Section 3
- The Prime Contractor must provide a permeant workforce breakdown of all current employees and identify those Section 3 workers that were hired within the last five years.
- The Prime Contractor must provide an estimated breakdown of potential hires for the awarded project and timeline of anticipated hiring
- The Prime Contractor must refrain from contracting with sub-contractors as to whom they have received notice or have knowledge that the sub-contractors have been found in violation of the regulations in 24 CFR 75.
- Maintain records that document a **good faith effort** to utilize Section 3 workers and Target Section 3 workers as trainees and employees. (Required of both contractor and sub-contractor.) and any other qualitative efforts to comply with Section 3.

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. The contractor is required to maintain documentation to demonstrate compliance with the regulations and is responsible for requiring their subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers and Targeted Section 3 workers.

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## **SECTION 3 REPORTING 24 CFR 75.25**

### **REPORTING OF LABOR HOURS.**

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD: For Section 3 projects, Sub-recipients must report:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

**Professional Services:** The reporting structure in the final rule allows a Sub-recipient to count as Section 3 labor hours and as Targeted Section 3 labor hours any work performed by a Section 3 worker or a Targeted Section 3 worker (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.



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## **BENCHMARK REPORTING GOALS - (24 CFR 75.23)**

All Sub-recipients are required to report all labor hours

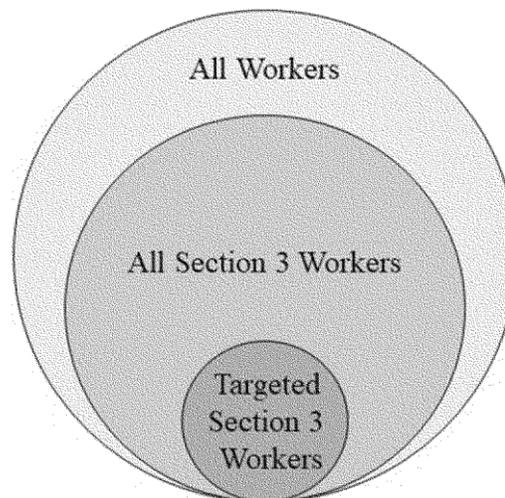
The benchmark goal for Section 3 workers is set at **25 percent** or more of the total number of labor hours worked by all workers on a Section 3 project.

Section 3 Workers Labor Hours	= 25%
Total Labor Hours	

The benchmark goal for Targeted Section 3 workers is set at **5 percent** or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the **5 percent** is included as part of the **25 percent** threshold.

Targeted Section 3 Labor Hours	= 5%
Total Labor Hours	

**The chart below is an example of the order of preference**



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## **SECTION 3 SAFE HARBOR COMPLIANCE**

DEO considers all Sub-recipients of covered funding in compliance with Section 3 Safe Harbor by meeting the established benchmark goals of **25** percent and **5** percent. If reporting indicates that the Sub-recipient has not met the Section 3 benchmarks, the Sub-recipient must report in a method on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b). Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

Please note that it is important to document efforts made to comply with Section 3. Files should illustrate attempts to meet Section 3 benchmarks. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 goals must be made.



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## **SECTION 3 WORKER TRACKING AND REPORTING**

All Sub-recipients are required to comply with the reporting requirements set for at 24 CFR 75.25. Where Targeted Section 3 and Section 3 Workers are currently employed or new hires, the Sub-recipients must track those labor hours performed by those workers. In conjunction with the Davis-Bacon payroll requirement, Sub-recipients will utilize the Section 3 tracking form for this purpose and submitted with each payroll submission.

## **ANNUAL SECTION 3 REPORTING**

All Sub-Recipients must comply with the Section 3 Reporting requirements per 24 CFR 75 and DEO Policy and Procedures. Sub-recipients must complete the Section 3 Reporting Form that reflects labor hours worked by Targeted Section 3 and Section 3 Workers for the reporting period of October 1<sup>st</sup> through September 30<sup>th</sup> of each year. All Section 3 reports are due to by October 31<sup>st</sup> following the ending reporting period. Where benchmark goals were not met, the sub-recipient must document their good faith effort to comply with Section 3.

## **PROJECT CLOSE-OUT REQUIREMENTS**

All Sub-recipient are required to provide a final Section 3 labor report at Close-out. The CDBG close-out package has been revised that includes the Section 3 Reporting form. The Sub-recipient must report the total cumulative labor hours to reflect benchmark goals. Sub-recipients who fail to submit the proper close-out will be considered incomplete and may delay final request for cash processing until compliance with the Section 3 reporting has been satisfied.



***EMPLOYEE ROSTER***  
***Tab 5***

**PAYROLL**

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1235-0008  
Expires: 07/31/2024

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS
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PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.
-------------	-----------------	----------------------	-------------------------

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
				S	S	S	S	S	S	S									
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210



**Additional Training  
Tab 6**

## Section 3 Fact Sheet

Last update: 9/24/2021

Page 1 of 2

- No longer tracking new hires, instead will be tracking labor hours.
- 25% of total project hours must be worked by Section 3 workers; 5% by targeted Section 3 workers
- Section 3 workers are: any employee who meets one of the following categories within the past five years or at time of project:
  - o Income below 80% of the AMI in which workers resides
  - o The worker is employed by a Section 3 business concern
  - o Worker is a YouthBuild participant
- Targeted Section 3 workers are:
  - o Those employed by a Section 3 business concern
  - o Currently fits, or when hired fit, at least one of the following categories as documented within the past five years:
    - Living within the service area or the neighborhood of the project
    - A YouthBuild participant
- Service area or neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people are in that area it is instead within a circle centered on the project area that encompasses a population of 5,000.
- Business can be Section 3 if 51% owned by PHA resident or 75% of hours are worked by Section 3 workers
- Compliance required on a per-project basis; a covered project is one that is greater than \$200K in assistance
- Now reported in DRGR instead of SPEARS
- Any contract signed before November 30, 2020 is subject to the old rule.
- Any contract or amendment signed after November 30, 2020 is subject to the new rule.
- Section 3 is required when the project involves new construction, rehab, or demolition of housing, infrastructure or public facilities.
- You may achieve safe harbor through qualitative efforts towards compliance such as outreach and training. If you do not meet numeric goals HUD will evaluate these qualitative efforts.
- Will be reported quarterly instead of yearly
- Is now found under 24 CFR 75

