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REQUEST FOR PROPOSALS

Construction Management/General Contracting Services
McKenzie River Projects near Blue River, Lane County Oregon.

ISSUE DATE: February 16, 2022

DUE DATE: March 14, 2022

RFP CONTACT: Steve Ochs
Real Estate Development Director
Homes for Good
100 West 13th Ave
Eugene, OR 97401
Phone: 541-682-2530
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DOCUMENT AVAILABILITY: Electronic copy of the RFP and all associated documents will be available on the Homes for Good web site (www.homesforgood.org) beginning February 16, 2022. If the RFP is downloaded from the website, Homes for Good requests that an email indicating interest in the solicitation be sent to the RFP Contact in order to be added to the Prospective Responders List and to receive addenda.

SECTION I: INTRODUCTION

A. Overview

Homes for Good Housing Agency, formerly HACSA, the Housing Authority and Community Services Agency of Lane County (Agency), invites licensed and bonded General Contractors in the State of Oregon to submit their qualifications for Construction Management/General Contractor (CM/GC) services for the pre-construction and construction phases of the Lazy Days Mobile Home Park rebuild and site work necessary to allow for interim housing in Blue River, Oregon on a 5-acre site. See attached **Exhibit A**. Both properties were completely burned in the 2020 Holiday Farm Fire. Due to the urgent nature of rebuilding on these sites, staff expects to expedite this selection process within the parameters of our procurement requirements.

Agency is seeking a CM/GC firm to coordinate and manage the building process as a member of a team, alongside the Owner, Architect, and other project consultants. The CM/GC must be skilled in developing schedules, preparing construction estimates, performing value engineering and constructability reviews, analyzing alternative designs, studying labor conditions, understanding construction methods and techniques, monitoring and documenting costs, and coordinating and communicating with other team members through the design and construction phases. In addition, the CM/GC must be familiar with the local labor and subcontracting market, be capable of working with subcontractors to generate viable pricing alternatives and be familiar with construction of public and essential facilities.

Agency intends to select a single CM/GC for the contemplated work on both projects noted above. To expedite the work, if deemed feasible, the Agency may enter into a separate contract for site preparation prior to the CM/GC contract. The Agency intends to enter into a CM/GC Contract with the selected CM/GC firm that will include **Preconstruction Services** and identification of a **CM/GC Fee and Fixed Costs** for **General Conditions Work**, with provisions for adding **Construction Services** through acceptance of a Guaranteed Maximum Price (GMP) by contract amendment. The amendment would include construction services through completion of the Project.

B. The Projects

Lazy Days (52511 McKenzie River Hwy) – Lazy Days Mobile Home and RV park is a 7.6 acre property located at 52511 McKenzie River Highway approximately 1.5 miles east of the unincorporated town of Blue River. The entire park was destroyed in the Holiday Farm Fire in the fall of 2020 including all buildings and infrastructure. The intent is to rebuild all elements of the site to facilitate the placement of approximately 20 manufactured/modular homes and 10 RVs along with one or two community buildings and open space. This rebuild will include site preparation including stump removal followed by site work which will include the replacement of all utilities, roads and other infrastructure. A draft site plan is attached as **Exhibit B** and is subject to change.

Blue River Drive 5-acre site (51209 Blue River Drive) – Homes for Good also purchased a 5-acre parcel on Blue River. One single-family home on the site was destroyed by the Holiday Farm Fire. Homes for Good intends to, on a temporary basis, provide up to 5 Park Model dwellings on the site. This development will require site preparation, including tree removal, followed by site work to provide temporary pads and driveways, and bringing in of appropriate infrastructure.

Agency intends to use resources from Oregon Housing and Community Services Department (OHCS), Lane County and other financial subsidies necessary to develop the project. Agency must obtain reliable design and cost estimates for project construction. Additionally, design will need to meet OHCS and accessibility requirements, and be continually coordinated with Lane County.

The estimated start of construction will be May or June of 2022. The Architectural Firm, BDA Architecture and Planning, has already started schematic design work. Agency expects the CM/GC selected through this RFP to begin pre-construction services upon funding award notification, which is expected the middle of March 2022.

C. Construction Methodology

Under the CM/CG form of contracting, the CM/GC firm is hired at the beginning of the project to assist with design considerations, administrative coordination, scheduling, budget estimating, constructability review, and value engineering. The CM/GC provides these services, as well as management of the construction, for a negotiated fee. In addition, the CM/GC method provides, during the design process, a guaranteed maximum price (GMP) for the full value of the construction, backed up by a full performance and payment bond. Subject to parameters described within the contract, subcontracted work will be competitively bid by the CM/GC firm, with the oversight of the Agency.

The CM/GC process is being used, in part, for reliable and detailed project cost estimates early in the process. In addition, the CM/GC firm assists in achieving a cost-efficient, energy-efficient and easily maintained project design. The total project cost will be kept within budget through the guaranteed maximum price, for which there is a contractual agreement well before the project goes to construction.

