



Subgrantee Agency Workbook

Part I:

Section 3

Part II:

Minority and Women Business Enterprise Development (MWBE)



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Chapter 1:

Overview of Section 3

This Chapter provides an overview of Section 3 of the Housing and Urban Development Act of 1968:

Chapter 1:

- Definition of Section 3
- Purpose and Intent
- Benefits/Important Aspects of Section 3
- History/Applicable Statutes and Regulations
- HUD Programs Covered by Section 3 and Minimum Requirements
- What are Section 3 Funding Thresholds?
- How Section 3 Applies to HUD Funding
- State of Florida Grantee of HUD Funding: Department of Community Affairs

Definition of Section 3

Section 3 is a set of legal obligations established by the Housing and Urban Development Act of 1968. It requires public housing agencies and local government entities to meet numerical goals for hiring, training, and contracting with “Section 3 residents” and “Section 3 business concerns” on certain types of projects that receive federal housing funds from the U.S. Department of Housing and Urban Development (HUD).

Purpose and Intent of Section 3

The purpose of Section 3 is to ensure that, to the greatest extent feasible, employment, training, and business opportunities created by grantees of HUD financial assistance are directed to low and very-low income persons. The intent is to increase the income levels of low-income persons by making more job opportunities available to them. Efforts to promote Section 3 objectives must be consistent with existing federal, state and local laws and regulations.

Benefits of Section 3

Section 3 is a starting point to obtain job training, employment and contracting opportunities for individuals and small businesses in order to help them achieve economic advancement and self-sufficiency. Its most obvious benefit is to increase the incomes of low- and very low-income persons by making more employment and job training opportunities available to them. By helping members of low- and very low-income households improve their skills, they become more employable. When low- and very low-income persons obtain jobs through Section 3, their earnings may increase and some families may move above poverty thresholds. This method of job creation results in lower unemployment rates and less reliance on public services.

Finally, by providing job training opportunities, Section 3 can also enhance long-term employment prospects of low- and very low-income persons. Individuals that receive training about acceptable job behavior and work performance are more likely to maintain their employment.

Important Aspects of Section 3

Some important aspects of Section 3 included the following:

Section 3 is race and gender neutral.

The preferences under this regulation are based on income-level and location.

The regulations were designed to encourage grantees of HUD funding to direct new employment and contracting opportunities to low- and very low-income residents, and the businesses that employ these persons, within their communities regardless of race and/or gender.

The desired result of the regulation is to have a positive impact on current unemployment and/or underemployment rates; increase economic opportunities of business concerns; and promote economic recovery in communities.

Applicable Statutes and Regulations

Applicable Statutes that pertain to Section 3 include:

Title VI of the Civil Rights Act of 1964 - Prohibits discrimination on the basis of race, color, creed or national origin in programs and activities receiving federal financial assistance.

Housing and Urban Development Act of 1968, Section 3 - Legislative directive for providing preference for low- and very low-income residents of the local community

and businesses that employ these persons, and for new employment, training and contracting opportunities with HUD-funded projects.

Title I of the Housing and Community Development Act of 1974, Section 109 - Prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program.

American Recovery and Reinvestment Act of 2009 - Preserves and creates jobs and promotes economic recovery; assists those most impacted by the recession; and stabilizes State and local government budgets.

Applicable Regulations that pertain to Section 3 include:

24 CFR Part 135 - Defines Section 3 and its requirements

24 CFR Part 135.30 - Defines Section 3 compliance

24 CFR Part 135.38 - Required Section 3 clause for solicitations and contracts

24 CFR Part 135.90 - Guidelines for Section 3 Annual Summary Reports

24 CFR Part 85 - Defines federal requirements for procurement and contracting

24 CFR Part 85.36 - Encourages the use of Minority and Women Business Enterprises (MWBE) and Section 3 business concerns

HUD Programs Covered by Section 3

This workbook will address the three major grant programs in the HUD Community Planning and Development Division (CPD) administered by the State of Florida: Small Cities Community Development Block Grant (CDBG) (including the American Recovery and Reinvestment Act (ARRA)); CDBG – Disaster Recovery Initiative; and the Neighborhood Stabilization Program (NSP).

Section 3 requirements of these programs are as follows:

Community Development Block Grant

10% of all covered contracts to Section 3 business concerns

30% of new employment to Section 3 Residents

American Recovery and Reinvestment Act

At least 3% of all covered non-construction contracts awarded to Section 3 business concerns

What are Section 3 Funding Thresholds?

Section 3 funding thresholds are the minimum dollar amounts that trigger Section 3 requirements. The requirements of Section 3 apply to grantees of HUD CPD assistance in the following manner:

For grantees of HUD CPD assistance, all contactors (or subcontractors) receiving contracts valued at \$100,000 or more to complete projects involving housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

If a subgrantee receives \$200,000 or more it must comply with Section 3.

There are no thresholds for Public Housing Authorities (PHA). The requirements of Section 3 apply to all PHAs regardless of the amount of assistance received from HUD.

All contracts or subcontracts funded with Public and Indian Housing assistance, regardless of the dollar amount or type of contract, are subject to the requirements of Section 3.

How Section 3 Applies to HUD Funding

Section 3 regulations only apply to the portion(s) of covered funding used for projects or activities involving housing construction, rehabilitation, demolition, or other public construction (infrastructure and public facilities). They do not apply to administrative fees for the Subgrantee Agency. For example, if the Subgrantee Agency deducts 10% of a grant award for administrative fees and uses the remaining 90% of the grant award to fund the scope of work such as the housing construction, rehabilitation, demolition or other public construction; then Section 3 regulations apply to the remaining 90% of the grant award.

Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance. That is, it applies to the full dollar value of the scope of work defined in the agreement or contract between the grantee or subgrantee and their respective contractor or subcontractor.

Note: There is a Section 3 office in the HUD Office of Fair Housing and Equal Opportunity, but there is no Section 3 “program.” It is important to understand that local agencies do not receive any federal funds specifically dedicated to meeting the obligations of Section 3.

Role of State of Florida Department of Community Affairs

The Florida Department of Community Affairs (DCA) is a direct grantee (or Grantee Agency) of federal funds from HUD. DCA receives an allocation of federal funds directly from HUD. In its role as a Grantee Agency, DCA oversees state-administered programs funded by HUD. These programs include the Florida Small Cities CDBG Program, the CDBG Disaster Recovery Program, and the Neighborhood Stabilization Program (NSP). DCA is also responsible for the oversight of all grants awarded under these programs and is required to monitor compliance with federal and state rules and regulations that govern the programs. DCA must report to HUD on program accomplishments and beneficiaries.

To measure the success of programs, HUD requires that a number of reports be submitted by grantees of CDBG funds (i.e., Grantee Agencies), including CDBG Disaster Recovery and NSP funding. There are two (2) primary reports. The Section 3 Summary Report (HUD Form 60002) is an annual report that provides information on economic opportunities provided to low- and very low-income residents that reside in a public housing community or near CDBG job sites. The Contract and Subcontract Activity Report (HUD Form 2516) is required twice a year and summarizes contracts that subgrantees of the state have entered into. This report must reflect the type of contract and whether or not the business is owned by a minority, woman or Section 3 business concern.

In order to be a productive and responsive partner to DCA, local government, contractors, and non-profit entities must understand the reports referenced in this training manual, the related regulations and be able to implement strategies to effectively accomplish the goals of the reporting requirements.

All subgrantees of HUD funds from DCA are required to submit reports to DCA. The roles and responsibilities of subgrantees are further defined in subsequent chapters of this workbook.

Chapter 2:

Section 3 Grantee Agencies, Residents and Business Concerns

This Chapter provides an overview of Section 3 Grantee Agencies, Residents and Business Concerns

Chapter 2:

Definition of a Section 3 Grantee Agency
Definition of a Subgrantee Agency
Definition of a Section 3 Project
Definition of a Section 3 Resident
Definition of a Section 3 Business Concern
What Triggers Section 3 Requirements?
What are Section 3 Economic Opportunities?
Who receives priority under Section 3?
Definition of a Section 3 "New Hire"
Definition of Low Income
Definition of a Section 3 Service Area
Definition of a Metropolitan Area and Non-metropolitan County

Definition of a Section 3 Grantee Agency

Section 3 Grantee refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another grantee (such as DCA) and includes any of the following entities:

- States, units of local government, Native American Tribes
- Public or private nonprofit organization
- Private agency or institution
- Mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization
- Successor, assignee, or transferee of any entity previous listed

Note: Contractors and subcontractors are not Grantee Agencies; however, they must comply with Section 3 requirements when their contract exceeds \$100,000.

