

# **Clark County**

## **SECTION 3**

### **Policies and Procedures**

**Section 3 Compliance for Federally Funded Programs**



**CLARK COUNTY, NEVADA**

**Department of Social Service  
Community Resources Management Division**

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## **SECTION 3 COMPLIANCE REQUIREMENTS**

### **1. General Information/Purpose:**

#### **A. Definition of Section 3**

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of **24 CFR Part 75**. Section 3 regulations aim 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 to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very low-income persons.

#### **B. Purpose of this Document**

This guidance document explains how Clark County and its **subrecipients** and/or contractors (developers, sponsors, subgrantees, non-profit entities, prime/general contractors and/or sub/lower-tier contractors) will comply with Section 3 requirements in the implementation of **HUD funded programs**. In compliance with this rule, Clark County and its subrecipients will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (**Section 3 workers and Targeted Section 3 workers**) and to eligible businesses (**Section 3 Businesses**) and requires the same of its subrecipients whose projects trigger Section 3.

Clark County may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies. A "revised" date on the cover page footer will document the latest update.

#### **C. Applicability**

These Section 3 policies and procedures apply to Clark County projects, for housing rehabilitation, housing construction, and other public construction **projects that exceed \$200,000 and are either partially or fully funded by HUD**. Applicability of the budget threshold is determined at the project level.

For projects funded under the Lead and Hazard Control and Healthy Homes Programs, Section 3 applies to projects that exceed \$100,000.

Section 3 requirements **do not apply** to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preferences - § 75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

## D. List of Exhibits

Exhibit #1 – Section 3 Business Concern Acknowledgement	Submit with Bid	Prime Only
Exhibit #2 – Certification of Section 3 Business Concern	Submit with Bid	If Section 3 Bus. *
Exhibit #3 – Certification of Section 3 Worker	Pre-Notice to Proceed (NTP)	All Employees
Exhibit #4 – Section 3 Contractor Ack. and Action Plan	Pre-Notice to Proceed (NTP)	All Contractors**
Exhibit #5 – Section 3 Contractor Compliance Plan	Pre-Notice to Proceed (NTP)	Prime Only
Exhibit #6 – Examples of Section 3 Qualitative Efforts	Quarterly/End of Contract/Project	All Contractors***
Exhibit #7 – Section 3 Subcontractor Reporting	Quarterly/End of Contract/Project	Subcontractors
Exhibit #8 – Section 3 Prime Contractor Reporting	Quarterly and End of Project	Prime

\* Prime Contractor or Developer on behalf of any business seeking Section 3 bid preference

\*\* Also applies to Prime Contractors that self-perform

\*\*\* If safe harbor requirements are not met; Also applies to Prime Contractors that self-perform

## 2. Section 3 Coordinator

Clark County's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for Clark County and its subrecipients, including developers, contractors and subcontractors supporting the program. Subrecipients and others are encouraged to reach out to the Section 3 Coordinator with questions regarding Section 3 compliance:

**Section 3 Coordinator**  
**Clark County Social Service, Community Resources Management (CCSS-CRM)**

## 3. Employment, Training and Contracting Goals

### A. Safe Harbor Compliance

A recipient of HUD funds for the general categories of projects mentioned in 1.B is expected to comply with the Section 3 requirements. Broadly, a recipient must meet the general rule that projects must prioritize the employment and/or engagement of Section 3 Workers, Targeted Section 3 Workers and Section 3 business concerns as outlined in 3.C. Clark County will be considered to have complied with such rule, if it certifies that it followed the required prioritization of effort and met or exceeded the **Section 3 benchmarks**, absent evidence of the contrary.

By extension, subrecipients are expected to require the same of its prime contractor as well as of the latter's subcontractors. Prior to the beginning of work, all contractors including sub and lower tier contractors, will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined in 3.C. A Contractor Acknowledgement and Action Plan (Exhibit #4) is required to be signed as evidence and submitted to the subrecipient with copy to CCSS-CRM prior to the issuance of the Notice to Proceed. At the project level, the prime contractor and its subcontractors must aim to comply with Safe Harbor benchmarks as explained in the pertinent section.

If the contractor and subcontractor do not meet the safe harbor requirements, they must provide explanations for the shortfall and show the actions they have taken in good faith towards compliance. Exhibit #6 (Qualitative Efforts) must be completed and submitted for this purpose.

## **B. Safe Harbor Benchmark**

Clark County has established employment and training goals that subrecipients and their contractors should meet to comply with Section 3 requirements outlined in 24 CFR Part 75.19. The safe harbor benchmark goals are as follows:

- 25% or more of the total number of labor hours must be performed by a Section 3 workers

***Section 3 Labor Hours/Total Labor Hours = 25%***

- 5% or more of the total labor hours must be performed by “**targeted**” Section 3 workers as defined at 24 CFR Part 75.21

***Targeted Section 3 Labor Hours/Total Labor Hours = 5%***

These benchmarks are established by HUD and updated at least once every three years. The pertinent issuances are published in the Federal Register. The Clark County Section 3 Policies and Procedures will be reviewed and updated accordingly.

It is the responsibility of the prime contractor to require and monitor that all subcontractors are exerting their best efforts to reach the benchmarks. Exhibits #7 (Subcontractor Reporting) and #8 (Prime Contractor Reporting) must be completed and submitted at regular intervals to show progress towards the benchmarks. A self-performing Prime Contractor or a subcontractor that does not meet the Safe Harbor targets must explain why these were not met as well as show the qualitative efforts it has done to try to meet them. Exhibit #6 is to be utilized for this purpose.

Every contractor bidding as a prime, and regardless if it is claiming Section 3 status or not, is bound to comply with the requirements of Section 3. Section 3 Plans must be submitted using Exhibit #5. This form should be a summary of the information presented in Exhibit #4 submittals by the different subcontractors and its own in case the Prime Contractor will be self-performing.

Notwithstanding the expectation of every contractor to meet the benchmark to the greatest extent possible, the subrecipient/developer/prime contractor has the option to strategize how the target for the entire project can be met. These strategies may include: focusing on the big subcontractors to meet the minimum hours for Section 3 and Targeted Section 3 Workers for the entire project, linking up YouthBuild program implementors with the contractors, consolidating job postings of all contractors, among other approaches.

