



## **SECTION 3 PLAN**

**The Housing Authority of**

**The City of Fort Myers**

**July 2009**

# **Table of Contents**

	<b><u>Page</u></b>
<b><u>Part I- Policy, Purpose, Goals</u></b>	
A. HACFM Section 3 Policy Statement .....	3
B. Purpose .....	3
C. Employment and Training Goals.....	5
D. Resident Hiring Requirements.....	5
<b><u>Part II- Contractor Requirements and Procedures</u></b>	
A. Section 3 Opportunities Plan.....	7
B. Certification Procedure for Section 3 Program Participants.....	7
C. Certification Procedure for Section 3 Business Concerns .....	8
D. Section 3 Employment Preferences and Priority.....	8
<b><u>Part III- HACFM Section 3 Program Assistance to Business and Residents</u></b>	
A. Assisting Contractors to Achieve Section 3 Goals.....	10
B. Efforts to Award Contract Opportunities to Section 3 Goals .....	10
C. Recruitment, Training and Employment of Section 3 Residents.....	11
D. Requirements for Section 3 Program Participants.....	12
E. Internal Complaint Procedure .....	13
<b><u>Part IV- Definitions</u></b>	
Definitions.....	14
<b><u>Part V- Exhibits</u></b>	
Exhibit 1: Certification of Residents Seeking Preference in Training and Employment	17
Exhibit 2: Certification of business Seeking Preference in Training and Employment	18
Exhibit 3: Section 3 Income Limits.....	19
Exhibit 4: Section 3 Special Conditions .....	20
Section 3 Opportunities Plan .....	21
Section 3 Compliance Report .....	25
Section 3 NSP Grant Funding Compliance.....	29
Certification of Receipt of Section 3 Plan .....	33
Complaint Register .....	
<b><u>Part VI- Reporting</u></b>	
Section 3 Employment Placement Roster .....	
Section 3 Sub-Contractor Monthly Report .....	
Section 3 General Contractor Monthly Report .....	
Section 3 Summary Report .....	
Frequently Asked Questions .....	
Code of Federal Regulations-Title 24, Volume I Part 135 .....	

## **Introduction**

*The Housing Authority - City of Fort Myers will, to the greatest extent feasible, attempt to offer training and employment skill building programs for the residents of public housing in Fort Myers and will make a good faith effort to recruit as many lower income residents as possible for employment and instructional positions and contract opportunities in an effort to provide economic opportunities for area residents and area business concerns, in accordance with Section 3 of the Housing and Urban Development Act of 1968.*

## **Part I- Policy, Purpose, Goals**

### **A. Section 3 Policy Statement**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701, et seq.) (the “Act”) requires the Housing Authority of the City of Fort Myers to ensure that employment and other economic and business opportunities generated by financial assistance from the Department of Housing and Urban Development (“HUD”), to the greatest extent feasible, are directed to public housing residents and other low income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low and very low income persons. To comply with the Act HACFM requires its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran’s or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment. The goal of this policy is to obtain a reasonable level of success in the recruitment, employment, and utilization of HACFM residents and other eligible persons and/or businesses by contractors working on contracts partially or wholly funded with HUD monies. HACFM shall examine and consider a contractor’s potential for success in providing employment and business opportunities to those covered under Section 3 prior to acting on any proposed contract award.

In response to any RFP, RFQ or IFB HACFM will require submission of the Section 3 Opportunities Plan and roster of current employees, and certification that the bidder will comply with the requirements of Section 3. HACFM, in accordance with applicable laws and regulations, has established employment and training goals that contractors and subcontractors are expected to meet in order to comply with Section 3 requirements. The goal is that thirty percent (30%) of the aggregate number of new hires in any fiscal year shall be Section 3 eligible. It is the contractor's responsibility to implement progressive efforts to attain Section 3 compliance.

HACFM in accordance with applicable laws and regulations has established a hiring and/or training requirement for contractors. This requirement establishes a sliding scale threshold based upon contract size for the value of Section 3 hiring and/or training to be achieved by the contractor. In the event that the threshold level can not be achieved through hiring by the contractor and/or subcontractors, the contractor may incur the cost of employment and related skill training provided to residents in amounts commensurate with the sliding scale amount. HACFM will provide assistance to contractors and bidders in identifying qualified and eligible Section 3 residents and businesses, and has established procedures for monitoring contractor compliance. The Section 3 Plan, as may be revised from time to time, contains information on this policy, and the requirements, procedures, forms, and assistance opportunities that have been established to implement this policy.