SECTION II: SCOPE OF SERVICES

Agency is seeking a Construction Management/General Contractor (CM/GC) to coordinate and manage the building process as a member of a team with the Owner, Architect and other project consultants. The CM/GC should be skilled in developing schedules, preparing construction estimates, performing value engineering, sequencing of work, and collaborating throughout the design and construction phases. The CM/GC must be familiar with the local labor and sub-contracting market in rural Lane County, be capable of working with sub-contractors to generate viable pricing alternatives, and possess experience in working with public sector construction and public contract laws. The CM/GC must be knowledgeable and experienced in site development, techniques, materials and contractors, and demonstrate experience with site development for modular construction and manufactured home parks.

The CM/GC will serve as general contractor for the project, at-risk. If Agency is successful in obtaining financing for the project, further design development will be carried out and the CM/GC will provide Agency with a not-to-exceed price for the actual construction work (Cost of the Work). The not-to-exceed price for actual construction plus the CM/GC's fee (which is a bid percentage fee x the maximum cost of the work) shall be defined as the Guaranteed Maximum Price (GMP). The Cost of the Work will include a contingency amount as approved by Agency. The GMP shall be within the Agency's construction budget.

The CM/GC will be required to provide insurance and performance and payment bonds equal to 100% of the GMP, from a surety qualified in the State of Oregon. The CM/GC will publicly and competitively bid all the work of the project to subcontractors. The subcontracts will be between the CM/GC and the subcontractors.

The CM/GC will agree to comply with requirements set forth in engaging Minority and Women Owned, and Emerging Small business (MWESB). This will include affirmatively marketing to historically disadvantaged firms and fulfilling all related documentation and reporting requirements (See **Exhibit C**).

The schedule for the project will be guaranteed by the contract between the Agency and the CM/GC. The contract with the CM/GC will contain liquidated damages provisions, in the event of late completion.

The actual cost of the construction plus the contingency, less CM/GC's fee, shall be called the Cost of the Work. By executing a GMP amendment to the contract, the CM/GC guarantees that the Cost of the Work plus the CM/GC fee shall not exceed the GMP. Should the Cost of the Work plus the CM/GC fee be less than the GMP, any such positive difference including any remaining contingency, shall be realized as "savings" to Agency at the end of the project. Although it is the intention of the Agency to save money on the project, if at all possible, the Agency reserves the right to work with the CM/GC and Project Architect to use anticipated savings to build additional components of the project as needed. Within the GMP, the CM/GC shall include all costs, except those specifically excluded, for producing a fully functioning project, to the level of scope defined by the outline specifications produced as part of the GMP negotiation.

The Agency has selected BDA Architects & Planners (BDA) as the Architects for this development. They have begun design schematics for this project. BDA will subcontract with a Design Team. The CM/GC will be consulted in this process. The Architect, through their Design Team, will provide the following basic services: Architecture, Civil Engineering, Landscape Architecture, and Structural Engineering. The Design Team will provide performance specifications for Systems and Engineering required. Needed systems designs and engineers will be provided as a Design/Build service by the CM/GC.

Construction Services for this project will include, but are not limited to, the following:

A. PRE-CONSTRUCTION PHASE (SCHEMATIC DESIGN)

1. Provide preliminary evaluation of the program design concept and project budget requirements. Review schematic design concept to prepare estimate of construction cost. Provide estimate of construction costs in format required by OHCS.
2. Coordinate Design/Build subcontractors work with Design Team to provide schematic designs for their respective trades.
3. Develop a project construction schedule.
4. Advise Agency and Project Architect on site and improvements and methods of project delivery. Provide recommendations on relative feasibility of construction methods, availability of materials and labor, time requirements for procurement, installation and construction.
5. With the Architect and Agency, develop a strategy for obtaining building permits in a timely fashion.
6. Advise the Agency in working through environmental issues and continue consulting with Agency and Architect in refining the project construction budget.

B. PRE-CONSTRUCTION PHASE (DESIGN DEVELOPMENT)

1. Monitor estimate of construction cost based on design documents prepared by the Architect. Review plans and specifications on a continuous basis and advise the Architect and Agency whenever the estimated construction costs are expected to exceed the estimated budget. In a timely fashion, provide the Architect with alternatives that will bring the project cost within budget. Continually update the project cost.
2. Review applicable site plans and make value engineering and constructability recommendations.
3. Update as necessary the construction time schedule so that at the completion of the design development phase, an accurate detailed construction time schedule will be developed.
4. Cooperate fully in the development and execution of a guaranteed maximum price (GMP) for the Cost of Work.
5. Review all design and specification documents for completeness, proper details, and adherence to codes or applicable agency requirements.
6. Assist the Architect in project development, including uniform documentation, uniform material and equipment selection procedures, and economic uniform maintenance criteria.
7. Maintain an accounting system for effective fiscal control, including a detailed cost estimate and a monthly status report with budget recommendations.
8. Attend meetings, as required with the Owner and Design Team members during this phase of the work.