# Section 3 Fact Sheet

Last update: 9/24/2021

Page 2 of 2

New Rule	Old Rule
Section 3 compliance required on a per-project basis only	Program-wide compliance required if >\$200K in HUD funds
Covered project threshold may be updated every 3 years by FR notice	Covered project threshold was fixed
Reported in IDIS or DRGR depending on funding source	Reported in SPEARS
Implementing regulation 24 CFR 75	Implementing regulation 24 CFR 135
Numeric benchmarks updated every 3 years by FR notice; Project thresholds updated every 5 years by FR notice	Fixed numeric benchmarks and project thresholds
Overseen by Program Offices	Overseen by the Office of Fair Housing and Equal Opportunity
Covered project = greater than \$200K in CPD assistance or greater than \$100K in Lead and Healthy Homes funding	Covered project = greater than \$100K in HUD assistance
25% of total project hours worked by Section 3 workers; 5% by targeted Section 3 workers	30% of new hires must be Section 3 residents
Uses the term "Section 3 worker"	Used the term "Section 3 resident"
Added preference & definition for targeted Section 3 worker	No preference or definition for targeted Section 3 worker
Business can be Section 3 if 51% owned by PHA resident or 75% of hours worked are by Section 3 workers	Business could be Section 3 if subcontracting 25% of work to other Section 3 firms
No numeric benchmark but must contract with Section 3 businesses to greatest extent feasible	10% of construction costs contracted to Section 3 firms
Professional services that require specialized degrees or licensing not subject to Section 3	3% of non-construction costs contracted to Section 3 firms



# Overview of Cross-cutting Requirements Part 1: Environmental Review and Fair Housing

2019 CDBG-DR Problem Solving Clinic

Kansas City – Overland Park | July 30 – August 1,  
2019

# Speakers

- Paul Mohr, HUD Regional Environmental Officer
- Kelly Price, ICF



# Agenda

## **Environmental Reviews:**

### Session Objectives

- Importance of Environmental Reviews
- Tips for understanding post-disaster Environmental Laws
- Setting up Single-Family Rehab Tiered Review

## **Fair Housing:**

- Overview of fair housing and civil rights laws
- Discussion of hot topics related to CDBG-DR
  - Limited English Proficiency (LEP)
  - Reasonable Accommodation
  - Preferences



# Environmental Review and Disaster Recovery

Paul Mohr



# Environmental Review and Disaster Recovery (DR) Overview



# HUD's Environmental Regulations

- 24 CFR 50 – HUD Review  
Environmental review requirements for HUD staff
- 24 CFR 51 – HUD Standards  
Noise, Explosive or Flammable Hazards, Airport Hazards
- 24 CFR 55 – Floodplains & Wetlands
- 24 CFR 58 – State or Local Government Review  
Environmental review requirements for states or units of general local government (“Responsible Entity” / “RE”)



# What is an Environmental Review?

- Analysis of impacts of a project on the surrounding environment and vice versa
- Ensures HUD-funded projects provide decent, safe, and sanitary housing
- Protects the value of the federal investment
- Demonstrates compliance with 17 federal environmental laws & authorities
- Encourages public transparency & participation



# Best Practices

- Coordinate early with State or local gov't environmental agencies
- Become familiar with environmental guidance on HUD Exchange
- Hire consultants, if needed, to help prepare the Environmental Review Record (ERR)
- Use Secretary of the Interior (SOI) qualified person/staff to complete Section 106 reviews
- Adopt FEMA reviews, where applicable
- Prepare ERR using HUD “HEROS”

