

# MEETING MINUTES



Date/Time: July 24, 2025 at 10:00 AM  
Location: Microsoft Teams Conference Call  
Project Number: HCY005  
Project Title: Village of Freeport – Sanitary System Improvements  
Subject: Sewer Connection Pre-Construction Meeting  
Attendees: Stacy Bossell, Harrison County  
Steve Rocknich, Harrison County  
Travis Johnson, TDT Septic and Excavating  
Mark Clark, Mainspring LLC  
John Vosick, Mainspring LLC  
John Shultz, J. Shultz Excavating LLC  
Jade Brown, Harrison County Health Department  
Erika Battistel, Harrison County Health Department  
John Ford, Advanced Excavating and Septic Services, LLC  
Rich Theaker, M. Theaker & Son Excavating, Inc.  
Dustin Willoughby, Willoughby Land Services  
Austin Prokup, Verdantas  
Jessica Iveljic, Verdantas

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*NOTE: Meeting minutes prepared by Austin Prokup and Jessica Iveljic on July 14, 2025. Minutes include information that was discussed during the meeting and additional information that was clarified or corrected following the meeting.*

## 1. INTRODUCTIONS & ATTENDANCE

- A. Attendees
- B. Meeting was not able to be recorded due to issue with IT permissions.
- C. Project overview – new sewer system and wastewater treatment plant (WWTP) for Village of Freeport. Harrison County Water & Sewer District will own and operate the new sanitary system in the Village. Most properties will be served by public gravity sewer but there are 18 individual grinder pump stations. The sewer system is complete and the new WWTP and lift station are currently scheduled for completion by end of September 2025.

## 2. CONNECTION SCHEDULE

- A. Approximately 170 residential and commercial sewer connections throughout Village.
- B. Connection may begin after formal notice is issued to residents by Harrison County. This notice is currently planned to be issued by end of September 2025 once the WWTP and lift station are operational.
- C. Contractors may be receiving requests for quotes as of last week per the public meeting held with Village residents.
- D. Harrison County Water & Sewer District rules and regulations require connection within 90 days of written notice that the sewer and wastewater facilities are ready for property owner connection. Extension of 90-day window for connection may be considered but is not guaranteed at this time. Residents concerned about being unable to connect within the window should coordinate with the County.
- E. Resident connection deadline for use of grant funding: prior to May 2026.

## 3. CONNECTION REQUIREMENT OVERVIEW

- A. Install private sewer piping and make connection to public sewer per standard District connection detail.

- i. All local regulations regarding building plumbing changes and permitting still apply. Refer to the County Rules & Regulations for additional information.
- ii. Storm sewer, roof drain, foundation drain, and any other connections that would allow stormwater or groundwater to regularly enter the sewer system are not permitted by the County and will be checked during inspection.
- B. County inspection required prior to backfilling and covering new piping installation.
- C. Septic contents must be removed and hauled by approved septage hauler.
- D. Septic tank to be properly abandoned which generally requires removal of contents, collapsing of one side, and filling with inert material (gravel, soil, concrete, etc.).
- E. Health department inspection required to verify proper abandonment.
  - i. Abandonment permit. If health department cannot inspect due to timing/schedule, Contractor may be asked to provide photos, pumping report, and description of work completed with signature.

#### 4. INFORMATION AVAILABLE TO CONTRACTORS

- A. **Connection Standard Detail** – currently on County website
- B. **Geotechnical Report** - currently on County website; refer to map and soil borings for locations that may require rock excavation. Auger refusal generally indicates top of bedrock. Several rock corings were performed as well.
- C. **Recent Resident Newsletter** - currently on County website
- D. **Harrison County Water & Sewer District Rules & Regulations** – currently on County website
- E. **Record Drawings** - asbuilt sewer lateral location and depth – will be available on County website by end of July 2025.
- F. **Table of lateral depths** - will be available on County website by end of July 2025.
- G. **Pre-Approved Contractors List** - will be available on County website by end of July 2025.
- H. See County Water & Sewer web page:  
<https://www.harrisoncountyohio.gov/waterandsewer>

#### 5. CONNECTION FUNDING REQUIREMENTS

- A. There are currently two sources of grant funding available to assist eligible home owners with sewer connection costs; eligibility is based on household income:
  - i. **CDBG Funds**
    - a. Administered by Rural Community Assistance Program (RCAP)
    - b. Grant agreement between County and homeowner. Grant disbursement administered by County.
    - c. Three quotes are required from pre-approved contractors. Pre-approved contractors must be used.
    - d. Funding can be used for sewer connection up to home/building. Funding cannot be used for work inside home/building.
  - ii. **WPCLF Funds (Ohio EPA)**
    - a. Administered by Harrison County Health Department
    - b. Property owner pays health department for their portion up front, installer is notified to complete the connection, Ohio EPA is notified after the connection is complete, funds are then sent to installer.
    - c. Health Department will request quotes and issue payment to selected contractor on behalf of resident.

- d. Pre-approved contractors must be used.
  - e. Funding is eligible for sewer connection into home/building.
- B. Wage requirements – Contrary to what was discussed during the meeting, **prevailing wage rates are NOT required for either funding source.** The funding agency confirmed such following the meeting.
- C. If residents receive grant funding, they must use one of the pre-approved contractors. Residents were provided the list of pre-approved contractors at public meeting on 7/17/2025; also to be available on the County website.
- D. Connections must be inspected and approved by County and health department before payment is disbursed.
- E. Considering the limited funding, change orders beyond the original quote/price will likely not be able to be covered by funding assistance and would be the responsibility of the property owner.
- F. Funding application information is provided in meeting minutes (from RCAP).

