

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 _____ on _____

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RESOLUTION

**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 employment and contracting opportunities for Section 3 Businesses and Section 3 Residents along with procedures for reporting on economic opportunities; and

WHEREAS, the requirements of Section 3 apply to recipients of HUD funding in excess of \$200,000.00 and to individual contracts of \$100,000.00 for housing rehabilitation, housing construction, and public improvements; and

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

WHEREAS, the RGVECs have created a Section 3 Plan to comply with 24 CFR Part 135 as prescribed in the Act.

NOW, THEREFORE, BE IT RESOLVED THAT the _____ 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 27th of March, 2012.

COUNTY JUDGE/MAYOR

ATTEST:

COUNTY CLERK/CITY SECRETARY

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 goals of awarding to Section 3 business concerns:
 1. A minimum goal of at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction, and;
 2. A minimum of three percent (3%) of the total dollar amount of all other Section 3 covered contracts (professional services, engineering, architectural, legal services, accounting, marketing, etc) for (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 which may exceed the minimum goals set out in (a) above.
- c) Outline the anticipated program(s) to be used to achieve the goals for each business. This program should include but not be 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 which will result in a minimum of 30% of new hires being Section 3 residents or provide continued employment for existing Section 3 employees.

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, subcontractors, 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, (3) other public construction.

Additional provisions have been made for contracts that do not meet the above threshold, but are for building trades work arising in connection with a Section 3 covered contract and for non-construction contracts associated with Section 3 covered activities as detailed in Section III.

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 RGVECs 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 RGVECs 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, familial status, sexual orientation or gender identity. Further, it is the policy of the RGVECs to create employment and business opportunities for residents in projects that occur in their respective communities and for other qualified low- and very low-income persons residing in low-moderate income areas.

The RGVECs 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 III. Section 3 Business, Employment Training and Contracting Goals.

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the RGVECs, complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section.

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 RGVECs have developed this Section 3 Plan to create consistency in applying the provisions of 24 CFR Part 135 objectives, and to guide the action steps 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

A. Identification of Resources

The RGVECs 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.

B. Outreach for Section 3 Businesses

Section 3 Coordinator will be responsible for soliciting qualified known Section 3 business concerns and creating an electronically available list of such businesses and their trades/profession as well as assisting such Section 3 Businesses in obtaining contracts or subcontracts. Actions to solicit qualified Section 3 Business Concerns will include, at a minimum, the following:

- 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.
- Distributing notices of upcoming projects to local Public Housing Agencies, Texas WorkForce Commission, 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.
- Provide Technical Assistance directly or through contracted organizations to help Section 3 businesses meet bonding and insurance requirements and become certified as Section 3 businesses. Additionally, this assistance will focus on helping existing Section 3 eligible contractors to identify and utilize other Section 3 businesses, subcontractors, and suppliers.

C. Outreach for Section 3 Individuals

- The Section 3 Coordinator will provide information to residents on employment opportunities.

Outreach will be conducted as necessary to meet the needs of the contractors and achieve the Section 3 employment goals. Such activities may include, but are not limited to:

- Request contractor distribute fliers and/or notices within the neighborhood of the Section 3 covered project.
- Maintaining a website with information about the process for obtaining employment as a Section 3 qualified worker.
- Conducting Section 3 presentations by participating in local community forums, job fairs and other networking opportunities.

D. 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 assist contractors in meeting their Section 3 obligations by connecting them with Section 3 eligible individuals through the Texas Workforce Commission as outlined in Section IV, below.

E. Compliance

The 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.

The 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 E or may be obtained at 24 CFR Part 135.38.

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

The Section 3 Coordinator must provide current postings and information to be posted on the RGVEC's respective web sites.

The Section 3 Coordinator will be the public point of contact for information regarding Section 3 compliance, reporting, business certification process and all other related matters.

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

F. Section 3 Reporting

1. Annual Reporting

RGVECs 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.

2. Contractor Reporting

Contractors are required to submit to RGVEC a Monthly Compliance Form, Monthly Employee Utilization Report, and an Employee Data and Certification form for all new hires.

Contractors are required to submit a Monthly Employee Utilization Report, and an Employee Data and Certification form for all new hires for each of their subcontractors.

Contractor payment requests will not be processed until all reporting requirements have been met.

