



## CITY OF ROYAL OAK

### A COMPLIANCE GUIDE TO SECTION 3 REQUIREMENTS

#### ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW INCOME PERSONS

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#### PURPOSE

As a Community Development Block Grant (CDBG) entitlement community, the City of Royal Oak is required to comply with the provision Section 3 of the Housing and Urban Development Act of 1968. The purpose of this manual is to provide a guide of Section 3 requirements. The manual provides a description of the requirements and a copy of the forms that must be completed for compliance.

#### BACKGROUND

Section 3 requires that, to the greatest extent feasible, training and employment opportunities arising out of a project assisted under a program providing direct federal financial assistance from the US Department of Housing and Urban Development (HUD) be given to low and very low income residents of the service area and, where appropriate, contracts for work in connection with the project be awarded to business concerns (firm) which are located in or owned in substantial part by persons residing in the area of the project.

#### DEFINITIONS

**Section 3 residents** are persons who live in the area where a HUD-assisted project is located and who have a household income that falls below HUD's income limits (see application for current income limits). Low income is defined as 80% or below the area median income of the area. Very low income is defined as 50% or below the median income of the area. See accompanying Table for income limits set by HUD for the Detroit-Warren-Livonia, MI HUD Metro FMR Area.

**Section 3 business concerns** is a business / firm that is:

- fifty-one percent (51%) or more owned by Section 3 residents; or
- employs Section 3 residents for at least thirty percent (30%) of its full-time, permanent staff; or
- provides evidence of a commitment to subcontract to Section 3 business concerns, twenty-five percent (25%) or more of the dollar amount of the awarded contract.

**New hire** is a full-time employee for a new permanent, temporary or seasonal position that is generated from the expenditure of HUD funds covered by the Section 3 regulations.

**Recipient.** The City of Royal Oak is the direct recipient of federal funding from the US Department of Housing & Urban Development (HUD).

**Subrecipient** is an organization receiving HUD funds from the City of Royal Oak (recipient) for a housing and community development related project.

**Contractor** is a business with contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Subcontractor** is a business 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.

**Section 3 covered project** includes the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public housing which includes buildings or improvements (regardless of ownership) assisted with housing and community development assistance.

**Section 3 covered assistance**

- public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** is the contract provision set forth in 24 CFR Part 135.383.

**Service area** is the area where a HUD-assisted project is located. It is a geographical area in which the persons benefiting from the Section 3 covered project reside. *The service area does not extend beyond the city limits.*

## APPLICABILITY

Section 3 requirements apply to community development and housing assistance projects which are provided by the City of Royal Oak via Community Development Block Grant (CDBG) funds or any other funds issued by the U.S. Department of Housing & Urban Development. A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), housing construction, or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

Section 3 requires that when employment or contracting opportunities are generated because such projects or activities undertaken by a subrecipient of covered HUD financial assistance necessitates the employment of additional personnel through individual hiring or awarding contracts, the subrecipient must give preference to hiring low and very low income persons and / or businesses owned by these persons or that substantially employ these persons within the City of Royal Oak.

## THRESHOLD

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. Section 3 requirements only apply when any of the following thresholds are reached:

### **Subrecipient threshold:**

A subrecipient that receives community development or housing assistance covered by Section 3 for which the amount of assistance exceeds \$200,000.

### **Contractor and subcontractor thresholds:**

Section 3 requirements apply to contractors and subcontractors performing work on the Section 3 covered project(s) for which the total amount of assistance exceeds \$100,000; and the contract and subcontract exceeds \$100,000.

Professional service contracts (e.g. architectural services) are covered under Section 3 provided that work to be performed by the professional is for work generated by the expenditure of Section 3 covered assistance or for work arising in connection with a Section 3 project (e.g. housing rehabilitation, housing construction, or other public construction project.).

Section 3 covered contracts do not include contracts issued for the purchase of materials, supplies, or equipment, unless installation “work” is involved.

### **Threshold met for subrecipients, but not contractors or subcontractors:**

If a subrecipient receives Section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the Section 3 preference requirements only apply to the operation of the subrecipient (see Responsibilities).

## NUMERICAL GOALS

If a subrecipient, contractor or subcontractor has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and / or subcontracting opportunities to Section 3 residents and business concerns.

Federal regulations set numerical goals for all HUD jurisdictions for the hiring / training of Section 3 residents and contracting with Section 3 business concerns on HUD assisted projects. If the following numerical goals are not reached, subrecipients, contractors and subcontractors shall demonstrate a "Good Faith Effort" to achieve the numerical goals.

