

2/13/2015

Section 3 Implementation Plan

City of Racine, WI



Section 3 Implementation Plan

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Introduction

Section 3 is the legislative directive from the U.S. Department of Housing and Urban Development (HUD) for providing preference in new employment, training, and contracting opportunities that are generated by HUD-funded projects to low- and very low-income local residents (regardless of race or gender). Section 3 also provides contracting preferences to local businesses that substantially employ low- and very low-income residents of the local community. Section 3 requirements apply to funding provided directly to the City from HUD, and HUD funding provided to the City through State of Wisconsin agencies.

Section 3 is activated when construction and rehabilitation projects create the need for new employment, contracting, or training opportunities. Recipients or contractors are not required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete a covered project. If the expenditure of a covered project does not result in new employment, contracting, or training opportunities, the requirement of Section 3 is not activated. **Nevertheless, the recipient and its contractors are required to submit Section 3 report information.**

As a condition of receiving HUD housing and community development program funds, recipients must certify they will comply with the requirements of Section 3. HUD has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations. Furthermore, State agencies have a similar level of responsibility and may impose sanctions or penalties against the City, as a recipient of HUD, for non-compliance.

The City's primary responsibilities as a recipient of HUD funding include:

- a. Notifying Section 3 residents and businesses about jobs and contracts generated by Section 3 covered assistance so that residents may seek jobs and businesses may submit bids/proposals for available contracts;
- b. Notifying potential contractors of the objectives of Section 3 and ways in which each contractor can assist the sub-recipient to meet its goal;
- c. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns; and
- d. Documenting the action that the sub-recipient takes to comply with the Section 3 requirements, the results of the actions, and impediments, if any.

It also includes the responsibility of “ensuring compliance” of our contractors by subcontractors. This means that a sub-recipient must:

- a. Notify contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 Clause in contract documents.
- b. Refrain from entering into contracts with contractors that are in violation of the regulations in 24 CFR Part 135.
- c. Respond to complaints made to the recipient by Section 3 residents or business concerns that the sub-recipient, a contractor or subcontractor, is not in compliance with 24 CFR Part 135.
- d. Cooperate with HUD in obtaining the compliance of contractors and subcontractors when allegations are made that the sub-recipient's contractors and subcontractors are not in compliance with the regulation of 24 CFR Part 135.

These guidelines have been prepared to provide information and guidance to Section 3 recipients on how the City of Racine will administer the Section 3 regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and regulations. It is a summary of the pertinent provisions, and focuses on the requirements imposed on the Developer, General Contractor and Subcontractor receiving the requisite amount of Section 3 funds. Developers, General Contractors and Subcontractors bear the responsibility to familiarize themselves with the Section 3 Act and regulations prior to accepting Section 3 covered assistance.

Policy Statement & Purpose

The City shall provide opportunities to low- and very low-income people living in the City of Racine and to businesses meeting the definition of "Section 3 Business Concern." Accordingly, the City shall implement the following policies and procedures for all labor and/or professional services contracts where Section 3 compliance is required.

This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It applies to contractors who install materials or equipment (see the definition of "Section 3 Contractor" below). Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the entire project or activity is subject to Section 3 requirements. Nothing in this policy shall be construed to require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

Successful compliance with the Section 3 Act and regulations by the Developer and/or General Contractor will be a factor in determining future awards of Section 3 covered assistance.

According to the Section 3 regulations, located at 24 CFR Part 135, Section 3 Recipients are required to provide employment, training and contracting opportunities to Section 3 Residents or Section 3 Business Concerns. However, the Section 3 requirements are not imposed upon a recipient who does not engage in hiring or training, but instead awards contracts to Developers and General Contractors that hire and train in connection with Section 3 Covered Projects. According to the Section 3 regulations, these

recipients may comply with Section 3 by ensuring that the Developers, General Contractors and Subcontractors receiving Section 3 Covered Assistance comply with the Section 3 Act.

To Whom Does Section 3 Apply?

The following definitions are intended to describe the differences between “recipient” and “contractor.”

Section 3 Recipient - The recipient is the City of Racine. The City is a Section 3 recipient because it receives more than \$200,000 in Section 3 covered federal housing and community development funds directly from HUD or is a sub-recipient of HUD funding from State agencies, which received more than \$200,000 from HUD.

Other Section 3 Recipients - In addition to the City, any entity that receives housing and community development funding from a funding source in excess of \$200,000 from the City or for Section 3 covered activities is a recipient.

