

SECTION 3 COMPLIANCE PLAN
For Applicable City of Bryan
Programs and Projects

Section 3 is a provision of the Housing and Urban Development Act of 1968. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a federally-funded project necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located. Section 3 applies to the department as a recipient of HUD funds for any projects, in which the HUD investment is \$200,000 or more, and contractors or subcontractors receiving \$100,000 or more in covered funds.

I. PURPOSE

The purpose of this Plan is to provide employment and business opportunity for businesses and lower income persons who are residents of the Bryan – College Station MSA referred to as the Section 3 Area under the Community Development Block Grant Program, by setting forth procedures to be implemented by contractors and subcontractors to assure compliance with Section 3 of the Housing and Urban Development Act, as defined in 24 CFR part 135 (for project receiving federal assistance of \$200,000 or more or contracts for covered projects receiving \$100,000 or more).

A. Definitions:

1. Section 3-Covered Project - A Section 3-Covered project involves the construction or rehabilitation of 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. which is funded by HUD, and in which contractors or subcontractors receive \$100,000 or more in covered funds.
2. Section 3 Resident - A “section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.
3. Section 3 Business Concern - Section 3 business concerns are businesses that can provide evidence that they meet one of the following: 51 percent or more owned by Section 3 residents; or at least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications above.
4. Race and Gender Neutral - Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

B. Numerical Goals: The department shall meet, and ensure that covered contractors and subcontractors meet the minimum numerical goals set forth at 24 CFR Part 135.30:

1. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
2. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns.
3. At least three (3) percent of the total dollar amount of all other section 3 covered contracts.
4. In accordance with 24 CFR § 135.30, if these minimum requirements are not met, sufficient documentation must be kept to provide reasoning and justification for non-compliance. This documentation should include evidence of all Section 3 outreach efforts.

5. In order to meet these goals, the department shall maintain a certification process for Section 3 business concerns.
- C. The following clause shall be included (verbatim) in bid documents and all contracts for projects in which the amount of federal investment exceeds \$100,000.

24 CFR § 135.38 Section 3 clause.

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

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

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

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

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

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

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

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25

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

D. UTILIZATION OF SECTION 3 AREA RESIDENTS AND BUSINESSES

All contractors subject to this Section 3 regulation will provide a “Preliminary Statement of Work Force Needs” form, prior to the signing of a contract. This form shows the needed number and types of job classifications, current vacant positions and expected positions for new hires in the projected work force.

1. Each applicant, recipient, contractor or subcontractor undertaking work in connection with a Section 3 covered project can fulfill the obligation to utilize lower income project area residents as trainees to the greatest extent in the various training categories and filling any vacant training positions with lower income project area residents except for those training position which remain unfilled after a good faith effort has been made to fill them with eligible income project area residents.
2. Each applicant, recipient, contractor or subcontractor undertaking work in connection with a Section 3 covered project can fulfill the obligation to utilize lower income project area residents as employees to the greatest extent feasible by identifying the number and types of positions not currently occupied by regular, permanent employees and establishing a goal of positions to be filled by lower income residents of the Section 3 covered project area and thereafter making a good faith effort to fill the identified positions.
3. In recruiting and filling vacancies, the City of Bryan, Texas will require contractors and subcontractors to attempt to recruit from the appropriate areas the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran’s Outreach Programs, etc. When lower income resident workers apply, either on their own initiative or on referral from any source, the contractor or subcontractor shall determine if the qualifications are satisfactory and if there are openings.

II. CONTRACTOR OR SUBCONTRACTOR AFFIRMATIVE ACTION PLAN

All competitive bidders and negotiated contractors, subject to 24 CFR Part 135 regulations (contracts over \$100,000) will submit to the City of Bryan utilization goals. Evaluation of each bid and negotiated contract will include the determination of responsiveness by evaluation of the proposed goals and provisions to achieve these objectives of Section 3 regulations. The following submittal, or similar, updated document, will be required of each construction contractor:

**SECTION 3 BUSINESS CERTIFICATION
AND NARRATIVE SECTION 3 ACTION PLAN**

The work to be performed under bids on projects assisted under programs providing direct federal financial assistance from the Department of Housing and Urban Development (HUD) **are subject to the requirements of Section 3** of the Housing and Urban Development Act of 1968.

Section 3 Resident - A “section 3 resident” is: 1) a public housing (HUD) resident; or 2) a low- or very low-income person residing in the College Station-Bryan Metropolitan Statistical Area (MSA). The preferences provided under this regulation are based on income-level and location, and are race and gender-neutral. The following income limits apply to the households of those considered Section 3 residents based upon income: valiant

2019-20 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income (*19-‘20)	\$38,400	\$43,850	\$49,350	\$54,800	\$59,200	\$63,600	\$68,000	\$72,350

Section 3 Business Concern - Section 3 business concerns are businesses which can provide evidence that they meet one of the following: 51 percent or more owned by Section 3 residents; or at least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications above..

