

ATTACHMENT 6-B(1): SECTION 3 CONTRACT REQUIREMENTS [24 CFR 135]

(24 CFR 135 is applicable to HUD-funded projects awarded **prior** to November 30, 2020)

Insertion in all contracts and sub-contracts funded with Community Development Block Grant (CDBG) dollars:**

- Section 3 of the Housing and Urban Development Act of 1968:** 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 the U.S. Department of Housing and Urban Development (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.
- Contractor Certification of Compliance:** The parties to this contract agree to comply with HUD's regulations in [24 CFR 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 [24 CFR 135](#) regulations.
- Contract Language Requirement:** The contractor agrees to include this *Section 3 Contract Requirements* clause in every sub-contract subject to compliance with regulations in [24 CFR 135](#), and agrees to take appropriate action, as provided in an applicable provision of the sub-contractor in this *Section 3 Contract Requirements* clause, upon a finding that the sub-contractor is in violation of the regulations in [24 CFR 135](#). The contractor will not sub-contract with any sub-contractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in [24 CFR 135](#).
- Advertising New Employment Opportunities:** The contractor agrees to advertise all job openings for new full-time permanent positions (for permanent, temporary or seasonal full-time jobs) generated from the HUD-assisted project by posting them with the local job center and local public housing authority (nearest to the project location).
- Notifying Labor Organizations/Representatives:** 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 Contract Requirements* 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.
- Hiring For CDBG Project Prior to Contract Being Executed:** The contractor certifies 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 135](#) require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under [24 CFR 135](#).
- Section 3 Definitions:** Definitions of Section 3 terms per [24 CFR 135](#) are as follows:
New Hire: An employee hired by the CDBG Grantee, contractor, or sub-contractor in a full-time position (for permanent, temporary or seasonal employment) generated in connection with the CDBG project.
New Trainee: A new hire that was hired as a participant in/for a CDBG employment and training project (per the terms of a CDBG Grant Agreement).
Section 3 Resident: A person who lives within the area (same county) in which the CDBG project is located, with an annual family household income at the time of hire that is at or below the low-income (80%) threshold established by HUD. [Note: The low-income thresholds must be drawn from the [HUD Income Limits for the CDBG program](#) that are in effect on the date of hire. The HUD income limits are updated annually, typically in March or April.] *A worker newly hired in a full-time position (which may be permanent, temporary or seasonal employment) to work on the CDBG project, lives in the county in which the project occurs, and has an annual family household income (for the year preceding the hire date) that is at or below the applicable HUD low-income (80%) threshold for their family size, is a Section 3 Resident.*
Section 3 Business Concern: A business that fits one or more of the following categories: (1) 51% or more of its ownership is held by Section 3 Resident(s) (i.e., 51% or more of the ownership is held by one or more Section 3 Residents, and 51% or more of the net profit or loss which accrues is to one or more Section 3 Residents); or (2) 30% or more of the full-time employees of the business include persons that are currently Section 3 Residents, or were Section 3 Residents within three (3) years of their date of first hire by the Section 3 Business (*Section 3 Employee Income Certifications* are required to verify employees' Section 3 status); or (3) provides in writing a commitment to sub-contract more than 25% of the dollar amount awarded of all sub-contracts to Section 3 Business concerns.
- Section 3 Goals:** CDBG Grantees and contractors and sub-contractors for the CDBG project shall demonstrate best efforts in attempting to meet the Section 3 minimum numerical goals, which include the following: (1) At least 30% of all job training opportunities generated for the CDBG project are to be filled by Section 3 Residents; and (2) At least 30% of all employment opportunities generated for the CDBG project are to be filled by Section 3 Residents; and (3) At least 10% of the total dollar amount of all *construction contracts* and 3% of the total dollar amount of all *non-construction contracts* generated for the CDBG project are to be awarded to Section 3 Businesses. [Note: When a prime contract with the UGLG/Grantee is funded in whole or in part with CDBG funds, the sub-contracts of the prime contractor are considered to also be funded in whole or in part with CDBG funds and therefore are subject to Section 3 requirements.]

SECTION 3 CONTRACT REQUIREMENTS [24 CFR 135]