Definition of a Subgrantee Agency

A subgrantee agency may be defined as any agency or entity that receives its HUD funding directly from DCA. Basically, if a local government or nonprofit receives federal funds from DCA, then it is defined as a Subgrantee Agency or “subgrantee”. All subgrantees must comply with the requirements of Section 3 and submit the required reports to DCA.

Definition of a Section 3 Project

A Section 3 project is a project that involves the new construction or rehabilitation of affordable housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

Definition of a Section 3 Resident

Section 3 Residents may consist of the following groups:

1. Residents of Public and Indian Housing; or
2. Individuals who reside in the metropolitan area or non-metropolitan county where Section 3 covered assistance is expended and whose total household income is within the area’s median income limits for low- and very low-income households as defined by HUD.

In accordance with the regulation, residents seeking Section 3 preference shall certify or submit evidence to the grantee, contractor, subcontractor or subgrantee verifying that they meet one of the definitions provided above. Examples of documentation include: proof of residency in a public housing community, proof of federal subsidy for housing, food stamps and/or unemployment benefits.

Note: Public Housing Authorities may also elect to categorize Section 3 residents into four categories. The categories are:

Category 1: Residents of the PHA housing site where the work is being performed

Category 2: Residents of any PHA housing site

Category 3: Participants in HUD Youthbuild Program

Category 4: Other Low and Very Low-Income Persons

Definition of a Section 3 Business Concern

Section 3 Business Concerns are:

1. Businesses that are 51% or more owned by Section 3 residents; or
2. Businesses whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents or who within three years of the date of first employment with the firm were Section 3 Residents; or
3. Businesses that provide evidence of a commitment to subcontract 25% or more of all subcontract amounts to businesses that meet the qualifications listed in 1 and 2 above.

In accordance with the regulation, business owners seeking Section 3 preference shall certify or submit evidence to the grantee, contractor, subcontractor or subgrantee verifying that they meet the definitions provided above. Examples of appropriate documentation include payroll data or other relevant business information.

What Triggers Section 3 Requirements?

Section 3 is triggered when a construction or rehabilitation project creates the need for procurement of contractors, **new** employment, contracting, or training opportunities.

When is Section 3 Not Triggered?

If Section 3 covered assistance is awarded and the Subgrantee Agency has no need for additional employees or trainees, or the grantee has no need to contract for work, then the Section 3 requirements are not triggered. However, the Subgrantee Agency must still submit a Section 3 Annual Summary Report (HUD form 60002) to DCA in accordance with 24 CFR Part 135.90.

Note: Section 3 regulations must be adhered to even if the project is not fully funded with federal funds. For example, if your project is funded with CDBG, a bank loan and another grant, your agency must still comply with the Section 3 regulation.

What are Section 3 Economic Opportunities?

Section 3 economic opportunities are new employment, training or contracting opportunities resulting from the new project that is receiving direct or indirect funding from HUD.

New Employment – any new position created to complete the work required by the new project.

New Contracting – any new contracting opportunity created to complete the work required by the new project.

New Training – any new training opportunity created as a result of the new project.

Any employment resulting from these expenditures, including administration, management, clerical support, and construction is subject to compliance with Section 3. Examples of employment opportunities include appliance repair, bookkeeping, printing, bricklaying, carpentry, carpet installation, cement/masonry, data processing, demolition, drywall, electrical, fencing, surveying, heating, janitorial, landscaping, machine operation, manufacturing, painting, tile work, accounting, payroll, photography, plastering, plumbing, transportation, welding, word processing, etc.

Who Receives Priority under Section 3?

For Training and Employment, the following persons receive priority under Section 3:

1. Persons in public and assisted housing; or
2. Persons residing in the area where the HUD financial assistance is being spent; or
3. Participants in HUD Youthbuild programs; or
4. Homeless persons.

For Contracts, the following businesses receive priority under Section 3.

1. Businesses that meet the definition of a Section 3 business concern.

Definition of a Section 3 “New Hire”

For Section 3 projects, subgrantees of DCA must, to the greatest extent feasible, ensure that at least 30% of new hires are Section 3 residents. 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.

Definition of Low Income

The term “low-income” is used in the Section 3 regulation to include both low- and very low-income individuals.

Low Income – total household income at 80% or below the median income of that area.

Very Low Income – total household income at 50% or below the median income of that area.

Definition of a Section 3 Service Area

The Section 3 **service area** is the geographical area where the persons benefiting from the Section 3 covered project reside. The Section 3 service area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

Definition of a Metropolitan Area and Non-metropolitan County

Metropolitan Area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget (OMB).

Non-metropolitan County means any county outside of a metropolitan area.

Chapter 3: Responsibilities of Section 3 Subgrantee Agencies

This Chapter provides a detailed overview of Section 3 Subgrantee Agency Responsibilities

Chapter 3:

Subgrantee Agency Responsibilities

Implementation of procedures to notify residents and business concerns

Notifying potential contractors of contractor responsibilities

Incorporating Section 3 clauses into covered solicitations/contracts

Facilitation of training for eligible residents

Facilitation of contract awards to business concerns

Cooperation with DCA staff

Refraining from entering into contracts with contractors or subcontractors who are in violation of Section 3 regulations.

Monitoring and documentation of compliance actions

Data Collection

Recruiting Section 3 Residents and Business Concerns

Subgrantee Responsibilities

Each recipient of CDBG/Disaster Recovery or NSP funding is required to comply with the requirements of Section 3 for **new** employment, training or contracting opportunities resulting from the expenditure of covered funding. The responsibility includes the following:

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 DCA 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 Report (form HUD-60002) in accordance with 24 CFR Part 135.90.

State agencies must:

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

Who Receives Priority under Section 3?

For Training and Employment, the following persons receive priority under Section 3:

1. Persons in public and assisted housing; or
2. Persons residing in the area where the HUD financial assistance is being spent; or
3. Participants in HUD Youthbuild programs; or
4. Homeless persons.

For Contracts, the following businesses receive priority under Section 3.

1. Businesses that meet the definition of a Section 3 business concern.

Implementing procedures to notify Section 3 residents and business concerns of opportunities

If a subgrantee agency, contractor or subcontractor has the need to hire new persons to complete the Section 3 covered work or needs to subcontract portions of the work to another business, they are required to direct the newly created employment and/or business opportunity to Section 3 residents and business concerns. This objective can be achieved by implementing procedures to notify Section 3 residents and business concerns of the opportunities. In other words, the recipient of DCA funds must develop ways to inform and recruit Section 3 residents and business concerns.

Grantee agencies, contractors or businesses may inform residents and business concerns about available training and job opportunities by:

1. Partnering or entering into contacting agreements with public housing resident organizations, local community development and employment agencies;
2. Distributing flyers in the neighborhood surrounding the project;
3. Posting signs in strategic locations in neighborhoods where Section 3 residents and business concerns reside; and
4. Placing ads in local newspapers.

All of the above options are examples of procedures grantees may utilize to notify Section 3 residents and business concerns of employment, training or contracting opportunities. More examples of outreach efforts are discussed later in this chapter and in Appendices A and B.

Notifying potential contractors of contractor responsibilities

Grantees of funds from DCA are defined as “Subgrantee Agencies” and are required to ensure their own compliance **and** the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR Part 135.32. Subgrantee Agencies can notify their contractors/subcontractors of their respective responsibilities for compliance with the requirements of the Section 3 regulation by the inclusion of the mandatory Section 3 language in each contract for work on a Section 3 covered project. The mandatory Section 3 language advises the contractor/subcontractor that if they have the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns, if at all possible. The same numerical goals, i.e., 30% of new hires, 10% of construction contracts, and 3% of non-construction contracts, apply to contractors and subcontractors.

In addition, the contractor/subcontractor must notify the Subgrantee Agency about their efforts to comply with Section 3 and submit any required documentation. The required

documentation includes details regarding the contractor/subcontractors efforts to recruit Section 3 residents and/or business concerns, if they fail to meet their contract goals for Section 3 compliance.

Incorporating Section 3 clauses into covered solicitations/contracts.

The Housing and Urban Development Act of 1968 provides language about the Section 3 requirement that must be included in all contracts issued for HUD funded activities. This mandatory Section 3 contract clause can be found at 24 CFR Part 135.38. Covered contracts described at 24 CFR Part 135.3(a) include developments, operating and modernization assistance. A copy of the mandatory language is provided in the Appendix C.

