

"SECTION 3" BIDDING PREFERENCE AND CONTRACT OBLIGATIONS

SECTION 3: *What is it?*

Section 3 is a HUD requirement designed to ensure the expenditure of HUD funds creates employment, training and contracting opportunities for public housing residents and other low-income persons.¹ This effort is required by the U.S. Housing and Urban Development Act of 1968, and is intended to bolster local economic development, improve neighborhood economics, and promote individual and family self-sufficiency. These goals are achieved in two ways: **1) a bidding preference** and **2) contract obligations**.

A full description of Section 3 bidding preference and contract obligations can be viewed at:

<http://www.fresnohousing.org/about/contractors/section-3/>

BIDDING PREFERENCE: *What is a "Section 3 Business Concern"?*

A bidding preference is given to companies which have made extensive efforts to employ or work with Section 3 residents. These companies are referred to as "Section 3 Business Concerns." Businesses which meet one of the three conditions below are awarded up to **15 preference points** in the bidding process.

Type 1: Business is 51% or more owned by a Section 3 resident

Type 2: At least 30% of the business' full time employees are Section 3 qualified.

Type 3: A business 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 within the preceding

Type 1 and Type 2.

CONTRACT OBLIGATIONS: *How are contract obligations determined?*

Once contracts are awarded, contractors and subcontractors are required to provide a list of existing employees to Fresno Housing and work with Fresno Housing to provide employment and training opportunities to low-income residents. These obligations are governed by the HUD Section 3 Clause.

To achieve compliance, Fresno Housing works with contractors to complete Section 3 Implementation and Compliance Plans. These plans have two central numeric goals, for contracting (10% of subcontracts to Section 3 Business Concerns) and hiring (30% of new hires are Section 3 workers). Section 3 project compliance becomes a consideration in future bidding.

¹ Referred to as "Section 3 residents" or "Section 3 workers"

SECTION 3 CLAUSE

As detailed within 24 CFR 135.38, all Section 3 covered contracts shall include the following clause.

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

SECTION 3 REFERRAL PROCESS

JOB CANDIDATES

To meet Section 3 requirements, Fresno Housing supports contractors and subcontractors in their search for qualified Section 3 residents. FH maintains a database of 250 workers with a wide range of skills and qualifications. The table shows job-candidates by experience in various construction trades.

Table of Section 3 Job Candidates by Construction Trades (35 total candidates)

| Trade | # of workers by trade experience | Trade | # of workers by trade experience |
|--------------------------------|-------------------------------------|-------------------------|-------------------------------------|
| Carpentry | 14 | General Labor | 18 |
| Form Carpentry | 8 | Painting | 12 |
| Frame Carpentry | 8 | Plumbing Fixtures | 3 |
| Finish Carpentry | 9 | Wood Flooring | 3 |
| Electrical | 10 | Site Security | 2 |
| Electrical (wiring) | 9 | Welding/ Riveting | 3 |
| Electrical (Install) | 3 | Tile Setting | 5 |
| Solar Panels | 2 | Landscaping | 9 |
| Construction Machine Operation | 15 | Roofing | 1 |
| Forklift | 10 | Drywall | 6 |
| Boom/Lift | 5 | Concrete work | 4 |
| Back hoe/bobcat | 3 | Site Clean-up or HAZMAT | 6 |

CANDIDATE REFERRAL

Once a contract has been signed, Fresno Housing provides contractors and subcontractors with lists of eligible job candidates.

“List of Potential Hires” – This list includes skilled and semi-skilled workers who are currently looking for work. All the workers on this list qualify as Section 3. If a General Contractor or subcontractor is conducting telephone interviews, there is an expectation that most, if not all, of the candidates will be interviewed by the end of the hiring period. Every several months, General Contractors will receive updated lists, which shall be shared with all subcontractors.

“List of Potential Trainees” – Some contractors will receive a second list of trainees. These job-candidates are usually younger, less experienced workers with a strong interest in construction trades. These are good candidates for trainee, job-shadowing, and entry-level positions.

If you have questions regarding the lists please contact Mary Helen Rodriguez (MHRodriguez@fresnohousing.org).