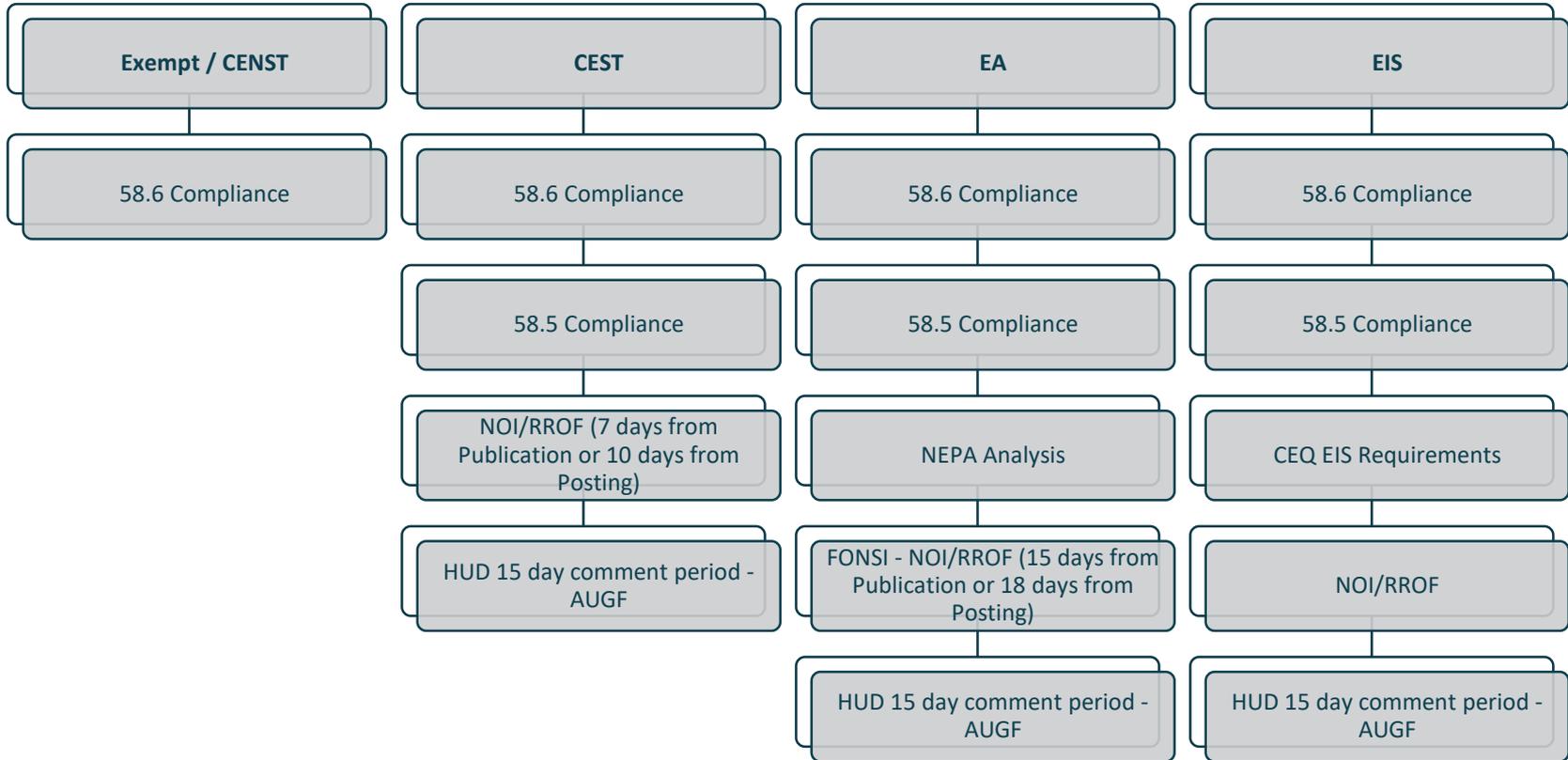


# “Environmental Review Record” (ERR)

- Written record of environmental decisionmaking
- Available to the public, courts, auditors – the “administrative record”
- Must be prepared & approved *before* actions are taken
- Let the ERR tell the story – project description, maps, photos, studies, consultation, support documentation, public notices, etc.



# Levels of Review



# Emergency and Disaster Provisions

- 24 CFR 58.34(a)(10) – For actions necessary to control the *immediate* impacts of emergency
- 24 CFR 58.33(b) – Allows for expedited public comment for EA-level activities – Saves 2 weeks
- HUD Guidance: Memo on Disasters & Imminent Threats



# Important - 24 CFR Part 58.22(a)

- Neither applicant nor partners in the project are allowed to commit or spend HUD or non-HUD funds on physical or choice-limiting actions, including acquiring property or entering into a contract, until the ER process is completed
- DON'T SPEND A DIME – until environmental review is complete and you have received approved “Request for Release of Funds” (form HUD-7015.16) when it's required
- *Don't take action before environmental approval!*



# Reimbursement Exception

- HUD guidance for reimbursement under disaster allocations for 2017 events
- Covers only privately-conducted rehab, demolition & reconstruction of single-family, multi-family, and non residential buildings – no public facilities or direct government actions
- Flood insurance is still required
- ERR will be conducted post commitment
- Limitations apply – See: Notice CPD-17-05



# Coordination with FEMA for CDBG-DR projects

When HUD/FEMA joint project funding ...

- HUD Responsible Entity can adopt FEMA review *if*
  - ✓ Scope of work has not changed
  - ✓ HUD funds cover the local cost share
  - ✓ Grantee “notifies” HUD with “Request for Release of Funds” – but without observing public comment periods
- See: HUD memo on adopting FEMA reviews ... & talk to your HUD & FEMA environmental representatives



# Tips for Environmental Laws and Authorities Post-Disaster



# Historic Preservation



# Section 106 - Programmatic Agreements (PAs)

- Legally binding agreement between state and federal agencies (including federally recognized tribes as appropriate) and REs
- Streamlines project review or mitigation through protocols
- Focus is on preserving historic resources



# FEMA Prototype PA

- FEMA PA template can be used to create statewide FEMA PA (i.e., state-by-state)
- Endorsed by Advisory Council on Historic Preservation (2013)
- Embodies input from Tribes, SHPOs & State Agencies
- Saves significant time in negotiating PA from scratch
- FEMA PA allows other federal agencies and Responsible Entities to sign on



# HUD Addendum to the FEMA PA

- HUD Addendum is the vehicle for HUD REs (States and units of general local government) to utilize the FEMA PA
- No additional responsibility on FEMA's part
- Currently includes New York, New Jersey, Colorado, Oklahoma, South Carolina, West Virginia, Louisiana & Florida



# How To sign on to HUD Addendum

- *See:* DR Programmatic Agreement Database (HUD Exchange)
- Follow process outlined in database's "Protocols" by State
- Requires Secretary of the Interior (SOI) Qualified staff
- Simple annual reporting requirement

Contact Nancy Boone – 202-402-5718, [Nancy.E.Boone@hud.gov](mailto:Nancy.E.Boone@hud.gov)



