

**A RESOLUTION TO ADOPT THE SECTION 3 PLAN  
TO COMPLY WITH 24 CFR, PART 135 OF THE  
UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT SECTION 3**

**WHEREAS, the United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that federal funds benefit the residents of projects funded wholly or in part by those funds, and**

**WHEREAS, Part 135 establishes standards and procedures to ensure that Section 3 objectives are met; and**

**WHEREAS, the Rio Grande Valley Entitlement Communities, comprised of the Cities of Brownsville, Edinburg, Harlingen, McAllen, Mission, Pharr and San Benito as well as the County of Hidalgo Urban County Program, have formed a cooperative relationship to address programmatic requirements related to HUD-formula programs, and**

**WHEREAS, the COUNTY OF HIDALGO has created a Section 3 Plan to comply with 24 CFR Part 135 as prescribed in the Act.**

**NOW, THEREFORE, BE IT RESOLVED THAT the Hidalgo County Commissioner's Court authorizes the adoption and implementation the Section 3 Plan to ensure compliance with Federal Law.**

**In Witness Whereof, we have hereunto set our hands this the 20<sup>th</sup> of March, 2012.**

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**Ramon Garcia, Hidalgo County Judge**

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**Joel Quintanilla, Commissioner, Pct. # 1**

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**Hector Palacios, Commissioner Pct. # 2**

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**Joe M. Flores, Commissioner, Pct. # 3**

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**Joseph Palacios, Commissioner, Pct. # 4**

**Attested By:**

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**Arturo Guajardo Jr., Hidalgo County Clerk**

# **Rio Grande Valley Entitlement Communities**

## **Section 3 Plan**

Comprised of:

- City of Brownsville
- City of Edinburg
- City of Harlingen
- City of McAllen
- City of Mission
- City of Pharr
- City of San Benito
- Hidalgo County – Urban County Program

Approved by the Hidalgo County Commissioner's Court on \_\_\_\_\_

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

**TABLE OF CONTENTS**

Resolution ..... 3

General Policy Statement ..... 5

Section 3 Purpose ..... 5

Section 3 Contracting Policy and Procedure ..... 5

Section 3 Plan ..... 6

Section 3 Coordinator Responsibilities ..... 6

Applicability and Procurement ..... 8

Section 3 Business, Employment Training and Contracting Goals ..... 9

Section 3 Residents/Individuals ..... 10

Section 3 Procedure for Reporting Non-Compliance ..... 12

Definitions ..... 13

Exhibit A – Assurance of Compliance (Section 3, HUD Act of 1968) ..... 16

Exhibit B – Sample Plan. .... 17

Exhibit C – Section 3 Clauses. .... 21

Exhibit D – New Hires Section 3 Monthly Compliance Form ..... 23

Exhibit E – Certification For Business Concerns Seeking Sec. 3 Preference ..... 25

Exhibit F – Resident Employment Opportunity Data ..... 27

**RESOLUTION**

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\_\_\_\_\_  
COUNTY JUDGE

ATTEST:

\_\_\_\_\_  
COUNTY CLERK

## **Executive Summary**

The composition of this document is intended to satisfy the Section 3 requirement of the U.S. Department of Housing and Urban Development enactment of the Housing and Urban Development Act of 1968.

Each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall develop and implement an affirmative action plan, which shall:

- a) Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the Section 3 covered project including a minimum goal of at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work and three percent (3%) of the total dollar amount of Section 3 covered contracts like professional services contracts to be awarded to Section 3 Business Concerns (24 CFR 135.30).
- b) Analyze the information set forth regarding the availability of eligible business concerns within the project area and set forth a goal and estimated dollar amount of contracts to be awarded to the eligible businesses over the duration of the Section 3 covered project.
- c) Outline the anticipated program(s) to be used to achieve the goals for each business. This program should include but not limited to the following actions:
  1. Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor bidding the contract; and
  2. Identification within the bid documents, if any, of the applicable Section 3 project area; and
  3. Ensuring that the appropriate business concerns are notified of pending contractual opportunities either personally or through locally utilized media.
- d) Identify hiring preferences for Section 3 residents
- e) Delineate special provisions for "Community Based Development Organization" or "Community Housing Development Organization" that meet the "subrecipient" definition

