

## SRDP-12A Section 3 Packet for Award Recipients/Contractors/Subcontractors

Project Name: \_\_\_\_\_

This document summarizes the Section 3 requirements (24 CFR 75) and describes how SC Housing implements them. It outlines what SC Housing and its housing partners must do to comply with Section 3 and identifies the record-keeping and reporting requirements that HUD funded (HOME, NHTF and NSP) entities must meet.

The Award Recipient must, 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 to Section 3 Business Concerns, and requires the same of all Contractors and Subcontractors performing construction services on the development. All forms referenced in this document can be found on SC Housing's website at <https://schousing.com/Home/SmallRentalDevelopmentProgram> --> SRDP Implementation Manual and Forms.

### **The purpose of Section 3:**

The purpose of Section 3, a provision of the U.S. Department of Housing and Urban Development (HUD) Act of 1968, is to help foster local economic development, neighborhood economic improvement, and individual self-sufficiency. It requires that Award Recipients of certain financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- and very low-income persons in connection with developments and activities in their neighborhoods.

### **A. Definitions**

**Low- or Very Low-Income Person:** (See HUD's Income Limits at: <https://www.huduser.gov/portal/datasets/il.html>)

- Low-Income Person - A person whose annual income is below 80% AMI (Average Median Income) for the county in which they reside.
- Very Low-Income Person – A person whose annual income is below 50% AMI (Average Median Income) for the county in which they reside.

**Award Recipient:** Any entity that receives housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, PHA, or other public agency, public or private organization.

**Section 3 Business Concern:** A business that meets at least one of the following criteria:

- The business is at least 51% or more owned and controlled by low- or very low-income persons;
- Over 75% of the labor hours performed for the business over the previous three-month period being performed were performed by Section 3 workers;
- The business is at least 51% or more owned and controlled by current public housing residents or Section 8-assisted housing voucher holders.

**Section 3 Worker:** Is a worker who currently fits or, when hired within the past five (5) years, fits at least one of the following categories:

- Is a low- or very low-income person that met HUD income limits for the previous or annualized calendar year. Low- and very-low-income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>
- Is employed by a Section 3 Business Concern, or
- Is a participant of the US Department of Labor's YouthBuild program

**Targeted Section 3 Worker:** *Is a Section 3 worker* who meets one of the following:

- Is employed by a Section 3 Business Concern, **or**
- Currently fits, or when hired, fit at least one of the following categories as documented within the past five years:
  - Living within the service area, or neighborhood of the project, as defined by 24 CFR 75.5 (See below), **or**
  - Is a participant of the US Department of Labor's YouthBuild program.

**Service Area or Neighborhood of the Project:** Is an area within **one mile** of the Section 3 project or, if fewer than 5,000 people live within one mile of the 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 US Census. See <https://www.calcmaps.com/map-radius/>

**Qualitative Efforts:** Efforts made by Award Recipients/ Contractors/Subcontractors in order to comply with Section 3 benchmarks if benchmarks are not met. A list of Qualitative Efforts can be found in 24 CFR Part 75.25 and also listed below in section B, number 3.

## **B. Section 3 Regulations:**

1. **Applicability:** A Section 3 project means housing rehabilitation, housing construction, and other public construction projects that are assisted under HUD programs which provide housing and community development financial assistance for the project that exceeds the threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C.1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq*).

Therefore, SC Housing and the entities to which it provides HOME, NHTF and NSP funds (collectively HUD Funds) in excess of \$200,000 must comply with Section 3, as amended. Whether the project is fully or partially assisted under HUD CPD programs, Section 3 applies to the entire project [24CFR 75.3(a)(2)(iii)]. **All Contractors and Subcontractors** must be made aware of the need to comply with Section 3 requirements.

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)] or “non-construction” professional service jobs that require an advanced degree or professional licensing, including but not limited to contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

2. **Reporting:** The following labor hours data will be reported for each construction subcontract and contract awarded to the project:
  - a. Total Labor hours during construction
  - b. Total Labor hours during construction for Section 3 Workers.
  - c. Total Labor hours during construction for Targeted Section 3 Workers
  - d. Qualitative efforts that were taken if benchmarks were not met. Documentation of these efforts is submitted with the reports.