Facilitation of training for eligible residents

Each Subgrantee Agency and their covered contractors, subcontractors or subgrantees are required to comply with the requirements of Section 3 for training opportunities resulting from the expenditure of covered funding. The responsibility includes implementing procedures to notify Section 3 residents about training opportunities generated by Section 3 covered assistance. A list of examples of efforts to provide training opportunities for Section 3 residents is provided in Appendix A.

Facilitation of contract awards to Business Concerns

Each Subgrantee Agency and their covered contractors, subcontractors or subgrantees must comply with the requirements of Section 3 for contracting opportunities resulting from the expenditure of covered funding. The responsibility includes implementing procedures to notify Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance. A list of examples of efforts to provide contracting opportunities for Section 3 business concerns is provided in Appendix B.

Cooperation with DCA

All Subgrantee Agencies and their subgrantees, contractors and subcontractors are strongly encouraged to cooperate with DCA. DCA is charged with ensuring compliance with the requirements of Section 3. Cooperation with DCA enhances a Subgrantee Agency's chances of continuing to receive funding for future projects. Non-compliance with the requirements of Section 3 may jeopardize future funding opportunities.

Refraining from entering into contracts with contractors or subcontractors who are in violation of Section 3 regulations.

Subgrantee Agencies and their subgrantees must refrain from entering into contracts with contractors or subcontractors that have a previous history of violating the

regulations of Section 3. Repeated violations of the Section 3 regulation may jeopardize future funding opportunities.

Monitoring and documentation of compliance actions.

Subgrantee Agencies and their subrecipients need to track the Section 3 compliance efforts of their respective contractors and subcontractors. Monitoring compliance with Section 3 regulations consists of documentation of actions taken by contractors and subcontractors to achieve the goals specified in their contracts for employment, training and contracting, and the results of actions taken and any impediments encountered.

Subgrantee Agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with federal or state procurement laws and regulations.

Data Collection

It is recommended that contractors or businesses procured by Subgrantee Agencies submit written reports of their compliance efforts on a monthly basis. Some examples of monthly reporting forms include the following:

Section 3 and MWBE Contracting Compliance Summary Reporting Form – Provides a list of all Section 3, DBE and MWBE subcontractors and suppliers utilized on the contractor's contract with the grantee or subgrantee to date. It is recommended that Subgrantee Agencies collect copies of all contracts with a dollar value of \$100,000 or more. A copy of this report is provided in Appendix H. This form also includes instructions for completion.

Additional reports and forms Subgrantee Agencies and their subrecipients may require their contractors and subcontractors to provide include the following:

Section 3 Man Hour Report Form – Used to track the number of Section 3 residents hired by a contractor or subcontractor. The name and address of all Section 3 employees performing work during the respective payroll period must be listed on this form. This form must be signed by an authorized representative of the contractor or subcontractor. A copy of this form is provided in Appendix D. This form also includes instructions for completion.

Section 3 and MWBE Monthly Contracting Compliance Report – Used to track contractor and subcontractor performance with opportunities for Section 3 business concerns and MWBEs on a monthly basis. A copy of this form is provided in Appendix G. This form also includes instructions for completion.

Sample Payroll Form WH 347 – This form is used to track payroll activity. It may be used by contractors that do not have a standard payroll form. It can be used to track payroll activity on a weekly or bi-weekly basis. The form was created by the U.S. Department of Labor (DOL). A copy of this form is provided in Appendix J.

Contractor Monthly Report – This report provides a written narrative of the activities engaged in or completed by the contractor. It also includes a written explanation of the contractor’s outreach efforts and any obstacles incurred while trying to reach their Section 3 goals. An outline for this report is provided in Appendix I. This form also includes instructions for completion.

Recruiting Section 3 Residents and Business Concerns

Contractors or businesses can recruit Section 3 residents and business concerns in the following locations:

1. Public housing developments and
2. The neighborhoods surrounding the project site where the HUD assistance is being spent.

Contractors or businesses may inform residents and business concerns about available training and job opportunities by:

1. Contacting resident organizations, local community development and employment agencies;
2. Distributing flyers;
3. Posting signs; and
4. Placing ads in local newspapers.

Finding Section 3 Residents and Business Concerns

Additional ways for contractors and subcontractors to attract Section 3 residents and business concerns include:

Advertising in local newspapers, Public Service Announcements (PSAs) in local radio and/or television media, and community bulletins;

Posting signs about opportunities at local churches, neighborhood service centers, community organizations, and non-profits;

Interaction with local agencies/organizations such as the Urban League, Children’s Board, United Way, churches and other community-based non-profit entities; and

Participation in a HUD program training designed to encourage participation of low- and very-low income persons and businesses such as self-sufficiency or job training/placement, Youthbuild programs, or business incubators.

Chapter 4: Section 3 Reporting Requirements

This Chapter provides a detailed overview of Section 3 Reporting Requirements

Chapter 4:

Section 3 Summary Report: Form HUD 60002
What to Submit via Form HUD 60002
Where to Submit Form HUD 60002
When to submit Form HUD 60002

Section 3 Summary Report: Form HUD 60002

Pursuant to 24 CFR Part 135.90, each recipient of funds from DCA must submit a report using the Section 3 Data Reporting System on form HUD-60002 – Economic Opportunities for Low- and Very Low-Income persons at least twice a year. Section 3 Annual Summary Reports are intended to measure each Subgrantee Agency's efforts to comply with the statutory and regulatory requirements of Section 3 **AND** those of its contractors, subcontractors, and subrecipients. The reports document the Subgrantee Agency's efforts with providing employment and training opportunities for Section 3 residents, contracting opportunities for Section 3 business concerns, and good faith efforts to achieve the Section 3 goals. A copy of form HUD-60002 is provided in the Appendix E. This form also includes instructions for completion.

What to submit via form HUD 60002

Each submission of form HUD-60002 must, at a minimum, include the following:

1. Total dollar amount of HUD funding that was received by the Subgrantee Agency for covered projects/activities during the specified reporting period;
2. The total number of new employees that were hired by the Subgrantee Agency and/or its covered contractors, subcontractors, and subgrantees, as a result of performing or completing covered projects or activities;
3. The number of new employees that were hired by the Subgrantee Agency (or its covered contractors, subcontractors, and subgrantees), as a result of covered projects or activities, that met the definition of a Section 3 resident;

4. The total number of Section 3 residents that participated in training opportunities that were made available by the Subgrantee Agency, its contractors, subrecipients, or other local community resource agencies;
5. The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding;
6. The dollar amount of the Subgrantee Agency's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns; and
7. Detailed narrative descriptions of the specific actions that were taken by the Subgrantee Agency (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.

Subgrantee Agencies also may, at their option, require contractors, subcontractors or subrecipients to provide the following information (but it is not mandatory):

1. The total number of man hours worked on covered projects, and;
2. The aggregate number of hours worked by Section 3 residents on covered projects.

Where to submit Form HUD 60002

Subgrantee Agencies may submit their reports to DCA at the following email address: cdbg@dca.state.fl.us.

When to submit Form HUD 60002

Subgrantee Agencies are required to submit their reports to DCA July 31st of each year

Chapter 5: Non-Compliance and Complaints

This chapter provides an overview of Non-Compliance in Section 3 and the complaint process.

Chapter 5:

Non-Compliance
Complaints

Non-Compliance

Subgrantee Agencies that fail to meet the numerical goals of the Section 3 program bear the burden of demonstrating why it was not possible. Subgrantee Agencies must submit documentation or justification that describes the efforts that were taken by the contractors and/or subcontractors, barriers encountered, and other relevant information that supports a good faith effort to achieve the numerical goals. Subgrantee Agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with federal or state procurement laws and regulations. The justifications will allow DCA to make a determination regarding compliance or the failure to achieve the goals of the Subgrantee Agency's Section 3 program.

Complaints

There is a complaint process for Subgrantee Agencies that are suspected of Section 3 violations. Section 3 residents, businesses, or a representative for either may file a complaint with HUD if it seems a Subgrantee is violating or not in compliance with the Section 3 requirements for a HUD funded project.

Section 3 complaints can be obtained and submitted at the local HUD office. Subgrantee Agencies are encouraged to try and resolve complaints prior to the complaint being submitted to HUD or DCA whenever possible.

Examples of violations that will generate complaints from Section 3 residents, Section 3 business concerns or members of the general public may include but are not limited to the following:

Violation: Improper documentation of certification as a Section 3 resident.

Solution: Obtain a copy of documentation as a Section 3 resident from a local housing authority or obtain a copy of certified payroll and proof of residency.

Violation: The contractor did not properly notify Section 3 residents of a new employment opportunity.

Solution: Require the contractor to re-advertise the employment opportunity.

Violation: The contractor did not give Section 3 business concerns enough time to properly respond to a contracting opportunity (such as a Request for Proposals for construction of stairways or installation of electrical work).

