Section 3 Business Preference Explanation

1.0 Introduction. The purpose of this document is to explain to bidders, proposers and quoters (described herein as “bidders”), major issues pertaining to the Section 3 Business Preference program required by the Agency's funding source, the U.S. Department of Housing and Urban Development (HUD). Also, hereinafter, a Section 3 Business Preference will be referred to as "Preference."

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 Fresno County, CA. 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 Fresno Housing Authority (hereinafter, "the Agency"), preference must be given to low- and very low-income persons residing in Fresno County, CA (Section 3 resident), or Section 3 business concerns.

2.2 The requirements pertaining to Section 3 apply only to purchases and contracts the Agency completes for work--the requirements of Section 3 does not apply to purchases or contracts the Agency 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 Agency; or

3.1.2 a low- or very low-income resident of Fresno County, CA

3.1.2.1 Low- and very low-income within Fresno County, CA, is defined as residents within the following income levels for FY 2018:

FY 2017 FAMILY INCOME GUIDELINES

Family Size	Very Low Income	Low Income
1	$20,900	$33,450
2	$23,900	$38,200
3	$26,900	$43,000
4	$29,850	$47,750
5	$32,250	$51,600
6	$34,650	$55,400
7	$37,050	$59,250
8	$39,450	$63,050

Income Limit figures are based on FY2018 Fair Market Rent (FMR).

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 within the preceding 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 Agency will offer all bidders the option of a Preference.

5.2 In response to a competitive solicitation (quotes; bids; or RFP's), bidders are not required to respond to the Agency 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 bidder to be deemed non-responsive); however, if a bidder does claim a Preference, then the Agency will consider, investigate, and determine the validity of each such claim for a Preference.

5.3 Regardless of whether a bidder 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 Agency 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 D).

6.1.1.1 Pertaining to Quotations for Small Purchases (QSP's), the Agency will give a Preference of 10% to any quoter deemed to be eligible to receive such Preference ("deemed," based on information the quoter submits in response to the QSP issued). This means that for a quoter deemed eligible to receive a Preference, though he/she, for example, submits a quote of $10,000, such quote will be considered by the Agency to be $9,000 (10% less), even though, if awarded, the Agency will pay the quoter the full $10,000 originally quoted.

6.1.1.2 Pertaining to Invitations For Bids (IFB's), the Agency will give a Preference based upon the following:

	Preference = lesser of:
When the lowest responsive bid is less than $100,000	**10% of that bid or $9,000**
When the lowest responsive bid is:	
At least $100,000 but less than $200,000	**9% of that bid, or $16,000**
At least $200,000 but less than $300,000	**8% of that bid, or $21,000**
At least $300,000 but less than $400,000	**7% of that bid, or $24,000**
At least $400,000 but less than $500,000	**6% of that bid, or $25,000**
At least $500,000 but less than $1,000,000	**5% of that bid, or $40,000**
At least $1,000,000 but less than $2,000,000	**4% of that bid, or $60,000**
At least $2,000,000 but less than $4,000,000	**3% of that bid, or $80,000**
At least $4,000,000 but less than $7,000,000	**2% of that bid, or $105,000**
$7,000,000 or more	**1 1/2% of lowest responsive bid, with no dollar limit**

6.1.1.3 Pertaining to Request For Proposals (RFP's) and Request For Qualifications (RFP/RFQ), the Agency will give a Preference based upon the following:

Max Point Value	Preference Factor Type	Preference Factor Description
Section 3 Business Preference Participation. A firm may qualify for Section 3 status as detailed within Attachments D and D-1 (NOTE: A maximum of 15 points awarded).		
15 points	**Objective**	**Category 1**. 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, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
11 points	**Objective**	**Category 2.** Business concerns that are 51 percent or more owned by residents of any other housing development or developments managed by the Agency that is expending the Section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
7 points	**Objective**	**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	**Objective**	**Category 4**. Business concerns that are 51 percent or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns..
15 points		**Maximum Available Preference Points (Additional)**

6.1.2 It is possible that a contractor may demonstrate, to the Agency'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 Agency or that contractor may be deemed not responsible by the Agency and the contract may be, at the Agency's discretion, not awarded or terminated.

7.0 Be aware that, as detailed within §138.38, the following Section 3 Clause will be a part of every applicable contract the Agency 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. 170lu. 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 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 Action (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 within 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 successful bidder or 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 Entering into "first source" hiring agreements with organizations representing Section 3 residents.

8.2 Sponsoring a HUD-certified "Step-Up" employment and training program for section 3 residents.

8.3 Establishing 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 Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in §135.34) reside.

8.5 Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For the Agency, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

8.6 Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments 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 Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an Agency or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

8.8 Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments 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 Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

8.10 Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

8.11 Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the Agency's or contractor's training and employment positions.

8.12 Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Agency's or contractor's training and employment positions.

8.13 Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

8.14 Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the Agency, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the Agency or contractor intends to fill.

8.15 For the Agency, 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, maintaining a file of eligible qualified section 3 residents for future employment positions.

8.17 Undertaking job counseling, education and related programs in association with local educational institutions.

8.18 Undertaking 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 After selection of bidders but prior to execution of contracts, incorporating 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 Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

9.0 As detailed within 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 the successful bidder or Contractor will be able to denote the "efforts" his/her firm will formally commit to implement if he/she is awarded a contract:

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

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 Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

9.4 Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the Agency.

9.5 For the Agency, 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 Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the proposal invitations or request for proposals.

9.7 Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

9.8 Coordinating pre-proposal 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.

9.10 Advising 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 Arranging 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, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

9.13 Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.

9.14 Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

9.15 Developing a list of eligible section 3 business concerns.

9.16 For the Agency, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR part 963.

9.17 Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

9.18 Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

9.19 Supporting 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 Encouraging 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 supporting joint ventures with section 3 business concerns.

9.22 Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.