## 6. CONTACT INFORMATION

- A. Sewer Lateral Piping Inspection - Harrison County Water & Sewer District
  - i. Contact: Stacy Bossell
  - ii. Address: 100 W. Market St., Cadiz, OH 43907
  - iii. Phone: 740-942-4623
  - iv. Email: [sbossell@harrisoncountyohio.gov](mailto:sbossell@harrisoncountyohio.gov)
- B. Septic System Abandonment Inspection - Harrison County Health Department
  - i. Contact: Jade Brown
  - ii. Address: 538 N. Main St., Cadiz, OH 43907
  - iii. Phone: 740-942-2616 Ext. 2
  - iv. Email: [jbrown@harrisoncountyohio.gov](mailto:jbrown@harrisoncountyohio.gov)
- C. RCAP – CDBG Funding
  - i. Contact: Ben Martens
  - ii. Phone: 440-552-3680
  - iii. Email: [wbmartens@glcap.org](mailto:wbmartens@glcap.org)

## 7. CONTRACTOR QUESTIONS

- A. Will the \$1,500 connection fee be applied if the residents have not connected within 90 days?
  - i. **Answer:** The County has decided to waive the connection fee for properties that are connecting as part of this project. If residents build a new structure, refuse to connect, or connect after the project connection window, the tap/connection fee will apply.
- B. How is “tied-in” or “connected” to the new sewer system defined?
  - i. **Answer:** Property Owner connection is considered to be complete when piping is installed, the County inspection approval is issued, and wastewater is being discharged to the public sewer system. Septic system abandonment is also required per Health Department requirements within 30 days of public sewer connection/tie-in, but this is not necessarily required to be completed within the 90-day window.

- C. What happens if residents do not or cannot connect within the 90-day window?
  - i. **Answer:** Extension of the 90-day window may be considered; residents to coordinate with County on individual circumstances that may prevent them from connecting. However, the County may install the connection, assessing the cost with interest against the property per the County rules & regulations.
- D. What kind of fitting/joint is required for the PVC Sch. 40 to PVC SDR 35 transition fitting?
  - i. **Answer:** Any PVC SDR 35 fitting or connection to PVC SDR 35 piping shall include a gasket and meet ASTM D3212.
- E. When abandoning septic systems, do walls need to be crushed?
  - i. **Answer:** The health department stated that at least one wall needs to be crushed.

#### 8. ATTACHMENT

- A. CDBG Contractor Packet – to be completed and returned to Ben Martens with RCAP



**OHIO DEPARTMENT OF DEVELOPMENT**  
**REQUIRED CDBG – PRIME CONTRACTOR – CONTRACT FORMS FOR**  
**CONSTRUCTION BID PACKAGE**

**Forms Requiring Contractor Signature:**

- Affidavit of Contractor or Supplier of Non-Delinquency of Personal Property Taxes – O.R.C. 5919.042
- Affidavit of Compliance with ORC Section 3517.13
- Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements
- Certification of Bidder Requirements Equal Employment Opportunity
- Non-Collusion Affidavit
- Ohio Homeland Security - Government Business and Funding Contracts
- Section 3 Clause
- Section 3 Business Self-Certification
- Section 3 Worker Status Certification
- Contractor Workforce Section 3 Certification

**Documents to be Provided by Contractor:**

- Current W-9
- Certificate of Liability Insurance
- Certificate of Workers' Compensation

**Requires Community Signature:**

- Architect's/Designer's Certification of Compliance with Minimum Standards for Accessibility by the Physically Handicapped
- Certificate of Owner's Attorney
- Certificate of Owner's Financial Officer

**Does Not Require Signature (included in bid package for information purposes):**

- Bonding & Insurance Requirements
- Certification of Compliance with Air and Water Acts
- Conflict of Interest
- Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention
- Special Equal Opportunity Provisions
- HUD 4010 - Federal Labor Standards Provisions
- 24 CFR Regulations for Section 3 (applicable sections for community development projects)
- Section 3 Procedures Summary
- Monthly Section 3 Utilization Report

**ALL FORMS AND DOCUMENTS MUST BE SUBMITTED AS PART OF SEALED BID.**



**AFFIDAVIT OF CONTRACTOR OR SUPPLIER OF NON-  
DELINQUENCY OF  
PERSONAL PROPERTY TAXES**

**O.R.C. 5919.042**

The undersigned, being first duly sworn, having been awarded a contract by you for the

\_\_\_\_\_  
(Insert Project Name)

Hereby states that we are not charged with any delinquent personal property taxes on the general tax list of personal property of any county in which you as a taxing district have territory and that we were not charged with delinquent personal property taxes on any such tax list.

In consideration of the award of the above contract, the above statement is incorporated in said contract as a covenant of the undersigned.

\_\_\_\_\_  
Business/Agent Representative Signature

Sworn to before me and subscribed in my presence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

(Notary Seal)

**AFFIDAVIT**  
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13

STATE OF OHIO ) )SS COUNTY OF

\_\_\_\_\_, being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of ("the Contracting Party").
2. The Contracting Party is a/an (select one):
  - Individual, partnership, or other unincorporated business association (including, without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.
  - Corporation organized and existing under the laws of the State of .
  - Labor organization
3. • I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.13(I)(3) (with respect to noncorporate entities and labor organizations) or R.C. 3517.13(J)(3) (with respect to corporations) are in full compliance with the political contribution limitations set forth in R.C. 3517.13(I) and (J), as applicable.
4. That none of the following has individually made within the two previous calendar years and that, if awarded a contract for the purchase of goods or services in excess of \$500, none of the following individually will make, beginning on the date the contract is awarded and extending until one year following the conclusion of the contract, as an individual, one or more campaign contributions totaling in excess of \$1,000, to any member of the \_\_\_\_\_ County Board of Commissioners or their campaign committees:
  - myself;
  - any partner or owner or shareholder of the partnership (if applicable);
  - any owner of more than 20% of the corporation or business trust (if applicable);
  - each spouse of any person identified in (a) through (c) of this section;
  - each child seven years of age to seventeen years of age of any person identified in divisions (a) through (c) of this section (only applicable to contributions made on or after January 1, 2007).
5. That none of the following have collectively made since January 1, 2007, and that, if awarded a contract for the purchase of goods or services in excess of \$500, none of the following collectively will make, beginning on the date the contract is awarded

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and extending until one year following the conclusion of the contract, one or more campaign contributions totaling in excess of \$2,000, to any member of the \_\_\_\_\_ County Board of Commissioners or their campaign committees:

- myself;
- any partner or owner or shareholder of the partnership (if applicable);
- any owner of more than 20% of the corporation or business trust (if applicable);
- each spouse of any person identified in (a) through (c) of this section;
- each child seven years of age to seventeen years of age of any person identified in divisions (a) through (c) of this section.