### **General Policy Statement**

The Rio Grande Valley Entitlement Communities have developed this Section 3 Plan and Policies in compliance with Title 24 CFR Part 135 – Economic Opportunities for Low- and Very Low-Income Persons. Such plan is intended to ensure that employment and other economic opportunities generated by qualifying HUD financial assistance shall, to the greatest extent feasible, benefit persons and business identified in the regulation. This document is applicable to contractors, vendors, and suppliers when threshold amounts meet or exceed \$100,000 expended for (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards), (2) housing construction, or (3) other public construction. The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of eligible persons and business on contracts partially or wholly funding with the United States Department of Housing and Urban Development (HUD) monies.

### **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701 u) requires the County of Hidalgo to ensure, to the greatest extent feasible, that employment and other economic and business opportunities generated by the HUD financial assistance 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 Procedures**

It is the policy of the County of Hidalgo 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, handicap or familial status. Further, it is the policy of the County of Hidalgo to create employment and business opportunities for residents of their respective jurisdictions and other qualified low- and very low-income persons residing in low-moderate income areas.

The County of Hidalgo will incorporate Section 3 language in all applicable procurement documents generated in conjunction with the use of HUD funding. Goal requirements are set forth in 24 CFR Part 135 for awarding contracts to Section 3 Business Concerns and are delineated in Section 3 Employment & Training Goals.

All contractors/businesses seeking Section 3 preference must before submitting bids/proposals to the County of Hidalgo 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.

The Section 3 Coordinator shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to low-moderate income residents prior to acting on any proposed award.

To the greatest extent feasible, information will be made available to persons with Limited-English Proficiency (LEP) in compliance with E.O. 13166.

## Section 3 Plan

The County of Hidalgo has developed this Section 3 Plan to identify the applicability of provisions of 24 CFR Part 135 objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3. The Plan covers HUD-funded programs including but not limited to CDBG, HOME, ESG, HPRP, housing construction, housing rehabilitation, and public improvements construction projects.

Major components of the Plan include Section 3 Coordinator's Responsibilities, Section 3 Training, Employment and Contracting Opportunity Goals, Section 3 Business Qualifications, Section 3 Resident Initiatives, Plan Implementation, Procurement, Compliance/Monitoring and Reporting.

### I. Section 3 Coordinator Responsibilities

#### Identification of Resources

The County of Hidalgo will identify an employee who will assume the Section 3 responsibilities, herein called "Section 3 Coordinator". In particular, said employee will identify programs, projects and activities which may trigger Section 3 compliance. It is expected that the Section 3 Coordinator will prioritize programs, projects and activities based on anticipated procurement dates.

#### Outreach

Section 3 Coordinator will be responsible for soliciting qualified known Section 3 business concerns as well as engagement of potential Section 3 businesses concerns. Evidence of outreach may be documented by:

- Advertisement of contracting opportunities via newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
- Contacting the local Public Housing Agency, Texas WorkForce Board, contractor associations, community organizations, Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, and Community Development Corporations.
- Conduct annual workshop 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.

#### Orientation/Education

All RGVEC Section 3 Coordinators will, at minimum, host an annual workshop for potential Section 3 business concerns. The workshop agenda shall include (1) applicability, (2) listing of potential projects, (3) training and employment goals, (4) general contractor requirements, (5) review, execution and

submittal of certification forms, (6) procurement information/solicitation of subcontractors, (7) review of on-going compliance issues/reporting and (8) consequences of non-compliance.

Section 3 Coordinator will maintain a listing of persons meeting the definition of Section 3 Residents; such listing will be forwarded as hiring needs are identified.

### Compliance

Section 3 Coordinator will be responsible for assuring the Section 3 Contract Clause is noted in contracts for Section 3 covered activities between the unit of local government and first tier contractors. Section 3 Coordinator will inform general contractors of the language necessary for them to include in their agreements with subcontractors for Section 3 covered projects. The Section 3 Clause is attached as Exhibit C or may be obtained at 24 CFR Part 135.38.

Section 3 Coordinator must annually update Section 3 compliance documents with HUD Section 8 income limits.

