

## Section 3 Plan for Florida Housing Finance Corporation

### Overview

Section 3 of the Housing and Urban Development Act of 1968[12 U.S.C. 1701u and 24 CFR Part 135] is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

As a condition of receiving HUD Community Planning and Development assistance, recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b). Accordingly, HUD has the legal authority to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

The Home Investment Partnership Assistance (HOME) Program is covered under the Section 3 requirements. Additionally, the requirements of Section 3 apply to recipients of funding exceeding \$200,000 for activities involving housing construction, demolition, rehabilitation, or other public construction, i.e. roads, sewers, community centers, etc. Contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

### Section 3 Triggers

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities. Nothing in the regulations should be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each agency must still submit Section 3 annual reports indicating this information.

### Definitions

**Section 3 Resident** – A Section 3 resident is:

1. A resident of Public or Indian Housing; or
2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and whose income does not exceed the local HUD income limits set forth for low- and very low-income households.
  - low income = 80% or below the median area income
  - very low income – 50% or below the median area income

**Section 3 Business Concern** – A Section 3 Business Concern is:

1. A Business that is 51% or more owned by Section 3 residents; or
2. A Business whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. A Business that provides evidence of a commitment to subcontract in excess of 25% of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

Numerical Goals

Recipients must attempt to reach the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by:

Employment and Training

1. Offering 30% of new employment opportunities to Section 3 Residents

*Order of Priority for Employment and Training Preference*

In meeting the 30% goal, employment and training preference should be applied in the following order of priority:

- a. Category 1 – Residents in the service area or neighborhood
- b. Category 2 – Participant's in HUD's Youthbuild program
- c. Category 3 – Homeless persons in the service area
- d. Category 4 – Other Section 3 Residents

Section 3 Residents must demonstrate that they meet the qualifications for new employment opportunities created.

Contracts

1. Awarding 10% of the total dollar amount of all covered construction contracts to Section 3 Business Concerns
2. Awarding 3% of the total dollar amount of all other Section 3 covered contracts (non-construction contracts)

*Order of Priority for Contracting Preference*

In meeting the 10% goal, preference for Section 3 Business Concerns should be applied in the following order of priority:

- a. Category 1 – Section 3 Businesses that provide jobs and training for local residents

- b. Category 2 – Applicants selected to administer Youthbuild programs
- c. Category 3 – Other Section 3 business concerns

Section 3 Business Concerns must submit evidence to demonstrate that they responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

**Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable HUD to make a compliance determination.**

### The Section 3 Clause

All section 3 covered contracts must incorporate verbatim the Section 3 clause, parts A through G. The complete clause can be found in **Appendix A**.

### Section 3 Complaints

Any Section 3 resident or business seeking employment, training or contracting opportunities generated by Section 3 covered assistance may file a complaint using *HUD form 958* found at [http://www.hud.gov/offices/fheo/section3/rev\\_958\\_final.pdf](http://www.hud.gov/offices/fheo/section3/rev_958_final.pdf). Section 3 complaints must be filed no later than 180 days from the date of the action of which the complaint is based.

Complaints must be filed at the appropriate Fair Housing and Economic (FHEO) Regional Office in which the violation occurred. The address and telephone number for FHEO regional offices can be found at [www.hud.gov/offices/fheo](http://www.hud.gov/offices/fheo).

### Annual Reporting of the Section 3 Summary Report (HUD-60002)

Annually, each direct recipient of Community Planning and Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC. The intent of the report is to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations AND those of its covered contractors, subcontractors, and subrecipients.

The report is due at the same time as annual performance (e.g. CAPERS) reports and should follow the same program, fiscal, or calendar year as the annual performance report, and should correspond to the covered projects and activities that were administered during the reporting period. Reports must be submitted whether the requirements were triggered or not.

Each submission should include the following information:

Required items:

- The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and subrecipients, as a result of performing or completing covered project/activities.
- The number of new employees described above that met the definition of a Section 3 resident.
- The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipients construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

Optional items:

- The total number of man hours worked on covered projects.
- The aggregate number of hours worked by Section 3 residents on covered projects.

Recipient Responsibilities Pursuant to Section 3

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding. These responsibilities include:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 Business Concerns;
5. Assisting and actively cooperating with HUD in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

In addition, Florida Housing must also do the following:

9. Inform subrecipients about the requirements of Section 3;
10. Assist subrecipients and their contractors with achieving compliance;
11. Monitor subrecipients' performance with respect to meeting the requirements of Section 3; and
12. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

### Division of Responsibilities

In meeting its recipient responsibilities under Section 3, Florida Housing's compliance activities will include efforts from Florida Housing staff, its Servicers, and borrowers receiving Section 3-covered assistance.