1 I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.13(AA) and 3517.992(R)(3).

2 Any contract that contains a falsified certification shall be rescinded.

Affiant further sayeth naught.

By

Title

SWORN TO BEFORE ME and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

SEAL My commission expires \_\_\_\_\_

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# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## CONTRACTOR'S CERTIFICATION

### CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS

To:	Date:
c/o:	Project Number:
	Project Name:

1. The undersigned, having executed a contract with the \_\_\_\_\_ for the construction of the above-identified project, acknowledges that:
  - (a) The Labor Standards provisions are included in the aforesaid contract;
  - (b) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier subcontractors, is his responsibility.
2. He certifies that:
  - (a) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR Part 5) or pursuant to Section 3(a) of the Davis-Bacon Act, as amended [40 U.S.C. 275a-2(a)].
  - (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designed s an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions.
3. He agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by his subcontractors any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.
4. He certifies that:
  - (a) The legal name and the business address of the undersigned are:
  - (b) The undersigned is:  

\_\_\_\_\_ (1) A single proprietorship

\_\_\_\_\_ (2) A corporation organized in the State of \_\_\_\_\_

\_\_\_\_\_ (3) A partnership

\_\_\_\_\_ (4) Other Organization (Describe):
  - (c) The name, title and address of the owner, partners or officers of the undersigned are:

Name	Title	Address

(d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are: (If none, so state):

Name	Address	Nature of Interest

(e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are: (If none, so state):


Contractor	
Signature	
Date	

### WARNING

U.S. CRIMINAL CODE, Section 1010, Title 18, U.S.C., provides in part: "Whoever ... makes, passes, utters or publishes any statement, knowing the same to be false ... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."



**OHIO DEPARTMENT OF DEVELOPMENT  
OFFICE OF LOCAL GOVERNMENT SERVICES**

**CERTIFICATION OF BIDDER REGARDING EQUAL  
EMPLOYMENT OPPORTUNITY**

Name of Prime Contractor	
Project Number	

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 CFR 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CONTRACTOR'S CERTIFICATION			
NAME AND ADDRESS OF BIDDER (Include Zip Code)			
1.	Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause	Yes	No
2.	Compliance reports were required to be filed in connection with such contract or subcontract.	Yes	No
3.	Bidder has filed all compliance reports due under applicable instructions, including SF-100.	Yes	No
4.	Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?	Yes	No
NAME AND TITLE OF SIGNER (Please type)			
SIGNATURE		DATE	

## NON-COLLUSION AFFIDAVIT

State of \_\_\_\_\_  
\_\_\_\_\_

BID Identification: \_\_\_\_\_.  
CONTRACTOR: \_\_\_\_\_, being  
duly sworn, deposes and says that he is \_\_\_\_\_  
(Sole owner, a partner, president, secretary, etc.) of \_\_\_\_\_,  
the party making the foregoing BID; that such BID is not made in the interest of or on behalf of  
any undisclosed person, partnership, company, association, organization, or corporation; that such  
BID is genuine and not collusive or sham; that said BIDDER has not directly or indirectly  
induced or solicited any other BIDDER to put in a fake or sham BID and has not directly or  
indirectly colluded, conspired, connived, or agreed with any BIDDER or any one else to put in a  
sham BID, or that any one shall refrain from bidding; that said BIDDER has not in any manner  
directly or indirectly, sought by agreement, communication or conference with any one to fix the  
BID price of said BIDDER or of any other BIDDER, or to fix any overhead, profit, or cost  
element of such BID price, or of that of any other BIDDER, or to secure any advantage against  
the OWNER awarding the contract or anyone interested in the proposed contract; that all  
statements contained in such BID are true; and, further, that said BIDDER has not, directly or  
indirectly, submitted his BID price or any breakdown thereof, or the contents thereof, or divulged  
information or data relative thereto, or paid and will not pay any fee in connection therewith, to  
any corporation, partnership, company, association, organization, BID depository, or to any  
member or agent thereof, or to any other individual except to such person or persons as have a  
partnership or other financial interest with said BIDDER in his general business.

Print Name: \_\_\_\_\_

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Printed Name of Notary: \_\_\_\_\_

Signature of Notary: \_\_\_\_\_

(Seal of Notary)

## READ BEFORE COMPLETING YOUR DMA FORM

**Forms not conforming to the specifications listed below or not submitted to the appropriate agency or office will not be processed.**

- To complete this form, you will need a copy of the Terrorist Exclusion List for reference. The Terrorist Exclusion List can be found on the Ohio Homeland Security Web site at the following address:

<http://www.homelandsecurity.ohio.gov/dma/dma.asp>

- Be sure you have the correct DMA form. If you are applying for a state issued license, permit, certification or registration, the "State Issued License" DMA form must be completed (HLS 0036). If you are applying for employment with a government entity, the "Public Employment" DMA form must be completed (HLS 0037). If you are obtaining a contract to conduct business with or receive funding from a government entity, the "Government Business and Funding Contracts" DMA form must be completed (HLS 0038).
- Your DMA form is to be submitted to the issuing agency or entity. "Issuing agency or entity" means the government agency or office that has requested the form from you or the government agency or office to which you are applying for a license, employment or a business contract. For example, if you are seeking a business contract with the Ohio Department of Commerce's Division of Financial Institutions, then the form needs to be submitted to the Department of Commerce's Division of Financial Institutions. Do NOT send the form to the Ohio Department of Public Safety UNLESS you are seeking a license from or employment or business contract with one of its eight divisions listed below.
- Department of Public Safety Divisions:

Administration	Ohio Homeland Security*
Ohio Bureau of Motor Vehicles	Ohio Investigative Unit
Ohio Emergency Management Agency	Ohio Criminal Justice Services
Ohio Emergency Medical Services	Ohio State Highway Patrol
- \* DO **NOT** SEND THE FORM TO OHIO HOMELAND SECURITY UNLESS OTHERWISE DIRECTED. FORMS SENT TO THE WRONG AGENCY OR ENTITY WILL NOT BE PROCESSED.