The Bidder represents and certifies as part of its bid that it **will comply** with the requirements of Section 3 in one of the following categories (**MUST CHECK ONE BOX ONLY**):

- CATEGORY A SECTION 3 BUSINESS CONCERN (OWNERSHIP):**
51% or more of the business is owned by Section 3 Residents (low income or public housing (HUD) residents in the College Station-Bryan MSA (attach copy of the first and last page of current lease and documentation of business ownership, such as articles of incorporation, form 1099, tax return, bank statement, or other satisfactory proof of ownership, along with the attached Affidavit of Section 3 Business Ownership).
- CATEGORY B SECTION 3 BUSINESS CONCERN (WORKFORCE):**
Full-time, permanent workforce of the business currently includes 30% or more Section 3 eligible residents, or within three years of the date of first employment with the business concern were Section 3 residents (attach a list of all employees with Section 3 employees so designated, along with an Affidavit of Section 3 employee status from each Section 3 employee.)
- CATEGORY C SECTION 3 BUSINESS CONCERN (SUBCONTRACT):**
The bidder hereby commits to subcontract at least 25% of the total amount of subcontracts to Category A or B Section 3 businesses. **Attach on separate sheets the name, address, phone number, amount of subcontract and Section 3 Business Concern category (A or B) for each intended Section 3 Business Concern subcontractor, and attach satisfactory documentation of the subcontractor’s Section 3 status.**

SECTION 3 NARRATIVE AFFIRMATIVE ACTION PLAN

All competitive bidders for Section 3 covered projects must submit to the City of Bryan a Section 3 narrative affirmative action plan including utilization goals. Evaluation of each bid and will include the determination of responsiveness by evaluation of the proposed goals and provisions to achieve the objectives of Section 3 regulations. Attach additional pages as necessary.

A. Explain how you intend to recruit a minimum of 30% of Section 3 residents for **any new hires** from the time this bid is submitted until the contract is complete, and what actions you will use to require subcontractors to do the same. Check all applicable boxes.

Ads placed with local advertising media such as newspapers

Sign at the project site

Notification of Public Housing Agencies, Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran's Outreach Programs, and any other appropriate entities.

Other _____

No new hires are anticipated for this project; however, if hiring becomes necessary, an amended plan will be submitted.

B. If you intend to subcontract, explain how you intend to subcontract a minimum of 25% of the work of this bid to Section 3 business concerns. Check all applicable boxes.

Ads placed with local advertising media such as newspapers

Sign at the project site

Contact a list of Section 3 certified Subcontractors as maintained by the local Community Development office, and/or HUD if available.

Other _____

No subcontracts are anticipated for this project; however, if subcontracting becomes necessary, a revised plan will be submitted.

C. Describe how you will document and maintain evidence of all Section 3 outreach efforts, and how you will require any subcontractors to do the same. Check all applicable boxes.

Maintain copies of ads placed with local advertising media such as newspapers

Maintain photos of signage at the project site

Maintain copies of letters or internet search results requesting a list of Section 3 certified Subcontractors as maintained by the local Community Development office, and/or HUD if available.

Other _____

No subcontracts are anticipated for this project; however, if subcontracting becomes necessary, a revised plan will be submitted.

D. The successful bidder will provide a "Preliminary Statement of Work Force Needs" form, prior to the signing of a contract. This form shows the needed number and types of job classifications, current vacant positions and expected positions for new hires in the projected work force to accomplish the work of this bid. In recruiting and filling vacancies to accomplish the work of this bid, the successful bidder shall recruit from the College Station-Bryan MSA the necessary number of lower income or public housing residents through: local advertising media, signs placed at the project site, and notices to appropriate community organizations and public or private institutions operating within or serving the project area such as: Public Housing Agencies, Employment or Workforce Commissions, Rehabilitation Commissions, Manpower Services, Community Action Agencies, Commission for the Blind, Veteran's Outreach Programs, and any other appropriate entities. Provide selections from the list of resources below or list other resources to be used in recruiting Section 3 employees. Upon contracting, a completed "Preliminary Statement of Work Force Needs" shall be provided by the contractor to each organization contacted. Check all applicable boxes.

Resource List:

Public Housing Agency Workforce Commission

Manpower Services/Employment Agencies Texas Commission for the Blind

Brazos Valley Community Action Agency

Other _____

No new hires are anticipated for this project; however, if hiring becomes necessary, an amended plan will be submitted.

If no recruitment or hiring is anticipated, briefly explain why.

Business has no employees other than the owner(s).

Business is currently fully staffed, and has existing capacity for the proposed project.

Other _____

- E. Grievance Procedure: Section 3 employees must be informed that in the event of a grievance or complaint against the municipality or the general contractor, they may file by mail a grievance with:

Assistant Secretary for Equal Opportunity & Fair Housing
Department of Housing and Urban Development
451 Seventh St., S.W. - Room 5100
Washington, D.C. 20410-2000, or;

Fair Housing and Equal Opportunity Division
Department of Housing and Urban Development
801 Cherry Street
P.O. Box 2905
Fort Worth, TX 76113-2905

- F. Subcontractors: Subcontractors will be informed of their requirement to submit a Section 3 Action Plan and certifications to the City.