Solution: Require the contractor to extend the time period for all businesses to respond to the Request for Proposals.

Violation: The contractor has not awarded enough contracts to Section 3 business concerns in order to meet the Section 3 goals specified in its contract.

Solution: Inform the contractor of ways to find and/or recruit Section 3 business concerns and allow for additional time for the contractor to comply with Section 3.

Solution: The contractor can use creative methods to extend contracting or subcontracting opportunities to Section 3 business concerns by breaking down a trade into individual task such as installation of screens and/or windows; installation of handicap rails, etc.

The cure period for each of the above listed sample violations may be determined at the discretion of the Subgrantee Agency. The standard cure period is usually thirty (30) days or before the Subgrantee Agency grants approval of the next request for payment submitted by the violating party or parties. A Subgrantee Agency may grant more time for the cure period. It is recommended that Subgrantee Agencies review violations on an individual or "case by case" basis.

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Subgrantee Agency Workbook

Part II:

Minority and Women Business Enterprise Development (MWBE)



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Chapter 1:

Executive Order 12432

This chapter provides an overview of Executive Order 12432

Chapter 1:

Overview
Responsibilities of Federal Agencies

Overview of Executive Order 12432

Executive Order 12432 provides guidelines for selected federal agencies to promote and increase the utilization of Minority Business Enterprises. This order was established by the President in 1983 with the goal of increasing contract opportunities available to minority owned firms and making the federal government accountable for promoting and utilizing minority owned firms. Federal funds received by DCA must adhere to the guidelines established through this executive order.

Responsibilities of Federal Agencies

Under the executive order, federal agencies (including HUD) have general responsibilities in developing *Minority Business Development Plans*. (a) Minority business enterprise development plans shall be developed by each federal agency having substantial procurement or grant making authority. These federal agencies must submit Minority Business Development plans to the Council on Commerce and Trade on an annual basis. (b) These annual plans establish minority enterprise development objectives for the participating agencies and methods for encouraging both prime contractors and grantees to utilize minority business enterprises. The plans, to the extent possible, build upon the programs administered by the Minority Business Development Agency and the Small Business Administration (SBA), including the goals established pursuant to Public Law 95-507. Uniform guidelines have been established for all federal agencies to be utilized in establishing the minority business programs. The agencies furnish an annual report regarding the implementation of their programs and the Secretary of Commerce provides an annual report to the President on activities provided for under executive order 12432 and agency implementation of minority business development programs.

Under executive order 12432, *federal agencies have more specific responsibilities for developing minority business development plans*. (a) To the extent permitted by law and

consistent with its primary mission, each Federal agency which is required to develop a minority business development plan, must establish specific activities to accomplish the objectives set forth in its plan, establish programs concerning provision of direct assistance, procurement assistance, and management and technical assistance to minority business enterprises.

Each federal agency must "to the extent permitted by law and consistent with its primary mission, establish minority business development programs, consistent with Section 211 of Public Law 95-507, to develop and implement incentive techniques to encourage greater minority business subcontracting by federal prime contractors."

Each federal agency must encourage recipients of federal grants and cooperative agreements to achieve a reasonable minority business participation in contracts let as a result of its grants and agreements. In cases where state and local governments are the grantees, such encouragement must be consistent with principles of the federal government.

Each federal agency must provide the Council on Commerce and Trade information as requested from time-to-time concerning the agency's progress in implementing these programs.

These minority business plans are designed to provide guidance and encourage utilization of minority business firms. These plans flow through to the grant recipient and apply to subgrantees. The plans set the standard for HUD's minority business requirements.

Chapter 2:

Regulation 24 CFR Part 85.36

This chapter provides an overview of Regulation 24 CFR Part 85.36

Chapter 2:

Overview
Important Aspects

Overview of Regulation 24 CFR Part 85.36

24 CFR Part 85.36 provides administrative guidance for state, local and Federally Recognized Indian Tribal Governments that have been awarded grants and cooperative agreements with regards to procurements and purchasing. All subgrantees must adhere to regulations regarding procurement and purchasing of goods and services under federal and state guidelines.

Important Aspects

There are specific and important aspects of Regulation 85.36 that are listed below which provide details that cover procurement and purchasing activities that will be administered by subgrantees as part of this section.

(a) States.

For the purpose of this manual, DCA is identified as the fund recipient for the State of Florida and must comply with Regulation 85.36 when procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-federal funds. The State will ensure that every purchase order or other contract includes any clauses required by federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards.

- 1) Grantees and subgrantees will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in this section.
- 2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- 3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in the selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - i. The employee, officer or agent,
 - ii. Any member of his immediate family,
 - iii. His or her partner, or
 - iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

- 4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- 5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into state and local intergovernmental agreements for procurement or use of common goods and services.
- 6) Grantees and subgrantees are encouraged to use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- 7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- 8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor

integrity, compliance with public policy, record of past performance, and financial and technical resources.

- 9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- 10) Grantees and subgrantees will use time and material type contracts only
 - i. After a determination that no other contract is suitable, and
 - ii. If the contract includes a ceiling price that the contractor exceeds at its own risk.
- 11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.
- 12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the federal agency. Reviews of protests by the federal agency will be limited to:
 - i. Violations of federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
 - ii. Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition.

- 1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:
 - i. Placing unreasonable requirements on firms in order for them to qualify to do business,
 - ii. Requiring unnecessary experience and excessive bonding,

- iii. Noncompetitive pricing practices between firms or between affiliated companies,
 - iv. Noncompetitive awards to consultants that are on retainer contracts,
 - v. Organizational conflicts of interest,
 - vi. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
 - vii. Any arbitrary action in the procurement process.
- 2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- 3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
- i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and
 - ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- 4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed.

- 1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
- 2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 85.36(d)(2)(i) apply.
 - i. In order for sealed bidding to be feasible, the following conditions should be present:
 - A. A complete, adequate, and realistic specification or purchase description is available;
 - B. Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - C. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - ii. If sealed bids are used, the following requirements apply:
 - A. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
 - B. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - C. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - D. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered

in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

E. Any or all bids may be rejected if there is a sound documented reason.

3) Procurement by **competitive proposals**. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- i. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- ii. Proposals will be solicited from an adequate number of qualified sources;
- iii. Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- iv. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- v. Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

4) Procurement by **noncompetitive proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

- i. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

A. The item is available only from a single source;

- B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - C. The awarding agency authorizes noncompetitive proposals; or
 - D. After solicitation of a number of sources, competition is determined inadequate.
- ii. Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
 - iii. Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre- award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

- 1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- 2) Affirmative steps shall include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 - v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

- 1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular

procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

- 2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- 3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable federal cost principles.
- 4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

g) Awarding agency review.

- 1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- 2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
 - i. A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

- ii. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
 - iii. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
 - iv. The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
- 3) A grantee or subgrantee will be exempt from the pre- award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
- i. A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
 - ii. A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- 1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- 2) A performance bond on the part of the contractor for 100% of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- 3) A payment bond on the part of the contractor for 100% of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions.

A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- 1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
- 2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- 3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- 4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)
- 5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
- 6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327A 330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- 7) Notice of awarding agency requirements and regulations pertaining to reporting.
- 8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- 9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

- 10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
- 12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- 13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).

Chapter 3

CDBG Procurement –

Florida Administrative Code

Section 9B-43

This chapter provides an overview of Florida Administrative Code Section 9B-43

Chapter 3:

Florida Small Cities Community Development Block Grant Funds –Section 9B-43

Florida Small Cities Community Development Block Grant Funds –Section 9B-43

The Florida Administrative Code section 9B-43 specifically addresses the Florida Small Cities Community Development Block Grant (CDBG) Program. In this section we will focus on 9B-43.0051 which addresses the requirements for procurement of commodities and services by subgrantees. Each subgrantee is required to follow the guidelines that are outlined in 24 CFR 85.36 and have written procurement procedures that have been adopted by the subgrantee and which comply with Section 287.055, F.S. (Consultants Competitive Negotiation Act). The following paragraphs outline specific guidelines for subgrantees when procuring commodities and professional service.

(1) CDBG Procurement.

(a) Any procurement which requires public notice in a newspaper based on the local CDBG procurement policy shall be published in a daily newspaper of general circulation in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with any solicitation procedure which generates at least three responsible and responsive bids of proposals which can be considered. Such procedure shall allow at least 12 days for receipt of the proposals or bids.

(b) The DCA must provide written approval prior to the grantee awarding any contract exceeding \$25,000 procured as a result of inadequate competition, a sole source, or a non-competitive procurement. For contracts below \$25,000, the grantee's files must document the justification for the procurement.