A Section 3 recipient has the responsibility to comply with Section 3 in its own operations and to ensure the compliance of its Section 3 contractors and subcontractors.

Section 3 Contractor - A Section 3 Contractor is any entity that performs work for a Section 3 recipient in an amount greater than \$100,000, provided the work is for a Section 3 covered activity, that has a shared responsibility in the administration of Section 3 (developing a Section 3 Project Plan, engaging Section 3 subcontractors to the greatest extent feasible, reporting, etc.) to HUD with the City. Although smaller contractors (with contracts below \$100,000) do not have direct responsibility to HUD for Section 3 compliance, the City is responsible for carrying out Section 3 obligations for smaller projects. It should also be duly noted that a subcontractor performing work for a Section 3 contractor in an amount greater than \$100,000 is considered a Section 3 Contractor.

Section 3 Covered Activities - Section 3 covered activities include all projects and activities involving construction, such as housing construction, demolition, rehabilitation, or other public construction (e.g. streets, sidewalks, sewers, community centers, etc.). Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials. Where federal housing and community development assistance provides partial funding for a Section 3 project or activity, the entire project or activity is subject to Section 3 requirements.

Section 3 covered non-construction projects -include maintenance contracts, including lawn care, repainting, routine maintenance, HVAC servicing, and professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc.).

Section 3 Program - The following are examples of federal housing and community development programs with construction activities that require Section 3 compliance:

State of Wisconsin Funded Programs

- Neighborhood Stabilization Program “1” and “3”

HUD Funded Programs

- HOME Investment Partners Program
- Community Development Block Grant
- Emergency Shelter Grant
- Neighborhood Stabilization Program
- Economic Development Initiative/Brownfield Economic Development Grants
- Homeless Assistance Grants (ESG)
- Lead Hazard Control Grants
- HUD Funded Homeowner and Rental Rehabilitation Loans – Please know that the City of Racine has non-federal Homeowner and Rental Rehabilitation funds available as well.

Intended Beneficiaries of Section 3 - For the federal housing and community development programs listed above, the intended beneficiaries of Section 3 are two-fold, to individuals and businesses:

- 1. Section 3 Residents** - Low- and very low-income people living in the City of Racine or Metropolitan area in the follow order of priority:

First Priority - Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents).

Second Priority – Participants in HUD Youthbuild programs (category 2 residents).

Third Priority – Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

Fourth Priority - Other persons from the City of Racine who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

- 2. Section 3 Business Concerns** - Businesses that are 51% owned by low- and very-low income people; businesses whose permanent full-time staff consist of at least 30% or more low- and very-low income persons (preferably who live in neighborhoods where the Section 3 covered assistance is provided), or businesses that contract out over 25% of the total amount of a Section 3 covered contract to other Section 3 business concerns.

Section 3 Contracting Policy & Procedure

Preference shall be awarded to Section 3 Business Concerns according to the following two systems.

- 1. When the contract is between the City and a business:**

A. 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. 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.

B. 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 to 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 system.

Competitive Bids: Procurement by Sealed Bids (Invitations for Bids)

Preference in the award of Section 3 Covered Contracts that are awarded under a sealed bid process may be provided as follows:

1. Bids shall be solicited from all businesses (i.e. 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 City'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 \$100,000 10% of that bid or \$9,000

When the lowest responsive bid is:

At least \$100,000, but less than \$200,000 9% of that bid or \$16,000

At least \$200,000, but less than \$300,000 8% of that bid or \$21,000

At least \$300,000, but less than \$400,000 7% of that bid or \$24,000

At least \$400,000, but less than \$500,000 6% 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 million.4% of that bid or \$60,000

At least \$2 million, but less than \$4 million.3% of that bid or \$80,000
At least \$4 million, but less than \$7 million.2% of that bid or \$105,000
\$7 million or more . . . 1.5% 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 responsive bid.

3. In both paragraph 1 and 2 above, a bidder, to be considered as responsible, must demonstrate compliance with the "greatest extent feasible" requirement of Section 3.