**Note: If contracting as “Piece Work/Piece Rate”, employers may report hours based on the employer’s good faith assessment of total labor hours for the contract period.**

### **3. Benchmarks:**

The Section 3 benchmarks established by HUD for all Award Recipients/Contractors/Subcontractors are:

- **25%** or more of total labor hours of the development construction must be worked by Section 3 Workers, **AND**
- **5%** or more of total labor hours of the development construction must be worked by Targeted Section 3 workers

**If the Award Recipient’s/Contractor’s/Subcontractor’s reporting indicates the Section 3 benchmarks have not been met, qualitative efforts must be recorded in the SRDP-12G Qualitative Efforts Report and evidence must be provided indicating that, to the greatest extent feasible, low- and very low-income persons were given employment and training opportunities.**

**Qualitative Efforts include but are not limited to:**

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funded Targeted Workers
- Direct, on-the-job training (including apprenticeships)

- Indirect training such as arranging for, contracting for, or paying tuition for off-site training
- Technical training such as arranging for, contracting for, or paying for tuition for off-site training
- Outreach efforts to identify and secure bids from Section 3 Business Concerns
- Technical assistance to help Section 3 business concerns understand and bid on contracts
- Division of contracts into smaller jobs to facilitate participation by Section 3 Business Concerns
- Provided or connected residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting resident to job placement services
- Held one or more job fairs
- Provided or connected residents with supportive services that can provide direct services or referrals
- Provided or connected residents with supportive services that provide one or more of the following: work readiness, health screenings, interview clothing, uniforms, test fees, transportation
- Assisted residents with finding childcare
- Assisted residents to apply for or attend community college or a four-year educational institution
- Assisted residents to apply for or attend vocational/technical training
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business Concerns
- Provided or connected residents with training on computer use or online technologies

#### 4. Section 3 Compliance:

Award Recipients, Contractors and Subcontractors will be considered compliant if they meet both benchmarks for total hours worked for Section 3 workers and Targeted Section 3 workers as stated above.

If Award Recipients, Contractors or Subcontractors did not meet the benchmarks, but can provide evidence that they made qualitative efforts to provide low- and very low-income persons with employment and training opportunities, they will be considered compliant with Section 3. Documentation of qualitative efforts must be provided along with the **SRDP-12G – Section 3 Qualitative Efforts Report**.

Award Recipients, Contractors, and Subcontractors must retain all records pertaining to Section 3 for a period of five (5) years after project completion.

#### C. Contract provisions for Section 3 Projects:

Award Recipients are required to include the **SRDP-7 Contract Provisions** as part of the General construction contract which includes the Section 3 Clause.

General Contractors must include the Section 3 Clause (**SRDP-12B – Section 3 Clause Contract Addendum**) in ALL construction **subcontracts** awarded for construction services for the Section 3 project.

The General Contractor is responsible for ensuring **complete copies** of all executed subcontracts are submitted to the Award Recipient for submission to SC Housing (2 CFR 200.337). Copies of executed subcontracts must be submitted to SC Housing within five (5) business days of execution.

#### D. Section 3 Contracting Policy and Procedure:

Award Recipients are required to incorporate the requirements of Section 3 in its existing procurement policies for all procurements generated for use with HUD-funded projects. These policies and procedures should contain requirements for making efforts to award contracts to Section 3 Business Concerns.

All Contractors/Subcontractors seeking Section 3 preference must, before submitting bids/proposals to the Award Recipient and Contractors, complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in form **SRDP-12C - Section 3 Business Concern Certification**. This Section 3 packet, **SRDP-12A**, and all associated documents should be included in all bid packages.