## GOVERNMENT BUSINESS AND FUNDING CONTRACTS

In accordance with section 2909.33 of the Ohio Revised Code

### DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration by an applicant for a government contract or funding of material assistance/nonassistance to an organization on the U.S. Department of State Terrorist Exclusion List ("TEL"). Please see the Ohio Homeland Security Division Web site for a copy of the TEL.

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

### COMPLETE THIS SECTION ONLY IF YOU ARE AN INDEPENDENT CONTRACTOR

LAST NAME		FIRST NAME		MI
HOME ADDRESS				
CITY	STATE	ZIP	COUNTY	
HOME PHONE (       )		WORK PHONE (       )		

### COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION

BUSINESS/ORGANIZATION NAME			PHONE (       )	
BUSINESS ADDRESS				
CITY	STATE	ZIP	COUNTY	
BUSINESS/ORGANIZATION REPRESENTATIVE NAME			TITLE	

### DECLARATION

#### In accordance with section 2909.32 (A)(2)(b) of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List? ☐ Yes ☐ No
6. Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism? ☐ Yes ☐ No

If an applicant is prohibited from receiving a government contract or funding due to a positive indication on this form, the applicant may request the Ohio Department of Public Safety to review the prohibition. Please see the Ohio Homeland Security Web site for information on how to file a request for review.

**CERTIFICATION**

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

APPLICANT SIGNATURE <b>X</b>	DATE
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**Ohio Development Services Agency  
Office of Community Development**

**Section 3 Clause**

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 75, 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 75 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 75, 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 75. 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 75.
- 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 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- F. 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.

**Ohio Development Services Agency  
Office of Community Development**

**Section 3 Business Self-Certification**

Business Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_  
Zip Code \_\_\_\_\_

Business Phone Number \_\_\_\_\_  
Business Website \_\_\_\_\_  
Business Point of Contact \_\_\_\_\_  
Business Email \_\_\_\_\_

Type of Business: (Check One): ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other

In accordance with 24 CFR 75, a business must meet at least one of the following criteria, documented within the last six-month period, to self-certify as a Section 3 business concern. Select all that apply:

☐ The business is at least 51 percent owned and controlled by low- or very low-income persons<sup>1</sup>;

☐ Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers<sup>2</sup>; or

☐ The business is at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.<sup>3</sup>

The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

By submitting this form, I certify that the information contained on this form is true and accurate and meets U.S. Department of Housing and Urban Development (HUD) Section 3 business self-certification eligibility requirements in accordance with 24 CFR Part 75.

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

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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<sup>1</sup> HUD income limits are available at <https://www.huduser.gov/portal/datasets/il.html>. Business may be required to provide proof of ownership and a completed Section 3 Worker Status Certification form for each owner.

<sup>2</sup> Business may be required to provide full staff payrolls for the prior three-month period and completed Section 3 Worker Status Certification forms for all personnel.

<sup>3</sup> Business may be required to provide proof of ownership and verification of residence in public housing or Section 8-assisted housing.



**Ohio Development Services Agency  
Office of Community Development**

**Section 3 Worker Status Certification**

An individual who works or seeks to work on a Section 3 project must certify his/her eligibility to be classified as a Section 3 Worker or Targeted Section 3 Worker, as defined in 24 CFR part 75. The status of a Section 3 Worker or Targeted Section 3 Worker shall not be negatively affected by a prior arrest or conviction.

**Please select the applicable classification.**

I am a worker who currently fits or when hired within the past five years fit one of the following categories, as documented:

Section 3 Worker

\_\_\_ My income for the previous calendar year is below the income limit<sup>1</sup> established by HUD;

Targeted Section 3 Worker

\_\_\_ I am a YouthBuild participant <sup>2</sup>; or

Unclassified

\_\_\_ None of the above.

By submitting this form, I certify that the information contained on this form is true and accurate and meets U.S. Department of Housing and Urban Development (HUD) Section 3 self-certification eligibility requirements in accordance with 24 CFR part 75.

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

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

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

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<sup>1</sup> HUD income limits are available at <https://www.huduser.gov/portal/datasets/il.html>.

<sup>2</sup> Individual may be required to provide evidence that he/she is a YouthBuild participant.

**Contractor Name:** \_\_\_\_\_

**Contractor Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contractor Phone Number:** \_\_\_\_\_

[illegible]

**Title:** \_\_\_\_\_

(Rev. 7/21)

### Instructions: Contractor Workforce Section 3 Certification

Contractors and subcontractors (Contractors) must submit the Contractor Workforce Section 3 Certification form to the Office of Community Development grantee with the first Monthly Section 3 Utilization Report to document worker Section 3 status. Contractors must attach a completed Section 3 Worker Status Certification form for each worker. Contractors must submit an additional Contractor Workforce Section 3 Certification form if additional workers are hired during the project. See Program Policy 21-04 for more information regarding Section 3 compliance.

<sup>1</sup> The Project Location should include the local jurisdiction (e.g. township, village, or city) and county.

<sup>2</sup> A Section 3 business concern is a business concern meeting at least one of the following criteria, documented within the last six-month period: 1) It is at least 51 percent owned and controlled by low- or very low-income persons; 2) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or 3) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing. Contractors must submit a Section 3 Business Self-Certification form to be considered a Section 3 business concern.