2. When a loan is being made to a homeowner or a homebuyer and they are selecting the construction contractor(s):

The City will inform the borrower(s) about Section 3 guidelines and will encourage them to consider Section 3 Business Concerns in their selection process. The City shall provide the borrowers with a list of potential bidders that have responded to advertisement from the City that has encouraged Section 3 Business Concerns to respond. **The borrowers will have the right to select Section 3 Business Concerns even if they are not the lowest bidder without having to pay the difference between that bid and the lowest reasonable bid, if the lowest Section 3 bid is within 10 percent of the lowest qualified bid.**

Employment and Training Goals

All Section 3 contractors (A Section 3 contractor is any entity that performs work for a Section 3 recipient in an amount greater than \$100,000, provided the work is for a Section 3 covered activity) will seek low- or very low-income persons residing in the property metropolitan area for 30% of all new hires. When applicable, the Section 3 contractor must show evidence of seeking project residents for 15% of the new hires.

Employment and Training opportunities for low- and very low-income people living in the City of Racine or metropolitan area have the following priorities:

First Priority - Residents of the development where the work is to be performed.

Second Priority - Other residents of the neighborhood where the work is to be performed.

Third Priority - Other residents of the neighborhood who are participants in HUD Youthbuild or other federal, state, and local job programs being carried out in the metropolitan area.

Fourth Priority - Other persons from the metropolitan area who meet the definition of Section 3 resident contained in § 135.5 of 24 CFR Part 135.

Eligibility for employment or contracting - nothing in this policy shall be construed to require the employment or contracting of a Section 3 resident or contractor who does not meet the qualifications of the position to be filled or who cannot perform the contract.

Assisting Contractors in Achieving Section 3 Goals

City of Racine Department of City Development staff are available to provide technical support to Developers, General Contractors and Subcontractors participating in the development of Section 3 Covered Projects that are receiving funding by City programs. City Development will also maintain a limited database of Certified Section 3 Business Concerns that are located in the City.

Certified Section 3 Business Concerns and Section 3 Contractors (\$100,000 + contracts) shall be required to retain copies of all outreach attempts, copies of all responses to notices published in the paper and posted publicly, copies of all responses to bid invitations, and any other relevant information. This information shall be provided to the City Development Department upon request.

The City Development may conduct on-site reviews of the Section 3 Covered Project to determine whether a Section 3 Business Concern or Section 3 Contractor is complying with its approved Section 3 Plan.

In the event the City Development determines that the Section 3 Business Concern or Section 3 Contractor is not meeting its employment, training or contracting opportunity goals as set out in the approved Section 3 Plan, the respective party will be provided with a written notice of non-compliance. The notice will require the respective party to meet with the City Development staff to determine if best efforts were used to meet Section 3 requirements, and if further outreach attempts are necessary to meet Section 3 goals. **Continued lack of non-compliance will result in the repayment of HUD funds to the City for reprogramming to eligible and Section 3 compliant projects.**

Section 3 Goals

The Section 3 minimum numerical goals are as follows:

- 30% of the aggregate number of new hires shall be Section 3 residents annually
- 10% of the total dollar amount of all Section 3 covered construction contracts shall be awarded to Section 3 business concerns.
- 3% of the total dollar amount of all non-construction Section 3 covered contracts shall be awarded to Section 3 business concerns.

Section 3 Certifications

Section 3 Resident Any person seeking Section 3 preference in hiring and training may complete City Department's Section 3 Resident Self-Certification (see appendix). The individual seeking Section 3 preference will provide some level of documentation regarding permanent residence and income. Verification of income eligibility may consist of any of the following:

- a) A public housing or Section 8 lease agreement;
- b) Evidence of income (most recent W-2 or income tax return); or

- c) Evidence of receipt of public assistance; or
- d) Any other evidence acceptable to the City.

Section 3 Business Concern Any business seeking Section 3 preference shall complete the City Development’s Certification for Business Concerns Seeking Section 3 Preference in Contracting (See Appendix). This is a self-certification, and Section 3 business concerns ultimately bear the responsibility of maintaining their Section 3 status and complying with all related HUD regulations. Certifications for Section 3 preference for business concerns must be submitted to the City Development prior to the submission of bids for review. Section 3 Business Concerns shall provide any additional documentation upon request.

The certification forms noted above will be available electronically to both Section 3 Residents and Business Concerns. It is important to note that all persons and/or business concerns are certifying their eligibility under Section 3 to HUD and that severe civil and/or criminal penalties may apply for false certifications. The Self-Certification form will contain language regarding fraud and misrepresentation and will require Section 3 Residents/Business Concerns to acknowledge that they have read the language and agree to its contents. The form for Section 3 Residents will also provide a web-link to the eligibility income limits for the entire household. The Section 3 Business Concerns will be required to indicate how they constitute a Section 3 business concern, either through ownership, percentage of employees or subcontracting. Hard copies of the self-certification forms will be available to those who request one as a reasonable accommodation. All certifications will be available to HUD upon request, and in the event that the City or an outside source is alerted to possible fraud or misrepresentation, the corresponding self-certification will be forwarded to HUD for investigation.

