

# SECTION 3 FOR CONTRACTORS



## Contents:

- Overview
- Contractor Responsibilities
- Facts, Questions, & Answers
- Certificate of Understanding
- Estimated Workforce Breakdown
- Monthly Summary Report
- Employee Affidavit (English and Spanish)



**City of Phoenix**

Interdepartmental Guide to Section 3

## **Overview of Section 3**

### **What is Section 3?**

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

The City of Phoenix ("City") is the recipient of certain HUD financial assistance for public housing and housing and community development activities. These programs require compliance with Section 3 of the Housing and Urban Development Act of 1968. Section 3 requires that employment and other economic opportunities be directed toward low- and very-low income persons, particularly those who are recipients of federal assistance for housing, and to business concerns that employ these residents.

This handbook is provided as a guide to understanding Section 3 of the Housing and Urban Development Act of 1968, and the business and employment goals related to this project. It is intended to assist contractors in complying with Section 3 requirements, but does not supersede the contract provisions.

## **Contractor Responsibilities**

### **What are the Contractor's Responsibilities in regards to Section 3?**

The General Contractor and all subcontractors on this project are subject to compliance with Section 3 requirements as outlined in the Section 3 Clause of each contract, and the implementation of the regulations as outlined in 24 CFR part 135.

The General Contractor is required to incorporate the Section 3 Clause into all subcontracts.

The contractor and subcontractors agree to the greatest extent feasible, meet or exceed the following numerical goal:

To employ qualified Section 3 residents as 30 percent (30%) of aggregate number of new hires resulting from contracts and subcontracts on this project

Award to Section 3 business concerns at least ten percent (10%) of the total dollar amount of all section 3 covered contracts for building trades work, maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and 3% of the total dollar amount of all other Section 3 contracts.

Monthly the subcontractors will report Section 3 hiring, training, and subcontracting activities to the General Contractor. The General Contractor will summarize all subcontractors Section 3 activities for the month (and add their own if applicable) and turn in one monthly report to the project manager at the City. The report must be submitted for a pay application to be processed.

At the completion of the project, the General Contractor will complete a form HUD 60002, Section 3 Summary Report, detailing the achievements and activities to reach Section 3 compliance on the project (this is entirely drawn from the monthly reports).

In evaluating compliance, a recipient that has not met the numerical goals has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section.

### **Actions & Forms required:**

- Complete **Estimated Project Workforce Breakdown** which lists what positions you anticipate hiring for while on the project
- Complete **Certificate of Understanding of HUD Section 3 Requirements**
- Any job listings should be posted at least at one of the locations (paper or electronic) provided AND include that there is a Section 3 preference in all newspapers ads, flyer, and job notices
- Provide the General Contractor with a copy of employment outreach efforts, advertisements, applicants, and referrals to help the project meet Section 3 goals (such as a copy or a photos of the signage or advertisement)
- Any new hires should be asked to complete the **Employee Affidavit** (available in English and Spanish)

- Complete the **Section 3 Business Certification**; if you are trying to apply for Section 3 business concern
- Complete the **Section 3 Project Monthly Summary Report** every month you are working on the project and submit to the General Contractor

## **Section 3 Clause**

24 CFR PART 135

ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS  
Sec. 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).

# **City of Phoenix Housing Department: Section 3 FQA's**

## **Who are Section 3 residents?**

Section 3 residents are:

- Public housing residents **or**
- Persons who live in the City of Phoenix and who have a household income that falls below HUD's income limits.

## **Determining Income Levels**

- Low income is defined as 80% or below the median income of that area.
- Income is based on the number of persons living in the household.