<sup>3</sup> List classification descriptive of work performed by employee.

<sup>4</sup> Section 3 status: Section 3 Worker, Targeted Section 3 Worker, or Unclassified, as documented by a Section 3 Worker Status Certification form. The status of a Section 3 worker or Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction.

A Section 3 worker is any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented: 1) The worker's income for the previous or annualized calendar year is below the income limit established by HUD; 2) The worker is employed by a Section 3 business concern; or 3) The worker is a YouthBuild participant.

A Targeted Section 3 worker is a Section 3 worker who is: 1) A worker employed by a Section 3 business concern; or 2) A worker who currently fits or when hired fit 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; or b) A YouthBuild participant.

An Unclassified worker is a worker who does not meet the criteria for either Section 3 worker or Targeted Section 3 worker.

<sup>5</sup> Section 3 Classification Criteria. Select all that apply.

<sup>6</sup> The worker's income for the previous or annualized calendar year is below the income limit established by HUD. Either 1) the worker self-certified on a Section 3 Worker Status Certification form that the worker's income for the previous calendar year is below the income limit established by HUD; or 2) the Contractor certifies that the worker's income from the Contractor is below the income limit when based on the Contractor's calculation of what the worker's wage rate would translate to if annualized on a full-time basis.

<sup>7</sup> Section 3 Business Concern. The Contractor indicated on this form that it is a Section 3 Business Concern and provided a Section 3 Business Self-Certification form.

<sup>8</sup> The worker self-certified on a Section 3 Worker Status Certification form that the worker is a YouthBuild participant.

<sup>9</sup> Local Resident. The Contractor confirms that a Section 3 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 U.S. Census.

<sup>10</sup> Section 3 Business Concern. The Contractor indicated on this form that it is a Section 3 Business Concern and provided a Section 3 Business Self-Certification form.

<sup>11</sup> The worker self-certified on a Section 3 Worker Status Certification form that the worker is a YouthBuild participant.

<sup>12</sup> The Office of Community Development (OCD) grantee must enter the OCD grant number, project name, and activity name. The grantee must enter initials and date after performing a basic review (e.g., 1) form is complete; 2) selected Section 3 Classification Criteria accurately reflect indicated Section 3 Status; 3) Contractor submitted a Section 3 Worker Status Certification form for each worker; and 4) if applicable, Contractor submitted a Section 3 Business Self-Certification form). The grantee may request additional information or supporting documentation to clarify inaccuracies or omissions.

**ARCHITECT'S CERTIFICATION  
COMPLIANCE WITH MINIMUM STANDARDS FOR  
ACCESSIBILITY BY THE PHYSICALLY HANDICAPPED**

Grantee Number: \_\_\_\_\_ Project Name: \_\_\_\_\_

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Pursuant to the requirements of the Architectural Barriers Act of 1968, 42 USC 4151, and the regulations issued subsequent thereto, the undersigned certifies that the design of the above-mentioned project is in conformance with the minimum standards contained in the American Standard Specifications for Making buildings and Facilities Accessible To and Usable By, the Physically Handicapped, Number A-117.1R-1971 (as modified by 41 CFR 101-10.603).

Architect for the Project: \_\_\_\_\_ (Legal Name and address)

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name of Chief Local Executive Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, \_\_\_\_\_, the dully authorized and acting legal representative of \_\_\_\_\_, do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; an that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

\_\_\_\_\_

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

## **CERTIFICATE OF OWNER'S FINANCIAL OFFICER**

ATTEST:

I, \_\_\_\_\_, Auditor, hereby certify that the money to meet this contract has been lawfully appropriated for the purpose of the contract and is in the treasury of \_\_\_\_\_, Ohio, or is in the process of collection to the credit of the appropriate fund free from prior encumbrance.

\_\_\_\_\_  
Auditor/Fiscal Officer

## **BONDING AND INSURANCE REQUIREMENTS**

A state or local unit of government receiving a grant from the Federal government which requires contracting for construction of facility improvement shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds, except for contracts or subcontracts exceeding \$100,000. For contracts or subcontracts exceeding \$100,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his/her bid, execute such contractual documents as may be required within the time specified.
- B. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- C. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.



## **CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**

(Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000)

### Compliance with Air and Water Acts

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect hereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

1. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. A stipulation that as a condition of the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph 91 through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

## **CONFLICT OF INTEREST**

### **Interest of Local Public Officials**

No member of the governing body of the locality and no other officer, employee, agent or public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Contractor shall take appropriate steps to assure compliance.

### **Interest of Contractor and Employees**

The contractor covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.

### **Records and Audits**

The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City/County to assure proper accounting for all project funds. These records will be made available for audit purposes to the City/County or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the City/County.

### **Federal or State Officials Not to Benefit**

No members of or delegate to the Congress of the United States of America, and no resident U.S. Commissioner, nor any officer or employee of the State of Ohio subject to Ohio Ethics Law (ORC Sec. 102.03(A)) will be admitted to any share or part hereof or to any benefit to arise here from.

## **SPECIAL CONDITIONS PERTAINING TO HAZARDS SAFETY STANDARDS AND ACCIDENT PREVENTION**

- A. **Lead-Based Paint Hazards** (Applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-base paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

- B. **Use of Explosives**

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done close to such property. Any supervision or direction of use of explosives by the Engineer, does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

- C. **Danger Signals and Safety Devices**

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

## **Special Equal Opportunity Provisions**

### **A. Activities and Contracts Not Subject to Executive Order 11246, as Amended**

(Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

During the performance of this contract, the contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. Contractors shall incorporate foregoing requirements in all subcontracts.