If prior written approval is not obtained, the DCA has no obligation to fund the contract unless the DCA subsequently approves the procurement.

(c) In procuring services for subgrant administration, grantees shall evaluate in writing any economies of scale or other means of securing efficiency that may be available as a result of the type, number and geographic distribution of subgrants to be administered by the grantee or by a prospective subgrant administrator.

(d) Under Section 290.047(5), F.S., a local government is permitted to contract with the same entity for more than one service, provided that the local government can document that the entity is either (i) the sole source or (ii) was determined, through the Request for Proposals process, to be the proposer most advantageous to the local government. Different services, such as, program administration, and engineering services, shall not be combined in a single contract except for design-build contracts procured in accordance with Section 287.055, F.S. If separate procurements result in one firm selected for application and administration services, those services may be combined into one contract provided there are separate scopes of work and a separate fee for each service.

(e) All contracts for professional services shall conform to the following:

1. Any Request for Proposals which includes more than one service shall provide that:

- a. Proposals may be submitted for one or more of the services;
- b. Qualifications and proposals shall be separately stated for each service; and
- c. The evaluation of the proposals shall be separate for each service.

2. A written evaluation, such as a ranking sheet or narrative, shall be prepared for each proposal, ranking or comparing each proposal to the criteria in the published Request for Proposals. Based on those criteria, the written evaluation will document why the successful proposal was selected.

3. A separate professional services contract must be procured and executed between the local government and any professional services consultant for each CDBG subgrant, except as provided in paragraph (2)(f) below. Each advertisement for procurement of CDBG professional services, except for application preparation, must identify either the CDBG funding cycle by federal fiscal year or the CDBG subgrant number. In the absence of any identifier, the procurement will be presumed to be for the CDBG funding cycle closest to the publication date of the advertisement or, if there is no advertisement, the date of receipt for proposals.

4. Each professional services contract must identify the CDBG subgrant number to which it is applicable.

5. No firm shall be precluded from submitting a bid or proposal for any work funded partially or wholly with CDBG funds based on a minimum experience requirement. A firm's experience can

be addressed as an evaluation factor in the ranking for professional services and is a consideration in determining the "responsibility" of a firm when the determining the "low, responsive, responsible bidder" for services procurement through bids, as required by 24 C.F.R. s. 85.36(d)(2)(ii)(D).

(2) Engineering and Administration Services.

1. If the procurement for administration or engineering services for a subgrant initially funded only for planning and design was accepted by DCA and the public notice or Request for Proposals stated that the firm awarded a contract for planning and design services would also, at the discretion of the local government, provide the services during project construction, then a procurement for those services during construction is not required. If the Request for Proposals specifically included services during construction in the scope of work, then no additional procurement is required for those services.
2. A grantee whose application received "readiness to proceed" points may use the design engineer for services during construction if the DCA determines that the procurement for design services was competitive or authorizes a non-competitive procurement.

(3) Construction Contracts.

1. If CDBG and other sources of funding are jointly used to fund activities under a single contract, the activities to be paid for with CDBG funds must be shown separately so that the bid proposal identifies the CDBG activities and the amount of a contract to be paid from CDBG.
2. If after applying any specified deductive alternates, construction bids exceed available funds, the local government shall not negotiate with the low bidder unless there is only one bidder or unless all bidders are allowed to submit revised bids for the revised project. If the construction cost can be reduced by deleting entire bid line items or reducing quantities based on unit prices identified in the bid, the effect of such deletions or reduction on all bidders' prices shall be determined. Contract award shall be made to the low, responsive and responsible bidder for the revised project.
3. All contracts in excess of \$100,000 covered by Section 3 regulations shall contain the language required in 24 C.F.R. s. 135.38, incorporated by reference, as effective on 6-6-10.

Chapter 4:

State of Florida Minority and Women Business Enterprise Program

This chapter provides an overview of the State of Florida Minority and Women Business Enterprise Program

Chapter 4:

How to register as a Minority Women Business Enterprise (MWBE) Support

Minority Women Business Enterprise Support

This section is designed to guide the subgrantee in understanding the specific qualifications and verification options available to subgrantees in verifying a minority and women owned business, as well as organizations that can assist potential minority owned businesses with certification.

When seeking to verify proof of minority business status, subgrantees that have not implemented a minority business enterprise program, which certifies local minority owned businesses, are advised to use businesses that are certified by The State of Florida, Office of Supplier Diversity (OSD).

State of Florida Office of Supplier Diversity (OSD)

When there are firms in your local area that seek to become certified as a minority business, the Office of Supplier Diversity can assist them with certification. The Office of Supplier Diversity can be reached at 850-487-0915 or via the internet at www.osd.dms.state.fl.us.

The Office of Supplier Diversity's function is to improve business and economic opportunities for Florida's minority, women, and service-disabled veteran business enterprises. Efforts towards this goal can be categorized into the following primary functions; Certification of Business Enterprises, Advocacy and Outreach, and Matchmaking Activities.

The goal of the OSD is to increase the number of minority business enterprises in the State of Florida. Certification officers are responsible for identifying and certifying business enterprises by conducting thorough and effective eligibility reviews while ensuring that vendors receive prompt and responsive customer service.

Verification of WMBE Firms-

It is critically important that each subgrantee verify a WMBE firm's certification status prior to completing and submitting reports.

The Office of Supplier Diversity maintains a directory of certified business enterprises online. This online directory can be utilized to verify proof of certification status. If a WMBE firm is certified by an entity other than the State please request proof of certification.

Minimum Eligibility Requirements

Below are the minimum eligibility requirements to become certified as a minority or women business with the State of Florida.

- Registered in [MyFloridaMarketPlace](https://vendor.myfloridamarketplace.com):
<https://vendor.myfloridamarketplace.com>
- A small business independently owned and operated, with a net worth of not more than \$5 million that employs 200 or fewer full-time permanent employees or is recognized as a certified business by the federal government.
- 51% owned, managed and controlled by: African-American, Hispanic-American, Asian-American, Native-American, or American Woman who are citizens of the United States and permanent residents of Florida.
- Engaged in commercial transactions.
- Operates a business in Florida.

Certification officers are also available daily to answer questions and provide information and technical assistance to vendors, local governments and state agencies regarding the state's certification program.

Chapter 5:

Completing HUD 2516 Form

This chapter provides steps to complete HUD Form 2516

Chapter 5

Completing HUD Form 2516
When to Submit HUD Form 2516
Where to Submit HUD Form 2516

Completing HUD Form 2516

The Contract and Subcontract Report HUD Form 2516 is to be completed by subgrantees. However, to assist in facilitating data collection, it can be provided to developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities), including disaster recovery and NSP.

The instructions below will help you complete HUD Form 2516. HUD Form 2516 provides for the inclusion of Section 3 contract data from Form HUD 60002.

- 1) Grantee/Project Owner/Developer/Sponsor/Builder/Agency: Enter the name of the unit of government submitting this report.
- 2) Location (City, State, and ZIP Code): Enter the mailing address.
- 3) a) Name of Contact Person and b) Phone Number (Including Area Code): Provide the name and phone number of the person with knowledge about Form HUD 2516.
- 4) Reporting period: Check the box if this is an annual report and type in the year over the word Annual in parenthesis. If it is a close out report, do not check the box and type in the date of the last report and the close out date.
- 5) Program Code: Leave blank
 - 6) Date Submitted to Field Office: Enter the date submitted to DCA
 - 7) A-J
 - a. Grant Number: Enter the project Number.
 - b. Amount of Contract/Subcontract: Enter the total contract dollar (including non-CDBG funds) amount rounded to the nearest dollar. If

subcontractor ID number is provided in 7h, the dollar figure would be for the subcontract only and not for the prime contract.

- c. Type of Trade: Enter the numeric codes which best indicate the contractor's/ subcontractor's service (see list below). If subcontractor ID number is provided in 7h., the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.
- d. Business Racial/Ethnic/Gender Code: Enter the numeric code (see the list below) which indicates the racial/ethnic /gender character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.
- e. Women Owned Business: Enter Yes or No.
- f. Contractor Identification (ID) Number: Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime grantee of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.
- g. Section 3 Contractor: Enter Yes or No. This portion of the form must reconcile with the Form HUD-60002 (i.e., if yes, it must have been reported on the 60002, if no, it must not have been reported on the 60002).
- h. Subcontractor Identification (ID) Number: Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.
- i. Section 3 Subcontractor: Enter Yes or No. This portion of the form must reconcile with the Form HUD-60002 (i.e., if yes, it must have been reported on the 60002, if no, it must not have been reported on the 60002).
- j. Contractor/Subcontractor Name and Address: Enter this information for each firm receiving contract/subcontract activity only one time on each report for each firm.