Further, the Section 3 Coordinator is responsible for obtaining information necessary to remit Section 3 annual reports. (Section 3 coordinator is responsible for remitting). Currently, report is submitted electronically and is due no later than with the Consolidated Annual Performance and Evaluation Report (CAPER) deadline.

### Section 3 Reporting

#### Annual Reporting

County of Hidalgo will report to HUD annual accomplishments regarding employment and other economic opportunities provided to low and very low income person under Section 3. Form HUD-60002 is currently being utilized for reporting accomplishments. This form may be changed and updated from time to time as required by HUD and 24 CFR 135.

#### Contractor Reporting

Contractors and subcontractors are required to submit to County of Hidalgo a new hires Section 3 compliance form on a monthly basis.

### Procurement

Section 3 Coordinator will, when feasible, attend scheduled pre-bid, pre-construction, bid opening and construction meetings or will be made available should additional information be requested. Section 3 Coordinator will also provide guidance on procurement preference provisions as outlined in the Part 135.36 of the Section 3 Regulation.

## **II. Applicability and Procurement**

### **Bidding and Negotiation Requirements**

Section 3 requirements are triggered when anticipated contract award meets or exceeds \$100,000 for (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards), (2) housing construction, or (3) other public construction.

When recipient solicits proposals on a Section 3 covered activity, local procurement standards will apply. However, in compliance with the Section 3 Plan for the County of Hidalgo, non-Section 3 Business will be utilized in a strictly competitive manner during the procurement process. When a Section 3 covered contract is to be awarded based upon the price, the Section 3 business concern with the lowest responsive bid shall be given the opportunity to match the lowest responsive bid from any qualified source. If said Section 3 business concern cannot match the lowest responsive bid, then the award shall be made to source with the lowest bidder. Should more than one Section 3 Business be able to match the non-Section 3 business proposal, the order of priority has been established in the section entitled "Preference for Contracting with Section 3 Business Concerns". Notwithstanding Section 3 noted preferences, Section 3 businesses must have the capacity to perform successfully under the terms and conditions of the proposed project contract. Under 24 CFR 85.36(b)(8), consideration, among other factors, is the potential contractor's record of complying with public policy, including Section 3 requirements.

The County of Hidalgo shall require prospective contractors for work in connection with Section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semi-skilled, unskilled labor and trainees by category). Such information shall be supplied prior to any signing of any contract between contractors and their subcontractors. Consideration should be given to those contractors who will have training and employment opportunities for project area residents.

Applicants, recipients and contractors will ensure that the attached Section 3 Clause (Exhibit C) and Assurance of Compliance (Exhibit A) are made a part of all contracts.

Because goals for contracting opportunities apply to any applicant, when said applicants other than the recipient are soliciting contracts or subcontracts in conjunction with a Section 3 covered activity, they must, to the greatest extent possible, make every effort to publicize and maximize contracting opportunities in order to ensure participation by Section 3 businesses.

In implementing its affirmative action plan, each applicant, recipient, contractor, or subcontractor shall make a good faith effort to achieve its goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.

### Preference for Contracting with Section 3 Business Concerns

The County of Hidalgo, in compliance with Section 3 regulations, will require contractors and subcontractors to direct their efforts towards contacts to Section 3 business concerns in the following order to priority (24 CFR 135.36):

- Category 1: Certified Section 3 business providing economic opportunities for Section 3 residents. Preferences are listed in order of priority:
  - Project area or neighborhood
  - Public Housing Residents
  - Limits of unit of local government
  - Metropolitan Statistical Area
  - County in which recipient is located
  - Rio Grande Valley
  
- Category 2: HUD Youthbuild programs being carried out in the County of Hidalgo in which Section 3 covered assistance is expended.

Contractor and subcontractors that can clearly demonstrate how they will meet the requirements in this section will be given a contracting preference when County is selecting contractor.

### **III. Section 3 Business, Employment Training and Contracting Goals**

It is the policy of the County of Hidalgo to utilize Section 3 residents and other eligible persons and businesses in contracts partially or wholly funded with monies from the U.S. Department of Housing and Urban Development (HUD). The County has established minimum employment and training goals that contractors and subcontractors, including those providing low to moderate income employment opportunities through economic development activities, should meet in order to comply with Section 3 requirements.

