



COMMUNITY DEVELOPMENT DEPARTMENT

# SECTION 3 HANDBOOK

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## ***Introduction***

Section 3 is the legislative directive from the U.S. Department of Housing and Urban Development (HUD) for providing preference in new employment, training, and contracting opportunities that are generated by HUD-funded projects to low- and very low-income local residents (regardless of race or gender). Section 3 also provides contracting preferences to local businesses that substantially employ low- and very low-income residents of the local community.

Section 3 is activated when construction and rehabilitation projects create the need for new employment, contracting, or training opportunities. Recipients or contractors are not required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete a covered project. If the expenditure of a covered project does not result in new employment, contracting, or training opportunities, the requirement of Section 3 is not activated. Nevertheless, the recipient and its contractors are required to submit Section 3 report information.

As a condition of receiving HUD housing and community development program funds, recipients must certify they will comply with the requirements of Section 3. HUD has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

These guidelines have been prepared to provide information and guidance to Section 3 recipients on how the City of Grand Rapids (the City) will administer the Section 3 regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and regulations. It is a summary of the pertinent provisions, and focuses on the requirements imposed on the developer, general contractor and subcontractor receiving the requisite amount of Section 3 funds. Developers, general contractors and subcontractors bear the responsibility to familiarize themselves with the Section 3 Act and regulations prior to accepting Section 3 covered assistance.

## ***Policy Statement***

The City shall provide opportunities to low- and very low-income people living in the Grand Rapids-Kentwood Metropolitan Statistical Area and to businesses meeting the definition of “Section 3 Business Concern.” Accordingly, the City shall implement policies and procedures to ensure Section 3, when required, is followed for all contracts where labor and/or professional services are provided.

This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It applies to contractors who install materials or equipment (see the definition of “Section 3 Contractor” below). Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the entire project or activity is subject to Section 3 requirements. Nothing in this policy shall be construed to require the employment or contracting of a Section 3 resident or contractor who

does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

**Successful compliance with the Section 3 Act and regulations by the developer and/or general contractor will be a factor in determining future awards of Section 3 covered assistance.**

According to the Section 3 regulations, located at 24 CFR Part 135, Section 3 Recipients are required to provide employment, training and contracting opportunities to Section 3 Residents or Section 3 Business Concerns. However, the Section 3 requirements are not imposed upon a recipient who does not engage in hiring or training, but instead awards contracts to developers and general contractors that hire and train in connection with Section 3 covered projects. According to the Section 3 regulations, these recipients may comply with Section 3 by ensuring that the developers, general contractors and subcontractors receiving Section 3 Covered Assistance comply with the Section 3 Act.

***To Whom Does Section 3 Apply?***

The following definitions are intended to describe the differences between “recipient” and “contractor.”

**Section 3 Recipient.** The recipient is the City of Grand Rapids. The City is a Section 3 recipient because it receives more than \$200,000 in Section 3 covered federal housing and community development funds.

**Other Section 3 Recipients.** In addition to the City of Grand Rapids, any entity that receives more than \$200,000 in housing and community development funding from the City for Section 3 covered activities is a recipient.

A Section 3 recipient has the responsibility to comply with Section 3 in its own operations and to ensure the compliance of its Section 3 contractors and subcontractors.

**Section 3 Contractor.** A contractor is any entity that performs work for a Section 3 recipient in an amount greater than \$100,000, provided the work is for a Section 3 covered activity. (A subcontractor performing work for a Section 3 contractor in an amount greater than \$100,000 is considered a contractor.)

**Section 3 Covered Activities.** Section 3 covered activities include all projects and activities involving construction, such as housing construction, demolition, rehabilitation, or other public construction (e.g. streets, sidewalks, sewers, community centers, etc.). Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials. Where federal housing and community development assistance provides partial funding for a Section 3 covered project or activity, the entire project or activity is subject to Section 3 requirements.

***Section 3 Programs***

The following are examples of federal housing and community development programs with construction activities that require Section 3 compliance:

## **CDBG Program**

### Current Partners

- City of Grand Rapids Housing Rehabilitation
- City of Grand Rapids Engineering Department
- Various contractors (fencing, concrete, etc.)