### **B. Executive Order 11246 (contracts/subcontracts above \$10,000)**

#### **1. Section 202 Equal Opportunity Clause**

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth the provisions of this non-discrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contractor or understanding, a notice to be provided by the Owner advising the said labor union or workers' representatives of the contractor's commitment

under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The contractor will comply with all provisions of Executive Order 11248 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the Ohio Department of Development's Office of Housing and Community Partnerships (OHCP), the U.S. Department of Labor and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- f. In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulations or orders of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the provisions of the sentence immediately preceding paragraph (1) and the provisions of paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. **Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity** (Executive Order 11246). (Applicable to contracts/subcontracts exceeding \$10,000)

- a. The offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation

%  
County Minority Population Percentage

Goals for Female Participation

6.9%  
State of Ohio Goal

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered areas. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goal established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- c. **The Contractor shall provide written notification to the Office Chief of the Office of Housing and Community Partnerships, Ohio Department of Development, P.O. Box 1001, Columbus, Ohio 43216-1001 within 10 working days** of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
- d. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any):

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3. **Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)**

- a. As used in these specifications:
1. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of labor, or any person to whom the Director delegates authority;

3. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
4. "Minority" includes:
  - i) Black: all persons having origins in any of the Black African racial groups not of Hispanic origin;
  - ii) Hispanic: all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race;
  - iii) Asian and Pacific Islander: all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands; and
  - iv) American Indian or Alaskan Native: all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.
- b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- c. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- d. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially



uniform progress toward its goals in each craft during the period specified.

- e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- f. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- g. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - 2.. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - 3. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
  - 4. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the Contractor a

minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

5. Develop on-the-job training opportunities and/or participate in training programs of the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the opening, screening procedures, and tests to be used in the selection process.
10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to

minority and female youth both on the site and in other areas of a Contractor's work force.

11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  12. Conduct, at least annually, an inventory and evaluation of least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
  17. Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting offices.
- h. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through 7q). The efforts of a contractor association, joining contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7q of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to

meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

- i. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially desperate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- j. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- k. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government Contracts pursuant to Executive Order 11246.
- l. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- m. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its effort to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- n. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by OHCP and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

- o. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**C. Certification of Non-segregated Facilities (Over \$10,000)**

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/She certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and wash rooms, restaurants and other eating areas, \*\*transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He/She further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt for the provision of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

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\*\*Parking lots, drinking fountains, recreation or entertainment areas.

**D. Civil Rights Act of 1964**

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**E. Section 109 of the Housing and Community Development Act of 1964**

- a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

**F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities**

- 1. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of

Housing and Urban Development and 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 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.]

2. The parties of this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization of workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of those regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;



(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

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This content is from the eCFR and is authoritative but unofficial.

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## **Title 24 —Housing and Urban Development**

### **Subtitle A —Office of the Secretary, Department of Housing and Urban Development**

#### **Part 75 Economic Opportunities for Low- and Very Low-Income Persons**

##### **Subpart A General Provisions**

**§ 75.1** Purpose.

**§ 75.3** Applicability.

**§ 75.5** Definitions.

**§ 75.7** Requirements applicable to HUD NOFAs for Section 3 covered programs.

##### **Subpart B Additional Provisions for Public Housing Financial Assistance**

**§ 75.9** Requirements.

**§ 75.11** Targeted Section 3 worker for public housing financial assistance.

**§ 75.13** Section 3 safe harbor.

**§ 75.15** Reporting.

**§ 75.17** Contract provisions.

##### **Subpart C Additional Provisions for Housing and Community Development Financial Assistance**

**§ 75.19** Requirements.

**§ 75.21** Targeted Section 3 worker for housing and community development financial assistance.

**§ 75.23** Section 3 safe harbor.

**§ 75.25** Reporting.

**§ 75.27** Contract provisions.

##### **Subpart D Provisions for Multiple Funding Sources, Recordkeeping, and Compliance**

**§ 75.29** Multiple funding sources.

**§ 75.31** Recordkeeping.

**§ 75.33** Compliance.

## **PART 75—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS**

**Authority:** 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

**Source:** 85 FR 61562, Sept. 29, 2020, unless otherwise noted.

### **Subpart A—General Provisions**

## § 75.1 Purpose.

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

## § 75.3 Applicability.

- (a) **General applicability.** Section 3 applies to public housing financial assistance and Section 3 projects, as follows:
- (1) **Public housing financial assistance.** Public housing financial assistance means:
- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
  - (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
  - (iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
  - (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.
- (2) **Section 3 projects.**
- (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a 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.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.
  - (ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through FEDERAL REGISTER notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through FEDERAL REGISTER notice, subject to public comment.
  - (iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
- (b) **Contracts for materials.** Section 3 requirements do not apply to material supply contracts.

- (c) **Indian and Tribal preferences.** Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.
- (d) **Other HUD assistance and other Federal assistance.** Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

## § 75.5 Definitions.

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5. The following definitions also apply to this part:

**1937 Act** means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

**Contractor** means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

**Labor hours** means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

**Low-income person** means a person as defined in Section 3(b)(2) of the 1937 Act.

**Material supply contracts** means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

**Professional services** means non-construction services 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.

**Public housing financial assistance** means assistance as defined in § 75.3(a)(1).

**Public housing project** is defined in 24 CFR 905.108.

**Recipient** means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 business concern** means:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
  - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
  - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

- (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

**Section 3 project** means a project defined in § 75.3(a)(2).

**Section 3 worker** means:

- (1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
  - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
  - (ii) The worker is employed by a Section 3 business concern.
  - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

**Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

**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.

**Small PHA** means a public housing authority that manages or operates fewer than 250 public housing units.

**Subcontractor** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

**Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

**Targeted Section 3 worker** has the meanings provided in §§ 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

**Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

**YouthBuild programs** refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

## **§ 75.7 Requirements applicable to HUD NOFAs for Section 3 covered programs.**

All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by § 75.3 will include notice that this part is applicable to the funding and may include, as appropriate for the specific NOFA, points or bonus points for the quality of Section 3 plans.