C. PRE-CONSTRUCTION PHASE (CONSTRUCTION DOCUMENT/BIDDING)

1. Continue reporting as described in earlier phases.
2. Advise on the separation of the project into contracts for various categories of work. Make recommendations to provide that (a) the work of the separate contractors is coordinated; (b) all requirements for the project have been assigned to the appropriate separate contract; (c) the likelihood of jurisdictional disputes has been minimized.
3. Refine project construction schedule. Analyze and recommend a schedule for submission of building permit applications and purchase of materials and equipment requiring longer than normal lead time procurement. Expedite and coordinate delivery of these purchases as necessary.
4. Print copies of the Construction Documents and submit all building permit applications and associated documents. Retain copies of permits for Agency's permanent files. The basic Fire and Life Safety Building Permit Fee and any Systems Development Charges will be paid for by Agency. The CM/GC will pay for all other permit fees.
5. Assemble drawings and specifications provided by the Design Team into bid packages, according to the contractual requirements and Owner procedures. Ensure that all bid packages, are within budget. Prepare a final construction estimate for each bid package before it goes to bid. Review and report on all bids against these final estimates. Update total project budget. Develop bidders' interest in the project. Work closely with Homes for Good staff to ensure MWESB outreach is maximized. Establish bidding schedules and issue digital copies of the bidding documents to area plan centers and subcontractor bidders. Advertise the work and provide outreach to potential bidders. Conduct pre-bid conferences if necessary. Receive subcontractor bids and analyze bids.

6. Provide supplementary materials as necessary to aid Agency in securing or finalizing project financing.
7. Attend meetings with the Owner and Design Team members.

D. CONSTRUCTION PHASE

1. Attend regular Owner's meetings to review the progress of the work.
2. Fully coordinate the work of all subcontractors and vendors. Provide regular and on-going quality inspection and assistance to the Architect in ensuring that the work meets all specifications and applicable codes.
3. Submit written progress reports to Agency and maintain project logs for requests for information, submittals, changes to the scope, and identified deficiencies.
4. Review and expedite all change order requests, both included within the GMP and involving a change to the GMP. Provide a detailed cost analysis of all proposed subcontractor costs. Negotiate with subcontractors to bring their costs in line with the CM/GC's estimate. Ensure that all change orders and proceed orders receive the Owner's prior approval before the execution of work and that all costs are either on a lump sum basis or a time and materials (T&M) basis with a not-to-exceed (NTE) limit. No T&M work shall occur without a NTE limit. For work performed on a T&M or unit basis, monitor and ensure that accurate records are maintained.
5. In the event that interpretation of the meaning and intent of the plans and specifications becomes necessary, expedite consultation and resolution with the Architect through an established RFI process and render a recommendation to the Owner.
6. Monitor progress of work and recommend such action as may be necessary to keep project on schedule and budget.
7. Review and make recommendations for all payment requests. Physically inspect the work and materials connected with each payment request.
8. Review all requests for time extension. Work with the subcontractors, Architect and the Owner to find solutions, wherever possible, to avoid delay.
9. As the work progresses, prepare, or have prepared (with CM/GC verification for accuracy and completeness), as-built drawings for permanent retention by the Owner, and for use in production of record drawings by the Architect.
10. Maintain an accounting system for effective fiscal control, including a bi-weekly detailed cost estimate and a monthly status report with budget recommendations.
11. Monitor compliance with payment of prevailing wages on all contracts and subcontracts.
12. Provide all closeout documentation as required by Contract, Supplementary Conditions, and Specifications. The project will not be considered Complete until the Operation and Maintenance Manuals and the Record Drawings have been submitted.
13. Participate in (multiple) warranty inspections at, but not exceeding, one year after substantial completion of all phases of work.

SECTION III: SELECTION PROCESS AND REQUIREMENTS

The intent of this Request for Proposals is to select a single CM/GC to enter into a Contract to provide Construction Manager/General Contractor services as described in the above Scope of Services. Qualified and experienced professionals are invited to submit a proposal in accordance with requirements outlined below:

- A. An electronic copy of the entire proposal must be received by Agency no later than the proposal due date listed in Section V. below. Late proposals will not be accepted. Please minimize file size to allow for electronic submission.

Email proposals to:

Steve Ochs, Real Estate Development Director
sochs@homesforgood.org

Only emailed proposals will be accepted.