Type of Trade Codes:

1 = New Construction

6 = Professional

2 = Substantial Rehab.
3 = Repair
4 = Service
5 = Project Management

7 = Tenant Services
8 = Education/Training
9 = Architectural/Engineering/ Appraisal
0 = Other

Racial/Ethnic Codes:

1 = White Americans
2 = Black Americans
3 = Native Americans

4 = Hispanic Americans
5 = Asian/Pacific Americans

When to submit HUD Form 2516

This form is to be completed and submitted to the Florida Department of Community Affairs twice a year:

October 1 – March 31 is due April 15th

April 1 - September 30 is due October 15th

Where to submit HUD Form 2516

Subgrantee Agencies may submit their reports to DCA at the following email address: cdbg@dca.state.fl.us.

Appendices

APPENDIX A – EXAMPLES OF EFFORTS TO OFFER JOB AND TRAINING OPPORTUNITIES TO SECTION 3 GRANTEES

APPENDIX B – EXAMPLES OF EFFORTS TO AWARD CONTRACTS TO SECTION 3 BUSINESS CONCERNS

APPENDIX C – MANDATORY SECTION 3 LANGUAGE FOR CONTRACTS COVERED BY SECTION 3

APPENDIX D - SECTION 3 MAN HOUR REPORT

APPENDIX E – HUD FORM 60002

APPENDIX F – SECTION 3 APPLICABLE REGULATIONS

APPENDIX G – SECTION 3 AND MWBE MONTHLY CONTRACTING COMPLIANCE REPORT

APPENDIX H – SECTION 3 AND MWBE CONTRACTING COMPLIANCE SUMMARY REPORTING FORM

APPENDIX I – MONTHLY REPORT OUTLINE - CONTRACTOR

APPENDIX J – FORM 347 – SAMPLE PAYROLL FORM

APPENDIX K – HUD FORM 2516

Appendix A – Examples of Efforts to Offer Job and Training Opportunities to Section 3 Grantees

Examples of efforts to offer job and training opportunities to Section 3 Residents include, but are not limited to the following:

Entering into "first source" hiring agreements with organizations representing Section 3 residents.

Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.

Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of a public housing development or the community where the new project is located.

Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in a public housing development and community organizations to request the assistance of these organizations in notifying Section 3 residents of the training and employment positions to be filled.

Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a contractor representative at a location in the neighborhood or service area of the section 3 covered project.

Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

Appendix B – Examples of Efforts to Award Contracts to Section 3 Business Concerns

Examples of efforts to award contracts to Section 3 Business Concerns include, but are not limited to, the following:

Participation in HUD training designed to encourage participation of Section 3 business concerns.

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.

Contacting business assistance agencies, minority contractor associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 business concerns.

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 within the community or with the local housing authority.

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.

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.

Coordinating pre-bid meetings at which Section 3 business concerns can be informed of upcoming contracting and subcontracting opportunities.

Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can respond to upcoming contracting opportunities, and making such information available in languages other than English where appropriate.

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.

Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.

Examples of Efforts to Award Contracts to Section 3 Business Concerns (cont'd)

Where appropriate, dividing or breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.

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.

Developing a list of eligible Section 3 business concerns.

Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.

Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

Actively supporting joint ventures with Section 3 business concerns.

Appendix C – Mandatory Section 3 Language for Contracts Covered by Section 3

All contracts subject to the Section 3 requirements will include the following 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 grantees 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, together with any implementation requirements or regulations of HUD that apply thereto. 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 part 135 of the regulations.
- C. The contractor agrees, **and shall cause each subcontractor**, to send to each labor organization or representative of workers with which the contractor or such subcontractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's 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. **The Agency's Section 3 employment goal is thirty percent (30%) of all new hires. The Agency's Section 3 contracting goal is ten percent (10%) of contract and subcontract value.**
- D. The contractor agrees, **and shall cause each subcontractor to agree**, to include this Section 3 clause in every subcontract (**\$100,000 or more**) 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 provision, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor **and subcontractors** will not subcontract with any subcontractor when 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 shall, **and will cause each subcontractor to**, certify that any vacant employment positions, including training positions, that are filled (a) after the contractor **or such subcontractor** is selected but before the contract is executed, and (b) with persons other than those to whom the regulations of 24 CFR Part 135 require employment

Mandatory Section 3 Language for Contracts Covered by Section 3 (cont'd)

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. **The contactor shall, and will require each subcontractor to, submit a monthly report to the Agency tracking Section 3 employment and contracting goals.**

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 provision 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).

Note: Language listed above in bold print is recommended additional language for Grantees and Subgrantees to include in all contracts requiring Section 3 compliance.

Appendix D - Section 3 Man Hour Report

**SUB-GRANTEE AGENCY
DEPARTMENT OF PROCUREMENT AND CONTRACTS**

Section 3 Man Hour Report

To be submitted with each application for payment

Contractor: John Q Developer Contract No: 08-128-10-17

Contract Start Date: 3/24/10 Contract Completion Date: 3/24/11

Report for month of: April 2010

Identify all Section 3 residents who have performed work in connection with this project to date. All Section 3 employees must appear on the Certified Payroll Form.

Name Address Social Security Number	Indicate with an "X" if Employee was hired this period**	Referral Source	Section 3 Category Preference	Number of Man hours Worked This Period	Hire Date	Termination Date

For the period of this report, indicate:

Total number of man hours worked by all employees: _____

Total number of man hours worked by Section 3 employees: _____

Total Percentage of man hours worked by Section 3 employees: _____

Name: _____

Date: _____

Title: _____

** Attach Section 3 Resident Certification Forms for each new hire reported.

Instructions: This report is to be used to report monthly accomplishments regarding employment opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any public and Indian housing programs that receive: (1) development assistance pursuant to Section 5 of the U.S Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of \$200,000 expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards; (2) housing construction; or (3) other public construction projects; and to contracts and subcontracts in excess of \$100,000 awarded in connection with the Section 3-covered activity.

Recipient agencies and contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons. A contractor working on a project that receives Section 3 covered assistance shall submit one copy of this report to the recipient agency. It is recommended that the report be submitted by the contractor on a monthly basis to the recipient agency as a part of any pay request submittal package. The contractor shall be responsible for obtaining the information necessary to complete the report from any and all subcontractors performing work on the Section 3-covered project.

The report shall be completed as follows:

Contractor: Enter the name of the contractor or subcontractor that has hired a Section 3 employee or employees.

Contract No: Enter the number or other identification code used by the recipient agency to distinguish this contract from other contracts issued by the recipient agency, if applicable.

Contract Start Date: Enter the date the contract was executed by the recipient agency and the contractor. Subcontractors should enter the date the contract executed between the contractor and the respective subcontractor.

Contract Completion Date: Enter the date the contract is scheduled to expire. Subcontractors should enter the date the contract executed between the contractor and the respective subcontractor is scheduled to expire.

Report for month of: Enter the month and year in which the report is prepared

Name, Address, Social Security #: Enter the name, address and social security number of any person that meets the definition of a Section 3 employee and is hired by the subcontractor(s) or supplier(s) performing work under the contract.

Indicate with an "X" if Employee was hired this period: If the employee was hired during the period for which the report is submitted, enter an "X" on the in this column on the same line as the name of the respective new employee.

Referral Source: If the recipient agency or contractor wants to track their outreach efforts to determine which method was most effective in recruiting Section 3 residents, enter the referral source in this column. Examples include such as newspaper advertisement, public service announcements, partner agencies, on-site job advertisement, etc.

Section 3 Category Preference: In this column indicate whether the Section 3 hire is a (1) Category One – resident of a public housing agency housing site where the work is being performed; (2) Category Two – resident of any public housing agency housing site; (3) Category Three – participants in a HUD

Youthbuild Program; or (4) Category Four – other low- and very low-income persons.

Number of Man Hours Worked This Period: Enter the total amount hours the employee worked during the current pay period. For example, 160 hours.

Hire Date: Enter the date the person was hired as a full-time employee.

Termination Date: Enter the date the employee was terminated.

For the period of this report, indicate:

Total number of man hours worked by all employees: Enter the total amount to hours worked during current month by all employees hired by the contractor or subcontractor.

Total number of man hours worked by Section 3 employees: Enter the total amount to hours worked during current month by Section 3 employees hired by the contractor or subcontractor.

Total Percentage of man hours worked by all employees: Enter the percentage of hours worked during current month by Section 3 employees hired by the contractor or subcontractor. Divide the number of hours worked by Section 3 employees by the number of hours worked by all employees.

