

**Section 3 Explanation
(RFP Attachment D-1)**

- 1.0 Introduction.** The purpose of this document is to explain major issues pertaining to the Section 3 Business Preference program (Preference) required by the Minneapolis Public Housing Authority's (MPHA) funding source, the U.S. Department of Housing and Urban Development (HUD).
- 2.0 What is Section 3?**
- 2.1** Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities, including those communities served by the MPHA. Section 3 is intended to ensure that when a contractor has need to hire additional people as the result of receiving a contract from the MPHA, preference must be given to low- and very low-income persons residing in Hennepin County, MN (Section 3 resident), or Section 3 business concerns.
- 2.2** The requirements pertaining to Section 3 apply only to purchases and contracts the MPHA completes for work; the requirements of Section 3 do not apply to purchases or contracts the MPHA completes solely for commodities or equipment; meaning, "no work provided, no Section 3 required."
- 2.3** Section 3 is race and gender neutral in that preferences are based on income-level and location.
- 3.0 What does the term "Section 3 resident" mean?**
- 3.1** A "Section 3 resident" is:
- 3.1.1** A public housing resident of the MPHA; or
- 3.1.2** A low- or very low-income resident of Hennepin County, MN.
- 3.1.2.1** Low- and very low-income within Hennepin County, MN is defined as residents within the following income levels for FY 2016 (Median Income = \$85,800):

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[Table No. 1]

Income Limit Category	(1) Person	(2) Persons	(3) Persons	(4) Persons	(5) Persons	(6) Persons	(7) Persons	(8) Persons
Very Low (50%)	\$30,050	\$34,350	\$38,650	\$42,900	\$46,350	\$49,800	\$53,200	\$56,650
Extremely Low (30%)	\$18,050	\$20,600	\$23,200	\$25,750	\$28,440	\$32,580	\$36,730	\$40,890
Low (80%)	\$46,000	\$52,600	\$59,150	\$65,700	\$71,000	\$76,250	\$81,500	\$86,750

Income Limit figures are based on FY2016 Fair Market Rent (FMR). For a detailed account of how these limits are derived, please see our associated FY2016 FMR documentation.

4.0 What does the term "Section 3 business concern" mean?

4.1 A "Section 3 business concern" is a business that can provide evidence that it meets one of the following:

4.1.1 It is 51% or more owned by a Section 3 resident; or

4.1.2 At least 30% of its full-time employees include person that are currently Section 3 residents, or within 3 years of the date of first employment with the business concern were Section 3 residents; or

4.1.3 Provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications detailed in Sections 3.1.1 or 3.1.2.

5.0 Is participation in Section 3 optional?

5.1 Except for purchases or contracts solely for commodities and equipment, as a part of the solicitation the MPHA will offer all proposers the option of a Preference.

5.2 In response to a competitive solicitation (this RFP), proposers are not required to respond to the MPHA with a claim of a Preference (meaning, such claim is optional and failure to respond with a claim of a Preference will not cause the proposer to be deemed non-responsive); however, if a proposer does claim a Preference, then the MPHA will consider, investigate, and determine the validity of each such claim for a Preference.

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5.3 Regardless of whether a proposer claims a Preference in response to a solicitation, the recipient of the award will be required to, "to the greatest extent feasible," implement the requirements of Section 3 during the ensuing awarded contract term.

6.0 Must a contractor receiving an award from the MPHA take part in the Section 3 program?

6.1 The short answer is "Yes," as detailed following, each contractor must, "to the greatest extend feasible," take part in the program.

6.1.1 If the contractor wishes, he/she may claim a Preference during the competitive solicitation process (please see Attachment E, most specifically Section 2.0). Pertaining to this RFP competitive solicitation process, the MPHA will give a Preference based upon the following:

[Table No. 2]

Maximum Point Value	Factor Description
	SECTION 3 BUSINESS PREFERENCE. A firm may qualify for Section 3 status as detailed in Attachments E and E-1 (NOTE: A max of 15 points awarded).
15 points	Priority I, Category 1a. Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3-covered assistance is expended.
13 points	Priority II, Category 1b. Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.
11 points	Priority III, Category 2a. Business concerns that are 51 percent or more owned by residents of any other housing development or developments.
9 points	Priority IV, Category 2b. Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.
7 points	Priority V, Category 3. Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.
5 points	Priority VI, Category 4a. Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.
3 points	Priority VII, Category 4b. Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

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15 points	Maximum Available Preference Points
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6.1.2 It is possible that a contractor may demonstrate, to the MPHA's satisfaction that he/she has made a good faith and reasonable effort to comply with the requirements of Section 3, but it is not feasible to implement any portion of the Section 3 program. Such failure must be fully documented by the contractor and approved by the MPHA or that contractor may be deemed not responsible by the MPHA and the contract may be, at the MPHA's discretion, not awarded or terminated.

