



SECTION 3 POLICY AND PROCEDURE MANUAL

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Adopted by the YCH Board of Commissioners
Date: March 11, 2010

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Attachments/Forms

- New Hire Section 3 Information Form (Internal Use)
- New Hire Section 3 Information Form (Contractor Version)
- Certification for Businesses Seeking Section 3 Preference Form
- Baseline Employment Report Form
- Subcontractor Form

I. STATEMENT OF PURPOSE

Yolo County Housing is committed to helping the residents of its communities achieve their individual goal of self-sufficiency by providing opportunities for training and employment. Section 3 of the Federal Housing Act of 1968 requires that economic opportunities generated by certain U.S. Department of Housing and Urban Development financial assistance shall, to the greatest extent feasible, be given to low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons. Regulations governing the implementation of Section 3 are contained in 24 CFR Part 135.

Pursuant to these statutory and regulatory requirements, Yolo County Housing incorporates its Section 3 Policy - Economic Opportunities (Section IV) in this Procedure Manual.

A Section 3 Business is defined as:

- 1) The business is 51 % or more owned by a Section 3 resident; or
- 2) The business' workforce consists of 30% or more of the full time, permanent workforce consists of Section 3 residents, or persons who were Section 3 residents with in 3 years of first employment; or
- 3) A business that subcontracts in excess of 25% or more of the total amount of the contract (including modifications) as identified paragraphs 1 and 2 above.

II. DEPARTMENTAL RESPONSIBILITIES

The following departments have roles and responsibility in reporting Section 3 activities as described by the YCH Section 3 Policy.

A. Resource Administration

1. Obtain annual projections of hiring requirements from all departments. These projections will be based on expansion plans, turnover history and budget availability.
2. Provide the Operations Director and Housing Programs Supervisors current openings for recruitment from current YCH housing tenants.
3. Incorporate Section 3 information in all position announcements and/or recruitment flyers.
4. Provide all potential new hires with the “New Hire Section 3 Information Form”.
5. Maintain annual list of positions filled indicating which new hires meet the definition of Section 3 eligible residents.
6. Review every Invitation for Bid, Request for Proposal or Request for Qualifications to ensure that it includes the required Section 3 language.
7. In coordination with the Finance and Facilities Departments, provide oversight of the procurement process assuring compliance with Section 3 requirements as outlined in the Section 3 Policy – Economic Opportunities.
8. In coordination with the Facilities Administrator and Executive Director, certify Section 3 business status:
 - A. Based on ownership and workforce or workforce only (as applicable) meeting the required status at the time the bid or proposal is submitted to YCH.
 - B. Completed the “Certification for Section 3 Preference Form” requirement.
 - C. Demonstrated, to YCH satisfaction, that it is responsible and has the ability to complete the work under the terms and conditions of the proposed contract. In evaluating firms under this provision YCH will examine:
 - The work history and prior performance of the business in previous YCH projects.
 - The requirements of the job versus the skills evidenced by the business through its owners, officers, principals, and any key staff.
 - Technical and logistical capacity to complete the work considering contracts

- already awarded the business by YCH.
 - Bonding capacity and ability to obtain required insurance.
 - Evidence of past sanctions imposed by YCH.
 - Evidence that the business, its principals, associates, partners, subcontractors or others have acted or colluded in order to circumvent the compliance process by structuring contractual or other relationships or engaging in practices designed to comply with Section 3 only to obtain the preference without regard to the work or requirements of the job.
9. In coordination with Facilities Administration require each contractor to comply with YCH Section 3 compliance procedures and provide them with the applicable forms (i.e. Baseline Employment Report, New Hire Section 3 Information Form, and Applicable Subcontractor Forms).
 10. Maintain a current list of certified Section 3 businesses and their capabilities with updates from other departments.
 11. Maintain a record of contractors in Section 3 compliance with updates from other departments.
 12. In coordination with the Facilities Administrator prepare the HUD 60002 – Section 3 Summary Report and submit to the Executive for approval prior to submission to HUD.

B. Housing Operations

1. Conduct outreach and recruitment efforts for YCH residents and tenants.
2. Promote awareness of Section 3 opportunities in other outreach activities.
3. Provide on-going information along with community partners in the projected hiring opportunities.
4. Provide YCH residents with ‘Section 3 Business Certification Application Form’ as necessary or refer to Resource Administration.
5. Verify and document the following:
 - Eligibility of Section 3 eligible residents and tenants.
 - Eligibility of non-YCH households claiming Section 3 status must be prepared to submit evidence of income and residency in Yolo County at the time of hire. Contractors (including subcontractors) will be required to document that employees hired meet the residency and income requirements. Documents that may be used include a valid ID with an Yolo County address, income tax forms, W2 Forms, utility bills etc.