## **Subpart B—Additional Provisions for Public Housing Financial Assistance**

### **§ 75.9 Requirements.**

#### **(a) *Employment and training.***

- (1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.
- (2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:
  - (i) To residents of the public housing projects for which the public housing financial assistance is expended;
  - (ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
  - (iii) To participants in YouthBuild programs; and
  - (iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

#### **(b) *Contracting.***

- (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.
- (2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:
  - (i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
  - (ii) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
  - (iii) To YouthBuild programs; and
  - (iv) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.



### § 75.11 Targeted Section 3 worker for public housing financial assistance.

- (a) **Targeted Section 3 worker.** A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:
- (1) A worker employed by a Section 3 business concern; or
  - (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
    - (i) A resident of public housing or Section 8-assisted housing;
    - (ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
    - (iii) A YouthBuild participant.
- (b) [Reserved]

### § 75.13 Section 3 safe harbor.

- (a) **General.** PHAs and other recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary, if they:
- (1) Certify that they have followed the prioritization of effort in § 75.9; and
  - (2) Meet or exceed the applicable Section 3 benchmarks as described in paragraph (b) of this section.
- (b) **Establishing benchmarks.**
- (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the type of public housing financial assistance, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of PHAs and other recipients meeting benchmarks, as well as other metrics reported pursuant to § 75.15 as deemed appropriate by HUD, for the 3 most recent reporting years.
  - (2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per § 75.15(a)(4).
  - (3) Section 3 benchmarks will consist of the following two ratios:
    - (i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

- (ii) The number of labor hours worked by Targeted Section 3 workers, as defined in § 75.11(a), divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

## § 75.15 Reporting.

### (a) *Reporting of labor hours.*

- (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:
  - (i) The total number of labor hours worked;
  - (ii) The total number of labor hours worked by Section 3 workers; and
  - (iii) The total number of labor hours worked by Targeted Section 3 workers.
- (2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.
- (3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.
- (4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.
- (5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

### (b) *Additional reporting if Section 3 benchmarks are not met.* If the PHA's or other recipient's reporting under paragraph (a) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

- (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- (2) Provided training or apprenticeship opportunities.
- (3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

- (4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
  - (5) Held one or more job fairs.
  - (6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
  - (7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
  - (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
  - (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
  - (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
  - (11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
  - (12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
  - (13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
  - (14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.
- (c) **Reporting frequency.** Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.
- (d) **Reporting by Small PHAs.** Small PHAs may elect not to report under paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

## § 75.17 Contract provisions.

- (a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.
- (b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.
- (c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

## Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

### § 75.19 Requirements.

- (a) *Employment and training.*

- (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.
- (2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:
  - (i) Section 3 workers residing within the service area or the neighborhood of the project, and
  - (ii) Participants in YouthBuild programs.

(b) **Contracting.**

- (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.
- (2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:
  - (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
  - (ii) YouthBuild programs.

**§ 75.21 Targeted Section 3 worker for housing and community development financial assistance.**

- (a) **Targeted Section 3 worker.** A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:
- (1) A worker employed by a Section 3 business concern; or
  - (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
    - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or
    - (ii) A YouthBuild participant.
- (b) [Reserved]

**§ 75.23 Section 3 safe harbor.**

- (a) **General.** Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:
- (1) Certify that they have followed the prioritization of effort in § 75.19; and
  - (2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.
- (b) **Establishing benchmarks.**

- (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to § 75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.
- (2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per § 75.25(a)(4).
- (3) Section 3 benchmarks will consist of the following two ratios:
  - (i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.
  - (ii) The number of labor hours worked by Targeted Section 3 workers as defined in § 75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

## § 75.25 Reporting.

### (a) *Reporting of labor hours.*

- (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:
  - (i) The total number of labor hours worked;
  - (ii) The total number of labor hours worked by Section 3 workers; and
  - (iii) The total number of labor hours worked by Targeted Section 3 workers.
- (2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.
- (3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.
- (4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers

both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

- (5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) ***Additional reporting if Section 3 benchmarks are not met.*** If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in § 75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

- (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- (2) Provided training or apprenticeship opportunities.
- (3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- (4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- (5) Held one or more job fairs.
- (6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
- (7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- (11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- (12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- (13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- (14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) ***Reporting frequency.*** Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

## § 75.27 Contract provisions.

- (a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.
- (b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of § 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

## Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance

### § 75.29 Multiple funding sources.

- (a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to § 75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:
  - (1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and
  - (2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:
    - (i) The total number of labor hours worked on the project;
    - (ii) The total number of labor hours worked by Section 3 workers on the project; and
    - (iii) The total number of labor hours worked by Targeted Section 3 workers on the project.
- (b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in § 75.3(a)(2), the recipient or recipients must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

### § 75.31 Recordkeeping.

- (a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.
- (b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:
  - (1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:
    - (i) A worker's self-certification that their income is below the income limit from the prior calendar year;

- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
  - (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
  - (iv) An employer's certification that the worker's income from that employer is below the 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; or
  - (v) An employer's certification that the worker is employed by a Section 3 business concern.
- (2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:
- (i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:
    - (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
    - (B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
    - (C) An employer's certification that the worker is employed by a Section 3 business concern; or
    - (D) A worker's certification that the worker is a YouthBuild participant.
  - (ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:
    - (A) An employer's 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 U.S. Census;
    - (B) An employer's certification that the worker is employed by a Section 3 business concern; or
    - (C) A worker's self-certification that the worker is a YouthBuild participant.
- (c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.
- (d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

### § 75.33 Compliance.

- (a) **Records of compliance.** Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.
- (b) **Complaints.** Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.



- (c) **Monitoring.** HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.



## Office of Community Development Section 3 Procedures Summary<sup>1</sup>

### Identification

- Starting PY 2021, the Office of Community Development (OCD) identifies Section 3 projects and provides a notification of Section 3 status upon grant award.
- Section 3 projects are housing rehabilitation, housing construction, and other public construction projects when the total amount of HUD assistance to the project exceeds \$200,000 (full regulations at [24 CFR 75](#)).