- B. All Electronic submittals shall be tabulated in separate sections and labeled to match the requirements of Section IV. All materials shall be in 8.5" x 11" format. Limit submittals to no more than 10 double-sided pages. The page limit does not include front and back covers, section dividers, or items noted for inclusion in an appendix.
- C. Any and all preparation costs incurred by the Proposer in developing proposals, presentations, demonstrations or any other activity in responding to the RFP are the sole responsibility of the Proposer and will not be reimbursed by Agency. The proposal, along with all supporting materials, shall become the property of Agency. All of the information provided is public record and will be provided in conformance with the Agency's public records request policy.
- D. Agency may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the proposals received as a result of this RFP. Also, the determination of the criteria and process whereby proposals are evaluated, the decision as to who shall receive a contract award, or whether or not an award shall ever be made, shall be at the sole and absolute discretion of Agency. Agency may at any time request clarifications and supplemental information from any respondent after receipt of proposals. Additionally, Agency may enter into a contract for all or a portion of the planned developments, at the discretion of Agency.
- E. No Pre-Proposal Conference will be held for selection process. Requests for additional information or clarification should be directed towards Steve Ochs at sochs@homesforgood.org or (541) 682-2530. Please refer to the schedule in Section V. for timing of questions and addendums. Do not contact any other Agency Board Member or staff member, or the property owner or current tenants, to discuss this project in any way during the RFP selection process.

The CM/GC will be selected on the basis of several factors, including, but not limited to: Experience, capacity to perform work, staff qualifications, approach to this specific project, professional record and familiarity with this type of work. Agency will carry out the following process to rate proposals and negotiate an agreement for professional services:

- Written proposals submitted in accordance with this RFP will be evaluated by a committee of Agency staff and/or project consultants.
- The committee will rate the proposals according to the selection criteria outlined below and select top firms. Interviews may be held, if necessary, to make a final selection and recommendation.
- Based on the ratings of the written proposals and interviews, the committee will recommend to the Agency Executive Director a ranked list that meets the qualifications described in this RFP.
- Agency will negotiate a contract, including a fee amount, with the top ranked firm. If an agreement cannot be reached with the top ranked firm, Agency will then negotiate with the second ranked firm. A professional services agreement may be entered into for pre-development services prior to the AIA Standard A133-2019 Contract (or the most recent version of A133).

SECTION IV: SUBMITTAL REQUIREMENTS & EVALUATION CRITERIA

Responses to the following items must be provided following the format described and should be prepared simply and economically. Agency reserves the right to reject all proposals or to request clarification of proposals during analysis, selection, and award proceedings. Brevity is encouraged. The evaluation committee will look favorably upon succinct and direct language.

A. Cover Letter (No Points)

Please include a cover letter that describes your Firm's interest in the project. Include acknowledgement of any addenda received. Letter must be signed by an individual who is authorized to bind the Respondent contractually. The signature must indicate the title or position that the individual holds in the firm.

B. CM/GC Team (20 points)

1. Describe your firm's history. Include information identifying the firm's annual volume of business, financial/bonding capacities, and speak to the firm's stability in the marketplace. Information identifying the firm's strengths and weaknesses along with special capabilities that may be appropriate to this Project will assist in the evaluation. Provide the status for anticipated work within the firm in terms of time and magnitude for the time anticipated for this project, as it relates to availability of key personnel and your firm. Include MWESB certification information if applicable.
2. Identify key individuals from the firm, at the corporate and field levels, that you will be assigned to this Project during pre-construction and construction. Describe their relevant experience, responsibilities, and approximate amount of time each will devote to this project during every phase. Identify their length of employment with your firm and, if less than three years, prior firm employment. Provide references with contact information for each team member's last three projects in a similar role.
3. Indicate if the CM/GC is currently or has, during the last 5 years, been involved in defending, negotiating, mediating, or litigating in court, administrative proceedings, or arbitration any claims or liens relating to or arising from construction or business activities. Provide a brief description of any involvement.

This section will be scored on the overall experience, expertise and qualifications of Company/Firm as related to the services described in this RFP.

C. Relevant Experience (20 points)

Describe the CM/GC's recent experience in providing pre-construction and construction services for manufactured home parks and interim housing within rural counties. Please address the following:

1. Describe your firm's recent experience with projects of similar size, type, and complexity. Please specifically include manufactured/modular home park development if applicable.
2. Describe your firm's experience working in rural Oregon counties.
3. Please provide **contact information** for **references** that can speak to your firm's relevant experience.

This section will be evaluated on the related experience and record of performance with similar housing projects.

D. Local Knowledge (10 points)

Describe CM/GC's prior knowledge and experience with building conditions in Lane County. Reference or provide a list of local projects.

1. Describe your firm's experience with local subcontractors.
2. Describe your firm's experience with local rules and regulations and County staff.
3. Describe other local knowledge and experience that is relevant to this project.

This section will be evaluated based on the firm's ability to show experience and knowledge about the conditions in Lane County, work with local subcontractors as well as local codes and regulations specific to the area and the specific project site.