## **Lead Hazard Control Program**

### Current Partners

- City of Grand Rapids Housing Rehabilitation
- Various sole proprietors and small businesses

## **HOME Program**

### Current Partners

- Various nonprofit developers
- Various for-profit developers
- City of Grand Rapids Housing Rehabilitation

## ***Intended Beneficiaries of Section 3***

For the federal housing and community development programs listed above, the intended beneficiaries of Section 3 are two-fold.

**Section 3 Residents.** Low- and very low-income people living in the Grand Rapids-Kentwood Metropolitan Statistical Area (preferably those living in public housing or in neighborhoods where the Section 3 covered assistance is provided).

**Section 3 Business Concerns.** Businesses that are 51% owned by low- and very-low income people; businesses whose permanent full-time staff consist of at least 30% or more low- and very-low income persons (preferably who live in neighborhoods where the Section 3 covered assistance is provided), or businesses that contract out over 25% of the total amount of a Section 3 covered contract to other Section 3 business concerns.

## ***Preferences for Employment and Training Opportunities***

All developers, general contractors, and subcontractors undertaking Section 3 covered projects and activities are expected to meet the Section 3 requirements. A concerted effort shall be made to meet the goals set forth below for providing training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns. To meet the goals, contractors must select Section 3 residents based on the following priorities.

**General Project Category** (projects funded through CDBG, HOME, other HUD funded projects as applicable)

**First Priority** – Low- and very low-income residents of the development where the work is to be performed (where occupied).

**Second Priority** – Low- and very low-income residents living in the target neighborhood (which is determined by the location of the project).

**Third Priority** – Low- and very low-income residents living in the City of Grand Rapids, including Youthbuild Program participants.

**Fourth Priority** – Low- and very-low income residents living in the Grand Rapids-Kentwood Metropolitan Statistical Area.

**Homeless Project Category** (projects funded through the Stewart B. McKinney Homeless Assistance Act or its successor act)

**First Priority** – Homeless persons living in the target neighborhood (which is determined by the location of the project).

**Second, Third, and Fourth Priority** – Same as General Project Category above.

### ***Numerical Goals***

The City of Grand Rapids has established numerical goals that comply with Section 3 regulations and priorities, consistent with those set by the federal government. These goals and priorities serve as a tool for ensuring the City's effectiveness in fulfilling its commitment to the economic well being of its citizens as well as for monitoring compliance with HUD requirements.

#### ***The City of Grand Rapids' Minimum Numerical Goals are as follows:***

- 30% of the aggregate number of new hires in any fiscal year will be Section 3 residents.
- 10% of the total dollar amount of all Section 3 covered construction contracts will be awarded to Section 3 business concerns.
- 3% of the total dollar amount of all covered non-construction contracts will be awarded to businesses that qualify as a Section 3 business concern.

Contractors and Developers are required to utilize Section 3 Residents and Section 3 Business Concerns, *to the greatest extent feasible*, on all construction-related projects receiving funding from HUD. The above numerical goals must be explicitly set forth in all Section 3 Plans.

Employment and training goals may be met by either directly providing the employment or training or by facilitating the employment or training. A contractor, subcontractor, or developer may satisfy the Section 3 employment and training goals by partnering with other organizations that provide employment and training opportunities, and working with those organizations to facilitate training or employment opportunities for Section 3 Residents.

### ***Formal Section 3 Plan***

Prior to entering into an Agreement with the City, the general contractor or developer shall submit a comprehensive Section 3 Plan that includes Section 3 goals and strategies that will be implemented to meet those goals. The plan shall be signed by the general contractor or developer, as applicable, and submitted to the City of Grand Rapids Community Development Department for review and approval.

All Section 3 Plans submitted to the City of Grand Rapids must include a breakdown of job categories and positions needed for the Section 3 covered project, including positions occupied

by permanent employees. If no employment or training opportunities will be available in connection with the Section 3 covered project, this must be reflected in the Section 3 Plan.

