



SECTION 3 PLAN

FOR

THE CITY OF TUCSON HOUSING AUTHORITY

AND

THE CITY OF TUCSON

OFFICE OF ECONOMIC OPPORTUNITY
FAIR HOUSING EQUAL OPPORTUNITY
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

February 7, 2011

General Policy Statement

It is the policy of the Housing Authority of the City of Tucson to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The Housing Authority of the City of Tucson implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the City of Tucson and other qualified low- and very low-income persons residing in the City of Tucson.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of City of Tucson residents and other eligible persons and business by City of Tucson contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The City of Tucson shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to its residents prior to acting on any proposed contract award.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the City of Tucson Housing Authority or City of Tucson to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

Section 3 Contracting Policy and Procedure

The City of Tucson will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must before submitting bids/proposals to the City of Tucson be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form.

Section 3 Employment & Training Goals

It is the policy of the City of Tucson to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). The City of Tucson has established employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30 – Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All contractors submitting bids or proposals to the City of Tucson are required to certify that they comply with the requirements of Section 3.

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included in Exhibit 3.

Section 3 Program Participant Certification Procedure

The City of Tucson will certify Section 3 program participants who reside in the City of Tucson and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (see Exhibit 3 – Section 3 Participant Eligibility for Preference form).

- All persons living in the Tucson Metro Area who meet the Section 3 eligibility guidelines can contact Pima County ONESTOP (a system of organizations that provide career development services for youth and adults and support to employers in recruiting, staffing and training a viable workforce) to complete a job readiness assessment.
<http://www.pima.gov/CED/CS/OneStop/>
- If the individual is deemed eligible for Section 3 participation and deemed not ready for employment, Pima County ONESTOP can make a referral to other agencies that are better equipped to address the individual's needs, i.e., substance abuse providers, etc.
- The Section 3 job-readiness component is a part of the City of Tucson's commitment to provide economic opportunities and training to residents/eligible participants to become gainfully employed.

Resident Hiring Requirements

A prime contractor, through its subcontractor(s), may satisfy resident hiring requirement by:

1. Subcontract or joint venture with a resident owned business. The business must be 51% or more owned by City of Tucson Section 3 residents, or subcontract/joint venture with a business that employs full-time, 30% or more low and very-income individuals within the City of Tucson, or
2. Direct hiring of City of Tucson Housing Authority's public housing residents and/or low and very low-income neighborhood residents.

Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals

The City of Tucson will assist contractors in achieving Section 3 hiring and contracting goals by:

- providing the contractor the contact information for Pima County ONESTOP which may have a list of interested and qualified Section 3 residents for construction projects.
- providing contractor with a list of Section 3 business concerns interested and qualified for construction projects.
- reviewing the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

Preference for Contracting with Section 3 Business Concerns

The City of Tucson, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts toward contracting with Section 3 business concerns in the following order to priority:

- **Category 1:** Business concerns that are 51% or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30% of these persons as employees.
- **Category 2:** Business concerns that are 51% or more owned by residents of other housing developments or developments managed by the Housing Authority that is expending the Section 3 covered assistance, or whose full-time permanent workforce includes 30% of these persons as employees.
- **Category 3:** HUD Youthbuild programs being carried out in the metropolitan area in which the Section 3 covered assistance is expended.

- **Category 4:** Business concerns that are 51% or more owned by a Section 3 residents, or whose permanent, full-time workforce includes no less than 30% Section 3 residents; or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by the City of Tucson.

Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the City of Tucson shall complete the “Certification For Business Concerns Seeking Section 3 Preference” in Contracting and Demonstration of Capability form (Exhibit 1). The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program.

Certifications for Section 3 preference for business concerns will be submitted prior to the submission of bids for approval.

Affirmative Efforts to Award Contract Opportunities to Section 3 Business Concerns

The City of Tucson may use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist including:

- Advertise contracting opportunities via newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
- Provide notice of contracting opportunities to all known Section 3 business concerns. The notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- Where pre-bid meetings occur, coordinate pre-bid meetings at which the Section 3 business concerns would be informed of upcoming contracting opportunities in advance.
- Provide referrals to agencies that conduct workshops on contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.
- Contact business assistance agencies, to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
- Establish relationships with the Small Business Administration (SBA), Minority and Women’s Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist with educating and mentoring residents with a desire to start their own businesses.

- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
- Develop resources or seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance.