E. Firm Capacity (10 points)

Describe CM/GC's team's project capacity.

1. Describe your firm's capacity to perform the work as described in this RFP within the desired timeline. Preconstruction services will start immediately. Site preparation work will also start very soon with site development work expected to start this summer. **Site preparation work may occur under a separate contract.*
2. Identify firm's pipeline of projects and each team members capacity for the proposed project.

F. Project Approach (10 points)

Describe the CM/GC's approach to completing the work. Identify the specific project management strategies your firm will use in the administration of this Project, in both the preconstruction and construction phases. Include the following elements:

1. Budget and Schedule Control
2. Approach to early site preparation work and anything specific to
3. Quality Assurance/Quality Control Plan

This section will be evaluated on use of best management practices as related to administration of the proposed project.

G. Diversity, Equity and Inclusion (DEI) (15 Points)

1. Describe your firm's DEI strategies to removing barriers and creating opportunities for populations facing disparities in order to maximize workforce diversity.
2. Describe your firm's plan for maximizing Minority and Women Owned, and Emerging Small Businesses (MWESB) participation and Section 3 participation.
3. Homes for Good is striving for a 20% MWESB contractor/vendor utilization rate on the proposed project. Please describe your firm's MWESB utilization rate on recent projects and if you have worked on projects with preferred MWESB target rates.

This section will be evaluated on firm's commitment to engaging diverse populations particularly those facing disparities. Maximum score will be given to firm's that have formally adopted Diversity, Equity, and Inclusion strategies and MWESB strategies.

H. Proposed Fee and Costs (15 points)

For the purposes of the fee proposal, assume a total construction cost of \$2,500,000 for both projects combined not including general conditions and contingency fees. Assume a 6-month construction duration.

1. Preconstruction Services Fee. Provide your firm's Preconstruction Services Fee as a maximum not-to-exceed amount for this Project, together with hourly rates or other basis of compensation. Cost of this work is to be paid on a cost reimbursement basis up to a stated maximum. This fee should be based on Section II: Scope Services starting on page 3 of this RFP.
2. CM/GC Fee. Provide your firm's CM/GC Fee as a percentage of the Estimated Cost of Work for this Project. Allocate the fee between profit, overhead and other costs, if any.
3. General Conditions Costs. Complete the attached **Appendix A**, General Conditions Cost Worksheet to indicate your firm's proposed costs covering general conditions. For purposes of estimation please assume an on-site supervisor only for Lazy Days, as the proximity to smaller the Blue River project should allow supervision of both. Fill in all lines with dollar estimates if applicable. It is the Owner's intention to use these estimates as a basis for a contractual Fixed Cost for General Conditions Work. Please fill in any additional items you intend to include in General Conditions. The Agency will negotiate this cost based on actual scope of work.
4. Bond Cost. Include the cost of the payment and performance bonds for this project.

Agency reserves the right to negotiate to a lower fee prior to awarding the contract.

This section will be evaluated on overall budget benefit to the Agency.

I. Interview (if necessary) (No points)

Due to timing constraints, it is unlikely that the Agency will conduct interviews. There may be follow up information requested at the Agency's discretion. If it is found necessary, the Agency may conduct interviews with the top ranked Firms. After completing the interviews, the evaluation committee may revise its scores based on the evaluation criteria in Section IV of this RFP. Interviews are not a separate evaluation criterion eligible for points, but the committee may consider the interview when revising its scores.

SECTION V: SCHEDULE

The schedule for this RFP is as follows.

Task	Date
RFP Issue Date	2/16/2022
Deadline for Questions	03/04/2022
Issue Final Addendum (if necessary)	03/8/2022
Proposals Due	03/14/2022
Committee Evaluation	Week of 03/14/2022
Interview (if necessary)	Week of 03/21/2022
Selection of Firm	03/25/2022

All above dates are subject to change at Agency's discretion. Agency intends to expedite selection due to time constraints.

SECTION VI: ADDITIONAL CONTRACT REQUIREMENTS AND PROVISIONS

MWESB/SDVBE-COBID: An Equity and Racial Justice Approach - Participation of Certified Minority Business Enterprises (MBE), Women-owned Business Enterprises (WBE), and Emerging Small Businesses (ESB) - collectively known as Minority, Women and/or Emerging Small Businesses (MWESB) - as well as Service-Disabled Veteran Business Enterprises (SDVBE) is a priority for the Agency and requires outreach to these businesses in all Agency projects, programs and services, when available pursuant to ORS 200.090. Please review **Exhibit C** carefully for updated program requirements from Oregon Housing and Community Services Agency (OHCS).

Section 3: The work performed may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968. Contractor will be notified of Section 3 applicability. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance shall to the greatest extent feasible be directed to low- and very low- income persons. Program requirements were updated in 2020. Frequently Asked Questions (FAQs) (See **Exhibit D**).