The numerical goals established in this section represent minimum numerical targets (reference 24 CFR 135.30 – Numerical goal for meeting the greatest extent feasible requirement).

- 30 percent of the aggregate number of new hires/training opportunities annually
- 10 percent of the total dollar amount of covered construction contracts annually
- 3 percent of the total dollar amount of covered non-construction contracts annually

It is the responsibility of contractors to implement efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting such goals was not feasible.

### Section 3 Businesses

A Section 3 Business Concern is defined as 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. Designations will be made by the Section 3 Coordinator for the County of Hidalgo.

The County of Hidalgo has opted to accept any other RGVEC certification of Section 3 Business compliance. Such certification must be obtained from the Department that oversees the Community Development Block Grant funds. Further, certification will be valid for three years from the date of execution.

#### Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the County must be able to provide a copy of the Section 3 certification letter issued by any of the RGVEC as evidence of eligibility for preference under the Section 3 Program. The certification and/or letter shall be submitted along with bid packages and must be received prior to bid opening.

Each applicant, recipient, contractor, and subcontractor on a Section 3 covered project shall sign the attached Section 3 Assurance of Compliance (Exhibit A).

#### **IV. Section 3 Residents/Individuals**

Persons seeking work on projects funded in part or in whole with U.S. Department of Housing and Urban Development grants must provide their names, contact information, job skills and certifications (if any) and xxx to the County of Hidalgo Urban County Department. This information will be maintained at a secure site and will be forwarded to contractors who intend to hire and are working on federally-funded projects.

#### Resident Hiring Requirements

The County of Hidalgo has adopted a 30% goal for resident hiring that is to be used on construction contracts (24 CFR 135.30). A prime contractor may satisfy County of Hidalgo resident hiring requirements through its subcontractors. A resident employment opportunity data form shall be utilized in documenting eligibility for participation in the program (Exhibit F).

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 on Section 3 covered activities.

#### Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals

County of Hidalgo will assist contractors in achieving Section 3 hiring and contracting goals by:

Requiring the contractor to present a list to the Section 3 Coordinator of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.

- Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects.
- Section 3 Coordinator will provide contractor with a list of Section 3 business concerns interested and qualified for construction projects.
- Section 3 Coordinator will inform prime contractors and subcontractors of the Section 3 Clause requirement and, when requested, will serve to clarify the intent.

#### Contractor's Requirements in Employing Section 3 Residents

Under the County of Hidalgo Section 3 Program, contractors and subcontractors are required to:

- Provide employment opportunities to Section 3 residents/participants in the priority order listed below in accordance with 24 CFR 135.34(a)(2):
  - a) Category 1 Residents - Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located
  - b) Category 2 Residents – Participants in HUD Youthbuild program
  - c) Where the Section 3 project is assisted under the Steward B. McKinney Homeless Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the Section 3 project is located shall be given the highest priority
  - d) Recipients of housing assistance programs administered by the Assistant Secretary for Housing herein provide a preference to residents of the housing development receiving the Section 3 covered assistance within the service area or neighborhood where the Section 3 covered project is located
  - e) Recipients of community development programs herein provide priority to 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 contract but prior to beginning work, the contractor must, in a visible location within the project, complete and post Exhibit G which will provide the following information:
  - RGVEC Section 3 Plan and preferences
  - Set forth number of jobs and titles for hire

- Availability of apprenticeships and training positions, if any
- Contact information for person(s) taking applications or providing information on qualifications for new hires apprenticeships and training positions
- Anticipated date the work shall begin

#### **V. Section 3 Procedure for Reporting Non-Compliance**

In an effort to resolve Section 3 concerns due to non-compliance, County of Hidalgo encourages written submittal to its Section 3 Coordinator. Concerns should contain the name of the complainant and brief description of the alleged violation. An investigation will be conducted which may include testimony and/or evidence pertinent to the complaint.

Complainants should file the concern with:

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

A complete complaint must be received no later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for the filing is extended by the Assistant Secretary for good cause shown. Submission must include name and address of complainant, name and address of party against whom the complaint is remitted (Respondent), description of acts or omissions by Respondent.