Name: Enter the first and last name of the person completing the report.

Title: Enter the title of the person completing the report.

Date: Enter the date the person completed the report.

Attach Section 3 Resident Certification Forms for each new hire reported: The contractor or subcontractor should provide a copy of the documentation that is being used to certify the respective employee's status as a Section 3 hire.

Note: The contractor may use multiple pages for this report if necessary and appropriate.

Part II: Contracts Awarded

1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other, describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Appendix F – Section 3 Applicable Regulations

The website where subgrantees may go to download copies of the Section 3 and MWBE regulations is www.ecfr.gpoaccess.gov . This is the website for the Electronic Code of Federal Regulations (e-CFR).

For Section 3, subgrantees can search for 24 CFR Part 135. Other searches include "Title 24 – "Housing and Urban Development" and "Part 135 - Economic Opportunities for Low- and Very Low-Income Persons."

For MWBE applicable regulations, subgrantees can search for 24 CFR Part 85. Other searches include "Title 24 - Housing and Urban Development" and "Part 85 - Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments."

The following two pages illustrate the current links to each webpage.

[Home Page](#) > [Executive Branch](#) > [Code of Federal Regulations](#) > [Electronic Code of Federal Regulations](#)

Electronic Code of Federal Regulations
e-CFR
TM

e-CFR Data is current as of December 2, 2010

Title 24: Housing and Urban Development

[Browse Next](#)

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

Section Contents

Subpart A—General Provisions

- [§ 135.1 Purpose.](#)
- [§ 135.2 Effective date of regulation.](#)
- [§ 135.3 Applicability.](#)
- [§ 135.5 Definitions.](#)
- [§ 135.7 Delegation of authority.](#)
- [§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.](#)
- [§ 135.11 Other laws governing training, employment, and contracting.](#)

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

- [§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.](#)
- [§ 135.32 Responsibilities of the recipient.](#)
- [§ 135.34 Preference for section 3 residents in training and employment opportunities.](#)
- [§ 135.36 Preference for section 3 business concerns in contracting opportunities.](#)
- [§ 135.38 Section 3 clause.](#)
- [§ 135.40 Providing other economic opportunities.](#)

Subpart C [Reserved]

Subpart D—Complaint and Compliance Review

- [§ 135.70 General.](#)
- [§ 135.72 Cooperation in achieving compliance.](#)
- [§ 135.74 Section 3 compliance review procedures.](#)
- [§ 135.76 Filing and processing complaints.](#)

Subpart E—Reporting and Recordkeeping

- [§ 135.90 Reporting.](#)
- [§ 135.92 Recordkeeping and access to records.](#)
- [Appendix to Part 135](#)

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=a9e9788bfb05442ca9807d132f337...>

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Title 24: Housing and Urban Development

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PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

Section Contents

Subpart A—General

- [§ 85.1 Purpose and scope of this part.](#)
- [§ 85.2 Scope of subpart.](#)
- [§ 85.3 Definitions.](#)
- [§ 85.4 Applicability.](#)
- [§ 85.5 Effect on other issuances.](#)
- [§ 85.6 Additions and exceptions.](#)

Subpart B—Pre-Award Requirements

- [§ 85.10 Forms for applying for grants.](#)
- [§ 85.11 State plans.](#)
- [§ 85.12 Special grant or subgrant conditions for "high-risk" grantees.](#)

Subpart C—Post-Award Requirements

Financial Administration

- [§ 85.20 Standards for financial management systems.](#)
- [§ 85.21 Payment.](#)
- [§ 85.22 Allowable costs.](#)
- [§ 85.23 Period of availability of funds.](#)
- [§ 85.24 Matching or cost sharing.](#)
- [§ 85.25 Program income.](#)
- [§ 85.26 Non-Federal audit.](#)

Changes, Property, and Subawards

- [§ 85.30 Changes.](#)
- [§ 85.31 Real property.](#)
- [§ 85.32 Equipment.](#)
- [§ 85.33 Supplies.](#)
- [§ 85.34 Copyrights.](#)
- [§ 85.35 Subawards to debarred and suspended parties.](#)
- [§ 85.36 Procurement.](#)
- [§ 85.37 Subgrants.](#)

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=fb4e267d8bac65d2416f25a7b832...>

Appendix G – Section 3 and MWBE Monthly Contracting Compliance Report

**SUB-GRANTEE AGENCY
DEPARTMENT OF PROCUREMENT AND CONTRACTS**

Contracting Compliance Report

To be submitted before 5:00 p.m. on the first business day of the month

Contractor: John Q Developer Contract No.: 08-128-10-17
 Contract Start Date: 3/24/10 Contract Completion Date: 3/24/11
 Original Contract Amount: \$ 1,000,000
 Current Contract Amount (Including Change Orders): \$ 1,100,000
 Report for month of: April, 2010

List all Section 3/DBE/WBE Subcontractors and Suppliers utilized on this contract to date. Copies of all subcontract/supplier agreements executed during this reporting period must be submitted with report. Make copies of form if additional space is needed.

Name of Subcontractor/Supplier	Indicate with an "X" if Certified by Subgrantee Agency	Scope of Work Performed	Total Subcontract Amount Including Change Orders	Amount Paid this Period	Amount Paid To Date	Balance Remaining
Harvey Wallbanger	X	Carpentry	50,000	10,000	10,000	40,000
Louis Bricklayer	X	Masonry	55,000	11,000	11,000	44,000

Total Amount Paid to Contractor by Subgrantee Agency:

This Period: \$ 31,000.00 To Date: \$ 31,000.00

Total Amount Paid by Contractor to Section 3 Business Concerns:

This Period: \$ 21,000.00 To Date: \$ 21,000.00

Total Amount Paid by Contractor to MBEs:

This Period: \$ 10,000.00 To Date: \$ 10,000.00

Total Amount Paid by Contractor to WBEs:

This Period: \$ _____ To Date: \$ _____

Name: _____

Title: _____

Date: _____

Instructions: This form is to be used to report monthly accomplishments regarding employment and contracting opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards; (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section 3-covered activity.

Recipient Agencies, Sub-Grantees and contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons. A contractor working on a project that receives Section 3 covered assistance shall submit once copy of this report to the Recipient Agency or Sub-Grantee. It is recommended that the report be submitted by the contractor on a monthly basis to the Recipient Agency or Sub-Grantee as a part of any pay request submittal package.

The contractor shall be responsible for obtaining the information necessary to complete the report from any and all subcontractors performing work on the Section 3-covered project.

The form shall be completed as follows:

Contractor: Enter the name of the contractor that has executed an agreement with the Recipient Agency or Sub-Grantee.

Contract No: Enter the number or other identification code used by the recipient agency to distinguish this contract from other contracts issued by the Recipient Agency or Sub-Grantee, if applicable.

Contract Start Date: Enter the date the contract was executed by the Recipient Agency or Sub-Grantee and the contractor.

Contract Completion Date: Enter the date the contact is scheduled to expire.

Original Contract Amount: Enter the dollar value of the contract at the time of execution.

Current Contract Amount (including Change Orders): Enter the most recent or current dollar value of the contract if the dollar value was increased by a change order that was approved by the Recipient Agency or Sub-Grantee.

Report for month of: Enter the month and year in which the report is prepared

Name of Subcontractor/Supplier: Enter the name of each subcontractor(s) or supplier(s) performing work under the contract.

Indicate with an "X" if Certified by Recipient Agency or Sub-Grantee: If the Recipient Agency or Sub-Grantee requires each subcontractor or supplier to be certified as Contracting Compliance Report Instructions (Page 2)

a Section 3 business concern, woman or minority owned business enterprise and said certification has been reviewed and approved by the Recipient Agency or Sub-Grantee enter an "X" on the in this column on the same line as the name of the respective Section 3 business concern, woman- or minority-owned business enterprise.

Scope of Work Performed: Enter the type of work being performed under the contact in this column. Examples include carpentry, masonry, electrical, supplier, cleaning, etc.

Total Subcontract Amount Including Change Orders: Enter the total dollar value of the subcontract. The total should include the dollar value of any change orders or amendments that increase the dollar value of the subcontract.

Amount Paid this Period: Enter the total amount to be paid to the subcontractor or supplier during the current pay period.

Amount Paid To Date: Enter the cumulative total amount paid to the subcontractor or supplier since the beginning of the contract.

Balance Remaining: Subtract the Amount Paid to Date from the Total Subcontract Amount and enter the number into this column. The difference is the remaining balance to be paid to subcontractor.