When identifying the most feasible strategy/ies, the subrecipient/developer/prime contractor is strongly encouraged to develop the total project labor hour projections before starting the project, based on the Exhibit 4 submissions from every contractor. Appendix B (Guidelines for Developing Labor Hour Projections and Sample Template) may be used as basis and reference for this important step.

## **C. Prioritization of Effort for Employment, Training & Contracting**

### **Employment and Training**

Under Clark County's Section 3 implementation, contractors and subcontractors should make best efforts to provide employment and training opportunities to low-income workers within the metropolitan area (or nonmetropolitan county) in which the project is located, in the priority order listed below:

1. "Targeted" Section 3 workers residing within the service area or the neighborhood of the project; and
2. Participants in YouthBuild programs.

Prime Contractors that will self-perform and subcontractors will be required to certify (Exhibits #5 and #4, respectively) that they will exert their best efforts to follow the prioritization of effort requirements prior to the beginning of work.

### **Contracting**

Consistent with the Safe Harbor benchmarks, subrecipients and prime contractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to low-income workers in the following order or priority:

1. Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which assistance is located, in the following order of priority (where feasible):
  - a. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project: and
  - b. YouthBuild programs.

It must be stressed, however, that the selection of the contractors or subcontractors must always comply with the principles of fair, open and competitive procurement.

## **4. Eligibility and Certifications**

Businesses that meet Section 3 criteria may, through self-certification, seek Section 3 preference from Clark County for contracting opportunities generated by housing and community development financial assistance. Similarly, individuals who meet the criteria and are seeking preference for employment or training may self-certify using the prescribed form.

Businesses who misrepresent themselves as Section 3 business concerns and report false information to Clark County may have their contracts terminated as defaulted and be barred from future considerations for contracting opportunities.

### **A. Section 3 Worker and Targeted Section 3 Worker Certification**

A Section 3 worker seeking certification shall submit documentation, using Exhibit #3 (Section 3 Worker Certification), to the subrecipient's contractor or subcontractor, as defined in 24 CFR Part 75. For the purpose of determining Section 3 worker eligibility, Clark County will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at: <https://www.huduser.gov/portal/datasets/il.html> (See Exhibit #3).

Persons seeking the **Section 3 worker** preference shall demonstrate that they meet one or more of the following criteria currently or within the past five years<sup>1</sup> as documented:

1. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); OR

*1Lookback period extends only to November 30, 2020, when the rules took effect.*

2. Employed by a Section 3 business concern OR
3. A YouthBuild participant.

Persons seeking the **Targeted Section 3 worker** preference, on the other hand, shall demonstrate that they are currently:

1. Employed by a Section 3 business concern OR

At the time of hire or within the last five years<sup>1</sup> were either:

2. Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; OR
3. A YouthBuild participant.

## **B. Section 3 Business Concern Certification**

Clark County encourages subrecipients and prime contractors to make best efforts to award contracts or subcontracts to Section 3 business concern.

Businesses (contractors) can qualify as a **Section 3 Business Concern** by demonstrating that they meet one or more of the following criteria:

1. At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
2. At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
3. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to Clark County, that they meet the above criteria. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification Form (**Exhibit #2**). The pertinent support documents must be submitted depending on the criterion used as the basis for the certification. Previous certification as a Section 3 Business Concern may be accepted as valid if the same was executed within the last six months immediately preceding the bidding the firm is participating in.



## **5. Assisting Contractors with Achieving Section 3 Goals**

To assist subrecipients and their contractors in meeting or exceeding the Section 3 goals, Clark County may do some, or all of the following:

1. Require Clark County's Section 3 Plan (this document) to be included in all bid documents and review pre-bid solicitations/advertisements to ensure compliance as needed.
2. Require and attend mandatory pre-bid and pre-construction meetings to explain Section 3 program requirements.
3. Require prime contractors to sign the "Section 3 Contractor Compliance Plan" (**Exhibit #5**).
4. Provide technical assistance, training materials and/or resources as needed to enable contractors to understand and meet the Section 3 benchmarks set by HUD.

*1 Lookback period extends only to November 30, 2020, when the rules took effect.*

5. Maintain a local Section 3 worker/Targeted Section 3 worker database and provide subrecipients and contractors with a list of interested and qualified Section 3 workers and Targeted Section 3 workers and contact information.
6. Maintain a list of contractors that have violated Section 3 requirements.
7. Encourage local contractors to report eligible Section 3 businesses to the County Section 3 Coordinator.
8. Leverage Clark County's communication outlets (social media, website, etc.) to effectively communicate Section 3 employment and contracting opportunities.
9. Undertake outreach activities such as but not limited to organizing meetings among subrecipients, contractors and offices implementing the YouthBuild Program.

## **6. Section 3 Outreach**

### **A. Outreach Efforts for Employment and Training**

All subrecipients and prime contractors are strongly encouraged to utilize multiple active strategies to notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities, such as:

1. Clearly indicating Section 3 eligibility on all job postings with the following statement: "This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 'voucher.'"
2. Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings.
3. Working with the County Section 3 Coordinator to connect Section 3 workers and Targeted Section 3 workers in Clark County's database.
4. Establishing a current list of Section 3 eligible applicants.
5. Contacting local community organizations and provide them with job postings for Section 3 eligible applicants.
6. Connecting with the local YouthBuild program to find eligible participants.
7. Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
  - a. Advertising job opportunities via social media, including LinkedIn and Facebook, Zip Recruiter, CareerBuilder, Indeed and local employment agencies.

- b. Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices.
- c. Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

## **B. Outreach Efforts for Contracting**

When contracting opportunities arise in connection with the HUD funded program, Clark County and/or its subrecipients and their prime contractors, will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

1. Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
2. Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. The Section 3 Coordinator will participate in these meetings to explain and answer questions related to Section 3 policy.
3. Advertising contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information.
4. Providing notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
5. Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
6. Coordinating with Clark County's Business/Economic Development Department and all other business assistance agencies and contractor associations to inform them of contracting opportunities and request their assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
7. Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.). Contractors will also be encouraged to collaborate with Clark County as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

## **7. Section 3 Contracting Policy and Procedure**

Clark County does not contract directly but advises our subrecipients, developers and their prime contractors of the requirement to comply with Section 3 and to include reference in the bid solicitation in our "Subrecipient Guidelines for Federal Funding Procurement Policies and Procedures". All subrecipients receive this document.