### Qualitative Efforts

- Grantees and their contractors and subcontractors should make qualitative efforts to meet [Section 3 benchmarks](#) and assist low- and very low-income persons with employment and training opportunities. [[24 CFR 75.25\(b\)](#)]

### Contract Solicitation

- Grantees must include Section 3 requirements in solicitations for Section 3 projects and provide required certification and report forms.

### Contract Provisions

- Grantees must include the [Section 3 clause](#) in contracts for Section 3 Projects.

### Section 3 Business Self-Certification

- A Contractor must submit a [Section 3 Business Self-Certification](#) form to the grantee to be classified as a Section 3 business concern.
- To qualify as a Section 3 Business Concern, a business must meet criteria outlined at [24 CFR 75.5](#).

### Worker Certification

- Contractors must submit a [Section 3 Worker Status Certification](#) form for each worker on a Section 3 Project.
- Contractors must submit a [Contractor Workforce Section 3 Certification](#) form to the grantee with the first [Monthly Section 3 Utilization Report](#).

### Monthly Section 3 Utilization Report

- Contractors must submit [Monthly Section 3 Utilization Reports](#) to the grantee for the duration of the contract.

### Reporting

- For a Section 3 project, grantees must report the total number of labor hours worked, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers.
- Section 3 data is submitted to OCD as part of a [Notice of Contract Award](#) (NOCA).

### Recordkeeping

- Certifications
  - [Section 3 Worker Status Certifications](#)
  - [Contractor Workforce Section 3 Certifications](#)
  - [Section 3 Business Self-Certification](#)
- [Monthly Section 3 Utilization Reports](#)
- Documentation of Qualitative Efforts

<sup>1</sup>See [OCD Policy 21-04](#) for more information

<b>Ohio Department of Development</b> <b>Office of Community Development</b> <u><b>Monthly Section 3 Utilization Report</b></u>	
<b>Reporting Period<sup>1</sup>: From _____ To _____</b>	
<b>Contractor Name:</b> _____ <b>Contractor Address:</b> _____ _____ _____ <b>Contractor Phone Number:</b> _____	<b>Project Name:</b> _____ <b>Project Location<sup>2</sup>:</b> _____ <b>Contractor Type:</b> Prime Contractor ____ Subcontractor ____ <b>Section 3 Business Concern<sup>3</sup>:</b> Yes ____ No ____

**CONTRACTOR CERTIFICATION:**

I hereby certify the accuracy of the data reported above.

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

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

FOR GRANT RECIPIENT USE ONLY <sup>11</sup>	
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <b>Office of Community Development Grant Information</b>  <b>Grant Number:</b> _____  <b>Project:</b> _____  <b>Activity:</b> _____         </div>	<b>Reviewed by:</b> _____ <b>Date:</b> _____

### Instructions: Monthly Section 3 Utilization Report

Contractors and subcontractors (Contractors) must submit the Monthly Section 3 Utilization Report form to the Office of Community Development grantee to report labor hours worked on Section 3 projects. See Program Policy 21-04 for more information regarding Section 3 compliance.

<sup>1</sup> The Reporting Period may not exceed four weeks.

<sup>2</sup> The Project Location should include the local jurisdiction (e.g. township, village, or city) and county.

<sup>3</sup> A Section 3 business concern is a business concern meeting at least one of the following criteria, documented within the last six-month period: 1) It is at least 51 percent owned and controlled by low- or very low-income persons; 2) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or 3) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing. Contractors must submit a Section 3 Business Self-Certification form to be considered a Section 3 business concern.

<sup>4</sup> List classification descriptive of work performed by employee.

<sup>5</sup> Section 3 status: Section 3 Worker, Targeted Section 3 Worker, or Unclassified, as documented by a Section 3 Worker Status Certification form. The status of a Section 3 worker or Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction.

A Section 3 worker is any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented: 1) The worker's income for the previous or annualized calendar year is below the income limit established by HUD; 2) The worker is employed by a Section 3 business concern; or 3) The worker is a YouthBuild participant.

A Targeted Section 3 worker is a Section 3 worker who is: 1) A worker employed by a Section 3 business concern; or 2) A worker who currently fits or when hired fit 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; or b) A YouthBuild participant.

An Unclassified worker is a worker who does not meet the criteria for either Section 3 worker or Targeted Section 3 worker.

<sup>6</sup> Total Labor Hours. Total labor hours worked on the Section 3 project during the reporting period.

<sup>7</sup> Unclassified Labor Hours. Labor hours performed by an Unclassified worker.

<sup>8</sup> Section 3 Labor Hours. Labor hours performed by a Section 3 worker. Note: Labor hours for Targeted Section 3 Workers must be entered as Section 3 Labor Hours and Targeted Section 3 Labor Hours.

<sup>9</sup> Targeted Section 3 Labor Hours. Labor hours performed by a Targeted Section 3 worker. Note: Labor hours for Targeted Section 3 Workers must be entered as Section 3 Labor Hours and Targeted Section 3 Labor Hours.

<sup>10</sup> Labor Hour Classification example:

<u>Employee Name</u>	<u>Work Classification</u> <sup>4</sup>	<u>Section 3 Status</u> <sup>5</sup>	<u>Total Labor Hours</u> <sup>6</sup>	<u>Labor Hour Classification</u> <sup>10</sup>		
				<u>Unclassified Labor Hours</u> <sup>7</sup>	<u>Section 3 Labor Hours</u> <sup>8</sup>	<u>Targeted Section 3 Labor Hours</u> <sup>9</sup>
Employee A	Bricklayer	Unclassified	65	65		
Employee B	Tile Setter	Section 3 Worker	60		60	
Employee C	Roofer	Targeted Section 3 Worker	70		70	70
Total			195	65	130	70

<sup>11</sup> The Office of Community Development (OCD) grantee must enter the OCD grant number, project name, and activity name. The grantee must enter initials and date after performing a basic review (e.g., form is complete and Labor Hour Classifications accurately reflect indicated Section 3 Status). The grantee may request additional information or supporting documentation to clarify inaccuracies or omissions.