

Section 3 Implementation Plan

County of Oceana

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 HUD funding provided to the County of Oceana through the Michigan State Housing Development Authority.

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, MSHDA and HUD have a similar level of responsibility and may impose sanctions or penalties against the County of Oceana.

The County of Oceana's primary responsibility as a recipient of HUD funding includes:

- 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-recipients, 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 Oceana County 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

Oceana County shall provide opportunities to low- and very low-income people living in the County of Oceana and to businesses meeting the definition of “Section 3 Business Concern”. Accordingly, Oceana County shall implement policies and procedures to ensure Section 3, when required, is followed for all contracts where labor and/or professional services are provided.

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 Oceana County because it is a sub-recipient of HUD funding from MSHDA, which receives more than \$200,000 from HUD.

Other Section 3 Recipients – In addition to Oceana County, any entity that receives housing and community development funding from a funding source in excess of \$200,000 from Oceana County 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 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 (A subcontractor performing work for a Section 3 contractor in an amount greater than \$100,000 is considered a 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 Programs

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

- MSHDA Funded Programs
- Community Development Block Grant Programs
- Homebuyer Purchase Rehab
- Rental Rehab
- Acquisition-Development-Resale

Intended Beneficiaries of Section 3

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

Section 3 Residents: Low- and very low-income people living in Oceana County with 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 federal, state, and local job programs.

Fourth Priority – Other persons from the targeted area who meet the definition of Section 3 resident contained in Subsection 135.5 of 24 CFR Part 135.

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- or very low-income persons (preferably who live in Oceana County), 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 system:

- 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 homeowners are selecting the contractor based on a listing provided by Oceana County the homeowners will be encouraged to solicit a bid from a minimum of one Section 3 Contractor whenever possible. The homeowner when making the selection will be made aware of Section 3 guidelines and all else being equal will be encouraged to consider an approved Section 3 Contractor in their selection process.

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 MSHDA’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 million....5% of that bid or \$40,000

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.

Employment and Training Goals

All contractors will seek low- and very low-income persons residing in the targeted area for 30% of all new hires. When applicable, the 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 Oceana County 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 targeted area.

Fourth Priority – Other persons from the targeted area who meet the definition of Section 3 resident contained in subsection 135.5 of 24 CFR Part 135.

Eligibility for employment or contracting: Nothing in this policy shall be construed to require the employment or contraction 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

The County of Oceana is available to provide technical support to Developers, General Contractors, and Subcontractors participating in the development of Section 3 Covered Projects and will also maintain a limited database of Certified Section 3 Business Concerns and outreach agencies located in Oceana County.

Developers, General Contractors, and Subcontractors are 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 County Administrator upon request.

The County of Oceana may conduct on-side reviews of the Section 3 Covered Project to determine whether the Developer, General Contractor, or Subcontractor is complying with its approved Section 3 Plan.

In the event the County of Oceana determines the Developer, General Contractor, or Subcontractor 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 County Administrator to determine if best efforts were used to meet Section 3 requirements, and if further outreach attempts are necessary to meet the Section 3 goals.

Preference for Contracting with Section 3 Businesses

The County of Oceana's minimum goals are as follows:

- 10% of the total dollar amount of all Section 3 covered construction contracts will be awarded to Section 3 Business Concerns
- 3% of the total dollar amount of all covered non-construction contracts will be awarded to businesses that qualify as a Section 3 Business Concern

Section 3 Certification

Section 3 Resident: Any person seeking Section 3 preference in hiring and training shall complete the Section 3 Resident Certification form. The Individual seeking Section 3 preference shall provide adequate documentation regarding permanent residence and income.

Verification of income eligibility may consist of any of the following:

- A public housing or Housing Choice Voucher lease agreement
- Evidence of income (most recent paystubs, W-2's, tax returns); or
- Evidence of receipt of public assistance; or
- Any other evidence acceptable to the County

Section 3 Business Concern: Any business seeking Section 3 preference shall complete the Certification for Business Concerns Seeking Section 3 Preference in Contracting. 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 County of Oceana prior to the submission of bids for review. Business concerns shall provide any additional documentation up request.

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 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 or contracting opportunities for the Section 3 Covered Project (applies to projects where there are existing residents).
- 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.
- e) 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.
- f) Provide minority and women-focused labor and trade organizations with notice of Section 3 contracting opportunities, as well as job postings and training opportunities.
- g) Contact the following groups that have been identified as instrumental in assisting Section 3 target groups regarding employment, training, or contracting opportunities.

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

Prior to entering into an Agreement with the County of Oceana, the Sub-Recipient, General Contractor, or Developer shall submit a comprehensive Section 3 Plan that includes Section 3 goals and strategies that will be implemented to meet those goals. The plan shall be signed by the General Contractor or Developer, as applicable, and submitted to the County Administrator for review and approval.

All Section 3 Plans submitted to the County of Oceana 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 reflection in the Section 3 Plan.

Upon receipt of the Section 3 Plan, County of Oceana 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 General Contractor or Developer. After the Section 3 Plan is approved, it shall be made a part of the construction documents, and be reviewed regularly to assess is implementation and the attainment of the Section 3 goals. If subcontracts in excess of \$100,000 are awarded, those Subcontractors will be required to submit their own Section 3 Plan for County review and approval.

The County of Oceana shall provide MSHDA with copies of bid documents, construction contracts, and any other related documentation upon request.

Components of a Section 3 Plan

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
- d) Identification of the Section 3 Project area
- 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 County of Oceana monthly Section 3 reports
- j) Commitment to include the Section 3 Clause in all construction contracts. The Section 3 Clause 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 or 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.

Internal Complaint Procedure

It is the practice of the Oceana County Board of Commissioners to respond to complaints quickly and completely in a positive manner. Inserted below is an image of the “Oceana County Complaint/Grievance” form. All complaints are investigated by the Oceana County Administrator and/or Oceana County Board of Commissioners within five (5) days of receipt.

OCEANA COUNTY
COMPLAINT/GRIEVANCE

The Oceana County Administrator and/or Board of Commissioners will address all complaints/grievances which are made in writing within five (5) days of receipt.

Case # _____
(assigned by County)

DATE COMPLAINT IS BEING SUBMITTED: _____
REPORTING PERSON: _____
ADDRESS: _____
CITY, STATE AND ZIP: _____
VIOLATION DATE AND TIME: _____
LOCATION: _____
OTHER PEOPLE PRESENT AT THIS TIME (Name and Phone #) _____

(these people may be contacted to verify the information in the complaint)

Describe in detail your complaint:

(attach additional sheets as needed)

Mail or Deliver Complaint to: Oceana County Administrator, County Building, 100 S. State Street, Suite M-4 Hart, Michigan 49420.

Definitions

Low-Income Person—a household (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 entity that contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

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 for construction related activities.

Section 3 Resident—For the purposes of the Plan, a Section 3 resident is an individual who resides in Oceana County and whose income does not exceed 80% Area Median Income, as determined by HUD.

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