Homes for Good is also developing an Economic Equity Plan which may provide additional requirements for contractors prior to entering into final contract. Please contact the point of contact for this RFP for more information.

Proposer agrees to comply with the AIA Form A201 General Conditions of the Contract for Construction, 2017 Edition (or the most recent version of A201), as well the Supplementary Conditions.

Proposer will be required to execute the material terms and conditions of the sample contract, unless it is deemed by the Agency to be in the Agency's best interest to modify the contract. The proposer should satisfy itself that it can fully execute the sample agreement if awarded the contract for the project. Questions or requests for change, if any, should be made according to the process outlined elsewhere in this RFP.

Proposer agrees to maintain accurate fiscal records that conform to generally accepted accounting principles and are in compliance with all District and State public audit and accounting requirements.

Proposer agrees to comply with all applicable Federal, State, District, and local ordinances, statutes, rules and laws governing this project and its financing.

Proposer agrees that it will not sub-contract any part of the contract without the prior written consent of the Agency.

Projects may be funded partially with federal funds. Contractor may be required to comply with the Davis Bacon Act or State Prevailing wage laws. Monitoring of wage rates shall be per the U.S. Department of Labor (DOL) standards.

All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act (ORS Chapter 192), except such portions of the Qualifications Statements for which proposer requests exception from disclosure, and such exception is, in the opinion of Authority counsel, consistent with Oregon Law. All requests for exception shall be in writing, noting specifically which portion of the Qualifications Statement the Proposer requests to be accepted from disclosure and the legal basis for the requested exception. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the Authority as a result of this Request for Qualifications.

SECTION VII: HOMES FOR GOOD APPEALS CONTACT AND PROCESS

- A. Commenting on or Appealing RFP Process. Proposers may comment on or protest any provisions of this Request for Proposals that they believe limit competition, and/or may protest any of its specifications or proposed contract terms. Comments should be emailed to:

Kurt Von der Ehe

kvonderehe@homesforgood.org

- B. Appeal Procedures. Comments must be in writing and received at the Agency office at least seven calendar days before the RFP submission deadline. Comments will be reviewed by the Agency Contract Administrator. If the comments are determined to be valid, an addendum to the RFP will be issued to all applicants. The appeal procedures and limits set forth herein are directory and not mandatory and failure to follow or complete the action in the manner provided shall not invalidate the decision.

The selected firm will be announced by Agency in an email sent to all Proposers. Anyone responding to an RFP who is not recommended for award by the evaluation committee may appeal the recommendation to the Executive Director. Agency's Procurement Policy describes the right of appeal as follows:

1. Any appeal must be made in writing, be received before the contract is awarded by the decision-maker, clearly state the grounds for the appeal, and indicate what condition(s) resulted in the proposal not being recommended for award. Any appeal which does not comply with the applicable procedures may be rejected.
2. Unless otherwise stated in the RFP, the appeal must be received not later than seven calendar days after notice of the evaluation committee's decision was sent. Upon receipt of the appeal, the proposer recommended for award and the evaluation committee shall be notified. The proposer and the committee shall have three calendar days from the date the appeal is filed to respond to the appeal in writing, if they so desire.
3. If an appeal is filed, the department responsible for the RFP shall prepare a written analysis of the appeal and recommend appropriate action to the Executive Director.
4. The grounds for appeal are:
 - a) Different criteria were used to evaluate different proposals.
 - b) The evaluation committee unfairly applied the evaluation criteria to a proposal.
 - c) A member or members of evaluation committee had a relationship with a proposer that represented a conflict of interest.
 - d) The criteria used to evaluate the proposals did not pertain to the services or products requested.
 - e) A member or members of the evaluation committee demonstrated bias toward a proposal or a responder.
5. The Executive Director shall evaluate any appeal before rendering a decision and shall state the conclusions reached and reasons in writing. Any decision to overturn the recommendation shall be based on a finding that one of the criteria above (grounds for appeal) occurred to the substantial prejudice of the appellant.

SECTION VIII: ATTACHMENTS

Appendix A – General Conditions Cost Worksheet

Exhibit A: Vicinity Map

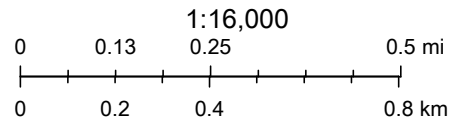
Exhibit B: Preliminary Site Plan Lazy Days