All contractors/businesses seeking a Section 3 bidding preference are required to complete the certifications using Exhibits #1 (Section 3 Business Concern Acknowledgement and Certification) and #2 (Section 3 Business Concern Certification Form). Such certifications shall be submitted as part of the bid package and adequately supported with appropriate documentation as

referenced in the Section 3 Business Concern Certification Form (**Exhibit #2**). All bidders, regardless of Section 3 Business Concern status, are required to submit the Section 3 Business Concern Acknowledgement and Certification (**Exhibit #1**) with their bid.

Clark County and its subrecipients reserve the right to verify certifications and the accompanying documents submitted by the bidders and take the appropriate corresponding actions.

## **8. Section 3 Provisions/Contract Language**

Clark County will require standard Section 3 language to be included in all subrecipient, developer/sponsor, and contractor contracts and/or agreements covered by Section 3 to ensure compliance with regulations in 24 CFR Part 75. Clark County will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and will not knowingly allow any subrecipient to contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis, the Section 3 Coordinator will audit Clark County's subrecipient's contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

It is the responsibility of the Prime Contractor to ensure that Section 3 contract provisions are included in all sub and lower tier contracts. These provisions will apprise all contractors of their compliance and recordkeeping responsibilities. All Section 3 reporting and prioritization requirements of CFR Part 75.19 apply to any subrecipients, contractors, and subcontractors regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts. **It is a County requirement that all contracts include Exhibit #4.**

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals and Section 3 business concerns must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

For businesses, noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## **9. Bidding Requirements and Preference**

The Section 3 Business Concern criteria under the "New Rule" makes it very difficult for Prime or General contractors to qualify. The bid preference stated below will be extended to:

- Any qualifying Prime Contractors Certified as a Section 3 Business Concern
- Any Prime Contractor that includes a minimum of 1 Certified Section 3 subcontractor for every 10 subcontractors
  - Number of required Section 3 Certified subcontractors is determined by dividing the total number of contractors by 10 and rounding to the nearest whole number
    - **Example 1:** 14 subcontractors/10=1.4 or **1 Section 3 subcontractor required**
    - **Example 2:** 28 subcontractors/10=2.8 or **3 Section 3 Subcontractors required**
- For contracts being awarded based on a Section 3 bid preference, documentation will be required by the Clark County Section 3 Coordinator of all qualifying criteria necessary to "Certify" the business as Section 3 and completing **Exhibit #2**

- Any substitution of a Certified Section 3 subcontractor after bid award/contract requires replacement with another Certified Section 3 subcontractor, if possible. Substitution with a non-Section 3 certified subcontractor will have to be justified and approved in writing by Clark County or the concerned subrecipient.

By extension, Prime Contractors/Developers procuring the services of subcontractors shall, at the minimum, extend invitation to all certified Section 3 businesses for all pertinent contracts. The determination of the winning bidder shall be subject to the provisions explained in Section 9.B.

All bidders on a HUD funded project are required to submit **Exhibit #1** with their bid, identifying whether they are seeking a Section 3 bid preference or not. For those seeking a Section 3 bid preference, **Exhibit #2** is also required along with the pertinent support documents. The procuring entity (i.e., Subrecipient, Developer, or Prime Contractor) and/or the County Section 3 Coordinator will review documentation provided by the contractor to determine if it meets the requirements for Certification. Certification will be required by the Prime, or the required number of subcontractors, prior to consideration of the bid preference and subsequent bid award.

Clark County’s subrecipient, with notification and consultation with the Section 3 Coordinator, will identify the lowest responsible and responsive bidders according to the criteria below:

**A. Lowest Bid Based Upon No Bid Preference:**

If no responsive bid by a Section 3 business concern meets the requirements (i.e., is within the budget estimated by the County and is within “X” amount of the lowest responsive bid submitted by a responsible bidder) the contract shall be awarded to the lowest responsive and responsible bidder.

**B. Lowest Bid Based Upon Bid Preference:**

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 lowest responsive bid if that bid:

- is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and
- 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
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 million.....	5% 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% of the lowest responsive bid, with no dollar limit.

**C. Award Criteria:**

Any bidder awarded under either criteria A or B above will be required to meet all requirements of Section 3 in 24 CFR Part 75.

**10. Reporting & Recordkeeping Requirements**

The prime contractor and its subcontractors are required to comply with the reporting requirements as explained in the succeeding sections.

**A. Quarterly Reporting**

The prime contractor is required to submit consolidated quarterly labor hour reports to Clark County through the subrecipient. The reports must be the aggregated figures from the prime contractor’s own labor deployment and from its subcontractors and submitted on the following schedules:

Quarter #	Reporting Period	Due Date
1	January 1 – March 31	April 15
2	April 1 – June 30	July 15
3	July 1 – September 30	October 15
4	October 1 – December 31	January 15

**B. Labor Hours Reporting**

Prior to construction, the prime contractor must provide estimates of the anticipated total number of labor hours, Section 3 labor hours and the “Targeted” Section 3 labor hours for the entire project. The estimates must be the aggregation of the projected labor hours by the prime contractor and its subcontractors and reflected using Exhibit #4 (Contractor Acknowledgement and Action Plan). The exhibit will show the estimated labor hours and transposed into targets based on the Safe Harbor benchmarks as follows:

- Estimated Total Number of Project Work Hours: \_\_\_\_\_
- Goal for Section 3 Workers: Total Number of Project Work Hours X 25% = \_\_\_\_\_
- Goal for “Targeted” Section 3 Workers: Total Number of Project Work Hours X 5%= \_\_\_\_\_

Exhibit #5 (Section 3 Contractor Compliance Plan), which is a prerequisite to the issuance of the Notice to Proceed, will reflect the same figures but will also present the strategies that the contractor will employ to reach the targets. Exhibit #6 (Qualitative Efforts) may be used as reference in identifying these strategies.