6. Any inquiries made by a contractor/sub-contractor to hire YCH residents or tenants.
7. Report to Resource Administration and/or Facilities Administration department(s) on a monthly basis any contact received by a contractor or sub-contractor by documenting the date of the request, the name of the contractor, the type of job opening, and if there was a qualified resident available.
8. Provide the Resource Administration department on a monthly basis with an updated **Section 3 List**.

C. Facilities Administration

1. Collect documentation prior to the *Notice to Proceed* of the current employment status of the contractor including subcontractors of employees who will be working on the project.
2. Track and report all Section 3 activities with the contractor and sub-contractor for each project.
3. Have Contractors complete any necessary forms and compile list.
4. Maintain documents on each Contractor's good faith efforts and compliance with Section 3 reporting requirements.
5. Document any inquiries made by a contractor/sub-contractor to hire YCH residents and voucher tenants.
6. Report to the Resource Administration department on a monthly basis any contact received by a contractor or sub-contractor by documenting the date of the request, the name of the contractor, the type of job opening, and if there was a qualified resident available.
7. Provide a copy of Certified Payroll Records submitted by the contractor to the Resource Administrator on a monthly basis.
8. Provide Resource Administration with an updated Section 3 List on a monthly basis.

D. Executive Director

1. Responsible for the implementation and compliance of the Section 3 Policy and Plan. The Director will provide overall direction and coordination of the Section 3 Plan.

2. Review and approve HUD 60002 Section 3 Summary Report and the performance evaluation report prepared by staff on an annual basis prior to submission to HUD.
3. Notify Facilities Administration and Resource Administration of any conflict of interest pertaining to the selection of a Section 3 contractor or sub-contractor.

III. CONTRACTOR/SUBCONTRACTOR RESPONSIBILITIES

A. Employment Compliance for Contractors

1. Prior to the Notice to Proceed, the contractor (including subcontractors) must document their workforce for the project. They may use either "**Baseline Employment Report for Section 3 Form**" or their own documentation as long as the following information appears on the contractors/subcontractors form:
 - 1.1 Name of Project
 - 1.2 Name of the Company Reporting
 - 1.3 Name of Contractor
 - 1.4 Job Titles
 - 1.5 Number of Positions needed for a specific job title
 - 1.6 Total expected hours throughout the project
 - 1.7 Total persons on the payroll that meet the Section 3 definition and their title
 - 1.8 Number of positions to be filled during the life of the project
 - 1.9 Number of positions anticipated to be filled with Section 3 residents. How many Section 3 positions are anticipated to be participants in a State approved apprenticeship program.
2. Contractors including subcontractors will be required to submit the "**New Hire Section 3 Information Form (Contractor's Version)**" with its certified payrolls. The contractor must comply with the Section 3 requirement throughout the life of the contract. YCH will periodically audit this information.

Contractors are ultimately responsible for Section 3 compliance for their specific project. It is their responsibility to ensure that the subcontractors are complying with Section 3.

B. Continued Section 3 Status and Documentation

After the award of a contract, if a business must hire to maintain the Section 3 workforce percentage, new hiring efforts must be made in accordance with YCH preferences.

If a business claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to YCH as part of the response to the bid, quote, or proposal. Further, the firm must maintain the Section 3 workforce percentage throughout the life of the contract. Workforce composition is subject to audit.

Subcontractors identified by any contractor claiming Section 3 status must be a Section 3 business by ownership and/or workforce as defined in this procedure. Subcontractors used by prime contractors cannot claim Section 3 status by further

subcontracting.

C. Other Section 3 Business Opportunities

Section 3 Joint Ventures — YCH may permit a contract with an association of firms at least one of which meets the YCH definition of a Section 3 business.

Joint ventures or subcontractors or sub-consultants are subject to the following documentation requirements:

- a) The subcontractor/sub-consultant forms must be in writing and must be submitted as part of the response to any bid or proposal solicited by YCH.
- b) The joint-venture agreement and/or subcontractor/sub-consultant forms must reference a completed and fully executed joint venture certification.
- c) YCH requires that the Section 3 joint-venture partner is a bona-fide Section 3 business; therefore the joint venture shall provide documentation that shows that the Section 3 partner meets the ownership and workforce, or workforce requirements.
- d) Section 3 requires that the joint-venture partner be responsible for a clearly defined portion of the work. Proposals or bids must specify the work portions and compensation to be received by the Section 3 joint-venture firm.
- e) Section 3 firms in the joint-venture must be qualified to perform the scope of work and have the capacity to complete the work assigned under the joint-venture agreement.