# Flood Insurance



# Flood Insurance

- FEMA National Flood Insurance Program (NFIP) insurance required if building is located in Special Flood Hazard Area, SFHA (“100 year floodplain”)
- Required by statute: Flood Disaster Protection Act of 1973, when HUD assistance used to acquire, repair, improve, or construct a building in SFHA
  - Also required for insurable contents
- Flood insurance is separate from Floodplain Management – so will apply in many cases where 8-Step process may not be applicable



# Flood Insurance

- By statute, flood insurance can extend beyond project completion
  - ✓ For loans: coverage must continue for term of the loan
  - ✓ For grants: coverage for life of the building irrespective of transfer of ownership
- Limits of NFIP coverage: \$250,000 for 1-4 family residential, and \$500,000 for multi-family or nonresidential structures
- HUD recommends purchase for all insurable structures, but it is only required for those in SFHA (100 year)
- Equipment purchase \$5,000 or more, must also be insured



# “One Bite” Rule

- HUD/State cannot offer Federal disaster assistance for a person’s property for construction activities, where the person previously received Federal disaster assistance and failed to maintain the flood insurance (24 CFR 58.6(b))
- Translation = Failure to maintain flood insurance after using Federal disaster assistance jeopardizes Federal assistance following subsequent disasters



# Floodplain Management and Wetlands



# E.O. 11988 - Floodplain Management

Purpose: “to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.”



# Floodplain Management

- Flooding is the most common disaster
- FEMA Flood Insurance Rate Maps (FIRM) only look at historical data available at the time of mapping, and do not take into consideration climate change, sea-level rise, growth in impervious surface, or any other trends!
- HUD's Floodplain Management regulation at 24 CFR Part 55 looks at avoidance, minimizing impacts and providing public notice



# Floodplain Management - 24 CFR Part 55

- Applies to physical actions in 100-year, or critical actions\* in 500-year floodplains:
  - ✓ Rehab if  $\geq 50\%$  value before rehab (“substantial improvement”)
  - ✓ Building new construction/reconstruction
  - ✓ Roads
  - ✓ Pipelines
  - ✓ Anything except minor clearing and grubbing

\*“Critical actions”: hospitals, nursing homes, police and fire stations...

\* See 55.2(b)(2) for definition



# Prohibited Actions under 55.1(c)

- Any non-functionally dependent use in a Floodway
- Critical Action, or new construction of non-critical action, in Coastal High Hazard Area (V Zone)
- Repair or reconstruction of non-Critical Action that was not designed consistent with 55.1(c)(3)



# Preliminary Flood Map Data

- EO 11988 and 24 CFR Part 55 require “best available information,” which includes preliminary Flood Insurance Rate Maps (FIRMs) and Advisory Base Flood Elevations (ABFEs)
- These preliminary maps shall be used – where the flood elevations are *higher* than existing FIRM – i.e., must use more protective maps



# Elevation Requirements

- CDBG-DR requires new construction and substantial improvement of structures to be at least +2 feet above 100-year floodplain (“BFE +2”)
- Substantial improvement is any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the structure’s market value before damage
- Elevation requirements do not apply to structures listed on the National Register of Historical Places or State Inventory of Historic Places
- “Critical facilities” (hospitals, nursing homes, police & fire stations) require elevation at least +3 feet above base flood elevation (“BFE +3”)

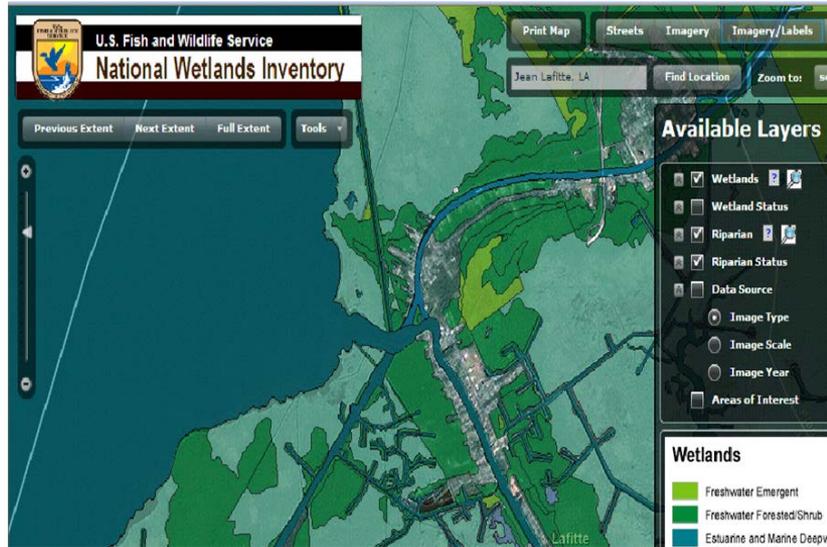


# E.O. 11990 – Protection of Wetlands

Purpose: “to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative[.]”



# National Wetlands Inventory Map



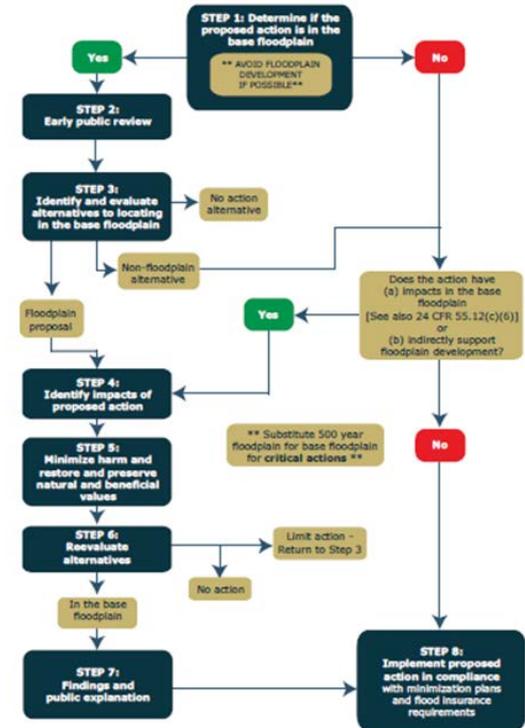
- NWI maps are to be used for primary screening
- Projects require wetlands evaluation any time filling, drainage, impounding, or other “new construction” activities occur