During construction, the prime contractor is required to report on a quarterly basis on the total Section 3 labor hours and “Targeted” Section 3 labor hours using Exhibit #8 (Prime Contractor Reporting). As with the estimates provided in Exhibit #4, the prime contractor’s report should capture the numbers submitted by the different subcontractors using Exhibit #7 (Subcontractor’s Reporting). For **CDBG projects** which trigger Davis-Bacon prevailing wage requirements, this information can be tracked using **LCPtracker**. If no time/resources system is in place and use of LCPtracker is not required (such as for **HOME projects**) to track labor hours, HUD allows a “good faith” estimate by the contractor.

**C. Reporting on Projects with Multiple Funding Sources**

- For Section 3 projects that include housing and community development financial

assistance, Clark County, or other local jurisdictions with HUD funding in the same project, will report on the project as a whole and will identify the multiple associated recipients.

- For projects assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds of \$200,000 and \$100,000 for Lead Hazard Control and Healthy Homes Programs (LHCHH), Clark County will follow subpart C of Part 75 and will report to the applicable HUD program office, as prescribed by HUD. Note: LHCHH assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. HUD public housing financial assistance and HUD housing and community development financial assistance is not included in calculating whether the assistance exceeds the LHCHH \$100,000 threshold. Refer to chart in [Appendix B](#).

Once a project is completed, contractors must submit a final Section 3 cumulative report for the program year. Upon the completion of a project, Clark County Section 3 Coordinator will conduct a final review of the project's overall performance and compliance and will submit the Section 3 data into IDIS for project closeout.

#### **D. Recordkeeping**

Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. The details on this requirement as well as examples of documentation can be found in 24 CFR Part 75.31.

To achieve recordkeeping compliance, prime contractors must maintain records, including those from its subcontractors, and submit reports, as requested, to HUD and Clark County, documenting compliance to the greatest extent feasible for actions taken and the results of these actions. Examples of such documentation include letters to community organizations, employment development and business development centers; copies of solicitations for bids or proposals; copies of advertising and lists maintained verifying recruitment, hiring and referrals for employment; and copies of affirmative action plans.

Clark County and HUD staff shall have access to all records, reports and other documents or items of the prime contractor and subcontractors that are maintained to demonstrate compliance with Section 3 requirements, or that are maintained in accordance with the regulations governing the Section 3 covered project under which Section 3 covered assistance is provided or otherwise made available to the contractor and subcontractors.

Clark County, subrecipients, prime contractors, and subcontractors are required to maintain all records related to employment and training of low and very low-income residents and to comply with the regulations of Section 3.

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

To internally resolve complaints generated due to non-compliance with Section 3 requirements, Clark County encourages adoption of the following steps and procedures:

1. Complaints should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75; then submitted to Clark County's Section 3 Coordinator.
2. Complaints must be filed within 30 calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted to determine the validity of the complaint. Clark County will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. Clark County will provide written documentation detailing the findings of the investigation and release the same after careful review for accuracy and completeness no later than 30 calendar days after the receipt of the complaint.
5. If the complainant/s wish to have the concerns considered outside of Clark County, a complaint may be filed with:
  - The HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, [www.hud.gov/](http://www.hud.gov/).

Under other federal laws, complainant/s may also be eligible to bring complaints to:

- U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact EEOC at: [www.EEOC.gov](http://www.EEOC.gov).
- The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.

## **APPENDICES AND EXHIBITS**



## **Appendix A: Definitions**

### **Low-Income and Very Low-Income**

Low- and very low-income limits are typically established at 80% and 50%, respectively, lower than the area median individual income as defined in Section 3(b)(2) of the Housing Act of 1937. These thresholds are determined annually by HUD. Further guidance and reference may be obtained from:

<https://www.huduser.gov/portal/datasets/il.html>.

### **Section 3 Business Concern**

- At least 51% owned and controlled by low- or very low-income persons.
- Businesses where Section 3 workers perform over 75% of the labor hours over a 3-month period; or
- At least 51% owned and controlled by a current public housing Section 8 residents.

### **YouthBuild Program**

YouthBuild is a community-based pre-apprenticeship program administered by the U.S. Department of Labor that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school and re-enrolled.

YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the required construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

Additional Criteria:

- A member of a low-income family and/or
- A youth in foster care (including youth aging out of foster care) and/or
- A youth with a disability and/or
- The child of an incarcerated parent and/or
- A migrant youth

The Division of Youth Services within the Employment and Training Administration's Office of Workforce Investment at the U.S. Department of Labor administers the YouthBuild program. More information can be found here:

<https://www.dol.gov/agencies/eta/youth/youthbuild>

### **Service Area**

“Service area” or the “neighborhood of the project” means an area within one mile radius of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

### **Section 3 Worker**

- A worker whose income for the previous or annualized calendar year is below the income limit established by HUD
- Employed by a Section 3 business concern
- A YouthBuild participant

### **“Targeted” Section 3 Worker**

For Housing and Community Development Financial assistance projects, a “Targeted” Section 3 worker is:

- Employed by a Section 3 Business Concern: or
- Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5
- A YouthBuild participant.

### **Section 3 Worker and Business Concern Certification**

Process whereby an individual person or a particular business is certified as a Section 3 Worker, a “Targeted” Section 3 Worker, or a Section 3 Business concern. The process may be done through self-certification or an established certification system. For the Section 3 Worker Certification, there is an option for the employer to complete the appropriate form if the worker chooses not to self-certify. The appropriate documentation may be required to support the certification. HUD recipients, contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns.

### **Subrecipient**

A “subrecipient” refers to a second-line recipient of a Federal grant that may be initially allocated to another entity (e.g., State, County). This may include developers, sponsors, subgrantees and/or non-profit entities.

### **Contractors**

Contractors refer to businesses awarded contracts on federally funded projects by subrecipients. Contractors may include sub/lower-tier contractors that work under the prime contractor.

### **Developer**

Developers refer to businesses that are in charge of the entire development process, which may include activities such as land acquisition/entitlement, financing, project design and management, among other functions. Developers may also act as their own prime contractors if allowed by the funding program.