- G. Implementation Schedule: Provide a schedule timeline of the implementation of this plan:

Section 3 Employee Recruitment Timeline:

Not Applicable – This project does not require employee recruitment.

Timeline (Pre-Bid, Pre-Commencement, During) _____

Section 3 Subcontractor Timeline:

Not Applicable - No subcontracts are anticipated for this project.

Timeline (Pre-Bid, Pre-Commencement, During) _____

H. Describe training opportunities your firm can provide for low income or public housing Section 3 residents as well as an overview of your training plan. Check all applicable boxes.

Management Training Maintenance Training

Building Trades Training Clerical Training

Support Services Training

Other Training Opportunities: _____

Not Applicable - This project does not require employee recruitment or training opportunities.

Section 3 Training Plan:

I. The successful bidder shall send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of the contractor's commitment under the Section 3 clause and shall have posted copies of the notice in conspicuous places available to employees and applicants for employment or training. List any labor organizations or worker representatives with whom your firm has a collective bargaining agreement, contract, or other understanding:

Not Applicable – bidder does not have any collective bargaining agreement, contract, or understanding with any labor groups.

List Labor Organizations: _____

Section 3 Clause

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

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

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

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

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

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

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

SECTION 3 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 gives express consent to the City of Bryan to verify any information provided by the vendor within this Section 3 Business Certification Form.

CERTIFICATION

Certification – The information above is true and complete to the best of my knowledge and belief.

Signature

Date

(Print Name and Title)

AFFIDAVIT OF SECTION 3 EMPLOYEES
(Used to Certify Category B Section 3 Business Concern –Workforce)

On this _____ day of _____, 20____ I, _____, hereby certify
Date Month Year Name of Employee

that I am an employee of: _____.
Name of Employer

And, I am **(Circle as many as apply)**:

- A. A resident of public (HUD) housing** within the Bryan-College Station MSA (attach front and back page of lease).
- B. Currently Low income:** Employee's annual household income does not exceed 80% of the area median income based upon the following table:

2019-20 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income ('19-'20)	\$38,400	\$43,850	\$49,350	\$54,800	\$59,200	\$63,600	\$68,000	\$72,350

- C. Previously Low income** based upon the table above, within 3 years prior to becoming employed by this employer

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, or fraudulent statement 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.

I certify that the above statements are true and correct. I understand that I may be required by program staff to provide income documentation, or some other form of documentation to prove I am a Section 3 employee at the time this affidavit is signed. I understand that any misstatement or falsification of information shall be grounds for revocation or termination of any Section 3 covered contract with the firm in which I am employed.

Signature of Section 3 Employee

Date

Printed Name of Section 3 Employee

STATE OF TEXAS §
 § **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the __ day of _____, 20____, by

(name),

Notary Public in and for
the State of Texas

**AFFIDAVIT OF SECTION 3 BUSINESS CONCERN OWNERSHIP
(Used to Certify Category A Section 3 Business Concern –Ownership)**

On this _____ day of _____, 20____ I, _____, hereby certify
Date Month Year Name of Owner

that I am the/an owner of: _____
Name of Business

At least 51% of the ownership interest in this business is by Section 3 residents (low income or public housing residents).

And, I am (Circle as many as apply):

- A. **A resident of public (HUD) housing** within the Bryan-College Station MSA (attach front and back page of lease).
- B. **Currently Low income:** Owner's annual household income does not exceed 80% of the area median income based upon the following table:

2019-20 City of Bryan Income Limits for Consideration as Low to Moderate Income.

Household #	1	2	3	4	5	6	7	8
Max. Income ('19-'20)	\$38,400	\$43,850	\$49,350	\$54,800	\$59,200	\$63,600	\$68,000	\$72,350

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, or fraudulent statement 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.

I certify that the above statements are true and correct. I understand that I may be required by program staff to provide business primary or employee income documentation, or some other form of documentation to prove my company was a Section 3 Business Concern at the time this affidavit was signed. I understand that any misstatement or falsification of information shall be grounds for revocation or termination of any Section 3 covered contract with the firm in which I am employed.

Signature of Section 3 Business Owner

Date

Printed Name of Section 3 Business Owner

**STATE OF TEXAS §
 § ACKNOWLEDGMENT
COUNTY OF BRAZOS §**

This instrument was acknowledged before me on the __day of _____, 20____, by

(name).

Notary Public in and for
the State of Texas

PRELIMINARY STATEMENT OF WORK FORCE NEEDS

(1) PROJECT NAME			(2) CONTRACT NUMBER		
(3) JOB TITLE	(4) TOTAL # OF EMPLOYEES NEEDED FOR THIS PROJECT	NUMBER OF POSITIONS			
		(5) CURRENTLY FILLED		(6)HIRING GOAL	
		(a) TOTAL	(b) # of SECTION 3 RESIDENTS	(a) TO BE HIRED	(b) # of SECTION 3 RESIDENTS

CERTIFICATION

CERTIFICATION – THE INFORMATION ABOVE IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE

DATE

(PRINT NAME AND TITLE)