# “8-Step” Process – 24 CFR Part 55.20

- Allows for aggregated review of single-family rehab on countywide basis for floodplains – talk to HUD!
- Does NOT allow for countywide analysis for multifamily or non-residential – these require individual 8-step process
- Floodplain notices can be combined with wetlands but not for aggregated reviews
- Multiple locations can share 8-step public notices

8- Step Decision-Making Process for Executive Order 11988



# Endangered Species



# Endangered Species Act (ESA)

- ESA jointly administered by US Fish and Wildlife Service and National Marine Fisheries Service (“the Services”)
- Work with the Services as soon as possible to:
  - ✓ Identify endangered and threatened species & critical habitats in area
  - ✓ Develop plan to avoid potential impacts to protected species & their habitats
- Example activities that can impact species: beach re-nourishment, debris removal, tree removal, boardwalk and pier replacements, bank stabilization, bridge and culvert replacements



# Tiering



# What is Tiering?

- Used when all project sites not known at inception – e.g., single-family rehab
- Objective = eliminate repetitive discussions of the same issues, and focus on the actual issues ripe for decision at each level of environmental review
- Tiered review has two stages:
  - ✓ A broad-level review
  - ✓ Subsequent site-specific reviews



# Two Stages of Review

- Tier 1 - Broad-level review:
  - ✓ Evaluates & resolves the laws that can be fully addressed, given the project description
  - ✓ Establishes the written strategy to be followed for site-specific reviews
- Tier 2 - Site-specific reviews:
  - ✓ As individual sites become known, evaluates the remaining laws, based on the policies established in the broad-level review

Together, broad-level review + all site-specific reviews comprise a complete ERR (along with Request for Release of Funds, public notices)



# Broad Level Review



# Project Description

Project description must define...

- All contemplated activities
- All proposed funding sources
- Maximum number of units/properties
- Average cost per unit
- Geographic range (e.g., neighborhood, city, county or parish)
- “Expiration date” (maximum 5 years)



# Related Laws and Authorities

Evaluate each of the 17 environmental laws and authorities (under 58.5 and 58.6) and either...

- ✓ Resolve at the broad level

OR

- ✓ Define the written protocol (policy, standard, process) to achieve compliance at site-specific level



# Compliance at Broad-Level (Tier 1)

- Resolution of a specific law depends on the project activities and geography

## *Examples*

Project is located in county with no Coastal Zones or Coastal Barriers =

- Tier 1 compliance met with Coastal Zone Management Act & Coastal Barrier Resources Act

Project is single-family rehab & will not allow new construction or ground disturbance =

- Tier 1 compliance met with Wetlands Protection (E.O. 11990/Part 55)



# Tiering Environmental Assessments (EAs)

- In addition to laws and authorities at 58.5 and 58.6, EA must complete a more thorough NEPA review and consider all EA factors and analysis (cumulative impact, alternatives, etc.)
- Like all EAs, tiered EAs must include a Finding Of No Significant Impact (FONSI) prior to Request for Release of Funds
  - ✓ Protocols must be specific and detailed to ensure there will not be significant impact on environment



# Request for Release of Funds (RROF) Process

- Public Notice should identify the issues/laws being tiered to site-specific review
  - ✓ Use plain language to communicate with public
  - ✓ Sample notice available on HUD Exchange:  
<https://www.hudexchange.info/resource/5160/sample-notice-of-intent-to-request-release-of-funds-for-tiered-reviews/>
- Must complete RROF process at broad level
  - ✓ But do not commit funds to individual sites until site-specific review has been completed



# Site-Specific Reviews



# Site-Specific Reviews (Tier 2)

- Complete site-specific reviews as individual sites are identified
- Determine and document compliance with all required laws and authorities that were not already resolved
  - ✓ Follow protocols defined at broad level to concentrate on the pertinent issues
- If site-specific activity does not conform to limits established at broad level, separate review is required
- Site-specific reviews need to be completed prior to starting work or signing contracts with homeowners



# Recordkeeping

- Environmental review record is not complete without both broad-level and site-specific reviews
  - ✓ Site-specific reviews must identify corresponding broad-level review
  - ✓ Create your own site-specific format
  - ✓ Both Tier 1 and Tier 2 reviews should be filed together
  - ✓ Compliance must be documented – including maps, consultation letters, checklists
- Avoid monitoring findings – make sure records are complete and supported!