G. Procurement

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

II. Applicability and Procurement

A. Bidding and Negotiation Requirements

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

Numerical goals are set forth in Section III regarding non-construction contracts associated with housing rehabilitation, housing construction, or public facilities (architectural, engineering, etc).

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 RGVECs, 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 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".

RVEC's will require the contractor/subcontractor to prepare and submit a Contractors Section 3 Plan (Exhibit A) with their contract documents prior to the commencement of any work under the contract. This plan must

be approved in writing by the RGVEC prior to the commencement of any work under the contract. The contractor/subcontractor will also submit Exhibit G to provide the current work force of the contractor along with workforce projections identifying projected number of new hires by job category.

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 RGVECs 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 E) and Assurance of Compliance (Exhibit B) 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.

B. Preference for Contracting with Section 3 Business Concerns

The RGVECs, in compliance with Section 3 regulations, will require contractors and subcontractors to direct their efforts towards contracts to Section 3 business concerns in the following order of 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 RGVECs 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.

III. Section 3 Business, Employment Training and Contracting Goals

A. Employment Goals; Compliance Review

It is the policy of the RGVECs 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 RGVEC's have 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; and
- 10 percent of the total dollar amount of all Section 3 covered construction contracts annually
 - Building trades work arising in connection with housing rehabilitation, housing construction and other public construction (ex. demolition) ; and
- 3 percent of the total dollar amount of covered non-construction (ex. professional services) contracts annually
 - Section 3 covered non-construction projects include professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc)

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.

Should the contractor fail to meet the Section 3 reporting requirements the following actions may be taken:

- Written warning notice of non compliance and remedial actions needed;
- Failure to meet the reporting requirements may result in termination of the contract for default, suspension and jeopardize future HUD funded projects.

B. 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. Designations will be made by the Section 3 Coordinator for the RGVECs.

The RGVECs have 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.

C. 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 form received and acknowledged by any of the RGVECs as evidence of eligibility for preference under the Section 3 Program. The certification 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 B).

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) to the Texas Workforce Commission.

A. Resident Hiring Requirements

The RGVECs have adopted a 30% goal for resident hiring that is to be used on construction contracts (24 CFR 135.30). A prime contractor may satisfy resident hiring requirements through its subcontractors. A Section 3 Employee Data and Certification form shall be utilized in documenting eligibility for participation in the program (Exhibit J or K).

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.

B. Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals

RGVECs will assist contractors, through the Section 3 Coordinator, 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.
- Referring the contractor to the Texas Workforce Commission for a listing of Section 3 residents for construction projects.
- Providing contractor with a list of Section 3 business concerns interested and qualified for construction projects.
- Informing prime contractors and subcontractors of the Section 3 Clause requirement and, when requested, will serve to clarify the intent.
- Giving notice of specific openings to all parties listed in Section I.

C. Contractor's Requirements in Employing Section 3 Residents

Under the RGVECs 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):
 - Category 1 Residents - Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located
 - Category 2 Residents – Participants in HUD Youthbuild program
 - Where the Section 3 project is assisted under the Steward B. McKinney Homeless Act (ESGP, SHDP, etc. as per 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
 - Other Section 3 Residents
 - 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
 - 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 F 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, RGVEC 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.

In the event the Section 3 resident or Section 3 business does not feel the RGVECs satisfactorily resolved the concern, complainants should file the concern using form HUD 958 and submit to:

FORT WORTH REGIONAL OFFICE
U.S. Department of Housing and Urban Development
Southwest Office
801 Cherry St., Unit 45, Suite 2500
Fort Worth, TX 76102

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 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 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 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 (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 Covered non-construction project- is a project associated with the Section 3 Covered Project such as maintenance contracts, re-painting, routine maintenance, HVAC servicing, and professional services (architectural, engineering, legal services, accounting, marketing, etc.)

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

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

Name of Business _____

Address of Business _____

Type of Business/Trade/Profession _____

- 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 (51% of business owner(s)) are Section 3 Residents:

- [] Self Certification [] Other

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, 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

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

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

Date: _____

Attested by: _____

Received by : _____

Date: _____

EXHIBIT B

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. 1701u. Section 3 requires that to 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 Section 3 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 135.38 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 provisions 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 135.38 (f).

APPLICANT: _____

SIGNATURE: _____

ADDRESS: _____

DATE: _____

EXHIBIT C

**CONTRACTOR/SUBCONTRACTOR CERTIFICATION REGARDING
SECTION 3 AND SEGREGATED FACILITIES**

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.