Section 3 Residents Recruitment, Training, and Employment Goals

The City of Tucson will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

- Training and employment opportunities will be advertised in residents' newsletters as well as at all public housing management offices.
- The resident councils, as well as neighborhood associations will be informed to request their assistance in notifying residents of the available training and employment opportunities.
- A listing of current contracts will be made available online.
- A database will be developed of eligible qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.
- Section 3 contract conditions will be included in all contracts.

Contractor's Requirements in Employing Section 3 participants:

Under the City of Tucson Section 3 Plan, contractors and subcontractors, to the greatest extent feasible, are required to provide training and employment opportunities generated by the expenditure of Section 3 covered assistance, to Section 3 residents in the priority order listed below (Exhibit 2):

- 1.) Public housing programs
 - a.) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);
 - b.) Residents of other housing developments or programs managed by the HA, including recipients of certificates or vouchers under the Section 8 housing assistance program residing in the Tucson metro area or Pima County (category 2 residents);
 - c.) Participants in HUD Youthbuild programs being carried out in the project boundary area (category 3 residents);
 - d.) Other section 3 residents.

2.) Planning and Community Development programs

- a.) Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located (collectively, referred to as category 1 residents);
- b.) Participants in HUD Youthbuild programs being carried out in the project boundary area (category 2 residents);
- c.) Other section 3 residents, including recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located

After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:

- names of the Section 3 business concerns to be utilized,
- estimates of the number of employees to be utilized for contract,
- projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon if applicable),
- efforts that will be utilized to seek Section 3 participants.

Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Tucson encourages submittal of such complaints to its Section 3 Coordinator as follows:

- Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
- Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
- An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- The Section 3 Coordinator will provide written documentation detailing the findings of the investigation of the City of Tucson. The City of Tucson will review the findings for

accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the City of Tucson a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity
United States Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

Definitions

Applicant – Any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.

Assistant – the Assistant Secretary for Fair Housing and Equal Opportunity.

Business Concern – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Contractor - any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing Authority (HA) – Public Housing Agency.

Housing Development – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild Programs – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

JTPA – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

Low-income person – families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for

smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

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

New Hires – full-time employees for permanent, temporary or seasonal employment opportunities.

Pima County ONESTOP – a system of organizations that provide career development services for youth and adults and support to employers in recruiting, staffing and training a viable workforce. The ONESTOP conducts special outreach to low-income, dislocated worker and high-school dropout populations. While services are coordinated centrally, they are delivered through a network of more than 50 organizations ranging from community-based non-profits to governmental agencies to private technical schools.

<http://www.pima.gov/CED/CS/OneStop/> 520-798-0500

Recipient – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Section 3 – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 Business Concern – a business concern,

- 1) That is 51 percent or more owned by Section 3 resident: or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

Section 3 Covered Assistance –

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;

- 2) public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Clause – the contract provisions set forth in Section 135.38.

Section 3 Covered Contracts – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 covered contracts do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

Section 3 Covered Project - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 Resident – a public housing resident or an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Very low-income person – families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

Workforce Investment Act (WIA) - The Pima County ONESTOP system delivers services provided by WIA Titles I, II, II, IV, and Unemployment Insurance. It also delivers Welfare to Work programs and other employment services. WIA funds are allocated by formula to the

Pima County local area in separate funding streams for adults, dislocated workers and youth. State and Federal discretionary grants are pursued to help fund ONESTOP services also. Each ONESTOP Mandated Partner also contributes in-kind resources to the ONESTOP system. Finally, the ONESTOP receives significant support from County General Funds allocated by the Pima County Board of Supervisors.

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act

(25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Exhibit 1

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business

Address of Business

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease
- Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program
- Other evidence

For business entity as applicable:

- Copy of Articles of Incorporation
- Certificate of Good Standing
- Assumed Business Name Certificate
- Partnership Agreement
- List of owners/stockholders and % ownership of each
- Corporation Annual Report
- Organization chart with names and titles and brief function statement
- Latest Board minutes appointing officers
- Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees
- List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 years from day of employment
- Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Seal)

Authorizing Name and Signature

(Corporate

Attested by: _____

Exhibit 2

**THE City of Tucson HOUSING
AUTHORITY
and
City of Tucson**

RESIDENT EMPLOYMENT OPPORTUNITY DATA

**THE HOUSING AUTHORITY OR
CITY OF TUCSON
ELIGIBILITY FOR PREFERENCE**

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of the City of Tucson or Pima County and meet the income eligibility guidelines for a low- or very-low-income person (see next page for definition).