# Environmental Impact Statements





# Resources



# Resources

- HUD Environmental Website at HUD Exchange:  
<https://www.hudexchange.info/programs/environmental-review/>  
Tribal Directory Assessment Tool, Section 106 Programmatic Agreement Database, Noise Calculator, Separation Distance Calculator, other Related Laws & Authorities
- DR and Environment:  
<https://www.hudexchange.info/programs/environmental-review/disaster-recovery-and-environment/>
- HUD Environmental Contacts:  
<https://www.hudexchange.info/environmental-review/hud-environmental-staff-contacts/>
- Part 58 Basics Webinar:  
<https://youtu.be/ytkzT4HvXQY> and Slides:  
[https://www.hudexchange.info/onecpd/assets/File/Part58ReviewWebinar\\_Slides.pdf](https://www.hudexchange.info/onecpd/assets/File/Part58ReviewWebinar_Slides.pdf)
- WISER (on-demand training modules):  
<https://www.hudexchange.info/trainings/wiser/>



# Resources

- Disasters & Imminent Threats Memo:  
<https://www.hudexchange.info/resources/documents/Environmental-Review-Exemptions-Disasters-Imminent-Threats.pdf>
- CPD 15-07 - Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants:  
<https://www.hudexchange.info/resources/documents/Notice-CPD-15-07-Guidance-for-Charging-Pre-Application-Costs.pdf>
- HUD memo on adopting FEMA reviews:  
<https://www.hudexchange.info/resources/documents/AdoptionFEMAOtherFederalEnvironmentalReviewProcessingSandy.pdf>
- FEMA/HUD – Environmental Checklist:  
[https://www.fema.gov/media-library-data/1411485492585-6338cb32b06a7074edfef418429de5c9/Template\\_Env\\_Checklist.pdf](https://www.fema.gov/media-library-data/1411485492585-6338cb32b06a7074edfef418429de5c9/Template_Env_Checklist.pdf)
- Tiering Guidance:  
<https://www.hudexchange.info/programs/environmental-review/tiered-environmental-reviews/>



# Fair Housing and Civil Rights for CDBG-DR Grantees: HOT TOPICS



# Fair Housing and Civil Rights Laws

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (the “Fair Housing Act”)
- Section 109 of the Housing and Community Development Act of 1974
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975



# Hot Topic #1:

## Limited English Proficiency (LEP)

- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin, in programs or activities receiving federal financial assistance
- HUD's Title VI regulations prohibit recipients from using criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, or national origin
- In *Lau v. Nichols* (1974), the Supreme Court ruled that the failure of the San Francisco school district to take reasonable steps to provide non-English speaking students of Chinese origin with a meaningful opportunity to participate in federally funded educational programs is a form of national origin discrimination prohibited by Title VI



# Limited English Proficiency (LEP)

## Who is LEP?

- Protected individuals include:
  - Persons with limited English proficiency:
    - Persons who, as a result of national origin, have a limited ability to read, write, speak, or understand English
  - May be citizens or non-citizens

## Who must comply with LEP obligations?

- All programs and operations of entities that receive federal financial assistance, including but not limited to state agencies, local agencies and for-profit and non-profit entities, must comply with the Title VI requirements
- Subrecipients must also comply (i.e. when federal funds are passed through a recipient to a sub-recipient)



# Limited English Proficiency

- Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities for LEP persons, such as:
  - ✓ Complete a Four Factor Analysis
  - ✓ Develop a Language Assistance Plan
  - ✓ Engage in Targeted Outreach



# Limited English Proficiency (LEP)

## Four-Factor Analysis

1. Number or proportion of LEP persons in the community to be served or likely to be encountered by the program or recipient
2. Frequency with which LEP persons come into contact with the program, activity or service
3. Nature and importance of the service, information, program and/or activity
4. Recipient's financial and human resources, and the costs of language service options



# Limited English Proficiency (LEP)

## Language Assistance Plan (LAP):

- A recipient's plan for providing language assistance to the LEP population it serves

## Suggested components of a LAP:

- Identify LEP persons needing language assistance and the specific assistance that they need
- Identify the points and types of contact the agency and staff may have with LEP persons
- Identify ways in which language assistance will be provided
- Outreach effectively to the LEP community
- Training staff



# Limited English Proficiency (LEP)

Suggested components of a LAP (continued):

- Determine which documents and informational materials are vital and translating these
- Provide interpreters or interpretation services
  - do not rely on family members
- Develop community resources, partnerships and other relationships to help provide language services
- Make provisions for monitoring and updating the LAP
  - including seeking input from LEP beneficiaries and communities on how it is working and on what other actions should be taken



# Limited English Proficiency (LEP)

## LEP Best Practices in Response to a Disaster:

- Update four-factor analysis and LAP in response to a disaster
  - Do early in the process in order to ensure adequate citizen participation:
    - Translate the Action Plan into appropriate languages
    - Provide appropriate interpreters at public hearings
    - Outreach to LEP groups to encourage participation in disaster recovery process



# Limited English Proficiency (LEP)

## Best Practices (continued):

- Translate vital documents and make available on disaster recovery website
  - Action plans, substantial amendments, performance reports
  - Program benefits and restrictions
  - Application process
  - Notification of benefits or denials
  - Marketing materials
  - Complaint process/Appeal rights
- Publicize language rights in disaster recovery website, flyers, posters and/or citizen notices



# Limited English Proficiency (LEP)

## Safe Harbors for Written Translation

Size of language group	Recommended provision of written language assistance
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries and more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries and 50 or less in number	Translated written notice of right to receive free oral interpretation of documents
5% or less of the eligible population or beneficiaries and less than 1,000 in number	No written translation is required

There are no safe harbors for oral interpretation



# Hot Topic #2:

## Reasonable Accommodation

- A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces
- In federally-assisted housing, reasonable accommodations include requests for structural modifications to a unit or public use or common area
- The recipient must make and pay for the reasonable accommodation
  - Example: addition of a ramp, grab bar



# Reasonable Accommodation

## Individualized case-by-case analysis of requests is necessary

- There must be an identifiable relationship or nexus between the requested accommodation and the individual's disability
- Example:
  - A wheelchair user whose home is required to be elevated requests an elevator or lift to get from the ground to the dwelling unit.
- CDBG-DR grantees must make exceptions to the maximum amount of assistance available to a beneficiary when necessary to comply with federal accessibility standards or to make a reasonable accommodation for a person with disabilities.