### Florida Housing Responsibilities

- Identify a Section 3 Coordinator for Florida Housing Finance Corporation
- Develop a Section 3 Plan for ensuring Corporation compliance with Section 3
- Review Section 3 Plans received from the borrowers
- Provide Section 3 Resident Certification Forms – **See Appendix B**
- Provide Section 3 Business Concern Certification Forms – **See Appendix C**
- Review/analyze quarterly Section 3 Progress Reports
- Provide guidance on monitoring processes, procedures, and requirements
- Develop and provide boilerplate correspondence
- Develop and provide a checklist of Section 3 Project requirements
- Work with FHEO Office regarding filed complaints made by Section 3 residents to business concerns that the recipient, contractor or subcontractor is not in compliance

### Servicer Responsibilities

- Obtain Section 3 Plans from developers and forward to Florida Housing
- Obtain and Review Section 3 Resident Certification Forms and supporting documentation to verify the worker's status as a Section 3 Resident
- Obtain and Review Section 3 Business Concern Certification Forms and supporting documentation to verify the status as a Section 3 Business Concern
- Maintain a list of certified Section 3 Businesses and Residents
- Review/analyze quarterly Section 3 Progress Reports submitted by the borrower to monitor numerical goals and the borrower's/contractor's efforts in recruiting and contract awarding
- Review all contracts for inclusion of the Section 3 Clause
- Providing Section 3 training to borrowers, general contractors, and subcontractors during the Pre-Construction Conference.

The following are examples of what should be provided at the Pre-Construction Conference:

- guidance on how to prepare a Section 3 Plan
  - guidance how to report quarterly
  - information on how to conduct outreach of Section 3 residents and business,
  - examples of efforts to offer training and employment opportunities for Section 3 residents found at 24 CFR 135 Appendix I
  - examples of efforts to award contracts to Section 3 business concerns found at 24 CFR 135 Appendix II
  - copy of the regulations
- Conduct on-site visits to substantiate that Section 3 residents and/or Business concerns are actively engaged on the project and to ensure that the Section 3 Plan and notices of employment opportunities are posted on-site.
  - Obtain and review payroll records to substantiate the continued employment of Section 3 Residents, particularly those that are not interviewed.

#### Borrower/Developer Responsibilities

- Identify a Section 3 Coordinator
- Submit a Section 3 Plan along with preliminary commitment to Florida Housing and its Servicer
- Ensure that each contractor and subcontractor employed on the project where the dollar amount of the contract exceeds \$100,000 submits a Section 3 Plan prior to award, which includes the identification of the contractor's Section 3 Coordinator
- Submit to Florida Housing and its Servicer a list of all contractors working on the project with contracts of \$100,000 or more
- Attach a list of all 'core' employees
- Attach a list of all Section 3 Residents and their certification forms
- Attach a list of all Section 3 Business Concerns and their certifications to be used on the project
- Provide a written narrative of efforts to recruit Section 3 Residents for new employment opportunities and of efforts to award contracts to Section 3 Business Concerns
- Ensure that the Section 3 Clause is included in all contractor/subcontractor contracts
- Posting the Section 3 Plan and other Section 3 language at the work site
- Submit quarterly to Florida Housing's Servicer a report containing the required reporting items for HUD's 60002 form as described above. Proper documentation supporting the reports should be maintained for compliance monitoring.

## APPENDIX A

**All section 3 covered contracts shall include the following clause (referred to as the section 3 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. 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, 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 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.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 700 § **135.40 24 CFR Subtitle B, Ch. I (4-1-03 Edition)** 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).



**APPENDIX B**

**Sample Section 3 Resident Certification Form**

**RESIDENT EMPLOYMENT OPPORTUNITY DATA**

**FLORIDA HOUSING FINANCE CORPORATION**

**ELIGIBILITY FOR PREFERENCE**

**Eligibility for Preference**

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

**Certification for Resident Seeking Section 3 Preference in Training and Employment**

I, \_\_\_\_\_, am a legal resident of the \_\_\_\_\_

\_\_\_\_\_ and meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: \_\_\_\_\_

\_\_\_\_\_

I have attached the following documentation as evidence of my status:

Copy of lease

Copy of receipt of public assistance

Copy of Evidence of participation in a public assistance program

Other evidence

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**SECTION 3 INCOME LIMITS**

All residents of public housing developments of the \_\_\_\_\_ Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the \_\_\_\_\_ City of \_\_\_\_\_ Who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

**Eligibility Guideline**

<b>Number in Household</b>	<b>Very Low Income</b>	<b>Low Income</b>
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

**APPENDIX C**

**Sample Section 3 Business Concern Certification Form**

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3  
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:**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of resident lease  | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation<br>in a public assistance program | <input type="checkbox"/> Other evidence                       |

**For 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/stockholders and<br>% ownership of each                   | <input type="checkbox"/> Corporation Annual Report                |
| <input type="checkbox"/> Organization chart with names and titles<br>and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
|   | <input type="checkbox"/> Additional documentation                 |

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

- List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent 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 employees claiming Section 3 status                                     |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3<br>years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3<br>years from date of employment |

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

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

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

(Corporate Seal)

Attested by: \_\_\_\_\_