## **B. Purpose of this Section 3 Procedure Document**

This document serves to fulfill two (2) main objectives: 1) it outlines the Section 3 policy and program compliance measures of the Housing Authority of the City of Fort Myers (“HACFM”) Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701, et seq)]; and 2) it contains program definitions, employment and training goals, forms, information on program assistance provided by HACFM, and other information related to HACFM’s Section 3 program.

## **C. Section 3 Employment & Training Goals**

It is the policy of HACFM to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). HACFM has established employment and training goals that contractors and subcontractors are expected to meet in order to comply with Section 3 requirements. The numerical goal is: **Thirty percent (30%) of the aggregate number of new hires in any fiscal year**. It is the contractor’s responsibility to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting the goals was not feasible. All contractors submitting bids or proposals to HACFM are required to certify that they will comply with the requirements of Section 3.

## **D. Resident Hiring Requirements**

HACFM has adopted the following scale for resident hiring that is to be used on all construction contracts that contain a labor component. It is expected that an appropriate number of residents with particular qualifications or a willingness to begin as an unskilled laborer will be able to participate in covered contracted labor efforts. A prime contractor may satisfy all resident hiring requirements through its subcontractor(s)

**RESIDENT HIRING SCALE**

<b>TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS</b>	<b>RESIDENT LABOR AS A % OF TOTAL LABOR DOLLARS</b>
Labor Dollars \$25,000 but less than \$100,000	10% of the labor dollars
\$100,000 but less than \$200,000	9% of the labor dollars
At least \$200,000 but less than \$300,000	8% of the labor dollars
At least \$300,000 but less than \$400,000	7% of the labor dollars
At least \$400,000 but less than \$500,000	6% of the labor dollars
At least \$500,000 but less than \$1,000,000	5% of the labor dollars
At least \$1,000,000 but less than \$2,000,000	4% of the labor dollars
At least \$2,000,000 but less than \$4,000,000	3% of the labor dollars
At least \$4,000,000 but less than \$7,000,000	2% of the labor dollars
\$7,000,000 +	1.5% of the labor dollars

With this sliding formula, it is expected that an appropriate number of eligible and qualified HACFM public housing residents, as well as, eligible City of Fort Myers residents with particular qualifications or the willingness to begin unskilled labor will be able to participate in contracted labor efforts.

**A prime contractor or its subcontractor(s) may meet resident hiring requirements through:**

1. Direct hiring of Section 3 Residents including HACFM public housing residents, Section 8 residents, and/or low and very low income neighborhood residents, or
2. A subcontract or joint venture with a Section 3 Business or a resident owned business. The business must be 51% or more owned by low income public housing residents, or subcontract/joint venture with a business that employs full-time, 30% or more low income public housing residents, Section 8 residents or low and very low income individuals who reside in the City of Fort Myers or
3. Contractor incurs the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth in the Resident Hiring Scale.

## **Part II- Contractor Requirements and Procedures**

### **A. Section 3 Opportunities Plan**

As part of the response to an IFB, RFP, RFQ, or other solicitation, firms are required to submit a draft Section 3 Opportunities Plan to identify the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3. (See page 21 for format of the Section 3 Opportunities Plan Submission). Upon selection, HACFM will work with the selected firm(s) to finalize the Section 3 Opportunities Plan, including identification of HACFM assistance to be provided, timelines for action, and review of reporting and compliance requirements.

### **B. Section 3 Program Participants Certification Procedure**

HACFM will certify Section 3 program participants who reside in the City of Fort Myers and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (**see Exhibit 1 on Page 17 – Certification for Resident Seeking Section 3 Training and Employment Preference**).

The Section 3 component of HACFM is a commitment to provide economic opportunities and training to residents and other eligible participants to become gainfully employed.

### **C. Section 3 Business Concern Certification Procedures**

HACFM will also certify Section 3 Businesses. Business seeking certification as a Section 3 Business must self certify by completing and submitting the required forms to HACFM, and attach adequate proof of Section 3 eligibility, as required (**see Exhibit 2 on Page 18 – Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstrating Capability**).

### **D. Section 3 Employment Preferences and Priority**

Under the HACFM Section 3 Program, contractors and subcontractors are required to provide employment opportunities to Section 3 residents/participants in the following order of priority:

**a) Category 1- Section 3 Resident**

Residents of the housing development or developments in which the contract shall be Expended

**b) Category 2- Section 3 Resident**

Residents of other housing developments managed by the Housing Authority of the City of Fort Myers

**c) Category 3- Section 3 Resident**

Participants in HUD Youthbuild program being carried out.