Total Amount Paid to Contractor by Recipient Agency or Sub-Grantee:

This Period: Enter the dollar amount to be paid to the contractor during current month.

To Date: Enter the cumulative dollar amount paid to the contractor since the beginning of the contract.

Total Amount Paid by Contractor to Section 3 Business Concerns:

This Period: Enter the dollar amount to be paid to the Section 3 business concerns during the current month.

To Date: Enter the cumulative dollar amount paid to the Section 3 business concerns since the beginning of the contract.

Total Amount Paid by Contractor to MBE:

This Period: Enter the dollar amount to be paid to the Minority Business Enterprises during the current month.

To Date: Enter the cumulative dollar amount paid to the Minority Business Enterprises since the beginning of the contract.

Total Amount Paid by Contractor to WBE:

This Period: Enter the dollar amount to be paid to the Women Business Enterprises during the current month.

To Date: Enter the cumulative dollar amount paid to the Women Business Enterprises since the beginning of the contract.

Name: Enter the first and last name of the person completing the report.

Title: Enter the title of the person completing the report.

Date: Enter the date the person completed the report.

Note: The contractor may use multiple pages for this report if necessary and appropriate.

Appendix H – Section 3 and MWBE Contracting Compliance Summary Reporting Form

M/WBE and Section 3 Compliance Summary Reporting Form

Month of _____ 201

Contractor	Subcontractor	Locale	Project	Contract Number	Contract Amount	Racial Ethnic Code	Contract Type	Number of New Hires	Number of Section 3 Hires	Section 3 New Hires %	MBE Contract Amount	MBE %	WBE Contract Amount	WBE %	Section 3 Contract Amount	Section 3 Contract %
Development Company A		Mayberry, USA	East County Area	08-128-10-17		2	1	0	0	0%		100%	-	0%	-	0.000%
	ABC Architect	Dallas, TX	East County Area		\$373,100.00	1	9	0	0	0%			-	0%	-	0%
	CDC Contractor	Metairie, LA	East County Area		\$1,543,657.03	1	6	12	7	58%						
	Construction Company	My Town, USA	East County Area		\$230,300.00	2	4	5	4	80%	\$ 230,300.00	100%				
	A OK Multi-Service	My Town, USA	East County Area		\$35,000.00	2	4	0	0		\$ 35,000.00				3,500.00	100%
	The Rook Consulting Group	My Town, USA	East County Area		\$2,401.12	2	6	0	0	0%	\$ 2,401.12	100%	-	0%	-	0%
	My Cleaning Company	My Town, USA	East County Area		\$15,000.00		1	2	2	100%					15,000.00	100%
	Your Trucking Company	My Town, USA	East County Area		\$25,000.00	3	1	1	0	0%			25,000.00			
	DBB Accounting	New York, NY	East County Area		\$75,000.00	1	6	0	0	0%			-	0%	-	0%
	EZ Environmental Company	My Town, USA	East County Area		\$48,000.00	1	6	0	0	0%			-	0%	-	0%
TOTALS					\$2,347,458.15			20	13	65%	\$267,701.12	11.4%	\$25,000.00	0.01	\$18,500.00	0.01

RACIAL/ETHNIC CODES
 1 = White Americans
 2 = Black Americans
 3 = Native Americans
 4 = Hispanic Americans
 5 = Asian/Pacific Americans
 6 = Hasidic Jews
 7 = Women

TYPE OF CONTRACT
 1 = New Constr.
 2 = Subst. Rehab.
 3 = Repair
 4 = Service
 5 = Project Mgmt.
 6 = Professional
 7 = Tenant Services
 8 = Education/Training
 9 = Arch./Engl/Appraisal
 0 = Other

Sample Section 3 & MWBE Compliance Summary Reporting Form Instructions
(Page 1)

Instructions: This form is to be used to report monthly accomplishments regarding employment and contracting opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any public and Indian housing programs that receive: (1) development assistance pursuant to Section 5 of the U.S Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of \$200,000 expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards; (2) housing construction; or (3) other public construction projects; and to contracts and subcontracts in excess of \$100,000 awarded in connection with the Section 3-covered activity.

Recipient Agencies, Sub-Grantees and contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons. A contractor working on a project that receives Section 3 covered assistance shall submit once copy of this report to the Recipient Agency or Sub-Grantee. It is recommended that the report be submitted by the contractor on a monthly basis to the Recipient Agency or Sub-Grantee as a part of any pay request submittal package.

The contractor shall be responsible for obtaining the information necessary to complete the report from any and all subcontractors performing work on the Section 3-covered project.

The form shall be completed as follows:

Report for month of: Enter the month and year in which the report is prepared

Contractor: Enter the name of the contractor that has executed an agreement with the recipient agency.

Subcontractor: Enter the name of the subcontractor(s) that have executed an agreement with the contractor.

Address: Enter the business address of the contractor or subcontractor(s).

Contract Number: Enter the number or other identification code used by the recipient agency to distinguish this contract from other contracts issued by the recipient agency, if applicable.

Project: Enter the name of the project that has been approved by the Recipient Agency or Sub-Grantee.

Contract Amount: Enter the dollar value of the contract at the time of execution.

Sample Section 3 & MWBE Compliance Summary Reporting Form Instructions
(Page 2)

Racial Ethnic Code: Enter the race or ethnic code for the person that owns 51% of more of the company. The codes are (1) white; (2) Black or African-American; (3) Native American; (4) Hispanic; (5) Asian/Pacific Islander; (6) Hasidic Jews; or (7) woman

Contract Type: Enter the code for the type of contract issued to the contractor or subcontractor. The codes are (1) new construction; (2) substantial rehabilitation; (3) repair; (4) service; (5) project management; (6) professional services; (7) tenant services; (8) education/training; (9) architectural, engineering or appraisal; or (0) other.

Number of New Hires: Enter the total number of new employees hired by the contractor or subcontractor since starting work on the project. The number does not include employees previously hired by the contractor or subcontractor prior to starting work on the project.

Number of Section 3 Hires: Enter the total number of new Section 3 employees hired by the contractor or subcontractor since starting work on the project.

Percentage of Section 3 New Hires: Enter the percentage of new Section 3 employees hired by the contractor or subcontractor since starting work on the project. Divide the number of Section 3 hires by the number of new employees hired by the contractor or subcontractor since starting work on the project.

MBE Contract Amount: Enter the dollar amount to be paid to the Minority Business Enterprise by the contractor or subcontractor since starting work on the project.

MBE Percentage: Enter the percentage of contracts awarded to Minority Business Enterprise by the contractor or subcontractor since starting work on the project. Divide the total dollar amount of contracts awarded to the Minority Business Enterprise by the total dollar amount of all contracts awarded by the contractor since starting work on the project.

WBE Contract Amount: Enter the dollar amount to be paid to the Woman Business Enterprises by the contractor or subcontractor since starting work on the project.

WBE Percentage: Enter the percentage of contracts awarded to Woman Business Enterprise by the contractor or subcontractor since starting work on the project. Divide the total dollar amount of contracts awarded to the Woman Business Enterprise by the total dollar amount of all contracts awarded by the contractor since starting work on the project.

Section 3 Contract Amount: Enter the dollar amount to be paid to the Section 3 business concern by the contractor or subcontractor since starting work on the project.

Section 3 Percentage: Enter the percentage of contracts awarded to Minority Business Enterprise by the contractor or subcontractor since starting work on the project. Divide the total dollar amount of contracts awarded to the Section 3 business concern by the total dollar amount of all contracts awarded by the contractor since starting work on the project.

**RECIPIENT OF MY TOWN
MY REDEVELOPMENT PROJECT
CONTRACTOR MONTHLY REPORT OUTLINE**

- I. Current Month Activities
- II. Planned Activities - Next Month
- III. Schedule Narrative
 - a. Deadlines Achieved
 - b. Deadlines Missed (w/explanations)
 - c. Next Month deadlines
- IV. Subcontracting Narrative
 - a. Solicitations in Progress
 - b. Subcontracts Executed
 - c. MBE/WBE Outreach and Participation
 - d. Section 3 Outreach and Participation
- V. Budget Narrative
 - a. Funds Obligated and Expended to Date
 - b. Potential line item shortfalls
- VI. Pending Issues
 - a. Issues pending from prior months
 - b. Prior issues resolved this month
 - c. New issues

Appendix J – Form 347 – Sample Payroll Form

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



U.S. Wage and Hour Division
Rev. Dec. 2008

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR	OR SUBCONTRACTOR	ADDRESS
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION
		PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF REGULING EXEMPTIONS	(3) WORK CLASSIFICATION	OT (EST.)	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