It is the responsibility of the Section 3 Resident employee or Section 3 Business Concern subcontractor to notify the City of the loss of Section 3 eligibility. The City will allow Section 3 Residents and Business Concerns a reasonable opportunity to cure the loss of Section 3 eligibility. If a Section 3 Resident or Business Concern does not notify the City of the loss of Section 3 eligibility, the City will have the right to discontinue working with them as either a Contractor or employee, essentially debarring them from working with the City.

Section 3 Recruitment, Training and Employment Procedure for Employment of a Section 3 Resident

To comply with the Section 3 Act and the Section 3 Regulations, the City and/or the Section 3 Contractor or Subcontractor, as applicable, shall implement an aggressive campaign to encourage participation of Section 3 Residents and Section 3 Business Concerns. Some strategies to implement this campaign include the following:

- a) Publish in a local newspaper a notice of the potential employment and training opportunities for Section 3 Residents, potential contracting opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns. Written notice must be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.

b) Post in a prominent location at the Section 3 Covered Project site notice of the potential employment and training opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns.

c) Submit letters or flyers to the residents of the Section 3 Covered Project advising them of the employment, training and contracting opportunities for the Section 3 Covered Project (applies to projects where there are existing residents that are not precluded by funding sources to work on the project);

d) Provide the residents of the Section 3 Covered Project and the surrounding area with information on how to become certified as a Section 3 Resident or a Section 3 Business Concern (if not precluded by funding sources to work on the project);

e) Provide the local housing commission with flyers, notices and other information related to the Section 3 employment, training and contracting opportunities for Section 3 covered projects;

f) Provide information to residents of a Section 3 Covered Project and the surrounding area regarding established job training programs located within the Section 3 Covered Project area;

g) Provide minority and women-focused labor and trade organizations with notice of Section 3 contracting opportunities, as well as job postings and training opportunities;

h) Contact groups that have been identified as instrumental in assisting Section 3 target populations regarding employment, training, or contracting opportunities.

City Development will include information about the Section 3 goals in regularly published program announcements for grant applications and environmental reviews to make Section 3 Residents and Section 3 Business Concerns aware of the employment opportunities. A log will be kept of responses and appropriate forms will be given to anyone who would like to self-certify.

The City of Racine recently upgraded our enterprise resources planning and financial management software to a system referred to as MUNIS, which includes a database of City vendors/contractors for procurement purposes. City Development will work with the City's Finance Department to develop a framework to include Section 3 contractors within the system as the implementation of MUNIS is rolled out.

Implementation/Recruitment Resources

Housing Authority of Racine County

<http://theharc.org/>
837 Main Street
Racine, WI 53403
262-636-3405

The Housing Authority of Racine County acts as our local housing commission and administers the Section 8 Program, and, as such, assisted households qualify as Section 3 residents. Section 3 covered contractors or subcontractors shall provide this agency with flyers, notices and other information

related to the Section 3 employment, training and contracting opportunities for Section 3 covered projects.

Racine County Workforce Development Center

<http://www.wdc.racineco.com/>
1717 Taylor Avenue
Racine, WI 53403
262-638-6312

It is the mission of the Workforce Development Center to promote the economic prosperity of the area by providing quality services for employers, job seekers and taxpayers. This agency provides a host of services to businesses to aid in employing area residents including a comprehensive, no-fee recruiting services (for all types of employees - from degreed to entry-level candidates). For on-site recruitment, use WDC as your satellite office, including the use of phone, fax and copy machine. Average foot traffic at Racine Center is 150/day.

Human Capital Development Corporation, Inc.

<http://www.hcdcw.org/>
1437 Street
Racine, WI 53404
262-633-3285

The mission of the Human Capital Development Corporation is to provide individuals the opportunity to achieve personal goals of employment and independence at a family sustaining wage in the building construction trades and manufacturing by providing training services. This agency specifically targets low-income individuals from Census Tracts 1 through 5 in the City of Racine, which makes it an ideal agency to seek eligible Section 3 residents from considering a significant share of Racine's HUD funded projects occur in this area.