My permanent address is:

I have attached the following documentation as evidence of my status:

- | | |
|--|---|
| <input type="checkbox"/> Copy of lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of Evidence of participation in a public assistance program. | <input type="checkbox"/> Other evidence _____ |

Signature

Print Name

Date

Exhibit 2 (continued)

HUD periodically updates its definition of low-income household based upon the number of people in the household. For the most current information on the HUD's definition of low-income, please refer to the following websites:

On HUD's website:

<http://www.huduser.org/portal/datasets/il/il2010/2010summary.odn>

On the City of Tucson's website:

<http://cms3.tucsonaz.gov/hcd/income-limits>

Exhibit 3



**SECTION 3 CONTRACTING
POLICY AND PROCEDURE
A GUIDE FOR BUSINESSES**

INTRODUCTION

It is the mission of the Housing Authority or City of Tucson to provide a variety of safe, sanitary, accessible, decent, and affordable housing to the citizens of the City of Tucson while enhancing and promoting resident self sufficiency.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal State, and local laws and regulations, be directed to low and very-low income individuals, especially recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income individuals. (Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u).

Thresholds

1. There are no thresholds for Section 3 covered public and Indian housing assistance. The requirements of this part apply to Section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by Section 3, regardless of the amount of the contract or subcontract.
2. There are thresholds for Section 3 covered housing and community development assistance.
 - a. Recipient thresholds – the requirement of this part apply to recipients of other housing and community development program assistance of the Section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.
 - b. Contractor and subcontractor thresholds – the requirements of this part apply to contractors and subcontractors performing work on Section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.
 - c. Threshold met for recipients but not contractors or subcontractors – If a recipient receives Section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the Section 3 preference requirements only apply to the recipient.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3-business concern. (Refer to What Is A Section 3 Business Concern?) The Section 3 business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8).

Contractors and subcontractors who do not qualify as Section 3 business concerns, but who enter into contracts with the City of Tucson Housing Authority or the City of Tucson, must agree to comply with certain general conditions (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. Included in these conditions is the requirement that each contractor and subcontractor submit with each pay request a report of Section 3 compliance (refer to Section 3 Compliance Report). Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts (refer to Sanctions for Contractor's Noncompliance).

Please direct any questions you may have regarding this information to:

Albert Elias, Director
or
Yvette Hurley, Section 3 Coordinator
Housing and Community Development Department
City of Tucson
310 N. Commerce Park Loop
Tucson AZ 85745
520-791-4171

WHAT IS A SECTION 3 BUSINESS CONCERN?

A Section 3 Business Concern is a business concern, as defined in this section—

1. That is fifty-one percent (51%) or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least thirty percent (30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.

Note: A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above. (Refer to Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability Form – Exhibit 1)

ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT

Under the City of Tucson Section 3 Plan, contractors and subcontractors, to the greatest extent feasible, are required to provide training and employment opportunities generated by the expenditure of Section 3 covered assistance, to Section 3 residents in the priority order listed below (Exhibit 2):

- 3.) Public housing programs
 - a.) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);
 - b.) Residents of other housing developments or programs managed by the HA, including recipients of certificates or vouchers under the Section 8 housing assistance program residing in the Tucson metro area or Pima County (category 2 residents);
 - c.) Participants in HUD Youthbuild programs being carried out in the project boundary area (category 3 residents);
 - d.) Other section 3 residents.

- 4.) Planning and Community Development programs
 - a.) Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located (collectively, referred to as category 1 residents);
 - b.) Participants in HUD Youthbuild programs being carried out in the project boundary area (category 2 residents);
 - c.) Other section 3 residents, including recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located

After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:

- names of the Section 3 business concerns to be utilized,
- estimates of the number of employees to be utilized for contract,
- projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon if applicable),
- efforts that will be utilized to seek Section 3 participants.

ORDER OF PROVIDING PREFERENCE SECTION 3 BUSINESS CONCERN

When considering the award of contracts to business concerns, and more than one Section 3 business concern is being considered, to the greatest extent feasible, awards shall be made in the following order of priority:

1. A Section 3 business concern that is fifty-one percent (51%) or more owned by resident(s) of the public housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) of the residents of the public housing development in which the work is directed;
2. A Section 3 business that is majority owned by resident(s) of other developments owned by The City of Tucson Housing Authority or the City of Tucson but not the housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) residents of other developments owned by The City of Tucson Housing Authority or the City of Tucson but not the housing development in which the work is directed;
3. HUD Youthbuild programs that are being carried out in the City in which the Section 3 covered assistance is expended.
4. A Section 3 business concern that is majority owned by a Section 3 resident who is not a public housing resident or whose permanent, full-time workforce includes no less than thirty percent (30%) Section 3 residents who are not public housing residents, or that subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to Section 3 business concerns.

