

# Section 3 Final Rule Document

## (Attachment C)

### CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 BUSINESS PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:     Corporation     Partnership     Sole Proprietorship     Joint Venture

Attached is the following documentation as evidence of status:

**For business claiming status as a Section 3 resident-owned Enterprise:**

Copy of resident lease     Other evidence     Copy of evidence of participation in a public assistance program

**For the business entity as applicable:**

- |                                                                                                  |                                                       |
|--------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| <input type="checkbox"/> Copy of Articles of Incorporation                                       | <input type="checkbox"/> Certificate of Good Standing |
| <input type="checkbox"/> Assumed Business Name Certificate                                       | <input type="checkbox"/> Partnership Agreement        |
| <input type="checkbox"/> List of owners/stockholder and % of each                                | <input type="checkbox"/> Corporation Annual Report    |
| <input type="checkbox"/> Latest Board minutes appointing officers                                | <input type="checkbox"/> Additional documentation     |
| <input type="checkbox"/> Organization chart with names and titles and brief functional statement |                                                       |

**For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:**

List of subcontracted Section 3 business and subcontract amount

**For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- |                                                                                            |                                                                                                         |
|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> List of all current full-time employees                           | <input type="checkbox"/> List of all employees claiming Section 3 status                                |
| <input type="checkbox"/> PHA Residential lease (less than 3 years from date of employment) | <input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment) |

**Evidence of ability to perform successfully under the terms and conditions of the proposed contract:**

- |                                                         |                                                                                        |
|---------------------------------------------------------|----------------------------------------------------------------------------------------|
| <input type="checkbox"/> Current financial statement    | <input type="checkbox"/> List of owned equipment                                       |
| <input type="checkbox"/> Statement of ability to comply | <input type="checkbox"/> List of all contracts for the past 2 years with public policy |

**Corporate Seal**

\_\_\_\_\_  
Authorizing Name and Signature

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Title

My term expires: \_\_\_\_\_

Signature

Date

Printed Name

HOUSING AUTHORITY OF PORTSMOUTH (HA)

# Section 3 Final Rule Document

## (Attachment C)

### SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

Number of All Contracts Proposed: \_\_\_\_\_

Name of Company: \_\_\_\_\_

Dollar Value of All Contracts Proposed: \_\_\_\_\_

Project: \_\_\_\_\_

To the Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation or Proposal to Qualified Project Area Businesses.

Goal of These Contracts For Project Area Businesses:

PROPOSED TYPE OF CONTRACT	APPROX. COST	PROPOSED TYPE OF CONTRACT	APPROX. COST

Outline the Program to Achieve These Benchmarks for Economically and Socially Disadvantaged:

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**NOTE: To Complete the Affirmative Action Plan, Follow Steps Outlines in Attached Exhibit.**

(INSERT THIS DOCUMENT IN PROPOSAL DOCUMENTS AND WITH PROPOSAL) DATE: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_ Printed Name \_\_\_\_\_

HOUSING AUTHORITY OF PORTSMOUTH (HA)

# Section 3 Final Rule Document

## (Attachment C)

### SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES (con'd)

SUGGESTED SECTION 3 PRELIMINARY WORKFORCE STATEMENT UTILIZATION OF LOWER INCOME PROJECT AREA RESIDENTS AS REGULAR, PERMANENT EMPLOYEES, TRAINEES, APPRENTICES.

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PROJECT: \_\_\_\_\_

	PRESENT PERMANENT EMPLOYEES (At Time of Contract Signing)	SECTION 3 WORKFORCE PROJECTION (Residents)	TOTAL PROJECTED WORKFORCE INCREASE
TRAINEES			
APPRENTICES			
JOURNEYPERSONS			
LABORERS			
SUPERVISORY			
SUPERINTENDENT			
PROFESSIONAL			
CLERICAL			

**NOTE: RESIDENTS ARE THOSE LOWER INCOME PROJECT AREA RESIDENTS WHO HAVE BEEN QUALIFIED AS ELIGIBLE.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

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## SECTION 3 FINAL RULE

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*This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).*

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. 1701u (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 is directed to low and very low-income persons particularly persons who are recipients of HUD assistance for housing. **If the Benchmarks are not met by the contractor, they shall report on the Greatest Extent Feasible.** This shall be the efforts made to employ or train section 3 qualified workers. November 30<sup>th</sup>, 2020, The U.S Department of Housing and Urban Development released the Section 3 Final Rule. This Rule replaced 24 CFR 135 in the efforts to streamline the efforts to ensure Section 3 qualified workers are utilized in any contract or agency funded by Public Housing Financial Assistance.