Gateway Technical College - Workforce and Economic Development Division

<http://www.gtc.edu/workforce-and-economic-development-division>
SC Johnson iMET Center
2320 Renaissance Boulevard
Sturtevant, WI
262-619-6200

Gateway offers a host of education, job training, "boot camp," and apprenticeship programs to students, and a host of services to businesses.

State of Wisconsin – Department of Workforce Development

<http://dwd.wisconsin.gov/>

The Wisconsin Department of Workforce Development (DWD) is a state agency charged with building and strengthening Wisconsin's workforce in the 21st century and beyond. The Department's primary responsibilities include providing job services, training and employment assistance to people looking for work, at the same time as it works with employers on finding the necessary workers to fill current job

openings. This Department may even be able to assist your business in securing tax credits for hiring eligible workers that meet Section 3 criteria.

Relationship to “Racine First”

The “Racine First Program” is part of the City of Racine’s Municipal Code (Section 46-41 – See the Appendix for the relevant Code) with the goal of providing employment opportunities to permanent residents of Census Tract 1 through 5 on construction projects funded through local (non-federal) resources in excess of \$200,000.00. Unless certain exemptions are met, at least 15% of the total man hours on a project must be carried out by a permanent resident/s of Census Tract 1 through 5. While there is a significant difference between Section 3 and Racine First, many of the same resources may be engaged to identify and employ eligible residents under both programs. Therefore, Racine First Program covered contracts are encouraged to utilize the recruitment and planning process outlined above to engage eligible residents under the Racine First Program.

Section 3 Covered Project Contractor Requirements in Employing Section 3 Residents and Businesses that are described in the required Section 3 Clause in all Construction Contracts

City Development will include Section 3 information in all bid packages for Section 3 Covered Projects to encourage bidders to be or hire Section 3 Business Concerns, Section 3 Contractors and Section 3 Residents. All contracts drafted by City Development that cover Section 3 Covered Projects shall include the Section 3 Clause so that the parties to the contracts shall agree to comply with HUD’s regulations in 24CFR Part 135, which implement section 3. Contractors will be given information about Section 3 so that they know that if they need to hire new persons to complete the Section 3 covered contract or need to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. All contractors will be required to submit New Hires reports.

For projects where contracts are \$100,000 or more, the Section 3 Contractor or Section 3 Business Concern shall submit a comprehensive Section 3 Plan that includes Section 3 goals and strategies that will be implemented to meet those goals prior to entering into an Agreement with the City. All Section 3 Plans submitted to City Development must include a breakdown of job categories and positions needed for the Section 3 Covered Project, including positions occupied by permanent employees. If no employment or training opportunities will be available in connection with the Section 3 Covered Project, this must be reflected in the Section 3 Plan. Upon receipt of the Section 3 Plan, City Development staff will review the Plan and either approve or disapprove of the document. Suggested modifications will be included with any disapproval of a Section 3 Plan in order to assist the Section 3 Contractor. After the Section 3 Plan is approved, it shall be made a part of the construction documents, and be reviewed regularly to assess its implementation and the attainment of the Section 3 goals. As subcontracts in excess of \$100,000 are awarded, those Subcontractors will be required to submit their own Section 3 Plan for City Development review and approval. Contractors may use the Section 3 Plan (Owner/Developer and General Contractor) form - see appendix.

Components of a Section 3 Plan that is required of Section 3 Contractors (\$100,000 contracts)

The Section 3 Plan must contain specific information, including but not limited to the following:

- a) Statement from the Section 3 Contractor or Subcontractor certifying it intends to comply with the Section 3 Act and regulations, as well as this document.
- b) Statement from the Section 3 Contractor and each Subcontractor certifying they are aware of the employment, training, and contracting goals, and agree to work together to meet these goals;
- c) Name and contact information of the Section 3 Contractor or Subcontractor's Section 3 coordinator (either official or designated);
- d) Identification of the Section 3 Project Area (the neighborhood where the work will be performed).
- e) Section 3 Contractor or Subcontractor's current workforce, and additional workforce necessitated by the Section 3 Covered Project;
- f) Section 3 employment, training and contracting opportunity goals;
- g) Specific strategies for notifying Section 3 Residents of Section 3 employment and training goals, and specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- h) Commitment to inform all Subcontractors of the Section 3 Plan;
- i) Commitment to prepare and submit to the City Development Department, monthly Section 3 reports;
- j) Commitment to include the Section 3 Clause in all construction contracts. The Section 3 Contract Clause (Attachment A) specifies the requirements for contractors hired for Section 3 covered projects. Failure to comply with the general conditions outlined in the clause may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-funded contracts.
- k) Commitment to conduct aggressive outreach and notification campaigns to Section 3 Residents and Section 3 Business Concerns regarding Section 3 goals, including the usage of site signage, flyers, etc.