**d) Category 4- Section 3 Resident**

All other residents of the City of Fort Myers who meet the income guidelines for Section 3 preference (**Refer to Section 3 Income Limits, page 19**)

After the award of contracts and before the notice to proceed will be issued by the HACFM authorizing work to begin, the contractor (together with the HACFM representative, as needed) must complete and provide a final Section 3 Opportunities Plan, including the following:

- Names of the Section 3 business concerns to be engaged as sub-contractors, if any, with accompanying certifications as required,
- Estimates of the number of employees to be utilized for contract,
- Projected number of available positions (new hires), to include job descriptions and wage rates (construction wages must be consistent with Davis Bacon requirements as appropriate).
- Efforts that will be utilized to seek Section 3 participants. (**See Recruitment, Training, and Employment of Section 3 Residents, page 11**)
- Contractors must notify the Procurement Officer (who will notify the HACFM) of their intention to employ Section 3 participants prior to hiring. Contractors are encouraged to utilize the HACFM to identify potential hires to meet their Section 3 obligations. The HACFM staff will ensure that anyone referred to the contractor by the HACFM is Section 3 eligible, pre-screened, and job-ready. If the contractor chooses not to utilize the HACFM, the contractor must provide the Section 3 eligibility certification for any proposed Section 3

hires. Additionally, the legal department of HACFM will be contacted to ascertain whether the individuals are involved in any legal proceedings against/with HACFM.

- A list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contact award.
- Once the Section 3 Opportunities Plan and related documentation has been completed satisfactorily, the Section 3 Compliance Officer will notify the Procurement Officer that the "Notice to Proceed" can be issued. The Housing Authority of the City of Fort Myers will not issue a "Notice to Proceed" to any contractor, subcontractor, or vendor until a satisfactory Section 3 Opportunities Plan has been completed and accepted by the contractor and HACFM.

After the notice to proceed is issued, contractors must do the following:

- Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the HACFM Procurement Officer. The contractor or the Procurement Officer must forward a copy of this information to the Section 3 Compliance Officer.
- Immediately notify the Procurement Officer of any problems experienced due to the employment of Section 3 participants.
- Immediately notify Section 3 Compliance Officer if a participant quits, walks off, or is terminated for any reason. The Contractor must provide written documentation of all such incidents to support such decisions
- Complete and submit the Section 3 New Hire Compliance Report at least annually.

## **Part III- HACFM Section 3 Program Assistance to Business and Residents**

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

HACFM will assist contractors with little or no experience in achieving Section 3 hiring and contracting goals by:

1. Requiring the contractor to present or create a list of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract. (See Section 3 Opportunities Plan, page 19)
2. HACFM will provide the contractor with a list of pre-screened Section 3 residents and Section 3 Businesses meeting the position or contract requirements from the Section 3 Compliance Officer database for construction projects.
3. The HACFM Section 3 Compliance Officer will inform contractor of known issues that might adversely affect Section 3 residents from performing job related duties.
4. The HACFM Section 3 Compliance Officer will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. The purpose of the new hire clause is to require the Contractor to make every effort to employ Section 3 program participants before any other person, when additional employees are needed to complete the proposed work and is funded with federal (HUD) funds.

### **B. Efforts to Award Contract Opportunities to Section 3 Business Concerns**

HACFM will use the following methods to assist with creating opportunities for contracting with Section 3 business concerns:

- HACFM will provide lists of certified Section 3 Business Concerns, if any, to prime contractors seeking such information.
- HACFM will conduct workshops on HACFM's contracting procedures to include bonding, insurance, and other pertinent requirements to afford Section 3 business concerns the opportunity to take advantage of future contracting opportunities.
- HACFM will establish relationships with the Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist contractors with educating and mentoring residents with a desire to start their own businesses.
- HACFM will develop resources and/or seek out training to assist residents who are interested in starting their own businesses in order to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance, etc.

### **C. Recruitment, Training, and Employment of Section 3 Residents**

HACFM will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

- Training opportunities will be advertised by distributing flyers via mass mailings and posting in common areas of HACFM housing developments, as well as all HACFM public housing management offices.
- The resident councils, resident management corporations, and neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.
- Employment opportunities will be advertised by posting job vacancies in common areas of all HACFM housing developments, as well as, contacting resident councils, resident management corporations, and neighborhood community organizations.
- A database will be developed of certified Section 3 residents of public housing and other Section 3 residents.
- The database will maintain a skill assessment of all certified Section 3 residents of public housing and other certified Section 3 residents.
- A database will be developed of eligible, qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.
- A provision for a specific number of public housing or Section 3 program participants to be trained or employed by the contractor will be incorporated into all contracts.
- Once the Notice of Award has been approved by the HACFM Board of Commissioners, the Procurement Officer will be responsible for notifying the Section 3 Compliance Officer about the award, for forwarding the submitted copy of the contractor's Section 3 Opportunities Plan, and for providing contact information for the contractor so the HACFM can communicate with the contractor to complete the process for finalizing the Section 3 Opportunities Plan.