D. Compliance and Documentation of "To the Greatest Extent Feasible/Good Faith Effort"

"To the Greatest Extent Feasible" refers to the efforts taken by the contractor to comply with Section 3 requirements. The contractor, must supply written documentation to YCH of good faith efforts on a monthly basis to meet the Section 3 requirement.

Examples good faith efforts include but are not limited to the following:

- Entering into hiring agreements with organizations representing Section 3 residents.
- Establishing training programs, which are consistent with the requirements of the Department of Labor, for public housing residents and other Section 3 residents.
- Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development and in common areas.
- Consulting with State and local agencies administering training programs funded through Workforce Investment Act, probation and parole agencies,

unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents.

- Advertising the jobs to be filled through the local media, such as community television networks, newspapers, of general circulation, and radio advertising.
- Utilizing the Yolo County Housing Real Estate Services and Housing Assistance programs to support recruitment for job ready Section 3 applicants.



IV. YOLO COUNTY HOUSING SECTION 3 POLICY - ECONOMIC OPPORTUNITIES

A. Policy Statement

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, is to “ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed toward low and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income persons.” The 1992 Act sets forth:

- The types of HUD financial assistance, activities, and recipients subject to the requirements of Section 3;
- The specific individuals and business concerns who are the intended beneficiaries of the economic opportunities generated from HUD-assisted activities; and
- The order of priority in which these individuals and business concerns should be recruited and solicited for employment and other economic opportunities generated from HUD-assisted activities.

YCH’s Section 3 policy is expressed in this statement, goal statement and the preferences. Implementation procedures may be amended periodically by the Executive Director or their designee to insure that the policy requirements are being met or to bring about efficiencies in the implementation of the program based on the practice and experience of running the program.

This policy shall remain in effect for all covered activities so long as this policy remains consistent with federal regulations or until changed by Yolo County Housing. This policy is subordinate to Section 3 and 24 CFR Part 135. In any case where it is found that any provision of this policy or of a procedure or program undertaken in furtherance of this policy is found to be inconsistent with Section 3 or 24 CFR Part 135, Section 3 or 24 CFR Part 135 shall prevail.

B. Goals

All contractors undertaking Section 3 covered projects and Section 3 covered activities on behalf of Yolo County Housing are expected to meet the requirement of Section 3. Any contractor (whether or not they meet the definition of a Section 3 business), in order to demonstrate compliance with the requirement of Section 3 to the “greatest extent feasible” must meet the numerical goals set forth for providing training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns.

It is YCH’s goal to achieve Section 3 goals through the following means when awarding contracts:

Hiring – At least 30% of the aggregate number of full-time new hires must be Section 3 residents, with a preference for residents at the development where the work is being performed.

Contracts – Contractors may demonstrate Section 3 compliance by providing a certified statement committing to award to Section 3 business concerns:

- At least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization, or development of Public housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction.
- At least 3% of the total dollar amount of all other Section 3 covered contracts.
- YCH’s preference is to contract directly with Section 3 business or contract with vendors that subcontract to a Section 3 business. In either case, YCH’s preference is further defined as prioritizing business concerns that employ YCH residents from the property where the work is being performed.

Note that Supply and Delivery contracts are excepted from these Section 3 Policy requirements.

C. Selection Preferences to Meet Goals

YCH preference is to ensure that as many YCH residents as possible are employed. In an effort to further that goal, YCH has created the following preferences.

Hiring

Contractors are to apply a system of priority hiring among eligible Section 3 residents pursuant to 24 CFR Part 135 as follows:

- Priority 1. Hire residents from the development where the work is to be performed.
- Priority 2. Hire residents from another YCH subsidized property.
- Priority 3. Hire other residents from any future HUD Youthbuild program being carried out in Yolo County.
- Priority 4. Hire non-YCH residents countywide who meet the definition of Section 3 resident.

Contracts

Preference shall be awarded to Section 3 business concern according to the following system.

Small Purchases:

For Section 3 covered contracts aggregating no more than \$100,000, YCH shall follow small purchase procedures as outlined in its procurement policy.

1. Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified Section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.
2. Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15-25 percent of the total number of available rating points to be set aside for the provision of preference for Section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating systems.