## 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 divided sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.

**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 e 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 Section3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) a91)). 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 Section135.3 (a) (2)), including management and 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 Youth build 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 for low- and very low-income families

**Low-income person**- families (including single persons) whose incomes do not exceed 80 per centum of the 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 establish by the Office of Management and Budget

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

**Recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but 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 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 includes the installation of materials, the contract constitutes a Section 3 covered contract.

**Section 3 Covered Project-** the construction, reconstruction, conversion or rehabilitation of housing (include 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 nonmetropolitan 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 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 because of unusually high or low family incomes

**EXHIBIT A**

**ASSURANCE OF COMPLIANCE (Section 3, HUD ACT of 1968)**

**TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESS AND LOWER INCOME PERSONS**

- A. The project assisted under this (contract) (agreement) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170U. Section 3 requires that the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
  
- B. Notwithstanding any other provision of this (contract) (agreement), the (applicant) (recipient) shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this (contract) (agreement). The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulation, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20(b) of the regulation in all contracts for work in connection with the project. The (applicant) (recipient) certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.
  
- C. Compliance with the provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this (contract) (agreement), shall be a condition of the Federal financial assistance provided to the project, binding upon the (applicant) (recipient), its successors and assigns. Failure to fulfill these requirements shall subject the (applicant) (recipient), its contractors and subcontractors, its successors, and assigns to the sanctions specified by the (contract) (agreement), and to such sanctions as are specified by 24 CFR Section 135.

APPLICANT: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT B**

**SAMPLE PLAN**

**COUNTY OF HIDALGO \_\_\_ SECTION 3 ECONOMIC OPPORTUNITY PLAN QUESTIONS**

The Section 3 Economic Opportunity Plan must describe the proposed strategies for achieving the Section 3 training and employment numerical goals, and subcontracting numerical goals (where subcontracting is allowable in the Bid).

Please review the information below, and provide your responses on a separate paper. (A Section 3 Economic Opportunity Plan Sample Sheet is attached to further assist you in developing your responses to the information requested below).

1. Identify individual(s) responsible for planning, implementing and tracking the projects Section 3 training and employment goals. Describe their prior experience in this area.
2. Describe efforts (contractor and subcontractor) to be taken to recruit, solicit, encourage, facilitate, and hire public housing and other low-income persons. Identify any private or public resources that will be used.
3. Describe contractors' activities to be taken for recruiting, soliciting, encouraging, facilitating and selecting Section 3 subcontractors, where applicable.
4. Describe plans to structure project activities in ways that create opportunities for Section 3 firms' participation, where applicable.

**YOUR RESPONSES TO QUESTIONS 1-4 WILL CONSTITUTE YOUR PLAN; PLEASE ATTACH YOUR PLAN DOCUMENT AND ALSO INCLUDE THE FOLLOWING INFORMATION ON YOUR PLAN:**

- (1) COMPANY NAME
- (2) YOUR NAME AND PHONE NUMBER
- (3) BID NUMBER AND NAME

## **SAMPLE PLAN**

**PLEASE RE-TYPE YOUR OWN FIRM'S PLAN ON YOUR FIRM STATIONERY**

**Firm Name, Address, Telephone and Fax Number**

### **Question #1**

**Identify individuals responsible for planning, implementing, and tracking the project's Section 3 training and employment goals. Describe their prior experience in this area.**

The individual responsible for planning, implementing and tracking the project's Section 3 training and employment goals is John Doe, President (or the appropriate title of this individual), of name of firm (hereafter referred to as "Contractor"). He (or she) will obtain all pertinent information to become thoroughly familiar and ensure contract compliance with the HUD Section 3 Regulation. John Doe has worked on construction (or service, whichever is applicable) projects, and is qualified to administer contractor's Section 3 Economic Opportunity Plan.

### **Question #2**

**Describe efforts (contractor and subcontractor) to be taken to recruit, solicit, encourage, facilitate and hire public housing and other low-income persons. Identify any private or public resources that will be used.**

The employment goal is thirty percent (30%) of the aggregate number of new hires.