#### **D. Requirements for Section 3 Program Participants**

If an eligible section 3 resident is referred to a contractor and does not perform satisfactorily due to poor work habits (i.e., tardiness, absenteeism, alcohol/drugs, abusive language, fighting, etc.) the employer must alert HACFM Section 3 Compliance Officer of the unsatisfactory performance. The employee must then meet with the Section 3 Compliance Officer to discuss their continued eligibility. Then the following options will be available: 1) the resident may continue employment or; 2) The resident may be removed from employment and required to attend and complete a job readiness class, alcohol/drug treatment center, or some other program. After successful completion, the resident will be given the opportunity to be reinstated on the list of residents available for work. If a resident is removed from a position, the employer must first seek to again fill the job with a Section 3 Resident.

- Residents experiencing problems with contractors should first communicate the problem to the employer and the Section 3 Compliance Officer. If the problem cannot be solved between the employee and employer, the Section 3 Compliance Officer will meet with the parties to assist in trying to resolve the problem
- Residents terminated for cause from a construction project will not be referred for employment until they have completed a training, treatment, or other program as agreed to by the resident and the HACFM, or for a minimum of six months. It will be up to the discretion of the HACFM if the resident can be reinstated and referred to an employment opportunity.
- In order to qualify for employment with contractors, public housing residents must have their name(s) on a HACFM lease, be current on rent or rent repayment agreement (if applicable), be at least eighteen years of age, and not be involved in any legal action with the Housing Authority for current documented eviction, criminal and drug activity or trespassing.
- Residents not interested in construction employment opportunities will be assessed for other skills (clerical, administrative, etc.) and will have the opportunity to receive help with interviewing techniques, resume preparation, application assistance, employment leads, and how to dress for success when conducting a job search through the HOPE VI Neighborhood Network Center.

### **E. Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to alleged non-compliance through an internal process, HACFM encourages submittal of such complaints as follows:

- Complaints of non-compliance should be filed in writing with HACFM and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135 or the HACFM Section 3 Policy.
- Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
- HACFM will conduct an informal investigation of all complaints.

Alternately, if complainants wish to have their concerns considered outside of HACFM, a complaint may be filed by obtaining and completing a complaint register (HUD form-958) and send to the following:

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

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

## **Part IV- Definitions**

**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 for the performance of work generated by the expenditure of Section 3 covered assistance, or performing 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 24 CFR Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing Authority** (HA) – Public Housing Agency.

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

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

**Low-income person** – families (including single persons) whose incomes do not exceed 80 per cent 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 cent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

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

## **Definitions – (continued)**

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

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

**Section 3 Business Concern** – a business concern,

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

**Section 3 Covered Assistance** –

- 1) Public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act; 4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Clause – the contract provisions set forth in 24 CFR Section 135.38.

## **Definitions – (continued)**

**Section 3 Covered Contracts** – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. Section 3 covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

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

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

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

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



Exhibit 1

**Certification for Resident Seeking Section 3 Training and Employment Preference**

Eligibility Preference

A Section 3 resident seeking the preference in training and employment provided by this part shall certify or submit evidence to HACFM and/or recipient contractor/subcontractor, if requested, that the person is a Section 3 resident.

I, \_\_\_\_\_, am a legal resident of the City of Fort Myers  
(print name)

and meet the income eligibility guidelines for a low- or very-low-income person for this area.

