



Dayton Metropolitan Housing Authority
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Supplemental Instructions to Bidders/Offerors for Section 3 Compliance (sec3-008)

Section 3 is a part of the U.S. Department of Housing and Urban Development (HUD) Act of 1968. This Act and HUD Regulation **24 CFR Part 135** ensures that employment and other economic opportunities generated by certain HUD financial assistance shall be directed to public housing residents, individuals of low to very low income, and to business concerns that provide economic opportunities to these individuals.

DMHA Section 3 Goals

All contractors and subcontractors shall take necessary actions to the greatest extent feasible to meet the following goals.

Section 3 Employment Goals		
Contractors and any Tier Subcontractors	New Hires and Trainees	Minimum 30% of workforce
Section 3 Contracting Goals		
Contractors Any Tier Subcontractors (construction)	Subcontract Awards	Minimum 10% of the total dollar amount of contract
Contractors and Any Tier Subcontractors (non-construction; professional services)	Subcontract Awards	Minimum 3% of the total dollar amount of contract

The contractor and subcontractor shall document their efforts towards meeting these goals as outlined below.

Bid/Proposal Phase

Bidder/offeror not claiming a section 3 preference:

- Bidder/offeror not claiming a Section 3 preference during the bid/proposal phase shall submit the following forms with their bid/offer. Failure to complete, execute, and submit all forms will render the bidder/offer non-responsive and their bid/offer will not be considered.

- Form sec3-001b, List of Current (pre-bid) Employees
- Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment

- Bidder/offeror claiming a Section 3 Business Concern preference:**

A bidder/offeror claiming a Section 3 Business Concern preference must submit Section 3 required certification. To qualify, the party wishing to claim a Section 3 preference shall complete the following forms and submit them either prior to or with the bid/offer for which qualification is sought:

- Form sec3-001b, Section 3 Employee List and all required supporting documentation
- Form sec3-001c, Section 3 Contractor or Subcontractor Payroll Report completed for each F/T employee who has been employed at least one month. This includes all employees of the company
- Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment
- Form sec3-002a, Section 3 Resident Preference Claim Form and all required supporting documentation (to be completed for each Section 3 resident claimed in meeting the 30% threshold)
- Form sec3-002b, Section 3 Resident or Employee Household Income Certification (to be completed for each Section 3 resident claimed in meeting the 30% threshold)

For all individuals, sole proprietorships, partnerships, corporations, or joint ventures with a 51% ownership claiming a Section 3 preference

- Form sec3-001a, Section 3 Business Concern Application and all required supporting documentation
- Form sec3-001b, Section 3 Employee List and all required supporting documentation
- Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment

For businesses claiming 30% of their current full-time workforce qualify as section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents

- Form sec3-001a, Section 3 Business Concern Application

For businesses claiming to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) above

- Form sec3-001a, Section 3 Business Concern Application and all required supporting documentation for each individual, sole proprietorship, partnership, corporation, or joint venture claimed on the subcontractor list
- Form sec3-001b, Section 3 Employee List and all required supporting documentation
- Form sec3-001d, Section 3 Contractor or Subcontractor Payroll Report (this list must demonstrate that 25% of the total dollar amount of all subcontracts to be awarded to Section 3 business concerns)
- Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment
- Form sec3-002a, Section 3 Resident Preference Claim Form and all required supporting documentation (to be completed

for each Section 3 owner/employee claiming Section 3 resident status as a subcontractor)

- Form sec3-002b, Section 3 Resident or Employee Household Income Certification (to be completed for each Section 3 owner/employee claiming Section 3 resident status as a subcontractor)

For a Section 3 joint venture as an association of business concerns, one of which qualifies as a Section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture. As a part of joint venture, Section 3 business concern must be:

1. Responsible for a clearly defined portion of the work to be performed and hold management responsibilities in the joint venture; and
2. Performing at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

If there is any question about the validity of a joint venture, DMHA shall request a copy of the joint venture agreement and verify its legitimacy.

- Form sec3-001a, Section 3 Business Concern Application and all required supporting documentation
- Form sec3-001b, Section 3 Employee List and all required supporting documentation
- Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment

Completing the Section 3 Strategy Commitment

In completing the Section 3 Strategy Commitment, the bidders/offeror's efforts shall be directed towards identifying methods to achieve success under this program, as opposed to documenting the reasons why success was not achieved. Some examples of good faith efforts include, but are not limited to the following:

Hiring:

Target recruitment of DMHA residents for training and employment by taking steps such as:

