



A C WHARTON, JR. - Mayor
GEORGE M. LITTLE - Chief Administrative Officer
DIVISION OF HOUSING & COMMUNITY DEVELOPMENT
ROBERT LIPSCOMB - Director
Debbie Singleton, Administrator, Compliance and Reporting

MEMORANDUM

TO: Businesses and Non-Profit Organizations

FROM: Patrick Smith, Interim Administrator of Compliance *PS*

SUBJECT: Section 3 Businesses

Businesses and non-profit organizations are encouraged to review the information contained in the following materials to determine qualification as a Section 3 business.

Section 3 is a provision of the U. S. Housing and Urban Development (HUD) Act of 1968 that involves ensuring federal dollars received by local communities used for select projects include Section 3 business contracting goals. Businesses that are owned by or significantly employ low- to very-low income residents are considered Section 3.

Section 3 businesses will receive preference for contracting opportunities on select federally-funded projects.

Please review the following information to determine if your business or non-profit organization qualifies as a Section 3 business.

For additional information about Section 3 and Section 3 businesses, please contact Michael Sicuro at 576-7415 or Claude.Sicuro@memphistn.gov.



A C WHARTON, JR. - Mayor
GEORGE M. LITTLE - Chief Administrative Officer
DIVISION OF HOUSING & COMMUNITY DEVELOPMENT
ROBERT LIPSCOMB - Director
Debbie Singleton, Administrator, Compliance and Reporting

City of Memphis, Division of Housing and Community Development

SECTION 3 BUSINESSES Frequently Asked Questions (FAQs)

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance.

Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons, particularly those who are recipients of government assistance, AND to businesses that provide economic opportunities to low- to very low-income persons.

What is the City of Memphis, Division of Housing and Community Development's (HCD) requirements regarding Section 3?

As a recipient of HUD financial assistance meeting the funding thresholds of Section 3, HCD is required to comply with all provision of 24 CFR Part 135. This includes providing preference to Section 3 businesses on select projects.

Preference to Section 3 businesses means that HCD and HCD award recipients' procurement procedures include methods to provide preference to Section 3 businesses.

Are there goals established by HCD to meet the federal requirements of Section 3?

Yes, the following goals are established for projects governed by Section 3:

Section 3 Businesses (applies to projects valued at \$100,000 or more)

At least ten percent (10%) of the total dollar amount of a construction contract shall be awarded to Section 3 businesses.

At least three percent (3%) of the total dollar amount of a non-construction contract shall be awarded to Section 3 businesses.

Section 3 Residents (applies to all projects)

Thirty percent (30%) of new positions generated during a one year period shall be filled with Section 3 residents.

What is a Section 3 business?

A Section 3 business is a business that can provide evidence that its meet one of the following:

- 51 percent or more owned by Section 3 residents; **or**
- At least 30 percent of its full-time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire; **or**
- Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to businesses that meet one of the qualifications in the above.

A Section 3 business is eligible to receive contracting preference on select federally-funded projects.

What is the definition of full-time employee when considering the qualifications for a Section 3 business?

According to information provided to HCD by the U.S. Department of Housing and Urban Development – Office of Fair Housing and Equal Opportunity, full-time means a worker who works 40 hours a week or somewhere close to that.

What does the term Section 3 resident mean?

A Section 3 resident is:

- A public housing resident; or
- A low- or very low-income person residing in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended.

How is “low-income” determined?

The term “low-income” is used in the Section 3 regulation to include both low- and very low-income individuals. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

What does “metropolitan area” and “non-metropolitan county” mean?

Metropolitan area means a metropolitan statistical area (MSA), as established by the federal Office of Management and Budget. Non-metropolitan county means any county outside of a metropolitan area.

How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

Does a business have to be incorporated to be considered as a Section 3 eligible business?

No, a business does not have to be incorporated to be considered a Section 3 business. It can be any type of business: sole proprietorship, joint venture, partnership or a corporation.

May a non-profit organization be considered a “business” for the purposes of Section 3?