## E. Section 3 Eligibility and Certifications:

Businesses and individuals that meet Section 3 criteria may seek Section 3 preference from the Award Recipient or its Contractors/Subcontractors for training, employment, or contracting opportunities generated by HUD Housing and Community Development financial assistance. To qualify as a Section 3 Business Concern, or a Section 3 Worker, each must self-certify that they meet the applicable criteria (**forms SRDP-12C- Section 3 Business Concern Certification Packet and SRDP-12D-Section 3 Worker Self-Certification**)

1. **Section 3 Business Concern Certification:** The Award Recipient should strongly encourage Contractors and Subcontractors to make best efforts to award contracts and subcontracts to qualified and responsible Section 3 Business Concerns.
  - A. Contractors and Subcontractors seeking to qualify as a Section 3 Business Concern must complete and submit a **SRDP-12C – Section 3 Business Concern Certification** as part of the bid package.
  - B. Businesses that believe they meet the Section 3 Business Concern requirements or want to claim eligibility should self-register in the HUD Business registry at: <https://hudapps.hud.gov/OpportunityPortal/> . Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the criteria listed in the definitions section of this document.
  - C. Section 3 status should be verified before awarding contracts or subcontracts to businesses that self-certified.
  - D. A Section 3 Business Concern will retain status for as long as it continues to meet the definition; however, certifications expire after 6 months.
  - E. If the Award Recipient previously accepted the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification form will expire after 6 months. Establishing a 6-month certification of eligibility period allows the Award Recipient the ability to assess contractor performance to ensure the business is striving to meet the required goals.
  - F. Eligible Section 3 Business Concerns are responsible for maintaining records that verify eligibility. Businesses who misrepresent themselves as a Section 3 Business Concern and report false information may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.
2. **Section 3 Worker Self-Certification:** Employers should encourage each worker who may potentially qualify as a Section 3 worker to complete and submit: **Option 1** - an **SRDP-12D - Section 3 Worker Self-Certification** form, **OR** - **Option 2** - the employer can certify any worker as a Section 3 Worker by using the **SRDP-12EMP – Section 3 Employer Worker Certification** spreadsheet. This form will use the employee's current hourly pay annualized to determine Section 3 worker status.

For the purposes of Section 3 worker eligibility, **individual income** rather than family/household income will be used to determine eligibility. The income will be determined using the previous year's annual income, or the current year's annualized income for the county in which the worker resides. Income limits are published yearly by HUD at: <https://www.huduser.org/portal/datasets/il.html>, but are provided on form **SRDP-12D** for your convenience.

## F. Recommendations for Contractors to Achieve Section 3 Goals

HUD has completed their Section 3 Guidebook as of January 26, 2022 which can be found at <https://www.hudexchange.info/programs/section-3/section-3-guidebook/section-3-in-action/> . The Guidebook curates the latest guidance, tools and resources for implementing and applying Section 3 to HUD funded projects and activities.

## G. Reporting Requirements

The document flow for Section 3 requirements is:

***Subcontractors → GC → Award Recipient/Section 3 Coordinator → SC Housing → HUD***

**Each Contractor/Subcontractor** awarded a contract to perform construction services for the development must provide the items below to the Award Recipient's Section 3 Coordinator. It is recommended that the Award Recipient's Section 3 Coordinator collect these documents from each contractor/subcontractor soon after they complete their contracted work on the development.

1. **Copies of all executed contracts from contractors/subcontractors to be submitted to the Award Recipient's Section 3 Coordinator once a new contract has been executed (2 CFR 200.337).** These contracts must be submitted to SC Housing within five (5) business days of execution.
2. **The following chart of forms highlights the forms needed from each entity listed.**