7.0 Be aware that, as detailed in §135.38, the following Section 3 Clause will be a part of every applicable contract the MPHA executes, and when a contractor executes the contract he/she is thereby agreeing to comply with the following:

SECTION 3 CLAUSE

7.1 The work to be performed under this contract is project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S. C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

7.2 The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

7.3 The contractor will send to each labor organization or representative of workers with which s/he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

7.4 The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the

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subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135, the contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of this regulation.

- 7.5** Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 24 CFR, Part 135.
- 7.6** Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- 7.7** With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- 8.0** As detailed in 24 CFR §135, Appendix I, *Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents*, as a part of the contract award process, to satisfy the requirements of Section 3 the Contractor will be able to denote the "efforts" his/her firm will formally commit to implement if he/she is awarded a contract:
- 8.1** Enter into “first source” hiring agreements with organizations representing Section 3 residents.
- 8.2** Sponsor a HUD-certified “Step-Up” employment and training program for section 3 residents.

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- 8.3** Establish training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- 8.4** Advertise the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development(s) where category 1 or category 2 persons (as these terms are defined in §135.34) reside.
- 8.5** Advertise the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development(s). For the MPHA, post such advertising in the housing development(s) where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development(s) and transitional housing in the neighborhood or service area of the section 3 covered project.
- 8.6** Contact resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development(s) where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- 8.7** Sponsor (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by the MPHA or contractor representative(s) at a location in the housing development(s) where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.
- 8.8** Arrange assistance in conducting job interviews and completing job applications for residents of the housing development(s) where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.
- 8.9** Arrange for a location in the housing development(s) where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative(s).
- 8.10** Conducting job interviews at the housing development(s) where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

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- 8.11** Contact agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the MPHA's or contractor's training and employment positions.
 - 8.12** Consult with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the MPHA's or contractor's training and employment positions.
 - 8.13** Advertise the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
 - 8.14** Employ a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the Agency, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the MPHA or contractor intends to fill.
 - 8.15** For the MPHA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR §905.102, and §905.201(a)(6).)
 - 8.16** Where there are more qualified section 3 residents than there are positions to be filled, maintain a file of eligible qualified section 3 residents for future employment positions.
 - 8.17** Undertake job counseling, education and related programs in association with local educational institutions.
 - 8.18** Undertake such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.
 - 8.19** Incorporate into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.
 - 8.20** Coordinate plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.
- 9.0** As detailed in 24 CFR §135, Appendix II, *Examples of Efforts To Award Contracts to Section 3 Business Concerns*, as a part of the contract award process, to satisfy the requirements of Section 3

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the Contractor will be able to denote the efforts his/her firm will formally commit to implement once awarded a contract:

- 9.1** Utilize procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).
- 9.2** In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.
- 9.3** Contact business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.
- 9.4** Advertise contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development(s) owned and managed by the MPHA.
- 9.5** For the MPHA, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.
- 9.6** Provide written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.
- 9.7** Follow up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- 9.8** Coordinate pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- 9.9** Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

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- 9.10** Advise section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- 9.11** Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.
- 9.12** Where appropriate, break out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
- 9.13** Contact agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- 9.14** Advertise the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- 9.15** Develop a list of eligible section 3 business concerns.
- 9.16** For the MPHA, participating in the “Contracting with Resident-Owned Businesses” program provided under 24 CFR part 963.
- 9.17** Establish or sponsor programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- 9.18** Establish numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.
- 9.19** Support businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- 9.20** Encourage financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- 9.21** Actively support joint ventures with section 3 business concerns.
- 9.22** Actively support the development or maintenance of business incubators which assist Section 3 business concerns.