*A Section 3 Plan template is available on the Community Development Department's website ([www.grcd.info](http://www.grcd.info)), and will be provided upon request.*

Upon receipt of the Section 3 Plan, Community Development Department staff will review the Plan and either approve or disapprove of the document. Suggested modifications will be included with any disapproval of a Section 3 Plan in order to assist the general contractor or developer. After the Section 3 Plan is approved, it shall be made a part of the construction documents, and be reviewed regularly to assess its implementation and the attainment of the Section 3 goals. As subcontracts in excess of \$100,000 are awarded, those Subcontractors will be required to submit their own Section 3 Plan for City review and approval.

The Community Development Department shall be provided with copies of bid documents, construction contracts, and any other related documentation upon request.

### ***Components of a Section 3 Plan***

The Section 3 Plan must contain specific information, including but not limited to the following:

- a) Statement from the Section 3 contractor or subcontractor certifying it intends to comply with the Section 3 Act and regulations, as well as the City of Grand Rapids Section 3 Handbook;
- b) Statement from the Section 3 contractor and each subcontractor certifying they are aware of the employment, training, and contracting goals, and agree to work together to meet these goals;
- c) Name and contact information of the Section 3 contractor or subcontractor's Section 3 coordinator (either official or designated);
- d) Identification of the Section 3 project area (the neighborhood where the work will be performed).
- e) Section 3 contractor or subcontractor's current workforce, and additional workforce necessitated by the Section 3 covered project;
- f) Section 3 employment, training and contracting opportunity goals;
- g) Specific strategies for notifying Section 3 Residents of Section 3 employment and training goals, and specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- h) Commitment to inform all subcontractors of the Section 3 Plan;
- i) Commitment to prepare and submit to the City of Grand Rapids Community Development Department, monthly Section 3 reports;
- j) Commitment to include the Section 3 Clause in all construction contracts. The Section 3 Contract Clause (Attachment A) specifies the requirements for contractors hired for Section 3 covered projects. Failure to comply with the general conditions outlined in

the clause may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-funded contracts.

- k) Commitment to conduct aggressive outreach and notification campaigns to Section 3 Residents and Section 3 Business Concerns regarding Section 3 goals, including the usage of site signage, flyers, etc.

### ***Implementation Strategies for Employment, Training and Contracting***

To comply with the Section 3 Act and the Section 3 Regulations, the Section 3 contractor or subcontractor, as applicable, shall implement an aggressive campaign to encourage participation of Section 3 Residents and Section 3 Business Concerns. Some strategies to implement this campaign include the following:

- a) Publish in a local newspaper a notice of the potential employment and training opportunities for Section 3 Residents, potential contracting opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns. Written notice must be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
- b) Post in a prominent location at the Section 3 covered project site notice of the potential employment and training opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns.
- c) Submit letters or flyers to the residents of the Section 3 covered project advising them of the employment, training and contracting opportunities for the Section 3 covered project (applies to projects where there are existing residents);
- d) Provide the residents of the Section 3 covered project and the surrounding area with information on how to become certified as a Section 3 Resident or a Section 3 Business Concern;
- e) Provide the Grand Rapids Housing Commission with flyers, notices and other information related to the Section 3 employment, training and contracting opportunities for the Section 3 covered project;
- f) Provide information to residents of a Section 3 covered project and the surrounding area regarding established job training programs located within the Section 3 covered project area;
- g) Provide minority and women-focused labor and trade organizations with notice of Section 3 contracting opportunities, as well as job postings and training opportunities;
- h) Contact the following groups that have been identified as instrumental in assisting Section 3 target groups regarding employment, training, or contracting opportunities.