The HUD income limits as of 2016 for the Phoenix metropolitan area are based on the Phoenix – Mesa - Scottsdale metropolitan statistical area and are as follows:

<b>FY 2016</b>	<b>1 PERSON</b>	<b>2 PERSON</b>	<b>3 PERSON</b>	<b>4 PERSON</b>	<b>5 PERSON</b>	<b>6 PERSON</b>	<b>7 PERSON</b>	<b>8 PERSON</b>
<b>LOW-INCOME (80% of Median)</b>	<b>\$35,250</b>	<b>\$40,250</b>	<b>\$45,300</b>	<b>\$50,300</b>	<b>\$54,350</b>	<b>\$58,350</b>	<b>\$62,400</b>	<b>\$66,400</b>

## **What is a “new hire”?**

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

## **What is a Section 3 business concern?**

A business that is one of the following :

- 1 Is 51% or more owned by Section 3 residents; or
- 2 Employs Section 3 residents as 30% of its full-time, permanent staff; or
- 3 Provides evidence of a commitment to subcontract to Section 3 business concerns, with 25% or more of the dollar amount of the awarded contract going to hiring of Section 3 businesses (As noted in number 1 and number 2).

### **How does Section 3 differ from Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Disadvantaged Business Enterprise (DBE) programs?**

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

### **What are the numerical goals of the program?**

- Employ qualified Section 3 residents, as 30 percent (30%) of aggregate number of new hires resulting from contracts and subcontracts on this project
- Award to Section 3 business concerns at least ten percent (10%) of the total dollar amount of all section 3 covered contracts for building trades work.
- Award to Section 3 business concerns at least three percent (3%) of the total dollar amount of all section 3 covered contracts for non-construction work.

### **How can I determine if my business is a Section 3 business?**

You may qualify as a Section 3 business based on company ownership or workforce composition. (a) Ownership: Review your company ownership to determine if the company is at least 51% owned by Section 3 residents.

(b) Review your current payroll data to determine if you employ a workforce of at least 30% of workers who live in low-income households. Any current employee who lives within the city of Phoenix and who lives in a household with an income below the "Low-Income" limits listed in the table, is eligible to be counted as a Section 3 resident and employee. Previous year W-3 report or quarterly Unemployment Tax and Wage Reports can provide a snapshot of your workforce and income levels.

If it appears you may qualify, complete the Application for Section 3 Business Certification, and contact the Project Manager.

### **What is the order of preference for meeting the hiring goals?**

The City of Phoenix Housing Department has outlined the following order of preference for meeting the Section 3 training and employment goals when utilizing Public and Indian Housing (PIH) funding:

- **Priority 1** - Public Housing Residents: Residents of City of Phoenix-managed public housing developments, or scattered sites. For Public Housing assistance activities, first preference is given to residents of the housing development where Section 3 covered assistance is being expended.
- **Priority 2** – Residents of other housing developments managed by the Housing Authority that is expending the Section 3 covered housing assistance
- **Priority 3** – Participants of the HUD YouthBuild Program: Residents who have

completed the HUD YouthBuild Program and have earned the rights and responsibilities of individuals who have graduated from the program.

- **Priority 4** - Other Low-Income Residents: Other low income residents of the neighborhood service area or the City of Phoenix who have a household income less than 80% of the median household income for metropolitan Phoenix per the HUD income limits.

The City of Phoenix Housing Department has outlined the following order of preference for meeting Section 3 training and employment goals when utilizing HUD funds:

- **Category 1 Residents** – Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located.
- **Category 2 Residents** – Participants of HUD YouthBuild programs
- **Category 3 Residents** – Other Section 3 residents

The Housing Department can designate additional hiring preferences within these priorities based on the neighborhood or service area impacted by the Section 3 covered project or activities, or as stipulated in the corresponding grant of Section 3 covered assistance.

#### **How are Section 3 requirements affected by the Davis Bacon and Related Acts?**

Contractors and subcontractors must still comply with the labor standards provisions of at 29 CFR Parts 3 and 5, also known as the Davis Bacon and Related Acts, including the prevailing wage, reporting requirements, apprentice and trainee standards, and overtime provisions.

#### **Are Section 3 residents or business concerns guaranteed employment and contracting opportunities under Section 3?**

No. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of the covered assistance (i.e., the construction of a HOPE VI funded project).

Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and condition of the proposed contract.