# Reasonable Accommodation

*When can additional documentation be required?*

- Documentation **may be** necessary to evaluate a reasonable accommodation request – case-by-case analysis
  - Disability is obvious or otherwise known, and need for requested accommodation is readily apparent or known: ***no further information is required***
  - Disability is known but the need for the accommodation is not readily apparent or known: ***provider may request only information that is necessary to evaluate disability-related need.***



# Reasonable Accommodation

- If neither the disability nor the disability-related need is obvious may request information that:
  - ***(1) is necessary to verify that person meets the definition of an individual with a disability***
  - ***(2) describes the needed accommodation***
  - ***(3) shows relationship between the two***
- All documentation must be kept confidential



# Reasonable Accommodation

- HUD recipients must grant the request unless it is not reasonable – i.e.,
  - if it would impose an undue financial and administrative burden on the housing provider or
  - fundamentally alter the nature of the provider's operations
- HUD recipients are still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden and/or constitute a fundamental alteration of the program
- Interactive Process: Identification of an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. Note: An individual with a disability is in the best position to know what accommodations will meet his or her disability-related need
- A HUD recipient may also deny a request for a reasonable accommodation if there is no disability-related need for the accommodation



# Hot Topic #3: Preferences

- Some CDBG-DR grantees have chosen to adopt preferences in their housing programs. For example, preferences for:
  - Elderly
  - Disabled
  - Families with Children
  - Low and Moderate-Income Families



# Preferences

- A grantee may only adopt or implement a preference in accordance with non-discrimination and equal opportunity requirements
- *Example:* A grantee wishes to adopt a preference in its housing programs for families with children under the age of 5 due to concerns regarding the consequences young children may experience as a result of prolonged exposure to mold. However, such a preference would discriminate against other families with children, in violation of the Fair Housing Act



# Preferences

- However, a preference could be permitted for individuals whose health or safety could be jeopardized by prolonged exposure to mold due to their current health conditions or the amount of mold present in their dwelling
- Preference must address legitimate health and safety concerns and must be based on objective public health information



**Thank you! Questions?**

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# CDBG Crosscutting Issues: Fair Housing and Non-discrimination

Date  
Trainer



Prepared by Abt Associates for the U.S. Department of Housing and Urban Development



# Purpose of the Workshop

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## To Ensure That Every Participant:

- is familiar with the relevant Federal fair housing and non-discrimination statutes, Executive Orders, and regulations;
- understands the administration and enforcement of fair housing requirements; and
- understands the difference between non-discrimination and affirmatively furthering fair housing.

# Applicable Statutes

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- Title VI of the Civil Rights Act of 1964 as amended in 1988.
  - Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 U.S.C. 3601-3619) as amended.
  - Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, and familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

# Applicable Statutes (cont.)

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- Architectural Barriers Act of 1968.
  - Requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.
- Title IX of the Education Amendments Act of 1972.
  - Prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973.
  - Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

# Applicable Statutes (cont.)

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- Section 508 of the Rehabilitation Act of 1973.
  - Enacted to eliminate barriers in information technology, to make available new opportunities for people with disabilities, and to encourage development of technologies that will help achieve these goals.
- Section 109 of Title I of the Housing and Community Development Act of 1974.
  - Prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program.

# Applicable Statutes (cont.)

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- Section 104(b)(2) of the Housing Community Development (HCD) Act of 1974, as amended, (42 U.S.C. 5304).
  - This governing statute for the CDBG program requires that each grantee certify to HUD's satisfaction that (1) the grant will be conducted and administered in conformity with the Fair Housing Act (42 U.S.C. 3601-20) and that (2) the grantee will affirmatively further fair housing.

# Applicable Statutes (cont.)

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- Title II of the Americans with Disabilities Act of 1990.
  - Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.
- Housing for Older Persons Act of 1995
  - HOPA makes several changes to the 55 and older exemption. Since the 1988 Amendments, the Fair Housing Act has exempted from its familial status provisions properties that satisfy the Act's 55 and older housing condition.

# Executive Orders

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- Executive Order 11063: Equal Opportunity in Housing, 11/20/1962 (State grantees and Entitlement grantees).
- Executive Order 12892: Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, 1/17/1994.
- Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 2/11/1994.

# Executive Orders

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- Executive Order 13166: Improving Access To Services For Persons With Limited English Proficiency, 8/11/2000.
- Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities, 6/19/2001.
- Executive Order 13330: Human Service Transportation Coordination, 2/24/2004.

# What is non-discrimination?

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- CDBG grantees are responsible for ensuring that all housing assisted with CDBG funds is made available on a non-discriminatory basis: that is, without regard to race, color, religion, sex, disability, familial status, age, or national origin.
- Discriminatory housing practices might include any action in which an individual or class of individuals in a specific protected class is treated differently than others who are not in that protected class, when the result of that action denies that individual or class of individuals equal access to or benefit of a housing opportunity. Note that specific actions may be required to create equal program access for people with disabilities.

# Illegal vs. Legal Discrimination

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- Illegal discrimination includes such practices as:
  - Discrimination in the sale or rental of a dwelling
  - Discriminatory conduct by members of the real estate industry
  - Discriminatory advertisements, statements, and notices
  - Engaging in blockbusting practices
  - Discrimination in the provision of brokerage services
  - Discrimination in residential real estate-related transactions
- Legal Discrimination

# What is affirmatively furthering fair housing?

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"Affirmatively Furthering Fair Housing" is defined in the regulations as:

- Having an Analysis of Impediments (AI) to fair housing choice;
- Taking appropriate actions to overcome the effects of identified impediments; and,
- Keeping records reflecting the analysis and showing the actions taken.