For all Section 3 Covered Projects regardless of whether or not the contract is in excess of \$100,000, all Sub-recipients, General Contractors and Developers must provide New Hires data prior to final payment.

City Development shall provide HUD with copies of bid documents, construction contracts, and any other related documentation upon request.

Complaint Procedure

Complaint procedures related to Section 3 are governed by the federal regulations set forth in 24 CFR Part 135 and any future changes thereto. Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the Complaint Register Form (OMB Approval Number 2529-0043) currently available online at: <http://portal.hud.gov/hudportal/documents/huddoc?id=958.pdf>

The Form shall be delivered to HUD's Regional Headquarters at:

U.S. Department of Housing and Urban Development Midwest Office
77 W. Jackson Boulevard, Suite 2101
Chicago, IL 60604 General

Or be submitted via email to complaints_office_05@hud.gov

The complaint must be filed within 180 from the date of the action or omission upon which the complaint is based.

Section 3 Coordinator

Any questions or concerns related to the City of Racine's Section 3 Program may be directed to:

Jeff Vitton, AICP
Community Development Program Specialist
Department of City Development
730 Washington Avenue (Room 102)
Racine, WI 53403
Office (262)635-3320
Fax (262)635-5347
Direct E-mail: jeff.vitton@cityofracine.org

Definitions

Low-Income Person— A family (including a single-person household) whose income does not exceed 80% of the Area Median Income, as determined by HUD.

New Hire—A person employed for a full-time permanent, temporary or seasonal employment opportunity.

Section 3 Business Concern—Any business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in Section 3 covered activities; AND:

- Is 51% or more owned by Section 3 residents; OR
- Whose permanent, full-time employees include persons, at least 30% 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
- That provides 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 statements referenced above in this definition of “Section 3 Business concern.”

Section 3 Contractor – Any contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

Section 3 Recipient – An entity that receives Section 3 covered financial assistance directly from HUD or an entity that receives more than \$200,000 in federal housing and community development funding from the City for construction related activities.

Section 3 Resident -For the purposes of this Plan, a Section 3 resident is an individual who resides in the City of Racine, WI and whose income does not exceed the area HUD income limits set forth for low- or very low-income households.

Section 3 Subcontractor—Any entity (other than a person who is an employee of the contractor) which has a contract with a Section 3 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.

Appendixes

- Certification for Section 3 Residents
- Certification for Section 3 Businesses
- Section 3 Contract Clause Language
- Racine First Program Municipal Code Language
- Section 3 Project Plan

DRAFT

CERTIFICATION FOR RESIDENT SEEKING SECTION 3 PREFERENCES
IN TRAINING AND EMPLOYMENT

Section 3 Covered Project:

I, _____, am a legal resident of the City of Racine, County of Racine, State of Wisconsin, and meet the income eligibility guidelines for a low- or very-low-income person as set out in the most current Income Figures provided by The Secretary of Housing and Urban Development ("HUD").

My permanent residence address is: _____

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

- _____ Copy of Lease (if with public housing authority)
- _____ Copy of receipt of public assistance
- _____ Copy of Evidence of participation in a public assistance program
- _____ Other evidence: Please state _____
- _____ Proof of Household Income _____

(last W-2s or tax returns with social security numbers blacked out)

A Section 3 resident seeking the preference in training and employment provided by this part must submit evidence to the general contractor or subcontractor, that the person is a Section 3 resident, as defined in Section 135.5.

I hereby certify the information provided by me to be true and correct, and understand any falsification of any of the information could subject me to punishment under the law.

Signature

Print Name

Date

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3

PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business

Address of Business

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

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

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

For business entity as applicable:

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

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

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

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
- PHA/IHA Residential lease less than 3 years from day of employment Other evidence of Section 3 status less than 3 years from date of employment

Authorizing Name and Signature

Attested by: _____

Section 3 Clause

All Section 3 covered contracts shall include the following clause (referred to as the “Section 3 Clause”):

A. The work to be performed under this agreement/contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this agreement/contract agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidenced by execution of this agreement/contract, the parties to this agreement/contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The subrecipient/assisted entity/contractor agrees to send to each labor organization or representative of workers with which the subrecipient/assisted entity/contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the subrecipient/assisted entity/contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applications for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum numbers and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The subrecipient/assisted entity/contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The subrecipient/assisted entity/contractor will not subcontract with any subcontractor where the subrecipient/assisted entity/contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The subrecipient/assisted entity/contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the agreement/contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the subrecipient/assisted entity/contractor’s obligations under 24 CFR Part 135.