- Prominently placing a notice of commitments under Section 3 at the project site or other places where applications for training and employment are taken
- Contacting local job training centers, employment service agencies, and community organizations
- Developing on-the-job training opportunities or participating in job training programs
- Contacting DMHA, DMHA resident councils, DMHA resident management corporations, and DMHA residents
- Contacting DMHA for a list of agencies that may be able to provide assistance regarding opportunities for training, which can be utilized on this contract
- Advertising in the local media
- Keeping a list of Section 3 area residents who apply on their own or by referral for available positions
- Sending to labor organizations or representatives of workers with whom the recipient, contractor, or subcontractor has a collective bargaining agreement or other understanding, a notice about contractual commitments under Section 3
- Selecting Section 3 area residents, particularly DMHA residents, for training and employment positions
- Providing an ongoing monitoring of the program by the contractor and its subcontractors to ensure compliance and to identify problems or difficulties in meeting the requirements, and implement strategies to overcome the problems. Where problems or difficulties in meeting the goals are encountered, taking aggressive efforts to rectify the matter. Such action shall include, but not be limited to,

convening a meeting with DMHA to advise it of the problems and proposed solutions. DMHA will offer its assistance whenever possible.

Contracting:

Target recruitment of Section 3 business concerns by taking such steps as:

- Contacting Section 3 business concerns in DMHA's directory
- Prominently placing a notice of commitment relative to Section 3 contracting at the project site and other appropriate places
- Contacting DMHA for a list of certified firms
- Contacting other organizations which might be helpful in identifying Section 3 business concerns
- Advertising in the local media
- Dividing total work into smaller sub-tasks (i.e. by floor)
- Using multiple firms for the same type of work (i.e. two drywall subcontractors or several plumbing suppliers)
- If necessary to meet the program objectives, exercising flexibility in utilizing Section 3 business concerns in other or additional areas than initially proposed
- Providing ongoing monitoring of the program by the contractor and its subcontractors to ensure compliance and to identify problems or difficulties in meeting the requirements, and implement strategies to overcome the problems. Where problems or difficulties in meeting the goals are encountered, take aggressive efforts to rectify the matter. Such action shall include, but not be limited to convening a meeting with DMHA to advise it of the problems and proposed solutions. DMHA will offer its assistance whenever possible.

Pre-Award Phase

Subsequent to the submission of bids/proposals, but prior to contract award, contractors may be requested to provide additional information regarding the submissions required in the Bid/Proposal Phase. Such requests may be made in instances where the contractor does not show sufficient detail in its required Section 3 Strategy Commitment, where the contractor's required submissions do not reflect achievement of the minimum stated goals, where the contractor has not identified the name of the Section 3 subcontractor(s) in the required submissions, or where it is deemed necessary by DMHA's Contracting Officer.

Contract Award Phase

As a condition of contract award, the contractor shall be required to enter into a Section 3 Memorandum of Understanding delineating the "greatest extent feasible" efforts required of the contractor during the term of the contract. Form sec3-009, Section 3 Memorandum of Understanding shall be used.

Contract Performance Phase

DMHA shall monitor and evaluate the contractor's Section 3 compliance towards achieving the numerical goals relative to Section 3 employment, training, and contracting on a monthly basis throughout the contract period. The contractor shall be responsible for providing the following reports to DMHA, which shall be submitted no later than 4:30 p.m., on the first business day of each month throughout the contract period:

- Form sec3-010, Contractor's Section 3 Employment and Training Compliance Report

The contractor shall also ensure that for each Section 3 resident hired, form sec3-002a, Section 3 Resident Preference Claim and form sec3-002b, Section 3 Resident or Employee Household Income Certification are completed and submitted to DMHA. These forms shall be completed by the resident and submitted to DMHA by the contractor with the monthly reports listed above.

The contractor shall be responsible for monitoring the compliance of any tier subcontractors. In doing so, the contractor shall require monthly reports from its lower tier subcontractors in the formats provided.

Determination of Compliance

Contractors and their subcontractors may demonstrate compliance with Section 3 by meeting the commitments stated on the Form sec3-001e, Section 3 Strategy Commitment and Compliance Assessment and by meeting the employment and contracting numerical goals set forth above. Contractors who do not meet their commitment shall have the burden of demonstrating through the submission of supporting documentation why it was not feasible to meet the numerical goals. It is expected that contractors who put forth a good faith effort will be successful in meeting the goals relative to Section 3 employment and contracting.

Effects of Non-Compliance

Contractors that do not meet the numerical goals set forth herein have the burden of demonstrating why it was not feasible to meet the goals. DMHA shall consider documentation provided by the contractor evidencing impediments encountered despite actions taken to comply. Such evidence shall be subject to the satisfaction of DMHA. The documentation may be subject to the examination of DMHA's Board of Commissioners prior to the award of any future contract awards. Contractors found not to be in compliance with the provisions of Section 3 may be deemed ineligible for future contract awards with DMHA or at least be subject to business suspension from doing business with DMHA for one to three years.