Note: A Section 3 business concern seeking any of the above preferences shall submit evidence that it meets the guidelines of that preference.

WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

The City of Tucson and the Housing Authority will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City of Tucson or the Housing Authority's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent feasible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order of priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

SECTION 3 INCOME LIMITS

All residents of public housing developments of The City of Tucson Housing Authority or the City of Tucson qualify as Section 3 residents. Additionally, individuals residing within the City of Tucson who meet the income limits set forth by HUD can also qualify for Section 3 status.

HUD periodically updates its definition of low-income household based upon the number of people in the household. For the most current information on the HUD's definition of low-income, please refer to the following websites:

On HUD's website:

<http://www.huduser.org/portal/datasets/il/il2010/2010summary.odn>

On the City of Tucson's website:

<http://cms3.tucsonaz.gov/hcd/income-limits>

Exhibit 4

SECTION 3 SPECIAL CONDITIONS

The City of Tucson has initiated efforts to enhance resident hiring in specific procurement areas. These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractors' hiring of City of Tucson residents, other low income and/or very low-income residents residing in the City of Tucson.

1. Procurement Documents

Each bidder/proposer must include a Section 3 Opportunities Plan or a Schedule D which indicates its commitment to meet City of Tucson resident hiring requirements.

If a bidder/proposer fails to submit a Section 3 Opportunities Plan or a Schedule D and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive".

For invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy City of Tucson resident hiring requirements will be a factor used in determining whether the bidder is "responsive".

For RFQ's, RFP's and IFB's, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts).

2. Enforcement

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

During the post award or pre-bid conference, the objective shall be to impart critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements, such as Davis-Bacon, shall be discussed in detail if applicable.

INSTRUCTIONS FOR COMPLETING INTENT TO FULFIL THE SECTION 3 OPPORTUNITIES PLAN (SERVICE & PROFESSIONAL CONTRACTS)

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

Exhibit 4 (continued)

The Section 3 Opportunities Plan is to be completed for service and professional contracts. There are three ways in which Section 3 can be fulfilled. They are listed in order of preference:

Subcontract or joint venture with a resident owned business. The business must be 51% of more owned by City of Tucson Section 3 residents, or subcontract/joint venture with a business that employs full-time, 30% or more or low and very-income individuals within the City of Tucson, or

Direct hiring of City of Tucson Housing Authority's public housing residents and/or low and very low-income neighborhood residents.

If a prime contractor is unable to satisfy City of Tucson resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project.

In paragraph number one (1), if the (sub)contractor has identified a resident owned business or a business which employs 30% or more Section 3 residents, this paragraph is to be completed by indicating the number of resident owned businesses that will be used on the contract/spec number shown at the end of the paragraph.

If the (sub)contractor plans to hire Section 3 residents to work for its company, paragraph two (2) must be completed with the contract/spec number and the percentage of compliance in hiring the resident(s). For example, if your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 10% of your labor dollars or \$10,000.00. If the whole dollar amount is to be expended on the resident's salary, then 100% is to be inserted on the percent line. If a percentage amount less than 100% will be expended on the resident's salary, that amount must be inserted on the line and the remaining percentage must be expended through subcontracting/joint venturing with a Section 3 owned business or a business that employs 30% or more Section 3 residents.

The second portion of the Section 3 Opportunities Plan begins with the specification or request for proposal title and number.

The third section is to be completed by listing current staff to be used to complete the work bid upon.

- (1) List the job titles,
- (2) Complete the Needed column if additional staff will be required to fulfill the classification,
- (3) In the Total column, list the total number of staff plus the number needed,

Exhibit 4 (continued)

- (4) In the residents and LIAR (low income area resident) columns, list the number of current staff who are residents of City of Tucson public housing, or who are low or very low income neighborhood residents,
- (5) In the To Be Filled column, list the number of positions that fit into the low and very low-income City of Tucson public housing residents and low and very low income Area Residents who will be hired.
- (6) In the Hiring Goal column, list the number of City of Tucson Public Housing residents or low and very low-income neighborhood residents you intend to hire.

The final section is to be completed after the contract has been awarded; interviews have taken place and residents have been hired. The completed Section 3 Opportunities Plan must be submitted to the Section 3 Coordinator and Procurement/Contracts Department.