**Are recipients and contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?**

Recipients and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons – including seasonal and temporary employment opportunities.

Recipients and contractors are encouraged to provide long-term employment. They may count a Section 3 resident employee for three years to meet the business criterion that at least 30 percent of the permanent, full-time employees are Section 3 residents.

**Where can I get technical assistance for questions related to Section 3 activities or reporting requirements?**

Recipients and contractors can contact their Housing Department project manager for technical assistance.



# Certificate of Understanding of HUD Section 3 Requirements

**All contractors must complete!**

Contractor Name:		
Owner or Officer Name:		
Contractor Address		
Phone Number:		Email:

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

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

**This is to certify that I have read and understand the HUD Section 3 requirements and responsibilities listed in the Section 3 Clause (24 CFR 135), and that:**

- a) This company is not under any contractual restrictions or other hindrances which would prevent the company from complying with said requirements.
- b) This company is not debarred from participating in HUD assisted contracts.
- c) This company will make good faith efforts to notify and hire Section 3 residents sufficient to meet the numerical goals for training and employment opportunities
- d) This company will make good faith efforts to notify and award Section 3 business concerns of subcontracting opportunities arising from this project
- e) This company will comply with the reporting requirement set forth by the City of Phoenix Housing Department related to Section 3 activities and achievements.

\_\_\_\_\_  
Signature of Owner/Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Estimated Project Work Force Breakdown

**All contractors must complete!**

This form needs to be completed before starting on the project. It is based on the company's best estimate of work force projections.

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

Contractor Name:	
Owner or Officer Name:	
Contractor Address	
Phone Number:	

Job Category	Total estimated positions needed for this project	Number of positions occupied by permanent employees	Number of positions <u>not</u> occupied
Professional or Clerical			
General Labor			
Rental/Lease Management			
Building Trades (list)			
<b>TOTALS</b>			

The above table represents an accurate estimate of workforce needs for this project and also represents the number of Section 3 residents (public housing or other low-income residents) that the company proposes to employ. Every good faith effort will be made to notify and employ Section 3 residents for the employment opportunities listed above, including contacting the City of Phoenix Housing Department and the Phoenix Workforce Connection centers for applicant referrals.

\_\_\_\_\_  
Signature of Owner/Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Section 3 Project Monthly Summary Report

Complete this report and include with each monthly application for payment.

Use additional pages as necessary.

Contractor Name:	
Business Address:	
Contact Person:	
Phone Number:	
Project Name & Number:	
Amount of original contract award:	\$

**SECTION 3 ACTIVITIES REPORT FOR MONTH ENDING \_\_\_\_\_ (month & year)**

**Are you a Section 3 Business? (Yes or No):** \_\_\_\_\_

---

**PART I: EMPLOYMENT AND TRAINING**

Job Category	# Open/Posted Positions	# of New Hires	# New Hires that are Sec. 3 Residents
Professional or Clerical			
General Labor			
Rental/Lease Management			
Building Trades (list)			

---

**PART II: CONTRACTS AWARDED**

<b>Construction Contracts:</b>	<b>Dollars</b>
Total dollar amount of construction contract for this project	\$
<b>Non-Construction Contracts (Accounting, Bookkeeping, Architecture):</b>	
Total dollar amount of non-construction contract for this project:	\$

---

PART III: NARRATIVE OF SUPPORTING DETAIL

**Employment and Training Opportunities**

Describe contractor and subcontractor hiring activity during the reporting period.

**Contracts Awarded (Part 2 Supporting Detail)**

List the contracts awarded during the reporting period/month.

Include contractor name, value of contract award, and if they are a Section 3 business.

---

**Part IV: Other Section 3 Outreach and Opportunities**

Please list any outreach activities performed (advertising, outreach, contacting Youthbuild offices, etc) to hire Section 3 residents or Section 3 businesses during the reporting period, even if they did not result in hiring of Section 3 employees.