| FORM #  | Award Recip (AR) | GC | Subs | Special Comments   |
|---|------------------|----|------|--|
| <b>SRDP-12A</b><br>Section 3 Information Pkt  | X                | X  | X    | ALL - Page 7 to be submitted after Implementation Training<br><br>ALL - To be included in all bid solicitations<br><br>GC/Subs - Signed prior to contract execution and submitted to the Award Recipient within 5 business days with executed contract.  |
| <b>SRDP-12B</b><br>Section 3 Clause Contract Addendum   | *                | *  | X    | *AR for GCs - The SRDP-7, Contract Provisions, which contains the Section 3 Clause, must be included as an exhibit to the GC contract.<br><br>GC/Subs - To be included within all subcontracts or as an addendum. A complete copy of the contract is to be sent to the Award Recipient within 5 business days after execution.   |
| <b>SRDP-12C</b><br>Section 3 Business Concern Cert  |                  | X  | X    | GC/Subs - This is to be filled out either stating that the business is not certifying as a Section 3 Business Concern, or, if certifying, completed for the criteria being used for certification. <b>NOTE:</b> If the business is <b>NOT</b> a Section 3 Business Concern, name and address of business, the box checked for "...not certifying as a Section 3 Business Concern", signed and dated is all that is needed. |
| <b>SRDP-12D (Option 1) or SRDP-12EMP (Option 2)</b><br>(See Page 4, E-2)<br>Section 3 Worker Cert | X                | X  | X    | ALL – SRDP-12D to be submitted for all Section 3 workers reported as Section 3 Labor Hours.<br><b>OR</b><br><br>If the Employer wants to certify for their Section 3 Workers, complete the SRDP-12EMP  |
| <b>SRDP-12F-G</b><br>Contractor/Subcontractor Labor Hours Report Pkt                              |                  | X  | X    | GC/Subs - Completed by all contractors and subcontractors and submitted to the Award Recipient within 14 business days after contract work is completed.   |
| <b>SRDP-12H</b><br>Award Recipient Labor Hours Report Pkt   | X                |    |      | AR - To be submitted with Placed-In-Service application along with any supporting documentation.   |

#### **H. Records Contractors and Subcontractors are required to submit to SC Housing and maintain for reported Section 3 Workers Hours:**

**One of the following certifications must be maintained for five (5) years after project completion:**

1. A worker's self-certification that their income is below HUD's income limit for the current or prior calendar year.
2. A worker's self-certification of participating in a means-tested program such as public housing or Section 8-assisted housing
3. Certification from a PHA, or an owner or property manager of project-based Section 8-assisted housing, or an administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs.
4. An employer's certification that a worker's income from that employer is below HUD's income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.

5. An employer's certification that the worker is employed by a Section 3 business concern.

**I. Records Contractors and Subcontractors are required to submit to SC Housing and maintain for reported Targeted Section 3 Workers Hours:**

**One of the following certifications must be maintained for five (5) years after project completion:**

1. An employers' confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent US Census;
2. An employer's certification that the worker is employed by a Section 3 business concern; or
3. A worker's self-certification that the worker is a YouthBuild participant.

**J. Complaints of Non-Compliance with Section 3:**

Complaints alleging failure of compliance with Section 3 may be reported to SC Housing through your Project Coordinator or to the local HUD field office.

**K. What HUD monitors for compliance?**

HUD monitors the performance of Grantees, Award Recipients, and Contractors, and reviews annual reports, compliance documentation, and investigates complaints. HUD also examines employment and contract records for evidence that Award Recipients are, to the greatest extent feasible, training and employing Section 3 residents and awarding contracts to Section 3 businesses.

**L. Section 3 Coordinator:**

The Award Recipient's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the Award Recipient and all its Contractors and Subcontractors supporting the program. Contractors, Subcontractors, and others are encouraged to reach out to this Section 3 Coordinator with any questions regarding Section 3 compliance.

Coordinator Name: \_\_\_\_\_ Coordinator Title: \_\_\_\_\_

Coordinator Email: \_\_\_\_\_ Coordinator Phone: \_\_\_\_\_

I, \_\_\_\_\_, representing \_\_\_\_\_ have received and read this Section 3

document, related to the HUD-funded project, \_\_\_\_\_, located in  
(Project Name)

\_\_\_\_\_ in \_\_\_\_\_, and have been briefed on my responsibilities to comply with  
(City) (County)

the requirements, regulations and reporting of Section 3 (24 CFR Part 75).

\_\_\_\_\_  
Signature of Award Recipient/Contractor/Subcontractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Award Recipient/Contractor/Subcontractor

\_\_\_\_\_  
Printed name of Contracting Business

Project Name: \_\_\_\_\_