*Training and Employment:* Goals are based on the percentage of new hires.

- 1) Housing assistance: employ Section 3 residents as 10% of the aggregate number of new hires for each year over the duration of the Section 3 project.
- 2) Community development assistance: Employ Section 3 residents as 30% of the aggregate number of new hires for each year over the duration of the Section 3 project.

*Contracts:* Each contractor and subcontractor that meets the threshold requirements may demonstrate compliance with the requirements of Section 3 by committing to award Section 3 business concerns:

- 1) At least 10% of the total dollar amount for all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public housing, housing construction and other public construction.
- 2) At least 3% of the total dollar amount of all non-construction contracts covered under the Section 3 requirements.

Section 3 residents are not guaranteed employment and Section 3 business concerns are not guaranteed contracting opportunities. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of covered assistance. Likewise, Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

Contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. Preference to Section 3 business concerns means that a recipient's or contractor's procurement procedure include methods to provide preference to Section 3 business concerns. Accordingly, if a Section 3 business concern is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the subrecipient agency may give preference to the Section 3 business in an effort to meet its numerical goals annually.

## COMPLIANCE TIME PERIOD

Yearly - July 1<sup>st</sup> through June 30<sup>th</sup>

The above range of dates identifies the compliance time frame that all subrecipients, contractors and subcontractors shall report efforts to meet the numerical goals of Section 3. Reports shall be return to the City of Royal Oak Planning Department by no later than July 15<sup>th</sup> or completion of the work; which ever comes first.

## RESPONSIBILITIES

### A) Subrecipient

- 1) A subrecipient must comply with Section 3 requirements in its own operation. This responsibility includes:
  - A) Notifying Section 3 residents and business concerns about jobs and contracts generated by Section 3 covered assistance so that they may submit bids / proposals for available contracts and jobs opening with the subrecipient;
  - B) Notify potential contractors of Section 3 requirements;
  - C) Include the Section 3 Clause in all applicable contracts;
  - D) Document action(s) taken to meet the numerical goals.
  - E) Complete and submit the following reports when the assistance exceeds \$200,000: *Subrecipient – Contract Award Summary Report.*
- 2) Subrecipients have a responsibility to “ensure compliance” of their contractors and subcontractors. This means that a subrecipient must:
  - A) Notify contractors of their responsibilities under Section 3 including, but not limited to, incorporating the Section 3 Clause in all contract documents;
  - B) Refrain from contracting with subcontractors as to whom they have received notice or have knowledge that the subcontractors have been found in violation of the requirements of 24 CFR Part 135;
  - C) Respond to Section 3 complaints;
  - D) Cooperate with the City of Royal Oak and HUD in obtaining compliance of contractors and subcontractors when allegations are made of non-compliance.
  - E) Complete and submit the following reports when the assistance exceeds \$200,000: *Subrecipient - Contract Award Summary Report.*

**B) Contractors**

- 1) Notify subcontractors of their responsibilities under Section 3 including, but not limited to, incorporating Section 3 Clause in subcontract documents;
- 2) Refrain from contracting with subcontractors as to whom they have received notice or have knowledge that the subcontractors have been found in violation of the requirements of 24 CFR Part 135;
- 3) Maintain records that document a good faith effort to utilize Section 3 residents and business concerns. This is required of both contractor and subcontractor;
- 4) Document action(s) taken to meet the numerical goals;
- 5) Complete and submit the *Contractor Section 3 Certification Form* prior to bid opening;
- 6) Complete and submit the following reports / forms when the assistance exceeds \$100,000: *Contractor Estimated Work Force Breakdown, Contractor Actual Work Force Breakdown, Contractor Section 3 Certification Form, and Income Certification Form for Section 3 Residents* should low income residents of the City of Royal Oak submit a job application for a new hire position.

**C) City of Royal Oak**

The city shall assist the subrecipient, contractors and subcontractors by performing the following activities:

- 1) Notifying all applicants for CDBG and other HUD funded projects of the Section 3 applicability;
- 2) "Section 3 Clause" shall be included in all applicable bids and contracts;
- 3) Providing clarification of the Section 3 requirements;
- 4) Providing the appropriate guidelines and forms;
- 5) Assisting subrecipients, contractors and subcontractors with notifying Section 3 residents and business concerns of new opportunities as outlined in "Good Faith Effort";
- 6) Monitoring, verifying and notify with regard to compliance;
- 7) Moderate Section 3 complaints;
- 8) Collect all applicable forms and reports;
- 9) Report all required data to HUD.