Exhibit C: MWESB Compliance Manual

Exhibit D: Section 3 FAQs

		6 Months	
CSI Category	Allocated Budget	Allocated Budget	Budgeted Cost
DIVISION 1- GENERAL CONDITIONS	1x Cost	Monthly	Total
On-site Supervision	\$	\$	\$
Project Superintendent (On-Site)			
Project Manager (If applicable)			
Assistant Project Manager (If applicable)			
Project Engineer (If applicable)			
Preconstruction Fees			
Clean-up & Misc. Labor	\$	\$	\$
Clean-up & Material Handling			
Deliveries (1 day/wk)			
Staging	\$	\$	\$
Temp Fence			
Field Office			
Field Office Equip & Furnishings			
Fields Office Supplies			
Plan & Shop Drawing Reproduction			
Cleaning (field office)			
Progress Photos			
Job Trailer (+ Furnishings)			
Subsistence			
Tool Containers (2)			
Off-site Parking			
Staging Rental			
Nightwatchman trailer			
Temporary Facilities	\$	\$	\$
Temporary Power (monthly)			
Temporary Heat (7 months)			
Temporary Water (monthly)			
Temporary Phone & Internet (monthly)			
Wireless High Speed Internet (monthly)			
FTP Site (monthly)			
Cell phones			
Electronic Payment Fees			
Security			
Toilet-flushing (1)			
Toilet-standard (2)			
Trash Disposal			
Temp Handrails			
Shipping			

Misc			
Equipment Rental	\$	\$	\$
Forklift			
Scat track			
ASV			
Excavator/Backhoe			
Man-lift/Scissor lift (6 months)			
Dump Trucks			
Misc. Rental Items			
Temp Stairs (?)			
Temp Scaffolding			
Small Tools			
Fuel			
Insurance			\$
General Liability Ins			
Other			\$
Other:			
Other:			
Other:			
TOTAL PROPOSED GC COST			\$



CONCEPTUAL SITE LAYOUT

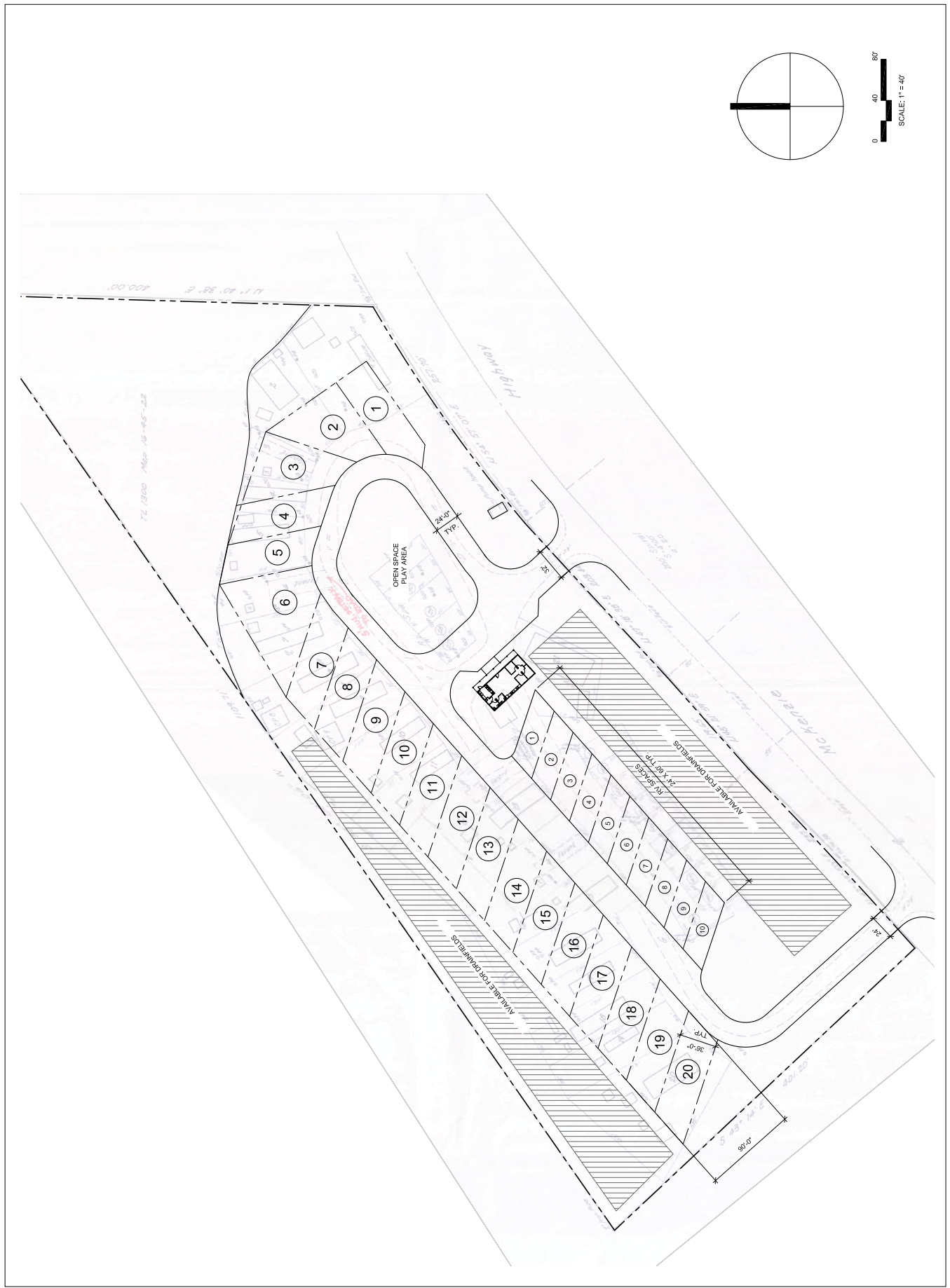
date 12/22/2021
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LAZY DAYS MANUFACTURED HOME PARK
RECONSTRUCTION
52511 MCKENZIE HWY.
BLUE RIVER, OREGON
HOMES FOR GOOD