My permanent address is:

\_\_\_\_\_  
\_\_\_\_\_

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

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

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_



Exhibit 2

**Certification for Business Concern Seeking Section 3 Preference in Contracting and Demonstration of Capacity**

**Name of Business** \_\_\_\_\_

**Address of Business** \_\_\_\_\_

**Type of Business:** Corporation Partnership Sole Proprietorship Other \_\_\_\_\_  
Type of Business Activity: \_\_\_\_\_

Attached is the following documentation as evidence of status:

**For all business entities (as applicable):**

- |  |   |
|--|---|
| <input type="checkbox"/> Copy of Articles of Incorporation                                     | <input type="checkbox"/> Certificate of Good Standing             |
| <input type="checkbox"/> Assumed Business Name Certificate                                     | <input type="checkbox"/> Partnership Agreement                    |
| <input type="checkbox"/> List of owners/stockholders and 51% ownership of each                 | <input type="checkbox"/> Corporation Annual Report                |
| <input type="checkbox"/> Organization chart with names and titles and brief function statement | <input type="checkbox"/> Latest Board minutes appointing officers |
|  | <input type="checkbox"/> Additional documentation                 |

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

Certification for Section 3 Residents (at least 51% of the business owners)

**For Business claiming Section 3 status by subcontracting 25% of the dollar award to qualified Section 3 Business:**

- List of subcontracted Section 3 business(es) and subcontract amount
- This certification & all supporting documentation for each subcontracted Section 3 Business

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

- List of all current full time employees
- List of employees claiming Section 3 status
- Certification for Section 3 Residents (at least 30% of all current full-time employees) with supporting documentation showing Section 3 status immediately prior to the date of first hire

**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

\_\_\_\_\_  
Authorized Name, Title and Signature

\_\_\_\_\_  
(Corporate Seal)

Attested By: \_\_\_\_\_

Date \_\_\_\_\_



Exhibit 3

<b>SECTION 3 INCOME LIMITS</b>		
<b>(FY 2019 Income Limits from <a href="http://www.huduser.org">www.huduser.org</a>)</b>		
<p>All residents of public housing developments of the Housing Authority of the City of Fort Myers qualify as Section 3 residents. Additionally, individuals residing in Lee County who meet the income limits set forth below can also qualify for Section 3 status.</p> <p style="text-align: center;"><b>A picture identification and proof of current residency is required.</b></p>		
<b>Eligibility Guidelines</b>		
<b>Number in Household</b>	<b>Very low-income (50%)</b>	<b>Low income (80%)</b>
1 person	\$23,500	\$37,600
2 person	\$26,850	\$43,000
3 person	\$30,200	\$48,350
<b>4 person</b>	<b>\$33,550</b>	<b>\$53,700</b>
5 person	\$36,250	\$58,000
6 person	\$38,950	\$62,300
7 person	\$41,650	\$66,600
8 person	\$44,300	\$70,900



## **SECTION 3 SPECIAL CONDITIONS**

HACFM has initiated efforts to enhance resident hiring on construction related contracts. These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractors' hiring of HACFM residents and other low income and/or very low-income residents residing in the Section 3 area.

### **1. Procurement Documents**

- Each bidder must include a Section 3 Opportunities Plan which indicates its commitment to meet HACFM resident hiring requirements.
- If a bidder fails to submit a Section 3 Opportunities Plan and the related data along with the bid, such bid will be declared as “non-responsive”.
- For Invitations for Bids (“IFB”) where awards are made to the most responsive and responsible bidder, the bidder’s commitment to satisfy HACFM resident hiring requirements will be a factor used in determining whether the bidder is “responsive”.
- For RFQ’s, RFP’s and IFB’s, contractors shall be required to detail the cost of the bid or proposal by separately categorizing section 3 contract cost by labor (person hours and dollar amounts).

### **2. Enforcement**

- To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.
- During the post award or pre-construction meeting, the objective shall be to impart critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail (Non-construction contracts do not require Davis-Bacon compliance):
  - Davis-Bacon Wage Requirements
  - Minority and Women Owned Business Participation requirements
  - Section 3 Program requirements

HACFM/LCHA representatives will require the contractor to certify its understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, Section 3 hiring and Minority and Women Owned Business participation.

### **3. Monitoring and Enforcement Authority and Responsibility**

The function of monitoring and enforcing of Section 3 compliance and hiring will be carried out by the Section 3 Compliance Officer.



### SECTION 3 OPPORTUNITIES PLAN

#### **Business Opportunities and Employment Training for Housing Authority of the City of Fort Myers Low Income Public Housing Residents and Low and Very Low Income Area Residents**

**PRIME CONTRACTOR'S NAME:** \_\_\_\_\_  
**SPECIFICATION OR RFP/IFB/RFQ NUMBER:** \_\_\_\_\_  
**SPECIFICATION OR RFP/IFB/RFQ TITLE:** \_\_\_\_\_

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1 et seq. and the HACFM Section 3 Policy and Program requirements. The Contractor hereby submits this document to identify employment opportunities for HACFM residents and low and very low income City of Fort Myers neighborhood area residents during the term of the contract between the Contractor and the HACFM.