# Applicable Regulations

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- 24 CFR Part 1: Nondiscrimination in Federally Assisted Programs of HUD.
  - Implementing regulations for Title VI of the Civil Rights Act of 1964.
- 24 CFR Part 3: Nondiscrimination on the Basis of Sex in Education Programs or Activities receiving Federal Financial Assistance.
  - Implementing regulations for Title IX of the Education Amendments Act of 1972.
- 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development.
  - Implementing regulations for Section 504 of the Rehabilitation Act of 1973.

# Applicable Regulations (cont.)

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- 24 CFR Parts 91.225 (a)(1): Affirmatively Furthering Fair Housing.
  - Each jurisdiction must certify that it will affirmatively further fair housing, including conducting an analysis of impediments to fair housing choice, taking appropriate actions, and maintaining records.
- 24 CFR Part 91.325 (a)(1): Affirmatively Furthering Fair Housing.
  - Each State must certify that they will affirmatively further fair housing, including conducting an analysis of impediments to fair housing choice, taking appropriate actions, and maintaining records.

# Applicable Regulations (cont.)

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- 24 CFR 570.487(b): Affirmatively Furthering Fair Housing.
  - Requires the state and each local government to certify that it will affirmatively further fair housing. The state is required to assume responsibility by: conducting an analysis to identify impediments to housing choice; taking appropriate actions to overcome the effects of the impediments; maintaining records of analysis and actions; and ensuring that units of local government funded by the state comply with the certification requirements.

# Applicable Regulations (cont.)

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- 24 CFR 570.601: Fair Housing (Entitlement grantees). The following apply: Title VI of the Civil Rights Act of 1964 (and implementing regulations at 24 CFR part 1); Housing and Community Development Act (including section 104(b)(2)); and Executive Order 11063, as amended by 12259 (with implementing regulations in 24 CFR part 107).
- 24 CFR Parts 100-125: Fair Housing.
- 24 CFR 570.206(c): Fair Housing Activities. Provision of fair housing services designed to further the objectives of the Fair Housing Act.

# Applicable Regulations (cont.)

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- 24 CFR 570.602: HCDA Section 109 nondiscrimination (Entitlement grantees)
- 24 CFR 570.495(b): HCDA Section 109 nondiscrimination (State grantees). HUD enforcement practices.
- 24 CFR 570.904: Equal Opportunity and Fair Housing Review Criteria (Entitlement grantees)
- 24 CFR Part 91.325(b)(5): Compliance with Anti-discrimination laws.
  - A certification that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, and implementing regulations.

# Applicable Regulations (cont.)

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- 24 CFR 570.912: Nondiscrimination compliance
- 24 CFR Part 570.490(a)(b): Recordkeeping requirements
- 24 CFR 570.506(g): Fair Housing and equal opportunity records.
- 24 CFR 570.614: ABA and ADA (Entitlement grantees)
- 24 CFR 570.487(e): ABA and ADA (State grantees).

# Applicable HUD Notices

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- CPD-05-03 (issued June 6, 2005). Implementing the New Freedom Initiative and Involving Persons with Disabilities in the Preparation of the Consolidated Plan through Citizen Participation
- CPD-05-09 (issued November 3, 2005). Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program
- CPD-05-10 (issued November 3, 2005). Accessibility for Persons with Disabilities to Non-Housing Programs funded by Community Development Block Grant Funds – Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Architectural Barriers Act

# Strategies to Affirmatively Further Fair Housing

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- Understand how HUD defines affirmatively furthering fair housing
- Understand how impediments to fair housing choice are defined
- Understand what actions or omissions constitute impediments to fair housing choice
- Ensure that analysis of impediments process is inclusive
- Implement actions to address the impediments identified

# Case Study

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**“Fair Housing”**

# Key HUD Documents

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- Handbook 6509.2, Rev-5: CPD Monitoring Handbook-Chapter 22: Fair Housing and Equal Opportunity
- Fair Housing: Equal Opportunity for All
- Fair Housing Act Design Manual (Revised April 1998)
- Fair Housing Planning Guide, Volume 1 (March 1996)
- Joint letter on Analysis of Impediments to Fair Housing Choice (August 4, 2004)
- Occupancy Standards – Keating Memo (March 1991)
- Guidelines for FHEO Implementation of HUD Policy on Race and Ethnicity Data (November 2002)

# Recordkeeping

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- Each recipient shall establish and maintain records that include:
  - Documentation of analysis of impediments and actions
  - Data on participation in CDBG funded programs or activities, by racial and ethnic group, and single head of households
  - Data on employment in each of the recipients operating units funded in whole or in part with CDBG funds
  - Race and ethnicity data of households displaced as a result of CDBG-funded activities
  - Documentation of actions undertaken to meet the requirements of the Section 3 program
  - Race/ethnicity data for each business receiving a contract or subcontract of \$25,000 or more from CDBG funds
  - Documentation of affirmative action measures taken to overcome prior discrimination
  - Documentation of Limited English Proficiency compliance

# Strategies to Improve Access for Persons with Limited English Proficiency

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- Use the Language Assistance and Planning Self Assessment tool (<http://www.lep.gov/selfassesstool.htm>)
- Translate written materials into key languages
- Adapt written materials to be understandable for the target population
- Use the “I Speak” card (<http://www.lep.gov/ISpeakCards2004.pdf>)
- Use interpreter services when appropriate

# Case Study

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**“Limited English Proficiency”**

# Discussion Questions

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1. What are the key provisions of the Housing and Community Development Act of 1974, as they pertain to CDBG grantees?
2. What is the key provision of Section 504 of the Rehabilitation Act of 1973?
3. Describe three ways in which HUD funded recipients may carry out the requirements of the Fair Housing Act to affirmatively further fair housing.
4. What is an analysis of impediments to fair housing choice?