--

## City of Phoenix Section 3 Employee Affidavit

The undersigned makes this affidavit with full knowledge that its contents will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury, he/she hereby claims preference under the Section 3 requirements on projects managed by the City of Phoenix, Housing Department.

**Please print clearly!**

**Employee Name:** \_\_\_\_\_

My current address is: \_\_\_\_\_

\_\_\_\_\_

My household consists of \_\_\_\_\_ adults and \_\_\_\_\_ children. My annual household income is \$\_\_\_\_\_.

My source(s) of income are: \_\_\_\_\_

Please list exact source (i.e., employer's name, spouse's employer, SSI, TANF, child support, etc).

My Section 3 Eligibility is based on the following (**choose only one box**):

**Public Housing Resident:**

- Priority 1: I am a current or relocated resident of the housing development where Section 3 covered assistance is being expended.
- Priority 2: I am currently a resident of the City of Phoenix-managed public housing development, or scattered sites, and I have been listed on the lease agreement since (month/year)\_\_\_\_\_.

**OR Graduate of the HUD YouthBuild Program:**

- Priority 3: I have completed the HUD YouthBuild Program and have earned the rights and responsibilities of graduation from the program. My completion date was (month/year)\_\_\_\_\_.

**OR Other Low-Income Resident**

- Priority 4: Other low income resident. I am currently a resident of the Phoenix metropolitan area and, my household income is less than the household incomes listed below:

Number of people in household	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
2016 City of Phoenix Income Limits (80% of Median)	\$35,250	\$40,250	\$45,300	\$50,300	\$54,350	\$58,350	\$62,400	\$66,400

By signing below, you declare that the information provided is true and correct, under penalty of perjury, and you acknowledge that documentation to support or verify your claim for Section 3 preference may be requested by the City of Phoenix Housing Department or HUD and that you intend to comply with such a request, should it arise.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Departamento de Vivienda de la Municipalidad de Phoenix

Programa de cumplimiento con la Sección 3

### Sección 3 – Declaración Jurada de Residente

El suscrito declara bajo juramento con pleno conocimiento de que lo que la misma contiene se usará en el desembolso de fondos aportados por el gobierno de los Estados Unidos. So pena de perjurio, él/ella asevera su derecho a preferencia según los requisitos de la Sección 3 para proyectos administrados por el Departamento de Vivienda de la Municipalidad de Phoenix.

**Nombre de residente Sección 3:** \_\_\_\_\_ Mi domicilio actual es: \_\_\_\_\_

Mi hogar consiste de \_\_\_\_\_ adultos y \_\_\_\_\_ menores. El ingreso anual en mi hogar es de \$ \_\_\_\_\_.

La fuente de mis ingresos es: \_\_\_\_\_  
(Favor de indicar la fuente exacta, por ej., nombre de su empleador, SSI, TANF, manutención de menores, etc.)

Califico bajo la Sección 3 con base en lo siguiente:

**Residencia de vivienda pública:**

- Prioridad 1: Soy residente actual o reubicado del complejo de viviendas donde se empleará la asistencia amparada por la Sección 3.
- Prioridad 2: Soy residente del complejo de viviendas públicas administradas por la Municipalidad de Phoenix, o de sitios dispersos, y mi nombre aparece en el contrato de arrendamiento desde (mes/año) \_\_\_\_\_.

**Graduado del Programa YouthBuild de HUD:**

- Prioridad 3: He cumplido el Programa YouthBuild de HUD y he adquirido los derechos y responsabilidades de graduación del programa. Mi fecha de cumplimiento del programa (mes/año) \_\_\_\_\_.