The preference of HACFM/LCHA is to ensure that as many HACFM/LCHA residents as possible are employed. In an effort to further that requirement, HACFM/LCHA has created a preference tier structure as outlined in the Section 3 Plan. Contractors are required to comply with Section 3 by first considering Tier I – Hiring. The Contractor agrees to meet its Section 3 requirement following the Preferential Tier Structure as indicated by the selection below (check one or more tiers below):

#### **[ ] Tier I – HIRING**

The Contractor affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under Contract/Purchase Order # \_\_\_\_\_. The Contractor has committed to employ \_\_\_\_\_ resident(s) in order to comply with its Section 3 requirements. A prime contractor may satisfy HACFM Resident Hiring Requirements through his/her subcontractors.

**Contact HACFM/LCHA for resident referrals at 239-332-3825.** (Client Services Department)

When Tier I is selected, the Contractor shall complete the following table as instructed below:

- (1) Indicate each job title for all phases of this contract
- (2) The number of positions that will be needed in each category
- (3) How many of those positions are currently filled
- (4) The number currently filled by low and very low-income HACFM/LCHA residents
- (5) The number currently filled by City of Fort Myers/Lee County neighborhood area residents
- (6) How many positions need to be filled

**Indicate your requirement for the number of positions you intend to fill with:**

- (7) Low income HACFM Residents and/or
- (8) Low and very-low income City of Fort Myers neighborhood area residents





## SECTION 3 OPPORTUNITIES PLAN

### Tier II – CONTRACTING

The contractor has identified HACFM/LCHA resident-owned business(es) or Section 3 business(es) which are 51 percent or more owned by Section 3 residents or 30 percent or more of their permanent full-time workforce are Section 3 residents. This will satisfy the contractor's Section 3 requirement covered under Contract/Purchase Order #.

#### **In a one (1) page letter on your firm's letterhead:**

- 1) Indicate the requirements, expressed in terms of percentage, of planned contracting dollars for the use of Section 3 business concerns as subcontractors.
- 2) A statement of the total dollar amount to be contracted, total dollar amount to be contracted to Section 3 business concerns for building trades, and total dollar amount to be contracted to Section 3 business concerns for other than building trades work (maintenance, repair, modernization, and development).
- 3) A description of the method used to develop the requirements above and the efforts to be undertaken by the contractor to meet those requirements.

### Tier III - OTHER ECONOMIC OPPORTUNITIES

Contractors may provide other economic opportunities to train and employ Section 3 residents by incurring the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth in the Resident Hiring Scale (see page 6)



### SECTION 3 OPPORTUNITIES PLAN

**By signing below, the Contractor hereby agrees to comply with the selected Section 3 requirements indicated above. To the extent that the completion of this form is contingent upon future information, for example price negotiations, request for specific services, etc., the undersigned hereby affirms and agrees to fully adhere to the spirit and intent of the HACFM Section 3 Policy.**

**Furthermore, the undersigned acknowledges and affirms responsibility for completion and submission of this form PRIOR to the AWARD of a contract from HACFM/LCHA. Failure to submit this form may jeopardize the responsiveness of your submission.**

**Attest/Witness**

\_\_\_\_\_

Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## SECTION 3 NEW HIRE COMPLIANCE REPORT

The US Department of Housing & Urban Development (“HUD”) requires the Housing Authority of the City of Fort Myers to collect information on every person hired in connection with Section 3 projects to ensure HACFM’s compliance with Federal regulations.

As part of HACFM’s Section 3 program your firm is required to report the number of employees hired in connection with a Section 3 Project who are Section 3 Eligible. Complete this form by entering the names and addresses of all new hires and by indicating whether they are Section 3 eligible. For purposes of HACFM, a Section 3 resident is:

1. A public housing resident;
2. An individual who lives within the City of Fort Myers and whose income falls within the guidelines for low or very low income. **See table on page 19.**

**This form must be completed by all firms working on a Section 3 project, defined as a contract that exceeds \$100,000, even if the firm is not a “Section 3 Business.”**

### **INSTRUCTIONS FOR EMPLOYERS:**

1. Enter the name and address of every new employee hired in connection with the Section 3 Project on the following list. (Add additional sheets if necessary).
2. For Employees **NOT HIRED** through HACFM, determine whether each new hire is Section 3 eligible by asking the employee the following questions upon hiring:

**a. Are you a resident of HACFM/LCHA public housing?**

- YES**
- NO**

If the answer is “YES,” please skip question “b” and proceed directly to question “c”.