Yes. A non-profit organization is a legitimate business. The non-profit organization must meet the criteria of a Section 3 business as defined in 24 CFR Part 135.5 in order to receive Section 3 preference.

Does preference as a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm’s compliance with technical and public policy requirements.

Preference to Section 3 business concerns means that HCD and HCD award recipients’ procurement procedures include methods to provide preference to Section 3 businesses.

How may a business be granted Section 3 status with the City of Memphis, Division of Housing and Community Development?

A business may be given consideration as Section 3 by completing a Section 3 Business Certification Form and a Section 3 Business Profile Form. All documents will be reviewed by the Compliance Department. Confirmation of Section 3 status will be provided in writing.

How may a Section 3 Business Certification Form and Section 3 Business Profile Form be received?

Section 3 forms may be received by contacting:

Compliance Department – Section 3
City of Memphis, Division of Housing and Community Development
701 North Main Street
Memphis, TN 38107
Phone: (901) 576-7415
Fax: (901) 576-7476

Understanding Section 3

A LOCAL JOBS AND CONTRACTING INITIATIVE

CITY OF MEMPHIS, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

What is Section 3?

Section 3 is a HUD requirement designed to ensure that the HUD funds invested in housing and community development activities provide employment opportunities for low-income people.

HUD's regulations state that "to the greatest extent feasible," businesses and employers working on HUD-funded projects must make a good faith effort to train and employ low- to very low- income individuals in the area (called "Section 3 residents") and also to contract businesses identified as Section 3.

In summary, the obligations of Section 3 are:

1. Provide training for Section 3 residents, and report on the outreach and training undertaken.
2. To the greatest extent feasible hire and train Section 3 residents, and report on employees and new hires.
3. To the greatest extent feasible contract with Section 3 businesses, and report on contracts and subcontracts.

Contracting Obligations

Applies to projects valued at \$100,000 or more

Section 3 requires that award recipients fulfill the following obligations:

- Meet HUD's contracting requirement (the "minimum numerical target for contracting") that Section 3 businesses receive least 10% of the building trades contracts for the project, and at least 3% of the total amount for all non-building trade contracts.
- "To greatest extent feasible" contract with Section 3 business concerns identified as
 - ▷ 51 percent or more owned by Section 3 residents; or
 - ▷ At least 30 percent of its full-time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire; or
 - ▷ Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to businesses that meet one of the qualifications above.

Hiring Obligations

Applies to all projects

Section 3 requires that award recipients fulfill the following obligations when new employees are hired:

- Meet HUD’s hiring requirement (the “minimum numerical target for training and employment”) that 30% of new hires be Section 3 individuals
- “To greatest extent feasible” provide preference to hire area residents:
 - ▷ Low- to very low-income residents of the housing development or developments in which the HUD funds shall be expended; or
 - ▷ Low- to very low-income residents of other housing developments managed by the Memphis Housing Authority; or
 - ▷ Participants in HUD Youthbuild program; or
 - ▷ All other residents (including Section 8 recipients) of the City of Memphis or Shelby County who meet the low- to very low-income guidelines for Section 3 preference

Section 3 Business Certification Form

CITY OF MEMPHIS, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

Businesses seeking Section 3 status and preference in contracting by the City of Memphis, Division of Housing and Community Development (HCD) must complete and submit a Section 3 Business Certification Form.

Business Name _____

Address _____

City _____ State _____ Zip _____

Federal Employer Identification Number _____

Type of Business

- Corporation Partnership Sole Proprietorship Joint Venture
-

Please select one of the following three qualification methods for status as a Section 3 business.

Section 3 resident-owned business (51 percent or more owned by Section 3 residents)

The following documents may be required in the future as added confirmation of status:

- Complete list of Section 3 resident owners
- Section 3 Resident Certification Forms for each Section 3 resident owner

At least 30 percent of permanent, full-time workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business

The following documents may be required in the future as added confirmation of status:

- Complete list of all current full-time employees
- Complete list of employees claiming Section 3 status and employees Section 3 Resident Certification Forms
- Other evidence of Section 3 status less than 3 years from day of employment

Subcontracting 25 percent of the dollar awarded to qualified Section 3 business

The following documents may be required in the future as added confirmation of status:

- Complete list of subcontracted Section 3 business(es) and subcontract amount(s)
-

I certify to best of my knowledge that the information contained here within is true and accurate.