Competitive Bids:

1. Bids shall be solicited from all businesses (Section 3 business concerns and non-Section 3 business concerns). An award shall be made to the qualified Section 3 business concern with the highest priority ranking (as defined in 24 CFR Part 135) and with the lowest responsive bid if that bid –
 - A. Is within the maximum total contract price established in the Authority’s budget for the specific project for which bids are being taken; and
 - B. Is not more than “X” higher than the total bid price of the lowest responsive bid from any responsible bidder. “X” is determined as follows:

X = lesser of:

When the lowest responsive bid is less than \$100,00010% of that bid or \$9,000

When the lowest responsive bid is:

At least \$100,000, but less than \$200,0009% of that bid or \$16,000

At least \$200,000, but less than \$300,0008% of that bid or \$21,000

At least \$300,000, but less than \$400,0007% of that bid or \$24,000

At least \$400,000, but less than \$500,0006% of that bid or \$25,000

At least \$500,000, but less than \$1 million5% of that bid or \$40,000

At least \$1 million, but less than \$2 million4% of that bid or \$60,000

At least \$2 million, but less than \$4 million3% of that bid or \$80,000

At least \$4 million, but less than \$7 million2% of that bid or \$105,000

\$7 million or more1 1/2% of the lowest responsive bid, with no dollar limit.

2. If no responsive bid by a Section 3 business concern meets the requirements of Paragraph 1 of this section, the contract shall be awarded to a responsible bidder with the lowest bid.
3. In both paragraph 1 and 2 above, a bidder, to be considered responsible, must demonstrate compliance with the “greatest extent feasible” requirement of Section 3.

Competitive Proposals:

When utilizing the competitive proposal process in compliance with its procurement policy, from 15% to 25% of the total number of available points shall be awarded for compliance with Section 3 on Section 3 covered contracts.

Proposals from firms not demonstrating compliance with the “greatest extent feasible” requirement of Section 3 shall not be considered responsible.

V. REFERENCES

A. Definitions

New Hires – Full-time employees for permanent, temporary, or seasonal employment opportunities.

Resident Owned Business (ROB) – A ROB is a business concern owned or controlled by public housing residents that is: (a) at least 51% owned by one of more public housing resident(s); and (b) whose management and daily business operations are controlled by one of more such individuals.

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 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.

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 Clause – the contract provisions set forth in Section 135.38.

Section 3 Covered Activity – Any activity that is funded by Section 3 covered assistance including Public housing assistance.

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 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 Yolo County and who meets the following criteria:

- Low income persons – families (or single persons) whose incomes do not exceed 80 percent of the median income for the area.
- Very low income persons - families (or single persons) whose incomes do not exceed 50 percent of the median income for the area.

B. Frequently Asked Questions

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment and contracting opportunities for low or very-low income residents in connection with project and activities in their neighborhoods.

How does Section 3 promote self-sufficiency?

Section 3 is a starting point to obtain job training, employment and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency. Resources may include:

- Federal, state and local programs
- Advocacy groups
- Community and faith-based organizations

How does Section 3 promote homeownership?

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities, they have begun the first step to self-sufficiency. Homeownership is achievable.

Who are Section 3 residents?

Section 3 residents are

- Public housing residents and/or
- Persons who live in the area where a HUD-assisted project is located and who have household income that falls below HUD's income limits:
 - Low income is defined as 80% or below the median income of that area.
 - Very low income is defined as 50% or below median income of that area.

What is a Section 3 business concern?

A business that:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

What are programs covered?

Section 3 applies to HUD-funded Public and Indian Housing assistance for development, operating, and modernization expenditures.

Section 3 also applies to certain HUD-funded Housing and Community Development projects that complete housing rehabilitation, housing construction, and other public construction.

Working together to provide quality affordable housing and community development services for all

What types of economic opportunities are available under Section 3?

- Job training
- Employment
- Contracts

Any employment resulting from these expenditures, including administration, management, clerical support, and construction.

Who will award the economic opportunities?

Recipients of HUD financial assistance will award the economic opportunities. They and their contractors and subcontractors are required to provide, to the greatest extent feasible, economic opportunities consistent with existing Federal, State, and local laws and regulations.

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities are:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very-low income persons, including permanent employment and long-term jobs.

Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30% requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses.

How can Section 3 residents or Section 3 business concerns allege Section 3 violations?

You can file a written complaint with your local HUD Field Office:

Dept. of Housing and Urban Development
John E. Moss Federal Building
Suite 4-200
650 Capitol Mall
Sacramento, CA 95814-3702

A written complaint should contain:

- Name and address of the person filing the complaint.
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought (i.e. training, employment, contracts)

Complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.