

Section 3
DEVELOPER PLAN

(Project Name)*

Version Number	Date Updated	Summary of Changes
1.0	[date]	Initial Draft

*This is designed to assist in the implementation and monitoring of Section 3. It is strongly encouraged this document is updated and shared with contractor(s)/subcontractors. Developers are encouraged to find a format working for their organization/project.

This tool has been modified by IHFA’s HOME Department for Section 3 purposes. The original document can be found at: <https://www.hudexchange.info/resource/6560/section-3-sample-plan/>

TABLE OF CONTENTS

- 1. OVERVIEW OF SECTION 3 REQUIREMENTS 17**
 - A. WHAT IS SECTION 3? 17**
 - B. PURPOSE OF THIS DOCUMENT 17**
 - C. APPLICABILITY 18**
- 2. SECTION 3 COORDINATOR 19**
- 3. EMPLOYMENT, TRAINING, AND CONTRACTING GOALS 19**
 - A. SAFE HARBOR COMPLIANCE 19**
 - B. SAFE HARBOR BENCHMARKS 19**
 - C. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING 20**
- 4. SECTION 3 ELIGIBILITY AND CERTIFICATIONS 20**
 - A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION..... 5**
- 5. SECTION 3 OUTREACH 6**
 - A. OUTREACH EFFORTS FOR EMPLOYMENT AND TRAINING..... 6**
 - B. OUTREACH EFFORTS FOR CONTRACTING 7**
- 6. SECTION 3 CONTRACTING POLICY AND PROCEDURE 8**
- 7. SECTION 3 PROVISIONS/CONTRACT LANGUAGE 24**
- 8. REPORTING REQUIREMENTS 8**
 - A. MONTHLY/PER REIMBURSEMENT BASIS 25**
 - B. PROJECT COMPLETION..... 25**
- 9. SECTION 3 COMPLAINT PROCEDURE 25**
- APPENDIX A: DEFINITIONS 127**

OVERVIEW OF SECTION 3 REQUIREMENTS**A. WHAT IS SECTION 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is regulated by the provisions of 24 CFR 75. Section 3 regulations ensure 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 which provide economic opportunities to low- and very low-income persons.

B. PURPOSE OF THIS DOCUMENT

This plan outlines how the [Developer Name] and its contractors/subcontractors will provide outreach, reporting, and compliance with HUD's Section 3 requirements. An application for the [Project Name]'s to receive [HOME/HTF/HOME-ARP/NSP] funding will utilize this Developer Plan for Section 3. [Developer Name] 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 contractors.

Future applications may continue to use this Developer Plan, but may need to periodically update outreach efforts/information, as applicable to the project or subsequent applications. The HOME Department will use the submitted Developer Plan as the method for monitoring the recipient's compliance.

[Developer Name] will update this Developer Plan for [Project Name], as necessary, to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies. It is strongly encouraged the [Developer Name] share updates with necessary parties for continued compliance.

This Section 3 Developer Plan is a tool to assist with expectations, communication, and compliance throughout the [Project Name]. *Section 3 Developer Plans may use this template or an organizational equivalent, so long as it contains:*

- Developer's Coordinator or Primary Contact for Section 3 Compliance
- Reporting Requirements
- Section 3 Required Outreach
- Section 3 Required Forms
- Labor Hour Collection Method
- Procurement
- Contractor Non-Compliance Process
- Complaint Procedure

C. APPLICABILITY

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects exceeding more than \$200,000 of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

A project is defined as:

- The site or sites together with any building(s) and improvements located on the site(s) which are:
 - Under common ownership and
 - Common management and
 - Financing.

All three criteria must be met to meet the definition of a project otherwise, it is a separate project. If the project is going to be scattered site under one written agreement and one Developer Plan.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program. *Check ALL the funding sources which may be a part of the project:*

- City of Boise – HOME City of Boise – CDBG
- Department of Commerce – CDBG
- City of Meridian – CDBG City of Nampa – CDBG City of Caldwell – CDBG
- City of Pocatello – CDBG City of Idaho Falls – CDBG City of Twin Falls – CDBG
- City of Lewiston – CDBG City of Coeur d’Alene – CDBG
- Self-Help Homeownership Opportunity Program (SHOP)
- Public Housing Authority Project-Based Vouchers

Identify the Housing Authority:

If the project will be using resources from a Public Housing Authority, please consult with the HOME Department Finance Officer to ensure coordination of reporting requirements at application.

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).

SECTION 3 COORDINATOR

[Developer Name]'s Section 3 Coordinator/Primary Contact serves as the central point of contact for Section 3 compliance for [Project Name] and its contractors and subcontractors supporting the program. Contractors, subcontractors and others are encouraged to reach out to [Developer Name]'s Section 3 Coordinator/Primary Contact with questions regarding Section 3 compliance:

***[coordinator/contact name]**

[coordinator/contact title]

[coordinator/contact email]

[Coordinator/contact phone]

*This person will also be the point of contact for the HOME Department's Finance Officer.