Contractor will take the following steps to recruit, solicit, encourage, facilitate and hire public housing and other low-income persons, in the event any vacancies occur throughout the duration of the project:

1. Meet with resident associations and managers at the local public housing authority.
2. Schedule a time and place for public housing residents to complete job applications.
3. Develop a list of "pre-qualified" Section 3 public housing and other low-income residents who could fill job vacancies that may later become available.
4. Send notices about Section 3 training and employment obligations and opportunities required for this project to labor organizations.
5. Establish a training program to provide public residents and other low income residents with the opportunity to learn basic skills and job requirements.
6. Advertise in major and community newspapers and on job sites for workers who meet the definition of a Section 3 resident.

Contractor will establish files to record and retain written documentation of all training and employment outreach efforts and resources from agency representatives and job applicants.

### Question #3

*(ONLY APPLICABLE TO FIRMS THAT SUBCONTRACT)*

**Describe the contractor's activities to be taken for recruiting, soliciting, encouraging, facilitating and selecting Section 3 subcontractors, where applicable.**

Contractor will take all feasible measures to recruit, solicit, encourage, facilitate, and select qualified Section 3 business subcontracting firms to perform at least 10% of the project award amount (contract sum) for each COUNTY OF HIDALGO project for which Contractor is the successful bidder.

Contractor will request the organizations, listed below, to provide lists of firms, organized by trade category, which can perform required project work (in addition to these organizations, Contractor may also contact other organizations that provide such listings):

1. Contractor's Resource Center
2. Small Business Administration
3. Minority Business Development Center

Contractor understands that, in addition to awarding work to qualified Section 3 businesses, it is our responsibility to:

1. Use the contractor's or firms solicitation letter to advertise to the "greatest extent feasible" to all firms on lists provided to us the COUNTY OF HIDALGO and other organizations about the type of work needed to complete each project,
2. Advise firms of Contractor's obligation to seek and award work to qualified Section 3 businesses, where feasible,
3. Clarify the definition of a Section 3 resident and business,
4. Explain how to qualify as a Section 3 business in order to be eligible to receive a preference form Contractor when subcontractor work is to be awarded, and
5. Provide Section 3 certified firms that are qualified to perform work with an opportunity to submit price quotations for the Count of Hidalgo project work, and where financially feasible, hire such firms as subcontractors.

#### **Documentation of Outreach to Find Eligible Section 3 Subcontracting Firms**

1. Contractor will establish files to record and retain written documentation of all outreach efforts and responses received from organizations and subcontractors who are contacted.
2. Contractor will fax the COUNTY OF HIDALGO Solicitation Letter to all firms that these organizations identify, based on each category of work required for each project.
3. Contractor will provide COUNTY OF HIDALGO with copies of its facsimile receipts to each of the organizations listed in its Plan and their responses.
4. Contractor will provide COUNTY OF HIDALGO with copies of its facsimile receipts and responses received from every firm that is faxed for each COUNTY OF HIDALGO project.
5. Contractor will provide COUNTY OF HIDALGO with an outreach close-out letter for each project awarded that refers to an attached outreach summary report. If Contractor is

unable to meet Section 3 requirement to contract at least 10% of the award amount to Section 3 businesses, Contractor will include in its close-out letter an explanation as to why this requirement was not met.

6. The outreach summary report, referred to in No. 5, above, will list all contacts made to each organization or association, the individual firms subsequently contacted, categorized by trade, and the bid amount or other type of responses received from each firm (similar to the sample outreach summary report attached to Contractor's Plan).
7. If a firm is non-responsive, Contractor agrees to make a second attempt at getting them to respond, failing which, Contractor will move on to another company, all of which will be submitted to the UCP, and referred to in the outreach close-out letter and summary report.

**Question #4**

*(ONLY APPLICABLE TO FIRMS THAT SUBCONTRACT)*

**Describe plans to structure project activities in ways to create opportunities for Section 3 firms to participate, where applicable.**

Contractor will make every effort to structure project activities to increase opportunities for Section 3 businesses. This will be accomplished by sub-dividing the work into smaller amounts, or by using multiple firms to complete similar types of work.

Submitted by:

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Submission Date

\_\_\_\_\_  
President/Director Name

## EXHIBIT C

### 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 person 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 the 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 give to Indian, 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 D**

**COUNTY OF HIDALGO  
SECTION 3 MONTHLY COMPLIANCE FORM**

Contractor and all subcontractor(s) must sign, date and deliver this form monthly to:

COUNTY OF HIDALGO  
Urban County Program  
1916 Tesoro Blvd.  
Pharr, TX 78577 of  
Fax form to (956) 787-5291

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

Project Address \_\_\_\_\_

For the Month of \_\_\_\_\_

**I. Hiring**

Select one:

I have not hired any new employees during the month specified.