TYPE OF FINANCIAL ASSISTANCE	DEFINITIONS *TARGETED SECTION 3 WORKER	THRESHOLDS	PRIORITIZATION	REPORTING
<b>Public Housing and Housing and Community Development</b>	<p><b>PHA</b> – must follow subpart B of Part 75</p> <p><b>HCD</b> – may follow subpart B or C of Part 75</p>	<p>None</p> <p>*Any amount of PH assistance triggers Section 3</p>	<p><b>PHA</b> – must follow subpart B of Part 75</p> <p><b>HCD</b> – may follow subpart B or C of Part 75</p>	<p><b>PHA</b> – must follow subpart B of Part 75</p> <p><b>HCD</b> – may follow subpart B or C of Part 75</p> <p>Both - Must report on project as a whole and identify the multiple associated recipients</p>
<p><b>Multiple Sources of Housing and Community Development</b> <i>(single or multiple recipients)</i></p>	<p>Must follow subpart C of Part 75</p>	<p>Exceeds \$200,000 for Section 3 projects</p> <p>*LHCHHP exceeds \$100,000</p>	<p>Must follow subpart C of Part 75</p>	<p>Must follow subpart C of Part 75</p> <p>Must report on project as a whole and identify the multiple associated recipients</p> <p>Must report to the applicable HUD program office, as prescribed by HUD</p>

## **Appendix B**

### **Guidelines for Developing Labor Hour Projections and Sample Template**

#### **Context:**

Under Section 3 of the HUD Act of 1968, projects funded by Federal monies must, to the greatest extent feasible, direct employment and training opportunities to the very low- and low-income workers. In practical terms, projects are expected to meet the safe harbor targets of 25% and 5% of its labor hours worked by Section 3 and Targeted Section workers, respectively. Reaching these targets require adequate planning at the outset. This includes estimating the total labor hours, identifying the most feasible qualitative efforts to reach or exceed the Section 3 goals, and following through on the chosen strategies.

It is critical that compliance with the safe harbor targets be viewed from the “project” level rather than from a “per contractor” perspective. Doing so recognizes the reality that certain firms may not be able to employ very low- and low-income workers. Examples are unionized contractors or contractors whose contracts in the project are small enough that their company principals can easily do the work. However, several large non-union contractors with many employees and a large percentage of the total project hours that are proactive in employing Section 3 or Targeted Section 3 workers, may be enough to meet the targets for the entire project.

The key to meeting the safe harbor targets begins before construction starts. The use of a simple spreadsheet similar to the table below would be a helpful planning tool. The following steps and the table that follows are provided to assist a prime contractor/developer in meeting or exceeding the compliance goals.

#### **Steps:**

1. List every firm that will be contracted for the project.
2. For each contractor, include a separate column for the total # of hours projected for the entire work based on the Exhibit #4 submissions.
3. Include another column to reflect the qualitative efforts planned by each contractor to meet the safe harbor targets.
4. Total the # of hours to be worked by all contractors based on Exhibit #4 submissions.
5. Total the # of hours to be worked by Section 3 businesses.
6. Compute the % of hours to be worked by Section 3 businesses, as a percentage of total project hours, for the largest and the 5 largest contractors

If a shortfall is projected, the following practical strategies, among other efforts, may be pursued:

1. While encouraging every firm to meet the targets under its contract, focus more on the contractors that have the biggest contracts in terms of the # of hours. These contractors may be encouraged to employ Section 3 or Targeted Section 3 workers, or to adopt the strategy of dividing the work into smaller chunks and solicit Section 3 and non-Section 3 businesses alike. The Section 3 Policies and Procedures explain how the bid preference for Section 3 businesses can be applied.

2. From the planned qualitative efforts, identify the most common strategies. Explore the possibility of consolidating efforts such as holding a job fair specific for the project or compiling a list of vacancies for all the concerned contractors and posting them on job boards of organizations helping low-income populations.
3. Assist contractors in analyzing the feasibility and relevance of chosen strategies for their respective engagements. For example, if a contractor projects few hours to complete their work, the strategy of dividing its contract to facilitate Section 3 business participation may not be an appropriate qualitative effort.
4. Invite representatives from the “YouthBuild” Program implementor and other organizations helping low-income populations on employment and training to Pre-Construction meetings so they can present their respective programs.

**Sample Section 3 Labor Hours & Qualitative Activities-Fictitious Project**

<b>Contractor</b>	<b>Total Hours</b>	<b>Qualitative Activities</b>
Excavation Contractor		1 (Other: Ad on Indeed.com)
Framing Contractor		1 (Hold job fairs)
Plumbing Contractor		1 (Hold job fairs)
Electrical Contractor		1 (Other: Limited to Union members)
Roofing Contractor		2 (Outreach to Other Funding Targeted Workers; Direct OJT)
Clean-Up Contractor		1 (Other: Solicit low-income workers)
<b>Total Project Hours:</b>		
<b>Total Hours by Section 3 Businesses:</b>		
<b>Total Section 3 Hours by 5 largest Contractors:</b>		(Largest Contractors Based on Total Project Hours, Compute Section 3 Hours as a Percentage of Total Project Hours)
<b>Total Section 3 Hours by the largest Contractor:</b>		(Largest Contractors Based on Total Project Hours, Compute Section 3 Hours as a Percentage of Total Project Hours)

# Exhibit #1-Section 3 Business Concern Acknowledgement and Certification

**This form MUST be submitted with all BIDS**

The undersigned hereby acknowledges that the aforementioned project is subject to the Section 3 provisions consistent with existing Federal regulations which warrants that projects assisted with funds granted by the United States Department of Housing and Urban Development (HUD) shall, to the greatest extent feasible, be directed to business concerns which provide economic opportunities to low and very low-income persons.

The undersigned hereby certifies that the firm designated below, is entitled to a bid preference as a Section 3 Business Concern because of the applicability of one of the following:

**If this section is not complete at the time of Bid submittal, the firm will not be eligible to claim the Section 3 Business Concern bid preference.** Additionally, one of the 4 boxes must be checked.

- 1. This firm is at least 51 percent owned and controlled by low- or very low- income persons, as defined in 24 CFR Part 75 of which this certification made part. **(Complete Exhibit #2)**
- 2. This firm has over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers. **(Complete Exhibit #2)**
- 3. This firm is at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing. **(Complete Exhibit #2)**
- 4. This firm is not claiming a Section 3 Preference.