9. **Demonstrating Best Efforts:** The CDBG Grantee *and* contractors and sub-contractors for the CDBG project shall demonstrate best efforts in attempting to meet the Section 3 goals for new employment, training, and contracting opportunities resulting from the expenditure of CDBG funding, which may include but are not limited to the following:
- (1) Including the required Section 3 requirements language in all contracts and subcontracts;
 - (2) Including the Section 3 goals/requirements in contract solicitations;
 - (3) Refrain from contracting with contractors in violation of Section 3 regulations;
 - (4) Providing contractors and subcontractors with the appropriate *Section 3 Employee Income Certification* forms to determine the Section 3 status of new hires and contractors working on the CDBG project.
 - (5) Posting new full-time jobs (for work on the CDBG project) at the local Job Center and Public Housing Authority, as required;
 - (6) Informing the local labor organization(s) of the Section 3 goals, as required;
 - (7) Posting new jobs (for work on the CDBG project) in the local newspaper(s) and/or local job posting website(s) in low- and moderate-income (LMI) communities;
 - (8) Posting new jobs (for worker on the CDBG project) at local governmental/municipal buildings in LMI communities;
 - (9) Posting new jobs (for work on the CBDG project) and/or making outreach efforts to contacts at local community colleges and technical colleges/universities to promote local hiring;
 - (10) Posting new contracting opportunities (for the CDBG project) with, and/or making outreach efforts to contacts of local trade organizations that have MBE/WBE/DBE membership and/or outreach; and
 - (11) Posting new job and contracting opportunities (for the CDBG project) with community organizations' publications/websites that serve LMI persons.
10. **Recordkeeping & Reporting:** CDBG Grantees *and* contractors and sub-contractors for the CDBG project shall maintain all records demonstrating compliance with [24 CFR 135](#), including contracting documents, new hiring information and new hire income certifications (for Section 3 Worker status determinations) for the CDBG project, *and* provide data and reporting documents as requested and required by the State CDBG Program and/or HUD. Grantee and contractor records may be monitored for compliance the State CDBG Program and/or HUD.
11. **Non-Compliance:** Non-compliance with HUD's regulations in [24 CFR 135](#) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
12. **Indian Housing Assistance Project Specifications:** 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 sub-contracts 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).

**** This language is required to be included in contracts and sub-contracts for the HUD funded project that are funded in whole or in part with the federal dollars. It is strongly recommended to be included in ALL contracts and sub-contracts for the HUD funded project, regardless of the funding source, to help avoid issues with compliance and reporting later in the project cycle if the funding source changes.**

SECTION 3 CONTRACT REQUIREMENTS [24 CFR 135]

SECTION 3 DOCUMENTATION & RECORDKEEPING SUMMARY

(For Grants/Projects Awarded Prior To 11/30/2020)

Grantees and Contractors for projects subject to the Section 3 requirements of 24 CFR 135 are subject to the Section 3 documentation and recordkeeping requirements, as summarized below. The "Employer" refers to a Grantee or Contractor. The "Grantee" refers to the direct recipient of the HUD/CDBG award and their grant subrecipient(s) (i.e., the organization(s) on which behalf the Grantee submitted the grant application), if applicable; and "Contractors" refer to prime contractors and sub-contractors (all tiers) for construction and/or non-construction activities and/or services.

- 1) **Section 3 Requirements [24 CFR 135] contract language insertion (Attachment 6-B(1)):** If the project is subject to the Section 3 requirements of 24 CFR 135, then this must be included in all prime contracts and subcontracts funded in whole or in part with HUD/CDBG funds. When HUD/CDBG funding will cover the costs (in whole or in part) for a prime contractor's work, then all subcontracts of that prime contract are also considered to be funded (in whole or in part) with the HUD/CDBG funds and therefore subject to the same Section 3 requirements as the prime contractor.
- 2) **Section 3 Employee Income Certification forms (Attachment 9-K(1)):** Employers (i.e., Grantees, Subrecipients, and Contractors) must provide the form for all of NEW full-time employees (in permanent, temporary or seasonal position) who are residents of Wisconsin and hired to work on the CDBG project to have the employee complete it.
- 3) **Section 3 Business Concern Certification (use Attachment 9-K(1) - Part C Employer Section):** Employers may enter their Section 3 status and certification by filling in the fields specified for the Employer's Section 3 Business Concern status in Part C of the Attachment 9-K(1) *Section 3 Employee Income Certification* form. The Grantee must maintain the Employer's Section 3 Business Concern certification (along with the *Section 3 Employee Income Certification* forms collected from the Employer/Contractor) in the project file.
- 4) **Section 3 Contractor Report (Attachment 9-M):** All Employers must complete this form or a similar type of reporting form with the same information each semi-annual reporting period in which they worked on the project (the semi-annual reporting periods are April 1 – September 30, and October 1 – March 31 each year); and the Grantee must maintain them in the project file.
- 5) **CDBG Project Data Report (Attachment 9-C):** The Grantee must complete this form, reporting all Section 3 data from the Grantee, Subrecipients, and Contractors (data from the Attachment 9-K(1) and 9-M forms); and submit it to DEHCR by the due dates specified in the Grant Agreement – Attachment A – Time Table, and in Chapter 9: Reporting of the [CDBG Implementation Handbook](#).
- 6) **"Best Efforts" Reporting:** If the Section 3 New Hire goals are not met over the course of the project, then the Grantee, Subrecipient, and Contractors for the project must provide evidence of making "best efforts" to meet the goals. "Best efforts" examples are listed on page 2 of this *Section 3 Requirements [24 CFR 135]* document (Attachment 6-B(1)), the *CDBG Project Data Report (Attachment 9-C)*, and the *Section 3 Contractor Data Report (Attachment 9-M)*. Efforts must be reported by the Grantee on the *CDBG Project Data Report (Attachment 9-C)*; and reported by the Contractor on the *Section 3 Contractor Data Report (Attachment 9-M)* or similar document with the same information.

NOTE: The "Attachment" documents listed in this document refer to "attachments" that appear within Chapter 6 and Chapter 9 of the [CDBG Implementation Handbook](#) and that are linked under the "Chapter Attachments/Fillable Forms" section of the [CDBG Implementation Handbook website](#).