**Otro residente de bajos ingresos**

- Prioridad 4: Otro residente de bajos ingresos. Resido actualmente en la Ciudad de Phoenix y tengo ingresos en mi hogar menores al 80% de los ingresos medios de hogar para el área metropolitana de Phoenix según la siguiente tabla de ingresos de HUD:

Ingresos límite MSA para Phoenix-Mesa-Scottsdale, AZ

Año fiscal 2016	1 PERSONA	2 PERSONAS	3 PERSONAS	4 PERSONAS	5 PERSONAS	6 PERSONAS	7 PERSONAS	8 PERSONAS
INGRESOS BAJOS (80% de ingresos medios)	\$35,250	\$40,250	\$45,300	\$50,300	\$54,350	\$58,350	\$62,400	\$66,400

Mediante su firma abajo, declara usted so pena de perjurio que la información que proporciona arriba es correcta y veraz, y que reconoce usted que el Departamento de Vivienda de la Municipalidad de Phoenix o HUD podrán pedirle presentar documentación que apoye o confirme su aseveración de su derecho a preferencia bajo la Sección 3, y que usted pretende cumplir con tal solicitud, de surgir la misma.

Firma: \_\_\_\_\_

Fecha: \_\_\_\_\_

## Section 3 business concern

**Complete this form if your business is applying  
to be a Section 3 business concern for the City of Phoenix**

The undersigned makes this affidavit with full knowledge that its contents will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury, he/she hereby claims the following preference under the Section 3 requirements for the following City of Phoenix, Housing Department project:

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

Under the penalty of perjury I hereby state:

I, \_\_\_\_\_ (name of owner or representative) am the  
\_\_\_\_\_ (title) of \_\_\_\_\_ (company name)  
located at \_\_\_\_\_ (Address),  
\_\_\_\_\_ (City), \_\_\_\_\_ (State), \_\_\_\_\_ (Zip).

whose business concern is (check one):

- 51 percent or more owned and managed by qualified Section 3 residents;
- At least 30% of the current full-time, permanent staff qualify as Section 3 residents;
- At least 25% percent or more of the dollar amount of the awarded contract is subcontracted to Section 3 Businesses.

And, for the project named above, we claim preference in contracting as a Section 3 business in the category listed below (check one):

- Category 1: Business concern that is 51% or more owned by **residents of the housing development where the construction is located**, or whose full-time permanent work force includes at least 30% of these persons as employees.
- Category 2: Business concern that is 51% or more owned by **residents of other City of Phoenix managed housing developments, including scattered sites**, or whose full-time permanent work force includes at least 30% of these persons as employees.
- Category 3: HUD YouthBuild program being carried out within the city of Phoenix.
- Category 4: Business concern that is 51% or more owned by **Section 3 residents, including residents receiving other HUD housing assistance or who live in low-income households**, or whose full-time permanent work force includes at least 30% of these persons as employees.
- Category 5: Business concerns that **subcontract at least 25% of the total contract award to Section 3 business concerns** (companies that fall into categories 1 - 4 listed above.)

I agree to provide the following evidence to the Project Manager to support this claim for Section 3 preference **(please choose one and provide documentation with this application)**.

- a) For businesses claiming **Section 3 status based on ownership** of the firm:
  - Copy of the Articles of Incorporation or Articles of Organization
  - List of owners/stockholders and percentage (%) ownership of each
  - Section 3 Resident Affidavits from owners/officers who qualify as Section 3 residents
  - Category 1 and Category 2 only: Evidence of public housing assistance for each Section 3 eligible owner
  
- b) For businesses claiming **Section 3 status based on a workforce** comprised of at least 30% Section 3 residents:
  - List of all current full-time employees, their hire dates, and their Section 3 status
  - Section 3 Resident Affidavits from all employees for which you are claiming Section 3 status.
  
- c) For businesses claiming **Section 3 status based commitment to subcontract 25% of the contract award to Section 3 businesses:**
  - List of subcontracted Section 3 businesses and the subcontract amount
  - Evidence that identifies each firm listed as a Section 3 business (i.e., written acknowledgement from City of Phoenix or the evidence listed above in paragraphs (a) and (b).)

---

**AFFIDAVIT**

I declare under penalty of perjury, that the information provided in this affidavit and all supporting documents are true and correct.

Signature \_\_\_\_\_

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

Date\_\_\_\_\_

Upon completing this form, attach the necessary documentation **(either a, b, or c listed above)** and submit to the project manager.