**The undersigned acknowledges that the failure to check any of the boxes above shall preclude the firm from being considered a Section 3 Business Concern entitled to any bid preference.**

**It is further acknowledged, that regardless of my entity's Section 3 business status, our submission of a bid confirms our commitment to comply with the Section 3 requirement on employment opportunity prioritization.**

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to Clark County may have contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

<b>Signature of Bidder</b>	Legal Name of Firm (as it would appear in contract)	
Name of Bidder (Print or Type)	Telephone Number	Email Address
Address of Firm	Nevada State Contractor's License Number	
City, State, Zip Code	License Classification	
<b>Today's Date</b>		

## **EXHIBIT #2-Section 3 Business Concern Certification Form**

***This form MUST be submitted with BID if claiming a Section 3 Bid Preference***

**Business:** \_\_\_\_\_

**Project Title:** \_\_\_\_\_

The undersigned, as a duly authorized representative of the business entity identified above and on the signatory line below, hereby certifies that such business entity qualifies as a Section 3 Business Concern as defined under 24 CFR 75 based upon the following:

- At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
- At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

In support of the abovementioned claim, pertinent documents are submitted along with this exhibit.

I affirm that the above statements and the support documents are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to Clark County may have contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Name of Firm: \_\_\_\_\_

Business Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

### **FOR ADMINISTRATIVE USE ONLY**

Is the business a Section 3 business concern based upon their certification? Yes/No: \_\_\_\_\_

Certifying Agency: \_\_\_\_\_

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

**Employers must retain this form in their Section 3 compliance folder for 5-years.**

## **EXHIBIT #3 - Section 3 Worker Certification**

**Worker Certifications** can either be done by the Employer (Contractor) or the Employee (Worker). The **worker self-certification** would be on a voluntary basis and the information will be kept confidential by the employer, unless requested by HUD or other government entities for monitoring purposes. The decision to self-certify or not has no effect on the worker's employment.

**Employer certifications** can be done by the contractor/employer by annualizing the workers' current rate of pay or documenting their annual pay as of the date of hire back 5-years (if after 11/30/2020). If the employer certifies based on income, either currently or after 11/30/2020, only the worker income from the certifying contractor/employer can be considered.

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

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

**Name of Contractor/Current Employer:** \_\_\_\_\_

Workers can qualify as **Section 3 workers** by either income status, if they are employed by a Section 3 business or if they are/have been a YouthBuild participant.

To qualify by income status, the workers' Income must be at or below the HUD income limits listed below for the Qualifying Year:

<b>1 Person (Clark County: Las Vegas-Henderson-Paradise, NV MSA)</b>	<b>2024</b>	<b>2023</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>
Very Low-Income	TBD	\$30,350	\$28,650	\$27,550	\$26,250
Low-Income	TBD	\$48,550	\$45,850	\$44,100	\$42,000

Workers can qualify as "**Targeted**" **Section 3 workers** if they are employed by a Section 3 business concern, live/lived within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5 (See "Service Area" Definition Below) or is/has been a YouthBuild participant within the last 5-years.

### **Employee Self-Certification**

I certify that I qualify as a **Section 3 Worker** because currently, or within the last five years<sup>1</sup>, I satisfy either one of the following criteria:

1. Low or very low-income resident (see table above) Yes \_\_\_\_\_ No \_\_\_\_\_
2. Employed by a Section 3 business concern Yes \_\_\_\_\_ No \_\_\_\_\_
3. A YouthBuild participant Yes \_\_\_\_\_ No \_\_\_\_\_

For the qualifying year \_\_\_\_\_, my annual gross income was/will be: \$ \_\_\_\_\_

*1 Lookback period extends only to November 30, 2020, when the Section 3 Rules took effect.*

I certify that I qualify as a "**Targeted**" **Section 3 Worker** because currently I am:

1. Employed by a Section 3 Business Concern Yes \_\_\_\_\_ No \_\_\_\_\_

OR currently or within the last five years<sup>1</sup>, I:



2. Live/lived within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5 (See "Service Area" Definition Below), OR **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

3. Is currently/has been a YouthBuild participant. **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

Employee Name: \_\_\_\_\_ Date Hired: \_\_\_\_\_

Employee Address: \_\_\_\_\_

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

### **Employer's Certification**

I, as the employer, certify that the worker named below qualifies as a **Section 3 Worker** because currently, or within the last five years<sup>1</sup>, he/she satisfies either one of the following criteria:

1. Low or very low-income resident (see table above) **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

2. Employed by a Section 3 business concern **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

3. A YouthBuild participant **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

For the qualifying year \_\_\_\_\_, this worker's' annual gross income was, or is anticipated to be \$ \_\_\_\_\_ based on her/his current hourly rate.

I, as the employer, certify that the worker named below qualifies as a "**Targeted**" **Section 3 Worker** because currently he/she is:

1. Employed by a Section 3 Business Concern **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

OR currently or within the last five years<sup>1</sup>, he/she:

2. Lives/lived within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5 (See "Service Area" Definition Below), OR **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

3. Is currently/has been a YouthBuild participant. **Yes** \_\_\_\_\_ **No** \_\_\_\_\_

Employee Name: \_\_\_\_\_ Date Hired: \_\_\_\_\_

Employee Address: \_\_\_\_\_

*1 Lookback period extends only to November 30, 2020, when the Section 3 Rules took effect.*

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employer's Name/Title (Please Print): \_\_\_\_\_

Employer's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

**Based on the preceding certifications (Check all that apply):**

*NOTE: This should be completed by either the prime contractor, the subcontractor or a lower tier contractor depending on who actually employs the worker.*

- Worker does not qualify as a Section 3 Worker
- Worker qualifies as a Section 3 Worker
- Worker qualifies as a “Targeted” Section 3 Worker
- Worker Self-Certified their Section 3 worker status
- Employer Certified their Worker’s Section 3 status based on current income or income from their initial hire date

*“Service area” or the “neighborhood” of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.*

## **EXHIBIT #4-Section 3 Contractor Acknowledgement and Action Plan**

**NOTE:** All prime contractors, that self-perform, and subcontractors must sign and submit this form (3 pages) which becomes part of the contract. A copy must be forwarded to the Clark County Section 3 Coordinator through the subrecipient prior to the issuance of a Notice to Proceed.