## **GOOD FAITH EFFORT**

The city shall verify that the contractor and subcontractor have completed a variety of the following tasks to demonstrate its good faith effort to comply with Section 3 requirements. Subrecipients, contractors and subcontractors shall retain all records associated with all attempts to provide a good faith effort and provide the city and HUD with said records upon request.

Construction may not commence until the city has recognized that the subrecipient, contractor and subcontractor have demonstrated a “good faith effort” to meet the numerical goals of Section 3.

Failure to be recognized as demonstrating a “good faith effort” may result in penalties including disbarment from submitting bids on future HUD funded projects and penalty of payment.

If the subrecipient, contractor and subcontractor have the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and / or subcontracting opportunities to Section 3 residents and business concerns.

### **Subrecipient, contractor and subcontractor**

Examples of actions demonstrating a “good faith effort” include:

- 1) Target recruitment of Section 3 residents and business concerns by:
  - A. Notice of vacant training and employment positions arising out of work to be performed under Section 3 covered projects with lower income project area residents shall contain the following statement: “In compliance with Section 3 of the Housing and Urban Development Act of 1968, as amended, training and employment opportunities arising out of a project assisted under a program providing direct financial assistance from the U.S. Department of Housing and Urban Development shall be given, to the greatest extent feasible, to lower income residents or businesses owned by lower income residents of the City of Royal Oak. Low income residents or business owned by a low income resident of the City of Royal Oak are encouraged to apply”.
  - B. Said notice shall be provided for at least two (2) weeks.
  - C. Said notice shall contain the name, mailing address, telephone number, and website of the contracting firm.
  - D. Said notice may be included in any policy manual, newsletter, website, annual report, and be posted on employee bulletin boards accessible to all employees at each location where construction work is performed.
  - E. Said notice may be provided to contractor’s labor organizations or representatives advising the contractor’s commitments under “Section 3 Clause”.
  - F. Said notice may be disseminated to local newspapers, websites, radio advertising, neighborhood publications, minority publications, trade publications

and associations, Royal Oak High School apprenticeship and training liaison, and the City of Royal Oak Human Resource bulletin board.

- G. Said notice may also be posted at the job site.
- H. Said notice may be directly distributed to an eligible list of Section 3 Business Concerns, should a contractor or subcontractor maintain such list.
- I. Said notice may be directly distributed to agencies that administer HUD Youthbuild programs.

**City of Royal Oak**

The city will assist all contractors and subcontractors to comply with “good faith effort” requirement by undertaking the following:

1. Allow subrecipients, contractors and subcontractors the opportunity to post job notifications on city property (e.g. Human Resource Department at City Hall, within the city rights-of-way, city community centers, etc.)

## SECTION 3 CLAUSE

The city shall include the "Section 3 Clause" in all applicable covered bids and distribute the appropriate forms related to the below paragraph to all interested parties prior to the opening of bids and entering into contracts.

At a minimum, contractors shall complete the following tasks at the bid opening. Tasks shall be verified by the city prior to the bid opening. The tasks will ensure the contractor understanding of the applicability of Section 3 requirements to the project.

1. Complete the "Contractor Certification" form indicating the contractor's status as a Section 3 business concern and employment of Section 3 residents.
2. Complete the "Contracting Goals" form indicating the preliminary estimation of new employment or contracting opportunities generated due to the proposed HUD funded activity and the Section 3 numerical goals associated with training and employment opportunities.
3. Complete the "Preference for Section 3 Residents & Business Concerns" form demonstrating the contractor's understanding of Section 3 requirements.

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

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## **COMPLAINT PROCEDURE**

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Royal Oak encourages submittal of such complaints to its Planning Department.

A complaint of non-compliance shall be provided in writing and must contain the name of the complainant and a brief description of the alleged violation of 24 CFR Part 135.

Complaints must be filed within thirty (30) days after the complainant becomes aware of the alleged violation.

An investigation will be conducted if the complaint is found to be valid. The city will conduct an informal, but thorough investigation affording all interest parties, if any, an opportunity to submit testimony and / or evidence pertinent to the complaint.

The city will provide written documentation detailing the findings of the investigation no later than thirty (30) days after the filing of the complaint.

If complainant wish to have their concerns considered outside the City of Royal Oak, a complaint may be filled with:

Assistant Secretary for Fair Housing and Equal Opportunity  
US Department of Housing & Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

**CONTRACTOR SECTION 3 CERTIFICATION FORM**

To be completed by the contractor and / or subcontractor.

Please print or type the following verification.

