

NJ SMALL CITIES PROGRAM

HANDBOOK

SECTION X

HUD SECTION 3 REQUIREMENTS

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I. HUD Section 3 – Overview

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is to ensure that employment and other economic opportunities generated by Small Cities CDBG assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income residents of the local community, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons¹.

II. Requirements Pertaining to Small Cities CDBG

A. Recipient (grantee) thresholds for covered housing and community development assistance – The section 3 requirements apply to a covered project for which the amount of assistance exceeds \$200,000. Contractor and subcontractor thresholds – the requirements apply to a covered project for which the amount of the assistance exceeds \$200,000; and the amount of the contract or subcontract exceeds \$100,000. If a recipient receives assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

1. Each covered recipient has the responsibility to comply with section 3 in its own operations and ensure compliance in operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:
 - a. implementing procedures designed to notify section 3 local residents about training and employment opportunities and section 3 businesses about contracting opportunities,
 - b. notifying potential contractors of the requirements and incorporate the section 3 clause set forth herein in all solicitation and contracts,
 - c. facilitating the training and employment of local section 3 residents and may, at their own discretion, provide priority to recipients of government assistance for housing where the section 3 project is located,
 - d. facilitating the award of contracts to section 3 businesses. A section 3 business is a business that is 51 percent or more owned by section 3 residents, or whose permanent, full-time work force includes no less than 30 percent section 3 residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to section 3 business concerns.

¹ HUD low and very low-incomes are defined in the Section 8 Assisted Housing Program of the US Department of Housing and Urban Development (HUD), which is updated annually.

2. Covered contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents. This responsibility includes but may not be necessarily limited to the same requirements listed above (a) to (d).

Please refer to the part of this handbook on resources, page 7, for additional HUD guidance on how recipients and covered contracts may demonstrate compliance by meeting numerical goals.

B. Certification – As a condition for receiving an award each recipient must sign the attached Section 3 Certification Sheet, if the grant award will exceed \$200,000.

C. Annual Reporting – covered awards must submit annual reports due by May 15th of each year using the “Section 3 Summary Report”, HUD form 60002, which is enclosed. This report must be submitted electronically to the DCA Grant Manager for each covered grant including a justification for the data reported even if it contains zeros.

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Certification Regarding Section 3 of the Housing and Urban Development
Act of 1968, 24 CFR Part 135

In accordance to Section 3 requirements for awards exceeding \$200,000, the undersigned certifies, to the best of his or her knowledge that as an applicant, this agency or its key employees:

- a. Will ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
- b. Will ensure that notices about funding availability and for competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded exceeds \$200,000, the notice must include a statement that one of the purposes of the assistance is to give job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. In addition, if the above threshold is met the requirements also apply to contractor and subcontractor contracts that exceed \$100,000 (see "HUD Section 3" section of the Small Cities Program Handbook at <http://www.nj.gov/dca/divisions/dhcr/offices/cdbg.html>).
- c. Will ensure the use of the section 3 clause in all covered contracts, (see "HUD Section 3" section of the Small Cities Program Handbook at <http://www.nj.gov/dca/divisions/dhcr/offices/cdbg.html>).
- d. Will collect information, document actions taken and submit cumulative reports at least annually while the program is underway as required by the NJ Small Cities CDBG Program, (see "HUD Section 3" section of the Small Cities Program Handbook at <http://www.nj.gov/dca/divisions/dhcr/offices/cdbg.html>).

The applicant agrees that by submitting this certification, it will obtain from all its subgrantees and contractors a certification that includes paragraphs (a) to (d) above as required.

Name of Agency:	
Name and Title of Official Signing for Agency:	
Signature of the Above Official:	Date Signed:

Clause for Covered Contracts

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 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).

Insert a list of web links to HUD's web pages on Section 3, which include the Federal Register Notice for Section 3 and HUD guidelines with examples of efforts to comply.

HUD Section 3 webpage -

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_op/section3/section3#.Tp2zTKTjtfw.favorites

Section 3 Federal Register Notice -

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12047.pdf