### **Purpose, Authority and Responsibility**

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of Federal funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. **Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers; and (b) 5% of total labor hours worked by "Targeted" Section 3 workers.**

**Instructions: Contractor to complete form, sign/date and return to the Prime Contractor, Developer and/or the County Section 3 Coordinator, prior to conducting any labor activities:**

Project Name/Address: \_\_\_\_\_

Contractor Name (print): \_\_\_\_\_

As attested by my signature at the bottom of this form, I hereby CERTIFY that, as the authorized representative for the above identified contractor and project, that my company:

(a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and

(b) will comply with HUD's regulations in 24 CFR Part 75; and

(c) will submit to the Clark County CRM, appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 and "Targeted" Section 3 workers, confirmation of Section 3 business concerns and YouthBuild participants, and

(d) will include this Section 3 Contractor Acknowledgement and Action Plan in every contract, and

(e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

## **Section 3 Contractor Acknowledgement and Action Plan (Exhibit #4-Page 2)**

### **Section 3 Action Plan**

*NOTE: This exhibit is primarily intended for the subcontractors. However, it will also be required of Prime Contractors that will self-perform.*

The Section 3 Action Plan includes both an estimate of labor hours and what the contractor intends to do in terms of meeting Section 3 compliance requirements.

#### **Labor Hours:**

HUD requires contractors to estimate the **anticipated** number of **total Section 3 labor hours** and **“Targeted” Section 3 labor hours** for HUD funded projects covered by Section 3. During construction contractors will be required to report (quarterly), on the total Section 3 and “Targeted” Section 3 labor hours. If no time/resources system is in place (such as **LCPtracker**) to track labor hours, HUD allows a **“good faith” estimate by the contractor**. Contractors will use **Exhibit #7** to report this to the Prime, and Developers/Prime Contractors can use **Exhibit #8** to report to the Clark County Section 3 Administrator.

All contractors are required to estimate the number of labor hours, Section 3 labor hours and “Targeted” Section 3 labor hours prior to entering into a contract as part of their Section 3 Action Plan. The Prime Contractor will use this estimate to aggregate the total number of project hours to meet HUD reporting requirements:

- Estimated Total Number of Project Work Hours \_\_\_\_\_
- Goal: Total Number of Hours Worked: \_\_\_\_\_ x 25% = Section 3 Goal \_\_\_\_\_
- Goal: Total Number of Hours Worked: \_\_\_\_\_ x 5% = Targeted Section 3 Goal \_\_\_\_\_

#### **Qualitative Efforts:**

Given the unequivocal importance of meeting the Section 3 benchmarks, the prime contractor and subcontractors must identify the actions they intend to employ to reach the Safe Harbor targets. These actions may include, but are not limited, to the following:

#### **Employment:**

- Outreach efforts to identify and secure bids from Section 3 businesses
- Technical assistance to help Section 3 businesses understand and bid for contracts
- Division of contract into smaller jobs to encourage and facilitate participation by Section 3 businesses
- Sending invitations to Section 3 businesses to bid for contracts
- Application of preference for Section 3 business contract bids within the parameters of fair and competitive procurement
- Coordination with YouthBuild program implementors
- Coordination with organizations doing workforce development programs for low-income participants
- Posting of job vacancies in employment platforms such as Indeed.com, ZipRecruiter and in job boards of organizations helping low-income populations (e.g., Salvation Army, Goodwill of Southern Nevada, United Way, Catholic Charities, Asian Community Development Council)
- Coordination with organizations helping low-income residents within the project area for the primary purpose of recruiting workers

- Conduct and/or participate in job fairs.
- Provide or connect residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- Other efforts: Specify:

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**Training:**

- Direct on-the-job training (including apprenticeships)
- Worker training for new trade skills, financial literacy, etc., either through payment of fees or conducting classes/sessions on vocational and technical trades
- Referral of low-income residents to institutions that provide assistance in seeking employment, including drafting resumes, preparing for interviews, and other job placement-related services
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Other efforts: Specify:

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As attested by my signature below, I hereby guarantee that my company will adhere to this Section 3 Acknowledgement and Action Plan and exert serious efforts to meet the Safe Harbor targets.

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

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Authorized representative's name and title (Print or type above)

# EXHIBIT #5-Section 3 Prime Contractor Compliance Plan

## Clark County, Nevada

Project Name \_\_\_\_\_ Date \_\_\_\_\_

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

Contact \_\_\_\_\_ Phone Number \_\_\_\_\_ Email \_\_\_\_\_

This **Compliance Plan** is to be completed by the **prime contractor** and submitted prior to the issuance of a Notice to Proceed by the subrecipient. It is the subrecipient's responsibility (if a **developer or non-profit agency**) to request that this **Exhibit #5** be completed and signed by the prime contractor.

**Purpose:** Section 3 is a clause in the Housing and Urban Development Act of 1968. Its intent is to provide job training and employment opportunities, from programs that receive HUD funding, to local low-income residents and the businesses they own or that employ them.

**Goals:** HUD's established Section 3 benchmark goals are **25% of total labor hours worked by Section 3 workers**; and **5% of total labor hours worked by "Targeted" Section 3 workers**. The contractor must provide documentation of how new employment and subcontracting opportunities have been directed, to the greatest extent feasible, to Section 3 residents and business concerns, while attempting to achieve these goals. This documentation must include efforts made by all contractors to direct hiring opportunities to Section 3 residents.