F. Noncompliance with HUD’s regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD funded contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)

Racine First Program (Sec. 46-41 of Racine’s Municipal Code)

- (a) *Purpose.* U.S. Department of Labor statistics show that the unemployment rate in the City of Racine is very high and the rate in census tracts 1 through 5 is approximately three times the unemployment rate of the city as a whole, and the high unemployment rate in census tracts 1 through 5 has a substantial adverse impact on the social and economic fiber of the entire community. Racine First Program is designed and intended to reduce unemployment in the designated area by creating work opportunities for residents of that area and by retaining current jobs of such residents through imposition of a requirement that, for certain public works contracts, a designated percent of hours worked under the contract would need to be performed by residents of census tracts 1 through 5.
- (b) *Definitions.* The following words and phrases have the meaning indicated for this section:
Certified resident means a person who has proven that he or she maintains permanent residency within census tracts 1 through 5 in the city.
Racine First Program (RFP) means the residents' preference program created and implemented in this section.
Qualifying contract means a public contract, as defined in Wis. Stats. § 66.0901(c), awarded by the city or its water utility in an amount greater than \$200,000.00 and that is funded by city source funds for city public works contracts or by water utility funds for water utility contracts.
Qualifying work means all labor, including skilled and non-skilled labor, and including but not limited to, general laborer, labor performed in journeyman, sub-journey, pre-apprenticeship and apprenticeship programs, and on-the-job training programs.
- (c) *Applicability; exceptions.* RFP applies to all qualifying contracts, excepting that in exceptional circumstances where the commissioner of public works for department of public works contracts, or the general manager of the water utility for water utility contracts, determines that substantial grounds exist to exempt a contract from RFP, such as where a contract requires special skill or experience, then the commissioner of public works for department of public works contracts or the general manager of the water utility for water utility contracts, may exempt such contracts from RFP.
- (d) *Requirement.* Contractors performing work under a non-exempt qualifying contract shall employ or ensure employment of certified residents in the work under such contract and subcontracts to the extent that certified residents perform qualifying work in the amount of 15 percent of the total labor hours used by the contractor and subcontractors providing work under the contract.
- (e) *Verification; documentation.* The contractor shall, upon completion of each non-exempt qualifying contract, certify by affidavit whether it has complied with RFP. Contractors

shall maintain personnel records listing the name, address, race and gender of each employee utilized for the contract as well as payroll records that provide information from which compliance with RFP requirements can be determined, including such records of subcontractors for work of certified residents under the subcontract. The contractor shall provide such documents to city upon reasonable notice and shall maintain such payroll records for a period of at least three years after city's final payment under the contract. Contractors and subcontractors shall permit a city representative to engage in on-the-job interviews with employees to assist in determining compliance with RFP.

(f)

Administration. RFP shall be administered by the city affirmative action/human rights officer, who shall provide prospective contractors with information regarding RFP, with forms required for compliance certification, who shall also determine compliance with RFP requirements. The affirmative action/human rights officer shall, on a semi-annual basis, provide the common council with information regarding RFP and the common council shall review the program and determine whether to enact revisions to RFP.

(g)

Prohibition and penalty. No contractor or agent thereof shall fail to employ and use on non-exempt qualifying contracts certified residents for at least the percent of qualifying work specified in this section. Upon conviction, persons in violation of this section shall forfeit an amount not less than \$400.00 and not more than \$1,000.00.

(h)

Debarment. If upon recommendation of the public works and services committee, the common council determines that a contractor or agent thereof has failed to employ certified residents under a non-exempt qualifying contract in the percentage required in this section, or if upon recommendation of the general manager of the water utility, the water works commission finds that a contractor or agent thereof has failed to employ certified residents under a non-exempt qualifying contract in the percentage specified in this section, the common council, for department of public works contracts, and the water works commission, for water utility contracts, may not award any contract to such person unless otherwise recommended by such committee and approved by the common council or recommended by such general manager and approved by the water works commission, respectively, or unless three years have elapsed from the date the common council or the water works commission made its determination, or three years have elapsed from the date of final determination by a court of competent jurisdiction that is adverse to the contractor, whichever is later.