Organization Name	Phone	Address
<b>Bethany Christian Services</b> Refugee and Immigrant Employment, Youth Services	(616) 224-7550	901 Eastern Ave. NE Grand Rapids, MI 49503
<b>Goodwill Industries</b> Training, Job Placement, Support Services	(616) 532-4200	3777 Sparks Drive SE Grand Rapids, MI 49546
<b>Grand Rapids Housing Commission</b> Job Postings for Public Housing Residents	(616) 235-2600	1420 Fuller Avenue SE Grand Rapids, MI 49507
<b>Jubilee Jobs</b> Job Postings & Placement	(616) 774-9944	935 Baxter St. SE Grand Rapids, MI 49506
<b>Michigan Works!</b> Job Placement, Training	(616) 336-4460 (616) 336-4040	215 Straight Ave NW 121 Franklin SE, Suite 120
<b>Urban League</b> Job Placement, Training	(616) 245-2207	745 Eastern Ave. SE Grand Rapids, MI 49503

### ***Section 3 Certifications***

**Section 3 Resident.** Any person seeking Section 3 preference in hiring and training shall complete the Community Development Department’s Section 3 Resident Certification. The individual seeking Section 3 preference shall provide adequate documentation regarding permanent residence and income

**Section 3 Business Concern.** Any business seeking Section 3 preference shall complete the Community Development Department’s Certification for Business Concerns Seeking Section 3 Preference in Contracting. This is a self-certification, and Section 3 business concerns ultimately bear the responsibility of maintaining their Section 3 status and complying with all related HUD regulations.

Certifications for Section 3 preference for business concerns must be submitted to the Community Development Department prior to the submission of bids for review. Business concerns shall provide any additional documentation upon request.

### ***Section 3 Compliance and Monitoring***

The City of Grand Rapids Community Development Department is available to provide technical support to developers, general contractors and subcontractors participating in the development of Section 3 covered projects. The Community Development Department will also maintain a limited database of Certified Section 3 Business Concerns and outreach agencies located in the City of Grand Rapids.

Developers, general contractors and subcontractors are required to retain copies of all outreach attempts, copies of all responses to notices published in the paper and posted publicly, copies of all responses to bid invitations, and any other relevant information. This information shall be provided to the Community Development Department upon request.

The City of Grand Rapids Community Development Department may conduct on-site reviews of the Section 3 covered project to determine whether the developer, general contractor or subcontractor is complying with its approved Section 3 Plan.

In the event the City of Grand Rapids Community Development Department determines that the developer, general contractor or subcontractor is not meeting its employment, training or contracting opportunity goals as set out in the approved Section 3 Plan, the respective party will be provided with a written notice of non-compliance. The notice will require the respective party to meet with Community Development staff to determine if best efforts were used to meet Section 3 requirements, and if further outreach attempts are necessary to meet Section 3 goals.

### ***Definitions***

- **Low-Income Person**— A family (including a single-person household) whose income does not exceed 80% of the Area Median Income, as determined by HUD.
- **Metropolitan Area**—The Grand Rapids-Kentwood Metropolitan Statistical Area, consisting of Kent, Montcalm, Ionia, and Ottawa counties.
- **New Hire**—A person employed for a full-time permanent, temporary or seasonal employment opportunity.
- **Section 3 Business Concern**—Any business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in Section 3 covered activities; **AND:**
  - Is 51% or more owned by Section 3 residents; **OR**
  - Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; **OR**
  - That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in statements referenced above in this definition of “Section 3 Business concern.”
- **Section 3 Contractor** – Any entity that contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.
- **Section 3 Recipient** – An entity that receives Section 3 covered financial assistance directly from HUD or an entity that receives more than \$200,000 in federal housing and community development funding from the City for construction related activities.
- **Section 3 Resident** -- For the purposes of this Plan, a Section 3 resident is an individual who resides in the Grand Rapids-Kentwood Metropolitan Area and whose income do not exceed the area HUD income limits set forth for low- or very low-income households.
- **Section 3 Subcontractor**—Any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

## **Attachment A – 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 agreement/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 agreement/contract agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidenced by execution of this agreement/contract, the parties to this agreement/contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The subrecipient/assisted entity/contractor agrees to send to each labor organization or representative of workers with which the subrecipient/assisted entity/contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the subrecipient/assisted entity/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 applications for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum numbers and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; 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 subrecipient/assisted entity/contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The subrecipient/assisted entity/contractor will not subcontract with any subcontractor where the subrecipient/assisted entity/contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The subrecipient/assisted entity/contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the agreement/contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the subrecipient/assisted entity/contractor’s obligations under 24 CFR Part 135.
- F. Noncompliance with HUD’s regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD funded contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)