B. A Section 3 Worker is defined in the New Rule, 24 CFR Part 75 as:  
1. An individual that their current income is below the Low-Income limit. The low-income limit is less than 80 percent of Area Median Income (AMI) **(80% of the Local Median Income is \$48,560.00)**  
2. Employed by a Low-Income Business Concern  
3. Or a Youth Build Participant.

A Targeted Section 3 Worker is an individual who currently lives in Public Housing or The Public Housing Section 8 Program.

C. Benchmarks for Section 3 Final Rule:  
The New Rule 24 CFR Part 75 states that there are two (2) Classifications of Section 3 Workers.  
1. Section 3 Worker  
2. Targeted Section 3 Worker

**The Benchmarks required by the Contractor:**

25% percent of all hours worked on a contract must be performed by a Section 3 Worker.

5% percent of all hours worked on a contract must be performed by a Targeted Section 3 Worker.

**Theses hours will be Mandatory for each Contract with the HA.** The contractor must report all labor hours for each employee, employed by the contractor. This includes Owner(s), Clerical, Supervisors and employees working for the company. Please refer to examples below.

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

$$\frac{\text{Targeted Section 3 New Hires}}{\text{Total New Hires}} = 5\%$$

C. **The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, 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 75 regulations. Certified Payroll Documents will be required to be submitted to the HA for verification.**

## Section 3 Final Rule Document

- D. 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 or 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.
- E. 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 finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor shall 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.
- F. 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 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.
- G. 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.
- H. 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 (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 Enterprise. 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).

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## REQUIREMENTS FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

### (Attachment C)

The HA has established the following requirements under 24 CFR Part 75, when providing contracting opportunities to Section 3 Businesses:

#### Section 3 Business Concern Required Qualifications

\*To be considered as a Qualified Section 3 Business, your business must meet one or more of these qualifications.

1. At least 51 percent or more owned and controlled by low - or very low-income persons.
2. Over 75 percent of the labor hours performed for your business are performed by low or very low-income persons.
3. At least 25 percent owned by current public housing residents or residents who live in Section 8 assisted housing.

#### Section 3 Business Concern Certification

The U.S. Department of Housing and Urban Development, known as HUD, will certify and verify all business seeking the Section 3 Business Certification.

Once certified, business can retain that status for as long as they meet the definition and requirements.

The status of a Section 3 Business Concern will be determined and verified at the hiring for each contract.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

#### Section 3 Business Concern Status

1. The status of a Section 3 Business Concern shall not be negatively affected by prior arrest or conviction of its owner(s) or employees but must comply with the Housing Authorities Policy and the Debarred list. The Business must be in good standing with HUD & the HA.
2. To be hired, Section 3 Businesses must meet the specifications of the contract. Alteration of the contract is prohibited to favor a Section 3 Concern or ANY contractor.
3. Section 3 Business Concern employees are counted as Targeted Section 3 Workers.

#### Professional Services & Section 3

Non-Construction Services that require an advanced degree or professional licensing, are excluded from Section 3 requirements. These Services include but are not limited to, Architectural services, Financial Consulting, Legal Services and any service that may require an Advanced Degree or Professional licensing. If a business qualifies for this exemption, they must provide the appropriate documentation to the HA and HUD to make the determination.

Professional Services are exempt from the Section 3 Final Rule but are strongly encouraged to participate. The Benchmarks required in 24 CFR Part 75 are exempt from these contracts but can be counted towards the Section 3 Labor Hours for the Housing Authority. Please refer to 24 CFR Part 75 for clarification.

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HUD directs within 24 CFR Part 75 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive proposal if that proposal is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than “X” higher than the total proposal price of the lowest responsive proposal from any responsible proposer. “X” is determined as follows:

“X” = LESSOR OF:	
When the lowest responsive proposal is less than \$100,000	10% of that proposal, or \$9,000.00
When the lowest responsive proposal is at least:	
\$100,000.00, but less than \$200,000.00	9% of that proposal, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that proposal, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that proposal, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that proposal, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that proposal, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that proposal, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that proposal, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that proposal, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible proposal with no dollar limit