Name of Firm Representative:	
Title of Firm Representative:	
Signature of Firm Representative:	
Date of signature:	
Firm Name:	
d.b.a. (if applicable):	
Street Address:	
City, State, Zip code:	
Telephone #:	
Website:	

The above signed representative hereby certifies that the above mention firm:

- Does not meet the definition of a Section 3 Business Concern (*STOP- form complete*)
- Meets the definition of a Section 3 Business Concern under at least one of the following qualifying basis:
  - That is at least 51 percent or more owned by Section 3 residents,
  - Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
  - That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to a Section 3 business concern.

*(CONTINUE - please complete requirements on second page of form)*

Attached is the following documentation as evidence of status:

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

- copy of resident lease
- copy of evidence of participation in a public assistance program
- copy of the receipt of public assistance
- other evidence

For business entity as applicable:

- copy of articles of incorporation
- assumed business name certification
- list of owners / stockholders and % of ownership of each
- organization chart with names and titles and brief function statement
- certificate of good standing
- partnership agreement
- corporate annual report
- latest board minutes appointing officers
- additional documents

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

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

For businesses claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- list of all current full-time employees
- PHA / IHA residential lease less than 3 years from day of employment
- List of employees claiming Section 3 status
- Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- current financial statement
- statement of ability to comply with public policy
- list of owned equipment
- list of all contracts for the past two years

## **RESIDENT EMPLOYMENT OPPORTUNITY DATA FORM**

Federal law (Section 3 of the Housing and Urban Development Act of 1968) requires that contractors hiring new persons to complete a local community development funded projects with at least \$200,000 of federal assistance from the US Department of Housing & Urban Development (HUD) give preference in hiring practices to local low income residents or businesses owned by local low income residents.

The purpose of Section 3 is to ensure that employment and economic opportunity generated by HUD financial assistance is directed, wherever feasible, to lower income persons.

The City of Royal Oak is collecting data in an effort to generate a list of current residents interested in seeking employment on community development funded projects.

The list may be provided to contractors seeking new persons to complete community development funded projects within the city limits. Residents may be required to provide evidence of household income and shall be periodically recertified to ensure continued income eligibility. Note that falsifying information is illegal.

If you are seeking employment and qualify as a Section 3 resident, please review, complete and return this form to: City of Royal Oak, Planning Department, Attn: Section 3, 211 Williams Street, Royal Oak, MI 48067 OR via fax (248) 246-3005

**INCOME CERTIFICATION FORM FOR SECTION 3 RESIDENTS**

I, \_\_\_\_\_,  
 (print name)

am a legal resident of the City of Royal Oak, Oakland County, Michigan

and meet the income eligibility guidelines for a low or very low income household as published on the attachment.

My permanent address is:  
 \_\_\_\_\_  
 (Street Address)

\_\_\_\_\_  
 (City, State, Zip Code)

The following identifies my current status as a low or very low income person:

Participation in the city's Housing Choice (Section 8) Voucher Program.

Meeting the income limits set forth below

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

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

**SECTION 3 INCOME LIMITS**

Qualifying Section 3 residents include:  
 - residents participating in the Royal Oak Housing Choice (Section 8) Voucher Program; &  
 - current residents of the City of Royal Oak who meet the below income limits.

Eligibility Guideline – Program Year 2009		
Number in Household	Very Low Income	Low Income
1 individual	\$24,850	\$39,750
2 individuals	\$28,400	\$45,450
3 individuals	\$31,950	\$51,100
4 individuals	\$35,500	\$56,800
5 individuals	\$38,350	\$61,350
6 individuals	\$41,200	\$65,900
7 individuals	\$44,000	\$70,450
8 individuals	\$46,850	\$75,000

Detroit-Warren-Livonia, MI HUD Metro FMR Area Updated: 05-28-2009





<b>Contracts Awarded</b>	
<b>Construction Contracts:</b>	
A. Number of + \$100,000 subcontracts awarded on this project:	
B. Number of Section 3 business concerns submitting bids:	
C. Number of Section 3 business concerns awarded subcontracts:	
<b>Non-Construction Contracts:</b>	
A. Number of non-construction contracts awarded on this project:	
B. Number of Section 3 business concerns submitting bids:	
C. Number of Section 3 business concerns awarded contracts:	

Subrecipients, contractors and subcontractors shall comply with the “good faith effort” requirements of this guide.

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low and very low income residents. Check all that apply. Submit evidence to demonstrate intent to conduct “good faith effort”.

- Attempt to recruit Section 3 residents through: local advertising, media, signs prominently displayed at the project site, etc.
- Participated in a HUD program or other program which promotes the training of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concern.
- Coordinated with Youthbuild Programs administered in the Detroit metropolitan area.
- Other; describe below.