Section 3 Project Plan Template

SECTION 3 PLAN (OWNER/DEVELOPER AND GENERAL CONTRACTOR)

For _____
(Name of Development/Project)

Project Location:

Bid Amount:

Submitted by:

Name of Owner/Developer:

Address:

Contact Information:

Name of General Contractor:

Address:

Contact Information:

General Statement

_____, as the owner, and _____, as the general contractor are committed to comply with the Section 3 act, the Section 3 regulations, and the City of Racine’s Section 3 Implementation Plan. It is our desire to work together to ensure compliance, to the greatest extent feasible, through the awarding of contracts for work and services to Section 3 companies, and to provide employment and training to Section 3 residents. We commit to include the Section 3 clause in the construction contract and all subcontracts in excess of \$100,000.00. All subcontractors interested in submitting bids for contracts will be informed of the Section 3 requirements and goals. We agree to provide the City of Racine with copies of all bids received in response to the invitation to bid and copies of all contracts awarded in excess of \$100,000.00.

Goals

Contracting:

To demonstrate compliance with Section 3 regulations, it is desirous to award at least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work, and, at least 3 percent of the total dollar amount of all other Section 3 covered contracts (i.e., professional services) to Section 3 business concerns.

Construction contract: \$ _____
10%: \$ _____
3% \$ _____

These goals are affirmed: Initials: _____

If we do not feel it is feasible to meet the minimum goals set forth above, we will be prepared to demonstrate why it was not possible. We understand failure to follow our Section 3 Plan could result in the Secretary of Housing and Urban Development (“HUD”) finding us non-compliant with the Section 3 regulations.

Employment and Training:

To demonstrate compliance with Section 3 regulations, it is desirous to employ Section 3 residents as 30 percent of the aggregate number of new hires, and to provide training to those new hires. We agree to provide information regarding existing employees and hiring needs as a part of this plan.

Any goal established in this plan must be met. If we fail to do so, we agree to provide an explanation and documentation as to why the goal was not met.

Outreach

We are committed to conduct an aggressive outreach campaign to make Section 3 Businesses and Section 3 Residents aware of contracting and possible hiring opportunities in connection with this Section 3 Covered Project. Efforts will include, but not be limited to, publication of opportunities in the local newspapers, use of signage at the project site, flyers posted in the neighborhood and surrounding areas, notification of local housing authorities, contractor and trade organizations, employment agencies, career centers and local Youthbuild chapters.

Project Neighborhood Area

The project neighborhood area is: _____

This area will be the primary focus of all outreach attempts.

Section 3 Coordinator

Name:

Contact Information:

This person will serve as the main point of contact for all Section 3 related issues on behalf of the owner, general contractor, and the subcontractor.

Reporting

We agree to submit a Master Subcontractor List on the 5th day of each month after construction of the Section 3 Covered Project has commenced. We agree to submit monthly updates of Section 3 activities on HUD Form 60002 and a final report to the City of Racine at completion of construction of the Section 3 Covered Project. We agree to immediately report any changes in this plan, including but not limited to, changes in the dollar amount of contracts awarded and staffing needs of the subcontractors.

Attachments

The following attachments are incorporated into and made a part of this Section 3 Plan:

- _____ Section 3 Clause that will be included in all contracts
- _____ Contracting Plan
- _____ Outreach to Solicit Bids from Section 3 Businesses
- _____ Permanent Employee Listing for the Owner/Developer
- _____ Permanent Employee Listing for the General Contractor
- _____ Workforce Needed for Section 3 Covered Project for the Owner/Developer
- _____ Workforce Needed for Section 3 Covered Project for the General Contractor

We agree to provide to the City of Racine the following documentation as soon as the information is available to us:

- Outreach to Solicit Bids from Section 3 Businesses (updated)
- New Hires for the Owner/Developer
- New Hires for the General Contractor
- Section 3 New Hires Trained for the Owner/Developer
- Section 3 New Hires Trained for the General Contractor
- HUD 60002 Final Report

Submitted to City of Racine, Department of City Development

Date: _____

OWNER/DEVELOPER:

(Print/type name)

By: _____

(Print/type name and title)

Date: _____

GENERAL CONTRACTOR:

(Print/type name)

By: _____

(Print/type name and title)