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SECTION 3

COMPLIANCE INSTRUCTIONS AND FORMS

This packet is designed to comply with the New HUD Section 3 Final Rule issued September 29, 2020, and became effective November 30, 2020. Therefore, these documents and instructions are related to the "Hours Worked Benchmarks" as called for in the 24 CFR Part 75 regulation. Every contractor and sub-contractor (with the exception of professional services) are required to work toward meeting the prescribed benchmarks as indicated on the bottom of page 6 of this packet. There are no specific hiring or contracting goals under this new rule.

Most importantly, the rule does not require the hiring or contracting of any person or business that is not fully qualified to perform the work as would be charged. However, the rule makes clear that HUD is intent on ensuring Section 3 persons employed under the new rule receive measurable and sustainable employment. Therefore, Section 3 employees can be counted for up to five full years from the date of certification or hire respectively. HUD is expected to issue continued guidance on the new rule in the future so these documents may change in accordance with the rule.

If you should have any questions on this packet, please contact:

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**Section 3 Business Preference Explanation
(IFB Attachment E)**

Background - Section 3 of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain HUD financial assistance expenditures, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low- and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

The Section 3 statute establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. For example, the prioritization as it relates to public housing assistance places an emphasis on public housing residents, in contrast to the prioritization as it relates to housing and community development assistance, which places more emphasis on residents of the neighborhood or service area in which the investment is being made.

1.0 § 75.3 Applicability.

1.1 General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

1.1.1 Public housing financial assistance. Public housing financial assistance means:

1.1.1.1 Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

1.1.1.2 Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

1.1.1.3 Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

1.1.1.4 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.

1.1.2 Section 3 projects. (i) Section 3 projects means 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. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs,

Section 3 Business Preference Explanation
(IFB Attachment E)

as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead- Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

1.1.2.1 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.

1.2 Contracts for materials. Section 3 requirements do not apply to material supply contracts.

2.0 § 75.5 Definitions.

2.1 The terms HUD, Public Housing, and Public Housing Agency (PHA), are defined in 24 CFR part 5. They also apply to this part: 1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

2.2 Contractor means any entity entering into a contract with:

2.1.1 A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

2.2.1 A subrecipient for work in connection with a Section 3 project.

2.3 Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

2.4 Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

2.5 Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

2.6 Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

2.7 Public housing financial assistance means assistance as defined in § 75.3(a)(1).

2.8 Public housing project is defined in 24 CFR 905.108.

2.9 Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government,

**Section 3 Business Preference Explanation
(IFB Attachment E)**

instrumentality, PHA, or other public agency, public or private nonprofit organization.

2.10 Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

2.11 Section 3 business concern means:

2.11.1 A business concern meeting at least one of the following criteria, documented within the last six-month period:

2.11.1.1 It is at least 51 percent owned and controlled by low- or very low-income persons;

2.11.1.2 Over 75 percent of the labor hours performed for the business over the prior three- month period are performed by Section 3 workers; or

2.11.1.3 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.

2.11.2 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.

2.11.3 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.

2.12 Section 3 project means a project defined in § 75.3(a)(2).

2.12.1 Section 3 projects means 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. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

2.13 Section 3 worker means:

2.13.1 Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

**Section 3 Business Preference Explanation
(IFB Attachment E)**

- 2.13.1.1 The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - 2.13.1.2 The worker is employed by a Section 3 business concern.
 - 2.13.1.3 The worker is a YouthBuild participant.
 - 2.13.2 The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
 - 2.13.3 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.
 - 2.14 **Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.
 - 2.15 **Service area or the neighborhood of the project** means an area 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.
 - 2.16 **Small PHA** means a public housing authority that manages or operates fewer than 250 public housing units.
 - 2.17 **Subcontractor** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.
 - 2.18 **Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.
 - 2.19 **Targeted Section 3 worker** has the meanings provided in §§ 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.
- 3.0 **§ 75.11 Targeted Section 3 worker for Public Housing Financial Assistance.**
 - 3.1 **Targeted Section 3 worker.** A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:
 - 3.1.1 A worker employed by a Section 3 business concern; or
 - 3.1.2 A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - 3.1.3 A resident of public housing or Section 8-assisted housing;
 - 3.1.4 A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - 3.1.5 A YouthBuild participant.
 - 3.2 **Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

**Section 3 Business Preference Explanation
(IFB Attachment E)**

3.3 YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

4.0 § 75.9 Requirements - Employment and Training.

4.1 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.

4.2 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:

4.2.1 To residents of the public housing projects for which the public housing financial assistance is expended;

4.2.2 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;

4.2.3 To participants in YouthBuild programs; and

4.2.4 To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

5.0 § 75.9 Requirements - Contracting.

5.1 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.

5.2 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:

5.2.1 To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

5.2.2 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;

5.2.3 To YouthBuild programs; and

5.2.4 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.

6.0 § 75.11 Targeted Section 3 Worker for Public Housing Financial Assistance.

**Section 3 Business Preference Explanation
(IFB Attachment E)**

- 6.1** Targeted Section 3 worker. A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:
 - 6.1.1** A worker employed by a Section 3 business concern; or
 - 6.1.2** A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - 6.1.3** A resident of public housing or Section 8-assisted housing;
 - 6.1.4** A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - 6.1.5** A YouthBuild participant.