EMPLOYMENT, TRAINING, AND CONTRACTING GOALS

A. SAFE HARBOR COMPLIANCE

[Developer Name] will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the **beginning of work**, contractors and subcontractors will be required to certify they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in [Section C](#).

If the contractor and subcontractor does not meet the safe harbor requirements, they must document and submit all qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. SAFE HARBOR BENCHMARKS

[Developer Name] has established employment and training goals, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined [24 CFR Part 75.19](#). The safe harbor benchmark goals are as follows:

- 1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

Section 3 Labor Hours/Total Labor Hours = 25%

And

- 2) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

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

All contractors submitting bids or proposals to the [Developer Name] are required to certify they will comply with the requirements of Section 3. *Prior to the release of the Developer's final retention, required reporting forms will need to be submitted to the HOME Department Finance Officer.*

C. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING

EMPLOYMENT AND TRAINING

Provide employment and training opportunities to Section 3 workers within the metropolitan area (or Nonmetropolitan County) in which the project is located in the priority order listed below:

- 1) Section 3 workers residing within the service area or the neighborhood of the project, and
- 2) Participants in YouthBuild programs.

CONTRACTING

Under [Developer Name]'s Section 3 Developer Plan, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order or priority:

- 1) Section 3 Business concerns whom 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.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work. After work is completed and prior to the final developer retention release; all documentation demonstrating outreach will need to be provided to the HOME Department.

SECTION 3 ELIGIBILITY AND CERTIFICATIONS

Individuals and businesses meeting Section 3 criteria may seek Section 3 preference from [Developer Name] or its contractors/subcontractors for training, employment, or contracting opportunities generated by [HOME/HTF/HOME-ARP/NSP] assistance. To qualify as a Section 3 worker, Targeted Section 3 worker or a Section 3 business concern, each **must self-certify or the business may certify on behalf of the employee, AND request the preference** when submitting a bid response.

Individuals or businesses who misrepresent themselves as Section 3 business concerns and report false information to [Developer Name] and/or the HOME Department; may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

<https://www.idahohousing.com/documents/developer-certification-form.pdf>

A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

A Section 3 worker seeking certification shall submit self-certification documentation or the business may certify on behalf of the employee to the contractor or subcontractor. Either documentation, verifies the

person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, [Developer Name] 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.idahohousing.com/federal-programs/home-program/>. *The income limits are based on where the employee resides.*

Eligible individual or employers seeking the Section 3 worker preference shall demonstrate it meets one or more of the following criteria currently or when hired within the past five years, 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
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant.

Persons seeking the Targeted Section 3 worker preference shall demonstrate it meets one or more of the following criteria:

- 1) Employed by a Section 3 business concern or
- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
 - b) A YouthBuild participant.

Section 3 workers and Targeted Section 3 workers who are seeking preference in training and employment must submit the Certification of Section 3 Annual Income Form. This form is to be submitted no later than at project close out, or as requested by the HOME Department. . The certification procedure will consist of the following, *or approved equal to*:

<https://www.idahohousing.com/documents/section-3-income-certification-and-calculation-requirements.pdf>

<https://www.idahohousing.com/documents/certification-of-section-3-annual-income.pdf>

<https://www.idahohousing.com/documents/labor-hour-certification-form.pdf>

PROJECTS INVOLVING MULTIPLE SOURCES OF FUNDING

Please consult with the HOME Department on ensuring compliance for multiple sources of funding.

SECTION 3 OUTREACH

A. OUTREACH EFFORTS FOR EMPLOYMENT AND TRAINING

When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible promote, train, and document efforts. These are provided to the [Developer Name], as evidence of compliance with Section 3 Outreach. [Developer Name] CHECK Section 3 Outreach efforts from the following list, what will be completed, as evidenced by documentation. *The HOME Department will hold retention and will release once all evidence has been submitted for best efforts for outreach:*

- Contractors will notify the Section 3 Coordinator/Primary Contact when training/job opportunities are available for the project
- Conduct outreach in the service area or neighborhood of the project. *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.*
- Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
- Conduct an annual training for Section 3 workers and Section 3 businesses
- Clearly indicate 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”**
- Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- Utilize the Section 3 Opportunity Portal and the Section 3 Business Registry to notify qualified candidates and Section 3 businesses of upcoming bid opportunities
- Establishing a current list of Section 3 eligible applicants
- Contacting local community organizations and provide them with job postings for Section 3 eligible applicants; and
- Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - Advertising job opportunities via social media, including LinkedIn and Facebook;
 - Advertising job opportunities via flyer distributions and mass mailings and posting ad in common areas of housing developments and all public housing management offices
 - Advertising job opportunities via _____’s website at ____ (URL) _____
 - Send a digital copy of project/job advertisements to the HOME Department’s Finance Officer for the project to be posted on IHFA’ s website at: <https://www.idahohousing.com/federal-programs/section-3/>
 - 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 [HOME/HTF/HOME-ARP/NSP] funding, [Developer Name] will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to: *Please select the outreach efforts to be used on Project Name*

- Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
- 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. *The HOME Department's Finance Officer can participate as available, necessary to explain Section 3.* Pre-bid meetings should include the following information:
 - Project Name
 - Sign-in Sheet (Business Name, Representative Name, Contact Information)
 - Date & Time of Meeting (*Documentation of Agenda and Notes of Meeting*)
 - How to Submit Bids and Due Date for Bids
 - Scope of Project
 - Unique Entity Identifier (UEI)
 - Section 3 Requirements
 - Actual hours worked or Good Faith Estimate (if no time and record keeping system)
 - Section 3 required certification forms (prior to release of retention)
 - Section 3 outreach documentation (prior to release of retention)
 - If business is a Section 3 business entity, a preference must be requested when responding to the bid.
- 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.
- Providing written 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.
- Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
- Coordinating with the [Developer Name]'s all other business assistance agencies and contractor associations to inform them of contracting opportunities and request assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
- 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 the [Developer Name] as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

SECTION 3 CONTRACTING POLICY AND PROCEDURE

[Developer's Name] will incorporate Section 3 in its existing Procurement Policy to be included in all requests for bid generated for use with [HOME/HTF/HOME-ARP/NSP] funding. This policy and procedure contain requirements for making efforts to award contracts to Section 3 Business Concerns. *For questions regarding procurement types and thresholds, please see: [2 CFR 200.320](#).*

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the [Developer's Name] be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the Section 3 Contractor Certification Form.

[Developer's Name] is responsible for verifying contractors/subcontractors have not been debarred, suspended, or excluded from participation in federal awards. This is achieved by reviewing a businesses' Unique Entity Identifier (UEI) at Sam.Gov. *The HOME Department will perform a quality assurance review throughout the project of all UEIs.*

SECTION 3 PROVISIONS/CONTRACT LANGUAGE

[Developer Name] will include standard Section 3 language in all of its contracts, more specifically, the [General Contractor's Name]. This ensures compliance with regulations in 24 CFR Part 75. [Developer Name] will take appropriate actions upon finding a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations.

Pursuant to 24 CFR 75.27, in the event the Section 3 language is omitted (intentionally or unintentionally) from a contract, all contractor(s) and subcontractors must comply with Section 3 reporting requirements.

On a periodic basis the [Developer Name]'s Section 3 Coordinator/Primary Contact will audit contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan. The HOME Department will monitor the Developer's compliance with Section 3 through random review of documentation.

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. *The HOME Department will not release the final retention until all Section 3 requirements have been met. It is strongly encouraged retention is not released by the [General Contractor's Name] until Section 3 requirements and documentation satisfy the HOME Departments review.*

REPORTING REQUIREMENTS

[Developer Name] will identify how frequently Section 3 reporting will be provided to the HOME Department.

- A. Collect labor hour certifications for all on-site work and hours worked in relation to the project on a monthly/per reimbursement request basis. Recipient(s) will retain these records, and provide upon request from the HOME Department.

B. Collect labor hour certifications for contractors/subcontractors prior to releasing final payments/retainage and collecting final lien waivers. Recipient, contractors, and subcontractors will be required to track labor hours for the entirety of the project, but would only be required to provide certifications upon final payment. Recipient will retain these records, and provide upon request from the HOME Department.

The HOME Department will review documentation supplied against this approved Developer Plan and require adjustments to the plan based on this review. If at project closeout there is missing or incomplete documentation, the HOME Department reserves the right to withhold all or a portion of final retainage, and/or impose other penalties such as not allowing group to apply in future rounds if corrective actions are unable to be remedied. All evidence of qualitative efforts to assist low and very low-income persons with employment and training opportunities are to be documented and submitted to the HOME Department for review.

A. MONTHLY/PER REIMBURSEMENT BASIS

- 1) Contractors are required to submit monthly activity reports to [Developer Name]'s Section 3 Coordinator [Coordinator's email address] by the [number] day of each month.

B. PROJECT COMPLETION

- 1) Once a project is completed, contractors must submit a final Section 3 cumulative report for the project. *A Section 3 Tracking Excel Workbook will be provided to the recipient.*
- 2) Upon the completion of a project, [Developer Name]'s [project name] Section 3 Coordinator/Primary Contact will conduct a final review of the project's overall performance and compliance.
- 3) [Developer Name]'s Section 3 Coordinator/Primary Contact will submit the Section 3 data and forms to the HOME Department Finance Officer.

SECTION 3 COMPLAINT PROCEDURE

In an effort to resolve complaints generated due to non-compliance through an internal process, [Developer Name] encourages submittal of such complaints to its Section 3 Coordinator/Primary Contact as follows:

- 1) Complaints of non-compliance 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.
- 2) Complaints must be filed within [] () calendar days after the complainant becomes aware of the alleged violation.
- 3) An investigation will be conducted if complaint is found to be valid. [Developer Name] 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) The [Developer Name] will provide written documentation detailing the findings of the investigation. The [Developer Name] will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than [] () days after the filing of complaint. If complainants wish to have their concerns considered

outside of the [Developer Name,] a complaint may be filed with: the HOME Department’s Finance Officer

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/. Complainants may be eligible to bring complaints under other federal laws. The 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.

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/>.

Recipient Signature Date

Board President (if non-profit recipient) Signature Date

HOME Department Signature Date