Section 3 Business Preference Explanation

1.0 Introduction. Please be aware that Fresno Housing (FH) previously conducted Invitation For Bid's that required bidders and contractors to comply with the requirements of 24 Code of Federal Regulations (CFR) §135, Economic Opportunities for Low- and Very Low-Income Persons (a.k.a., Section 3).

The U.S. Department of Housing and Urban Development (HUD) recently discontinued these former requirements and implemented the requirements of 24 CFR §5, 14, 75, 91, 92, 93, 135, 266, 570, 574, 576, 578, 905, 964, 983, and 1000, entitled Enhancing and Streamlining the implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses. In accordance with 24 CFR Part 75, FH Projects which funds are committed on or after July 1, 2021, are subject to the new Section 3 regulations.

2.0 Section 3 Requirements:

2.1 FH has determined that the contract awarded under this solicitation 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), and Title 24 of Subchapter B, Part 75 – Economic Opportunities for Low and Very Low-Income Persons, 24 CFR 75.1 et. Seq. Section 3 Compliance requires that, to the greatest extent feasible, economic opportunity in the form of training, employment, contracting, and other economic opportunities arising from the expenditure of public housing assistance for housing rehabilitation and housing construction be directed to low and very low-income persons. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD Financial assistance is directed to low- and very low-income persons, in particular those receiving housing assistance or residents of the community in which the Federal assistance is spent.

3.0 What is Section 3?

3.1 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 Fresno Housing (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.

3.2 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."

3.3 Section 3 is race and gender neutral in that preferences are based on income-level and location.

4.0 Compliance.

4.1 Contractors and their subcontractors may demonstrate compliance by committing to meet or exceed Section 3 benchmarks for the total number of labor hours worked by Section 3 Workers and Targeted Section 3 Workers of 25% of labor hours performed by Section 3 Workers and 5% of labor hours performed by Targeted Section 3 Workers in accordance with 24 CFR Part 75.

4.2 **A Section 3 Worker under HUD's Section 3 Regulations is** any worker who currently or within the past five years fits at least one of the following categories:

4.2.1 The worker's income for the previous or annualized calendar year is below the income limit established by HUD;

4.2.2 The worker is employed by a Section 3 Business Concern; or

4.2.3 The worker is a YouthBuild participant.

4.3 **A Targeted Section 3 Worker under HUD's Section 3 Regulations is a worker who**:

4.3.1 Is employed by a Section 3 Business Concern; or

4.3.2 A worker who currently fits or when hired fits one of the following categories, as documented within the past five years:

4.3.2.1 A resident of public housing or Section 8-assisted housing;

4.3.2.2 A resident of other public housing projects or Section 8 assisted housing managed by FH;

4.3.2.3 YouthBuild participants

4.4 Low and very low-income within Fresno County, CA, is defined as residents within the following income levels for GY 2021:

FY 2021 FAMILY INCOME GUIDELINES

Family Size	Very Low Income	Low Income
1	$24,500	$39,150
2	$28,000	$44,750
3	$31,500	$50,350
4	$34,950	$55,900
5	$37,750	$60,400
6	$40,550	$64,850
7	$43,350	$69,350
8	$46,150	$73,800

Income Limit figures are based on FY2021 Fair Market Rent (FMR).

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

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

5.1.1 A business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8 housing.

5.1.2 Business is 51% or more owned and controlled by low or very low-income persons

5.1.3 Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Max Point Value	Preference Factor Type	Preference Factor Description **(For solicitations that award points)**
Section 3 Business Preference Participation. A firm may qualify for Section 3 status as detailed above and in the Section 3 Application (NOTE: A maximum of 15 points awarded).		
15 points	**Objective**	**Category 1**. A business at least 51% owned and controlled by

		current public housing residents or residents who currently live in Section 8 assisted housing.
11 points	**Objective**	**Category 2.** Business is 51% or more owned and controlled by low or very low-income persons
7 points	**Objective**	**Category 3**. Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.
15 points		**Maximum Available Preference Points (Additional)**

6.0 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, 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 **Section 3 Clause.** Please be aware that Fresno Housing (FH) previously conducted Invitation For Bid's that required bidders and contractors to comply with the requirements of 24 Code of Federal Regulations (CFR) §135, Economic Opportunities for Low- and Very Low-Income Persons (a.k.a., Section 3).

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1.0 As detailed within 24 CFR Part 75; Prime Contractors are required to meet the regulations set forth in 24 CFR Part 75, appended hereto, and is

intended to provide guidance to Contractors in furthering FH's efforts to comply with Section 3 Rule. Contractors may be subject to additional compliance requirements to facilitate FH's efforts in fostering the employment of Section 3 Workers and the development of Section 3 Business Concerns.

1.1 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. 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.

1.2 The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75. 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.

1.3 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; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

1.4 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 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 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.**

1.5 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.

1.6 FH requires Prime Contractors to submit payroll and labor hours worked on a monthly basis. FH utilizes these payroll and hiring reports to monitor compliance, as set forth in 24 CFR 75.15.30(b). Prime Contractors will be required to report:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

1.7 For more information on Section 3, please click the following link: https://www.hud.gov/section3