Signature _____ Date _____

Print Name _____ Title _____

Section 3 Business Profile

CITY OF MEMPHIS, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

This document is to be completed and submitted along with the Section 3 Business Certification Form to the City of Memphis, Division of Housing and Community Development Compliance Department.

PLEASE PRINT

Business Name _____

Address _____ City _____ ST _____ Zip _____

Office Telephone () _____ Fax Telephone () _____

Contact Person _____

Email Address _____ Business Website _____

Employer Identification Number _____

Date Business Established Month _____ Date _____ Year _____

Number of Employees _____ Full-time _____ Part-time _____ Contract _____

Trade Description (please check all that apply)

<input type="checkbox"/>	Carpentry	<input type="checkbox"/>	Heating (HVAC)	<input type="checkbox"/>	Electrical
<input type="checkbox"/>	Painting	<input type="checkbox"/>	Masonry	<input type="checkbox"/>	Asbestos
<input type="checkbox"/>	Plumbing	<input type="checkbox"/>	Masonry Restoration	<input type="checkbox"/>	Lead Abatement
<input type="checkbox"/>	General Contractor	<input type="checkbox"/>	Roofing	<input type="checkbox"/>	Carpet/ Flooring
<input type="checkbox"/>	Boliler/Burner Replacement	<input type="checkbox"/>	Exterminating	<input type="checkbox"/>	Ironwork
<input type="checkbox"/>	Architecture	<input type="checkbox"/>	Rubbish Removal	<input type="checkbox"/>	Demolition
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____

Bonding Capacity _____ Insurance Capacity _____

Contracts awarded over the last three (3) years

Project Name or Developer Name	Contract Amount
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Additional Comments:

Section 3 Resident Certification Form

CITY OF MEMPHIS, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

This form is to be completed by residents seeking Section 3 status and the preference in training and employment or by new employees working on Section 3-covered projects.

Eligibility

A resident seeking Section 3 status shall submit evidence to the recipient contractor or subcontractor that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance or evidence of participation in a public assistance program.)

- All residents of public housing developments of the Memphis Housing Authority qualify as Section 3 residents.
- All individuals residing in the City of Memphis, Shelby County, Tennessee who meet the low- to very low-income limits set forth below qualify for Section 3 status.
- A photo identification card and proof of current residency is required.

2014 ANNUAL HOUSEHOLD INCOME

Select the statement that represents your household size and from that statement check the appropriate annual income level for your household, as verified by Federal Income Tax Returns, W-2s, Paycheck Stubs or other documents.

	Low to Very Low-Income Status			
My household size is 1 and my annual household income was	___	\$ 31,750 or less	___	More than \$ 31,750
My household size is 2 and my annual household income was	___	\$ 36,300 or less	___	More than \$ 36,300
My household size is 3 and my annual household income was	___	\$ 40,850 or less	___	More than \$ 40,850
My household size is 4 and my annual household income was	___	\$ 45,350 or less	___	More than \$ 45,350
My household size is 5 and my annual household income was	___	\$ 49,000 or less	___	More than \$ 49,000
My household size is 6 and my annual household income was	___	\$ 52,650 or less	___	More than \$ 52,650
My household size is 7 and my annual household income was	___	\$ 56,250 or less	___	More than \$ 56,250
My household size is 8+ and my annual household income was	___	\$ 59,900 or less	___	More than \$ 59,900

*Household income based on HUD FY2014 Income Limits effective Dec. 18, 2013.

I, _____, am a legal resident of _____
and ___ meet ___ do not meet the income eligibility guidelines for a low- or very-low-income person as published and identified above.

My permanent address is: _____

Signature _____

Print Name _____ Date _____