

## Section 3 Compliance Cover Page

### **Note: HUD Section 3 Compliance Applies to this Project**

Subrecipients, subgrantees, developers, contractors, and subcontractors involved with this project must satisfy the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u and the regulations at 24 CFR part 135, the City of Saint Paul Section 3 Action Plan, and the terms of this contract.

#### Instructions for use of Section 3 language

1. The language from pages 11 – 15 of this packet **must** be inserted in the main body (not in an exhibit or attachment) of every contract, grant, and other agreement in which HUD funds of \$1.00 or more are being used.
2. This language **must** also be included in all bid and proposal instructions, notices, specifications, and solicitations for work that are distributed.
3. The bidding requirements listed below include specific actions that must be taken in order to facilitate the participation of Section 3 businesses with this project. Any entity that solicits bids or proposals for work or services must exercise the **bid preferences** listed after receiving all bids or proposals.
4. The subrecipients, subgrantees, developers, and covered contractors and subcontractors understand and agree that the **penalty language** applies to their involvement with this Section 3 project.
5. Insert into the blank fields the name of the recipient of HUD funds, e.g. Subgrantee, Subrecipient, Developer, Borrower, Contractor, Sub-contractor, etc. Insert the word “Bidder” in the blank fields when this language is used as part of bid and proposal instructions, notices, specifications, and solicitations for work.

\_\_\_\_. Section 3 of the Housing and Urban Development Act of 1968

A. Compliance; goals; reporting. The \_\_\_\_\_ agrees to comply with and to cause its covered contractors and covered subcontractors to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u and the regulations at 24 CFR part 135, the City of Saint Paul Section 3 Action Plan, and the terms of this contract. The contracting goals of 10% of building trade work and 3% of other contracts, and the 30% new hire employment goals apply to this contract by the \_\_\_\_\_. The \_\_\_\_\_ agrees to report to the City/HRA, as requested by City/HRA, its compliance with these Section 3 requirements on the form(s) supplied by the City/HRA.

B. Bids. The \_\_\_\_\_ agrees that the following bidding requirements apply to this contract:

(a) Actions to facilitate participation by Section 3 business concerns.

(i) The \_\_\_\_\_ agrees to arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.

(ii) The \_\_\_\_\_ agrees where appropriate to break out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.

(iii) The \_\_\_\_\_ agrees to solicit a minimum of three (3) bids from the City of Saint Paul Section 3 business list for each service that requires subcontracts. If the City’s business list includes fewer than three (3) qualified businesses that perform the work needed, the \_\_\_\_\_ agrees to solicit bids from all the businesses that are on the City’s Section 3 business list.

(b) Preference for Section 3 Business Concerns.

(i) Request for Bid process. Preference in the award of Section 3 covered contracts that are awarded under a sealed bid process shall be provided as follows: Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—

(A) is within the maximum total contract price established in the budget for the 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:

	<b>x=lesser of:</b>
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.
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million	2% of that bid, or \$105,000.
\$7 million or more	1 ½ % of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a Section 3 business concern meets the requirements of paragraph (i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(ii) Request for Proposal process. Where the Section 3 covered contract is to be awarded based on factors other than price, a Request for Proposals (“RFP”) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

- One of the evaluation factors shall address both the preference for Section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement, as disclosed in proposals submitted by all business concerns (Section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.
- The component of this evaluation factor designed to address the preference for Section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.
- With respect to the second component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the contractor’s Section 3 strategy to comply with Section 3 training and employment preference, or contracting preference, or both. If applicable, a determination of the contractor’s responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm (either Section 3 or non-section 3 business concerns) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

C. Penalty. The following penalty clause only applies to (a) a subgrantee, subrecipient or developer for a Section 3 covered project for which the amount of HUD assistance exceeds \$200,000, and (b) for those contractors and subcontractors whose contracts exceed \$100,000 for those section 3 covered projects for which the HUD assistance exceeds \$200,000:

Where at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and public construction or at least 3% of the total dollar amount of all other Section 3 covered contracts are not provided to Section 3 business concerns and/or do not result in the employment of Section 3 residents, the contractor, sub-contractor, developer or sub-recipient will be required to contribute the difference between 10% of the covered contract amount (3% for nonconstruction related contracts) and the amount provided to Section 3 business concerns and/or in the employment of Section 3 residents into the City's Section 3 Implementation Fund. The City will enforce this requirement.

D. Remedies for default. In addition to the penalty described above, the City may, upon a failure to comply with any of the Section 3 requirements described herein, elect to enforce any other remedy described in the City of Saint Paul Section 3 Action Plan, the terms of this contract and as afforded by City Ordinance, law or equity.

E. 24 CFR Section 135.38 Section 3 Clause.

This Section 3 clause is a part of this contract:

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.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).