### Developer/Prime Contractor Responsibilities

Developers/Prime contractors are responsible for the following to meet their Section 3 compliance responsibilities:

- Ensure each contractor understands the **Section 3 requirements and goals**. The developer/prime contractor must **document** its own efforts and each **subcontractor's efforts** to comply with these requirements.
- Document **outreach efforts** to recruit potential **Section 3 residents** for employment opportunities and any **contracting opportunities** through methods such as: local advertising, notices to professional associations and trade networks, signs placed at job site and local community organizations (see "Examples of Section 3 Qualitative Efforts" in **Exhibit #4** for a complete list of suggestions).
- Ensure the Clark County **Section 3 Plan** is included in all bid solicitations and require **Exhibit #1** be completed and returned with the contractor's bid. Notify the Clark County **Section 3 Coordinator** of any contractors seeking a **Section 3 bid preference** and identifying their company as a Section 3 business (**Exhibit #2**).
- Ensure Section 3 **contract provisions** are included in all contracts and subcontracts (**Exhibit #4** can be used for this).
- Require all contractors (prime/subcontractors/lower tier subs) to provide the **Section 3 Worker Certification** form (**Exhibit #3**) to all their employees and return the forms completed by either the workers themselves or by the employer.
- Provide completed **Section 3 Business (Exhibit #2)** and **Section 3 Worker Certification** forms (**Exhibit #3**) to the County Section 3 Coordinator.
- Ensure **Section 3 outreach** is conducted by all their sub and lower tier contractors (confirm contractors proactively noted their intended efforts on the **Section 3 Action Plan (Exhibit #4)**).
- In the event **Section 3 benchmarks** are not met, the developer/prime contractor is responsible to collect evidence they have made **qualitative efforts** to assist low and very low-income persons with employment and training opportunities (**Exhibit #6** can be used for this).

- Instruct all contractors to **track** their total employee **work hours**, and the total work hours of any Section 3 and “Targeted” section 3 employee hours (**Exhibit #7** can be used for this).
- Require completion and retain records of the “**Section 3 Acknowledgement and Action Plan**” (**Exhibit #4**) for all contracts.
- Provide the “**Section 3 Contractor Reporting**” (**Exhibit #7**) separately or as an attachment to **Exhibit #4** so subcontractors have a template for reporting.
- Maintain documentation on the number of **Section 3 residents** that apply for **new employment opportunities** and the number of **Section 3 businesses** that bid on **contracting opportunities**.

**Reporting to Clark County Section 3 Coordinator:**

- Completed **Exhibit #4** from all contractors, including self-performing Prime Contractors, which includes an acknowledgement of Section 3, labor hour estimates and compliance efforts that will be made by subcontractors.
- Quarterly Reports, specifically **Exhibit #8** and **Exhibit #6**, if the benchmarks are not met. The submissions from subcontractors, and from the Prime Contractor that self-performs, must be used as bases. Refer to the table below for guidance.

<b>Quarter</b>	<b>Reporting Period</b>	<b>Due Date</b>
1	January 1 – March 31	April 15
2	April 1 – June 30	July 15
3	July 1 – September 30	October 15
4	October 1 – December 31	January 15

**Labor Hours**

- HUD requires contractors to estimate the **anticipated** number of **total Section 3 labor hours** and **“Targeted” Section 3 labor hours** for HUD funded projects covered by Section 3. During construction contractors will be required to report (quarterly) on the total, Section 3 labor hours and “Targeted” Section 3 labor hours. If no time/resources system is in place (such as **LCPtracker**) to track labor hours, HUD allows a **“good faith” estimate** by the contractor. Contractors will provide an initial estimate in **Exhibit #4** as part of their **Section 3 Action Plan** and can use **Exhibit #7** to report this information quarterly during construction, to the Prime contractor. Developers/Prime Contractors can use **Exhibit #8** to report to the Clark County Section 3 Coordinator.

**Exhibit #4** is required to be completed by all contractors. It includes a request to estimate the total number of labor hours, Section 3 labor hours and “Targeted” Section 3 labor hours. The Prime contractor can use this Exhibit to request the necessary information from all contractors as a basis to complete the total aggregate estimated hours requested below for the project:

- Estimated Total Number of Project Work Hours \_\_\_\_\_
- Goal: Total Number of Hours Worked: \_\_\_\_\_ x 25% = Section 3 Goal \_\_\_\_\_
- Goal: Total Number of Hours Worked: \_\_\_\_\_ x 5% = Targeted Section 3 Goal \_\_\_\_\_
- Use **Exhibit #6** and/or the space below to describe in the strategies that will be implemented to achieve HUD’s Section 3 benchmarks:

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

**Contractor Acceptance**

As attested by my signature below, I hereby CERTIFY that, upon being awarded a contract to participate in the above cited HUD-funded project, and as the authorized representative, will adhere and work to implement all aspects of this Section 3 Compliance Plan.

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

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

\_\_\_\_\_  
Authorized representative’s name and title (print or type above)



## **EXHIBIT #6 – SECTION 3 Qualitative Efforts**

If at the end of the quarter/contract/project, reporting indicates that the Section 3 benchmarks have not been met, the prime contractor and the subcontractors must report on the activities undertaken in the hope of achieving them. They must also explain why, despite the efforts, the targets were not met.

### **Employment:**

- Outreach efforts to identify and secure bids from Section 3 businesses
- Technical assistance to help Section 3 businesses understand and bid on contracts
- Division of contract into smaller jobs to encourage and facilitate participation by Section 3 businesses
- Sending invitations to Section 3 businesses to bid for contracts
- Application of preference for Section 3 business contract bids within the parameters of fair and competitive procurement
- Coordination with YouthBuild program implementors
- Coordination with organizations doing workforce development programs for low income participants
- Posting of job vacancies in employment platforms such as Indeed.com, ZipRecruiter and in job boards of offices/organizations helping low-income populations (e.g., Salvation Army, Goodwill of Southern Nevada, United Way, Catholic Charities, Asian Community Development Council)
- Coordination with organizations helping low-income residents within the project area for the primary purpose of recruiting workers
- Conduct and/or participate in job fairs
- Provide or connect residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation
- Other efforts: Specify:  
\_\_\_\_\_

### **Training:**

- Direct on the job-training (Including apprenticeships)
- Provision of training for workers on new trade skills, financial literacy, and the like either through payment of fees or conduct of own classes/sessions on vocational and technical trades
- Referral of low-income residents to institutions that provide assistance in seeking employment, including drafting of resumes, preparing for interviews, and other job placement-related services
- Other efforts: Specify:  
\_\_\_\_\_

Despite pursuing the efforts indicated above, the Section 3 benchmarks were not met because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

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