If you did not receive the forms with the invitation for Bid/Request for Proposal, please contact:

**DMHA. Attn: Valentina Lootens
Section 3 Compliance Office
400 Wayne Avenue
Dayton Oh 45410-1106**

**Telephone: 937-910-7617
Fax: 937-910-7689**

Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, [12 U.S.C. 1701u](#) (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. In the event of a determination by the Executive Director or his/her designee that the Contractor is not in compliance with the section 3 clause or any rule, regulation, or report submission requirements of the DMHA, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further DMHA contracts for a period of one to three years.

Contractor's Signature _____

Date _____

SECTION 3 BUSINESS CERTIFICATION FORM
(MUST BE FILLED OUT FOR A VALID BID/PROPOSAL)

Section 3 Business Concern Representation
(*Public & Indian Housing Program Only*)

Please use this form to indicate whether or not your firm is a Section 3 Business entity.

The Bidder/Proposer represents and certifies as part of its bid that it:

- Is not a Section 3 business (please provide forms sec3-001b, sec3-001e).
- Is a Section 3 business as indicated below (check application category and sub-category):
 - CATEGORY 1 BUSINESS:**

51% or more of the business is owned by public housing residents of a specific public housing community for which the Section 3 covered assistance is expended.
 - CATEGORY 2 BUSINESS:**

51% or more of the business is owned by residents of a public housing community or communities within the Dayton Metropolitan Housing Authority for which the Section 3 covered assistance is *not* being expended.
 - CATEGORY 3 BUSINESS:**
 - 51% or more of the business is owned by Section 3 eligible residents **and/or**
 - Will subcontract in excess of 25% of the total amount of subcontracts to category 1 or 2 Section 3 businesses as indicated on the following page.
 - CATEGORY 4 BUSINESS:**
 - Full time, permanent workforce includes 30% or more Section 3 eligible residents.
 - An entity selected to carry out a HUD Youth build Program in Montgomery County in which Section 3 covered funding is expected.
 - CATEGORY 5 BUSINESS:**

Full-time, permanent workforce includes 30% or more Section 3 eligible residents.
 - CATEGORY 6 BUSINESS:**

Joint Venture with inclusion of Section 3 business is a form of organization where: Section 3 business is responsible for a clearly defined portion of the work to be performed, holds management responsibilities in the joint venture, performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Please provide the following information on each intended subcontractor:
(Attach a separate sheet if necessary)

<i>Name</i>	<i>Address</i>	<i>Phone #</i>	<i>Amount of Subcontract</i>	<i>Section 3 Category</i>

APPLICATION CERTIFICATION

Title 18, Section 1001 of the U.S. Code states that any person who knowingly and willingly makes or uses a document or writing containing any false, fictitious, fraudulent statement or entity, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both. The undersigned fully understands that false statements or information are punishable under Federal and State Law, and that the business may be removed from the Dayton Metropolitan Housing Authority (DMHA) vendor list for false statements of information. The undersigned also realizes that DMHA may verify any information provided by the vendor within this Section 3 Business Certification Form.

The vendor hereby waives and releases any right the vendor may have or assert against the Dayton Metropolitan Housing Authority by virtue of its reliance on information provided by outside investigatory or informational agencies. Vendor acknowledges that DMHA will include the business (if applicable) within its database for the applicable Section 3 category. Such information may be submitted to other vendors as a form or reference the vendor may utilize in order to meet its DMHA Section 3 requirements. Nothing contained with this Section 3 Certification Form is to be interpreted as a promise by Dayton Metropolitan Housing Authority to contract with the vendor.

_____ *(Name of Corporation)*

_____ *Signature of Authorized Representative*

By: _____ *(Please Print Name of Above Signed Representative)*

Title: _____

SECTION 3 NARRATIVE ACTION PLAN
(MUST BE FILLED OUT FOR A VALID BID/PROPOSAL)

Please outline your strategy in complying with Section 3 contracting and hiring goals.

I. Overview

- Description of the project's work detail
- Proposed contracting opportunities for Section 3 businesses
- Proposed positions for new hires (job description, if available)

II. Describe how your company will advertise contracting opportunities and open positions

III. Implementation Schedule

- Provide an overview of the activities involved in executing Section 3 plan (ex. hiring/contracting process and benchmarking, expanding the pool of candidates for a new position or a contract by contacting DMHA and/or job and training organizations in the community to identify qualified individuals and business concerns, etc.).

IV. Are there any other *creative* or *innovative* ideas your company would like to implement in order to fulfill your Section 3 compliance obligations? If yes, please describe.

V. Can your company provide training opportunities for public housing residents as an option for meeting your Section 3 requirements? If yes, provide an overview of your training plan.