

# **Title 24: Housing and Urban Development**

## **PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS**

### **Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns**

#### **§ 135.38 Section 3 clause.**

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 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).

# **HUD SECTION 3 COMMUNITY OUTREACH**

## **QUALIFICATION CRITERIA**

Bidders using this approach must demonstrate to the greatest extent feasible, that their firm has sought, solicited, advertised and pursued Section 3 qualified companies or individuals within the community where the project is located, for the purposes of gainful employment or contract opportunity.

### **Examples of Efforts To Award Contracts to Section 3 Business Concerns:**

- (1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans.
- (2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.
- (3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.
- (4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the (HA) Housing Authority (see flyer example attached).
- (5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.
- (6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.
- (7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- (8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- (9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- (10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- (11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.
- (12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
- (13) Contacting agencies administering HUD Youth-build programs, and notifying these agencies of the contracting opportunities.
- (14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (15) Developing a list of eligible section 3 business concerns.
- (16) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- (17) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.
- (18) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- (19) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- (20) Actively supporting joint ventures with section 3 business concerns.

# EXAMPLE OF TEXT FOR FLYER, POSTERS, OR NEWSPAPER ADVERTISEMENT

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*Example 1:*

## ATTENTION

### Opportunities for Minority & Women-owned Business and Section 3 Businesses

[ *your agency/company name here*] is committed to promoting the participation of eligible and qualified low-income City of Phoenix residents in projects funded through the Community Block Grant Program (CDBG) HOME Program and ARRA Act, and other programs provided through the U.S. Department of Housing and Urban Development (HUD).

In projects assisted through the above listed programs, the following business opportunities may be available to minority and women owned and Section 3 businesses through participating builders, contractors and other businesses along with various construction leads.

[*your agency/company name here*] will encourage all participating contractors, and sub-contractors to utilize, to the greatest extent feasible qualified low-income persons for employment and training positions.

Interested persons should contact:

[*your agency/company name here*]

[*your agency/company address here*]

[*your agency/company contact person name and phone number here*]

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*Example 2:*

## ATTENTION

### City of Phoenix Residents Local Business and Employment Opportunities

[ *your agency/company name here*] is committed to promoting the participation of eligible and qualified low-income City of Phoenix residents in projects funded through the Community Block Grant Program (CDBG) HOME Program and ARRA Act, and other programs provided through the U.S. Department of Housing and Urban Development (HUD).

In projects assisted through the above listed programs, the following business opportunities may be available to minority and women owned and Section 3 businesses through participating builders, contractors and other businesses along with various construction leads.

[*your agency/company name here*] will encourage all participating contractors, and sub-contractors to utilize, to the greatest extent feasible qualified low-income persons for employment and training positions.

Interested persons should contact:

[*your agency/company name here*]

[*your agency/company address here*]

[*your agency/company contact person name and phone number here*]