If the answer is “NO,” please follow up by asking question “b”.

**b. Are you a resident of the City of Fort Myers/Lee County**

- YES**
- NO**

If the answer is “NO,” this person is not a Section 3-eligible resident.

Therefore, there is not a need to ask question “c”.

**c. In the last 12 months, was your household income (meaning the total for everyone in your family earning income) NOT GREATER THAN the amount listed based on your household size?**

- YES**
- NO**

**If yes, have the employee complete the certification form (Exhibit 1) and attach this to your submission.**

3. For employees HIRED through HACFM, check the “hired through HACFM” box next to their name.



### SECTION 3 NEW HIRE COMPLIANCE REPORT

4. Indicate whether each new hire is Section 3 eligible by checking the appropriate box next to their name and address on Section 3 New Hire Report. Indicate “Y” for Yes and “N” for No

5. Indicate the Job Category using the following codes:

Professionals	P
Technicians	T
Office and Clerical	OC
Sales	S
Trades	T
Labor	L
Service Workers	SW
Other	Other

6. An authorized representative of the firm must certify the accuracy and completeness of the information provided by signing this form where indicated.

7. Developers and contractors – who have direct agreements with HACFM regarding a Section 3 covered project – are responsible for collecting the Section 3 New Hire Report from all applicable contractors and sub-contractors performing on a Section 3 covered project. By December 31 of each year that the project is under construction, completed forms must be submitted to HACFM Section 3 Compliance Officer. If a project finishes construction before the end of the year, Section 3 New Hire Compliance Reports must be submitted within 30 days of completion.

8. If there were NO new hires for the report period, please document by checking the box and providing an authorized signature for your company.



### SECTION 3 NEW HIRE COMPLIANCE REPORT

**Project Name:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**Developer Name (if applicable):** \_\_\_\_\_

**General Contractor Name:** \_\_\_\_\_

**Name of Firm Completing This Form:** \_\_\_\_\_

**This Firm is a (check one):**

- Developer
  
- General Contractor  
Contract Amount: \$ \_\_\_\_\_
  
- Subcontractor  
Contract Amount: \$ \_\_\_\_\_
  
- Professional Services Consultant  
Contract Amount: \$ \_\_\_\_\_

**Contracts and subcontracts made with vendors to solely provide supplies and/or materials are not subject to the HUD Section 3 requirements. However, where such vendors also install such supplies and materials, said contracts and subcontracts above \$100,000 shall be subject to the HUD Section 3 requirements.**



### SECTION 3 NEW HIRE COMPLIANCE REPORT

	NAME OF NEW HIRE	ADDRESS (include Suite/Apt #)	Section 3 Eligible?		Labor Category
			YES OR NO	Provided by HACFM	See Instructions
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					

If there were NO new hires for the report period, please document by checking the box and providing an authorized signature for your company.

- I certify that there were no new hires during the reporting period \_\_\_ / \_\_\_ / \_\_\_  
to \_\_\_ / \_\_\_ / \_\_\_ mm / dd / yyyy

**Name:** \_\_\_\_\_  
(please print)

**Date:** \_\_\_\_\_

**Title:** \_\_\_\_\_  
(please print)

**Signature:** \_\_\_\_\_

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief



## THE APPLICABILITY OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 TO NEIGHBORHOOD STABILIZATION PROGRAM FUNDING

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### Neighborhood Stabilization Program Funding <sup>i</sup>

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties.

**NSP 1**, a term that references the NSP funds authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008, provides grants to all states and selected local governments on a formula basis. **NSP 2**, refers to NSP funds authorized under the American Recovery and Reinvestment Act (the Recovery Act) of 2009, and provides grants to states, local governments, nonprofits and a consortium of nonprofit entities on a competitive basis. The Recovery Act also authorized HUD to establish **NSP-TA**, a \$50 million allocation made available to national and local technical assistance providers to support NSP grantees.

NSP is a component of the Community Development Block Grant (CDBG) program. The CDBG regulatory structure is the platform used to implement NSP and the HOME program provides a safe harbor for NSP affordability requirements. NSP funds are to be used for activities that include, but are not limited to:

- Establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchasing and rehabilitating homes and residential properties abandoned or foreclosed;
- Establishing land banks for foreclosed homes;
- Demolishing blighted structures; and
- Redeveloping demolished or vacant properties

NSP grantees can use their discretion to develop their own programs and funding priorities. However, at least 25 percent of their NSP funds shall be appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income.