I have hired \_\_\_\_\_ Section 3 employees and/or \_\_\_\_\_ non-Section 3 employees during the month.

**II. Recruitment**

I have taken one or more of the following recruitment steps to hire a Section 3 resident with the highest training and employment priority ranking: (check all that apply)

I have advertised to fill vacancy(ies) at the site(s), where work is taking place, in connection with this project. Below, I have checked the steps I have taken to find Section 3 low-income residents, from the targeted groups and neighborhoods, to fill any vacancies.

Placed signs or posters in prominent places at project site(s).

Taken photographs of the above item to document that the above step was carried out.

Distributed employment flyers to the administrative office of the local Public Housing Authority.

\_\_\_ Contacted COUNTY OF HIDALGO employment referrals or Youthbuild Program referrals.

\_\_\_ Kept a log of all applicants and indicated the reasons why Section 3 residents who applied were not hired.

\_\_\_ Retained copies of any employment applications completed by Public Housing Authority, Section 8 certificate or voucher holders or other Section 3 residents.

\_\_\_ Sent a notice about Section 3 training and employment requirements and opportunities to labor organizations or to worker representatives with whom our firm has a collective bargaining or other agreement.

**III. Verification**

\_\_\_ I have attached proof of all checked items.

I hereby certify that the above information is a true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Date

**EXHIBIT E**

**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 business concern (majority of business owner(s) residing in a Public Housing Authority or Section 8 Voucher unit):**

- 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 Business Name Certificate
- Corporation Annual Report
- % ownership of each
- Latest Board minutes appointing officers
- Organization chart with names and titles and brief function statement
- Additional documentation

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

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

**For Business claiming Section 3, 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

\_\_\_\_\_  
Authorizing Name and Signature

(Corporate Seal)

Attested by: \_\_\_\_\_

**EXHIBIT F**  
**(Organization Name)**  
**RESIDENT EMPLOYMENT OPPORTUNITY DATA**

(Organization Name)
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 eligibility for the preference is evidence of receipt of public assistance, of public assistance, or evidence of participation in a public assistance program.)

<b>Certification for Resident Seeking Section 3 Preference in Training and Employment</b>	
I, _____, am a legal resident of the _____	
_____ and meet the income eligibility guidelines for a low- or-very-low-income person as published on the reverse.	
My permanent address is: _____	
_____	
I have attached the following document 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	<input type="checkbox"/> Other evidence
in a public assistance program.	_____
_____	_____
Signature	
_____	_____
Print Name	Date

**Contractor/Subcontractor Certification Regarding**  
**Section 3 and Segregated Facilities**

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**COMPANY'S NAME**

**PROJECT NAME**

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) The above stated company is a signatory to the developer's Section 3 Plan.
- (c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

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**NAME AND TITLE OF SIGNER (PRINT OR TYPE)**

---

**SIGNATURE**

---

**DATE**

**EXHIBIT H**

**NOTICE TO PROJECT RESIDENTS**

The project \_\_\_\_\_ is being funded by the U.S. Department of Housing and Urban Development under the County of Hidalgo \_\_\_\_\_ - Community Development Block Grant Program. This notice complies with the County of Hidalgo \_\_\_\_\_ Section 3 Plan and is intended to inform the public, in particular project residents, of the economic opportunities (jobs) created through the use of the federal award.

Contractor/subcontractor intends to hire for the following positions:

Number of Jobs	Title	Description of Qualifications/Licensure /Certification

**Section 3 preferences:**

1. Persons residing in the project area and who are of low- to very-low- income
2. Participants in HUD Youthbuild
3. Homeless Persons
4. Residents of the local Public Housing Authority
5. Residents of the local Section 8 Housing Assistance Program units

For more information including job applications, apprenticeships, training positions, and qualifications, contact:

Name of Contractor \_\_\_\_\_

Contact Person \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

Estimated construction start date is \_\_\_\_\_