NAME AND TITLE OF SIGNER (PRINT OR TYPE)

SIGNATURE

DATE

EXHIBIT D

CONTRACTOR'S SECTION 3 PLAN

_____ agrees to implement the specific following affirmative action steps directed at increasing the utilization of lower income residents and businesses within the City/County of _____.

- A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city/county/MSA, 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 and servicing the project area.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 plan in all bid documents and to require all bidders on subcontracts to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To insure that subcontractors adhere to the Section 3 provisions that are applicable to the Contractor.
- F. To insure that all appropriate project area business concerns are notified of pending subcontractual opportunities.
- G. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- H. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.
- I. To maintain records concerning the amount and number of contracts, subcontracts, and purchases which contribute to Section 3 objectives.
- J. To maintain records of all projected workforce needs for all phases of the project by occupation, trade, skill level, and number of positions and to update these projections based on the extent to which hiring meets Section 3 objectives.

As officers and representatives of _____(Company),

We the undersigned have read and fully agree to the Section 3 Affirmative Action Plan, and become a party to the full implementation of the program and its provisions.

Signature

Signature

Title

Date

Title

Date

EXHIBIT E

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 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).

**EXHIBIT F
POSTED NOTICE TO PROJECT RESIDENTS**

The project _____
is being funded by the U.S. Department of Housing and Urban Development under the _____ - Community Development Block Grant Program. This notice complies with the RGVECs _____ 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 _____

**EXHIBIT G
ESTIMATED WORKFORCE BREAKDOWN**

NAME OF BUSINESS/CONTRACTOR/SUBCONTRACTOR _____

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
JOB CATEGORY	TOTAL ESTIMATE POSITIONS	NO. POSITIONS CURRENTLY OCCUPIED BY PERMANENT EMPLOYEES	NO. POSITIONS NOT CURRENTLY OCCUPIED	NO. POSITIONS TO BE FILLED WITH SECTION 3 RESIDENTS/LOW INCOME PERSONS *
OFFICERS SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/RENTAL MANAGEMENT				
OFFICE CLERICAL				
SERVICE WORKERS				
OTHERS				

TRADE: Plumbing/Electrical/HVAC/Construction/Other: _____

JOURNEYMEN				
COMMON LABORERS				
APPRENTICES				
MAXIMUM NO. OF TRAINEES				

TRADE: Plumbing/Electrical/HVAC/Construction/Other: _____

JOURNEYMEN				
COMMON LABORERS				
APPRENTICES				
MAXIMUM NO. OF TRAINEES				

TRADE: Plumbing/Electrical/HVAC/Construction/Other: _____

JOURNEYMEN				
COMMON LABORERS				
APPRENTICES				
MAXIMUM NO. OF TRAINEES				

TRADE: Plumbing/Electrical/HVAC/Construction/Other: _____

JOURNEYMEN				
COMMON LABORERS				
APPRENTICES				
MAXIMUM NO. OF TRAINEES				

*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 where the project is located.

ALL NEW HIRES MUST COMPLETE AN INCOME DOCUMENTATION CERTIFICATION—SEE EXHIBITS K AND L.

EXHIBIT H

SECTION 3 MONTHLY COMPLIANCE FORM

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

RGVEC: _____ Project Name: _____

RGVEC Address: _____ Project Location: _____

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 RGVECs 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

Title

Date

Business Name

EXHIBIT J

SECTION 3 EMPLOYEE DATA & CERTIFICATION

The U.S. Department of Housing and Urban Development (HUD) requires that the County/City of _____ document the income of newly hired persons working on federally-funded construction projects. This form is intended to comply with HUD Community Development Block Grant requirements.

Applicant's Name: _____ Job Title: _____

Address: _____ Phone: _____

How many people are in your family? (Circle one) **1 2 3 4 5 6 7 8+**

What is your family's gross annual income (before taxes)? _____

What is your race? (Circle one)

WHITE

BLACK/AFRICAN AMERICAN

ASIAN

AMERICAN INDIAN/ALASKAN NATIVE

NATIVE HAWAIIAN/OTHER PACIFIC ISLANDER

ASIAN & WHITE

BLACK & WHITE

AM. INDIAN/ALASKAN NATIVE & BLACK

OTHER MULTIRACIAL

Is your family of Hispanic origin? (Circle one) **YES NO**

I certify that all of the above information is true and correct to the best of my knowledge.

Employee's Signature

Date