### **Economic Opportunities for Low- and Very Low-Income Persons (Section 3)**

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the *normal expenditure* of certain HUD funds typically results in new jobs, contracts, and other economic opportunities; and when these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (**regardless of race and gender**), and the businesses that substantially employ them, shall receive priority consideration.

Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

### **Section 3 Applicability to NSP Funds**

A grantee's combined investment in excess of **\$200,000** of NSP funding into projects arising in connection with *housing construction, demolition, rehabilitation, or other public construction* makes the requirements of Section 3 applicable to all individual properties that receive services with these funds – regardless of the actual amount that is spent on each individual unit/property. Accordingly, the grantee shall ensure compliance with the statutory and regulatory requirements of Section 3 in its own operations, and those of covered contractors. These responsibilities include:

- 1) Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- 2) Complying with the specific responsibilities at 24 CFR Part 135.32; and
- 3) Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

If covered contractors receive awards that exceed **\$100,000** for the construction and rehabilitation activities listed above, responsibility for Section 3 compliance is shared with that firm (with the exception of the submission of the Section 3 Annual report (Form HUD 60002), which must be submitted by the direct recipient of covered funds).

If **no contractor receives an award exceeding \$100,000**, responsibility for complying with the requirements of Section 3 stays with the grantee.

Specifically, the grantee shall be responsible for awarding 10 percent of the total dollar amount of all covered contracts to Section 3 business concerns. Each recipient shall fulfill the responsibilities described below to meet the requirements of Section 3.

### Recipient Responsibilities Pursuant to Section 3 [24 CFR Part 135.32]

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for ***new*** employment, training, or contracting opportunities that are created during the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents<sup>ii</sup> and business concerns<sup>iii</sup> about training and employment opportunities generated by Section 3 covered assistance;
2. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
3. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
4. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
6. Assisting and actively cooperating with the Department in obtaining the compliance of contractors and subcontractors;
7. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
8. Documenting actions taken to comply with Section 3; and
9. Submitting Section 3 annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

### Section 3 Compliance and NSP Funding

As with all other covered programs, the Department makes determinations regarding Section 3 compliance based upon the following:

1. Meeting the minimum numerical goals set forth at 24 CFR Part 135.30
  - a. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
  - b. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns.
2. Recipients that fail to meet the numerical goals above **bear the burden of demonstrating why it was not possible.**
  - \* Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will allow the Department to make a determination regarding compliance.

### Section 3 Reporting Requirements

Each direct recipient of NSP funding is required to submit Section 3 summary data to the Economic Opportunity Division annually using form HUD-60002.

This form can be submitted online at: [www.hud.gov/section3](http://www.hud.gov/section3).

Since NSP funding requires the submission of quarterly performance reports, grantees shall submit form HUD-60002 at the same time that the 4th quarter NSP report is submitted. The 60002 should reflect the cumulative employment, contracting, and training opportunities that were generated throughout the entire year.

### Section 3 Guidance and Technical Assistance

The Economic Opportunity Division in HUD Headquarters is committed to providing guidance and technical assistance to ensure compliance with the statutory and regulatory requirements of Section 3. For additional information, please refer to the following:

- [www.hud.gov/section3](http://www.hud.gov/section3)
- Section 3 Statute—12 U.S.C. 1701u
- Section 3 regulations—24 CFR Part 135
- [www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/)
- U.S. Department of Housing and Urban Development  
Economic Opportunity Division  
451 Seventh Street, SW Room 5235  
Washington, DC 20410  
202-708-3633 (this is not a toll free number)
- Email questions or comments to: [section3@hud.gov](mailto:section3@hud.gov)

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<sup>i</sup> Source: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

<sup>ii</sup> Section 3 residents are defined as: 1) residents of public housing; or 2) individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and meet the definition of a low- or very low-income person as defined by HUD).

<sup>iii</sup> Section 3 business concerns are defined as one of the following: 1) businesses that are 51 percent or more owned by Section 3 residents; 2) businesses whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 residents or were Section 3 residents within 3 years of the date of first employment with the business concern; or 3) businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the two previous categories.



**CERTIFICATION OF RECEIPT AND UNDERSTANDING OF THE HACFM SECTION 3 PLAN AND COMPLIANCE REQUIREMENTS:**

I \_\_\_\_\_, the \_\_\_\_\_  
(Print Name) (Title)

of \_\_\_\_\_ hereby acknowledge  
(Company)

receipt and understanding of, and pledge to adhere to, the Section 3 Plan.

Signature of Contractor \_\_\_\_\_ Date \_\_\_\_\_