- 7.0 § 75.13 Section 3 Safe Harbor.**
 - 7.1** General. Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:
 - 7.1.1** Certify that they have followed the prioritization of effort in § 75.9; and meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

- 8.0 § 75.15 Reporting.**
 - 8.1 Reporting of labor hours.**
 - 8.1.1** For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:
 - 8.1.1.1** The total number of labor hours worked;
 - 8.1.1.2** The total number of labor hours worked by Section 3 workers; and
 - 8.1.1.3** The total number of labor hours worked by Targeted Section 3 workers.
 - 8.1.2** 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.
 - 8.1.3** The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.
 - 8.1.4** PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this

**Section 3 Business Preference Explanation
(IFB Attachment E)**

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 PHA, other recipient, 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.

- 8.1.5** PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a 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.

8.2 Additional reporting if Section 3 benchmarks are not met.

- 8.2.1** If the PHA's or other recipient's reporting under paragraph (a) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

- 8.2.1.1** Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- 8.2.1.2** Provided training or apprenticeship opportunities.
- 8.2.1.3** Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- 8.2.1.4** 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.
- 8.2.1.5** Held one or more job fairs.
- 8.2.1.6** Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
- 8.2.1.7** Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- 8.2.1.8** Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- 8.2.1.9** Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

Section 3 Business Preference Explanation
(IFB Attachment E)

- 8.2.1.10** Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- 8.2.1.11** Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- 8.2.1.12** Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- 8.2.1.13** Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- 8.2.1.14** Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

8.3 Reporting frequency. Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

8.4 Reporting by Small PHAs. Small PHAs may elect not to report under paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

9.0 § 75.17 Contract provisions.

- 9.1** PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.
- 9.2** PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.
- 9.3** PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

10.0 § 75.29 Multiple Funding Sources.

10.1 If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to § 75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

10.2 The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

10.2.1 The total number of labor hours worked on the project;

**Section 3 Business Preference Explanation
(IFB Attachment E)**

- 10.2.2 The total number of labor hours worked by Section 3 workers on the project; and
- 10.2.3 The total number of labor hours worked by Targeted Section 3 workers on the project.

11.0 § 75.31 Recordkeeping.

11.1 Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

11.1.1 For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- 11.1.1.1 (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- 11.1.1.2 A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- 11.1.1.3 Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- 11.1.1.4 An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- 11.1.1.5 An employer's certification that the worker is employed by a Section 3 business concern.

11.2 For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

11.2.1 For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

- 11.2.1.1 A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- 11.2.1.2 Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- 11.2.1.3 An employer's certification that the worker is employed by a Section 3 business concern; or

Section 3 Business Preference Explanation
(IFB Attachment E)

11.2.1.4 A worker's certification that the worker is a YouthBuild participant.

12.0 Benchmarks - For Section 3 projects, the proposed benchmark notification set the same benchmarks but with regards to the project itself rather than the recipient's fiscal year. The proposed benchmark notification provided that recipients would meet the safe harbor in the new § 75.13 by certifying to the prioritization of effort in the new § 75.9 and meeting or exceeding Section 3 benchmarks for total number of labor hours worked by Section 3 workers and by Targeted Section 3 workers. The benchmark for Section 3 workers was set at 25 percent or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers was set at 5 percent or more of the total number of labor hours worked by all workers on a Section 3 project.

Simply stated, the contract needs to meet these two benchmarks in order to be in compliance.

Section 3 Workers Labor Hours = 25%
Total Labor Hours for the Project

Section 3 Targeted Workers Labor Hours = 5%
Total Labor Hours for the Project

SECTION 3 BUSINESS SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 Business Certification requirements. To count as a Section 3 Business your company/firm must meet one of the listed categories below. Each category will require additional documentation to support the election. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business. If this form is submitted without the required supplemental data, your certification will not be processed.

Section 3 Business Category	Additional Required Data	Mark an "X" on Your Election
It is at least 51 percent owned by low- or very low-income persons;	Proof of ownership showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners	X
Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list	X
It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners	X

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business.

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

SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 self-certification income requirements. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are being confirmed as low-income.

Printed Name: _____

Street Address (Not a PO Box) Apt# City State Zip

Phone #: _____ Email: _____

To qualify as a Section 3 Person, you must meet one of the standards on the left side box and your income not exceed the number in the right side box below.

Check only one line below that describes your housing situation: <input type="checkbox"/> I am a Public Housing Resident or Section 8 Assists me with my rent, or I am a current YouthBuild participant <input type="checkbox"/> I receive No HUD support, but I am low-income and live in the City of Jacksonville	My Individual Income does not exceed: \$42,000*
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I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my total income is as shown above, and that proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual. Finally, I authorize including my name on a list of Section 3 Residents seeking employment and to include my contact information so that contractors may contact me directly for any employment opportunities.

Signature

Date

* Income limit must be changed to reflect the project state/county for one person at 80%. Search income limits here: https://www.huduser.gov/portal/datasets/il/il2020/select_Geography.odn