Revision Summary	
Revision Number	Date

REGISTERED PROFESSIONAL ARCHITECT
 STATE OF OREGON
 NO. 10000
 BDA ARCHITECTURE AND PLANNING, PC
 1369 9TH STREET
 EUGENE, OR 97401
 541.883.8661

BDA
 Architecture and Planning, PC
 1369 9th Street
 Eugene, OR 97401
 541.883.8661





OREGON HOUSING *and*
COMMUNITY SERVICES

725 SUMMER STREET NE, SUITE B | SALEM, OR 97301
503-986-2000 | www.oregon.gov/OHCS

Oregon Housing and Community Services
Rental Housing Division
Minority, Women-owned, Emerging Small
Business and Service-Disabled Veteran Business
Enterprises collectively known as
MWESB/SDVBE Compliance Manual

October 2021

Oregon Housing and Community Services Department

Affordable Rental Housing Division

MWESB/SDVBE-COBID Compliance Manual

An Equity and Racial Justice Approach

Oregon Housing and Community Services (OHCS) has embarked on an agency wide effort to embed concepts, practices, and policies to help advance equity and racial justice in the field of affordable housing.

The Affordable Rental Housing Division (ARHD) at OHCS is charged with the implementation of state and federal funding programs and the distribution of financial resources to build and or preserve affordable housing in the state. With that charge ARHD and its various sections play an important role for the implementation of the agency's commitments for equity and racial justice from the perspective of a funder and affordable housing compliance regulatory agency.

It has been known that the housing and construction industry employs, from design to lease up and management, a wide spectrum of size trade and business sectors. However, the participation of Certified Minority Business Enterprises (MBE), Women-owned Business Enterprises (WBE), and Emerging Small Businesses (ESB) - collectively known as Minority, Women and or Emerging Small Businesses (MWESB/SDVBE) - as well as Service-Disabled Veteran Business Enterprises (SDVBE); is small and their share of the financial investments in housing is small in comparison to the size of the investment.

Underlying this under representation are the limited and often cumbersome requirements by other systems to prepare, encourage and facilitate that more minority women and veteran owned enterprises get a share of the financial activities of the construction industry. Furthermore, while some of these systems of economic incentives are in place, they do not reach or are unable to break the veil of distrust that women, business owners from communities of color or veterans have in public systems that hinder their participation in construction and in the affordable housing industry.

Diversity, Equity, and Inclusion (DEI) and Certification Office for Business Inclusion and Diversity (COBID) are mechanisms and opportunities to help increase the economic participation of minority, women and veteran-owned enterprises in the development and construction of affordable housing

It is the goal of this manual that minority, women-owned and service-disabled veteran business enterprises have equal access to business opportunities resulting from OHCS-financed developments. The desired outcome is to see a greater economic participation and share of financial resources for COBID certified firms. The Manual implementation and approach are established from a wider and interrelated ecosystem of opportunities, access, and engagement.



The Oregon Housing and Community Services (OHCS) does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.

An equal opportunity employer

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Chapter 1 – Introduction

1.01 Manual Summary

It is the Manual of Oregon Housing and Community Services (OHCS) that Certification Office for Business Inclusion and Diversity (COBID) Certified firms in the process of certification have equal access to business opportunities resulting from OHCS financed developments. This Manual addresses marketing and outreach requirements for OHCS financed developments.

OHCS MWESB Engagement Manual through December 2023

- All Applicants, applying for development financing utilizing OHCS funds or Tax Credits, will be required to identify a plan, from an equity and racial justice perspective, outlining efforts to contact and contract with COBID and **Non-COBID** certified contractors and subcontractors, notifying the enterprises of the bidding opportunities in the construction and operation of the proposed Project
- COBID firm engagement plan will be submitted at time of application
- MWESB firm engagement efforts should include contractors, sub-contractors, engineering, architectural firms, planning consultants, legal assistance, and management agents.
- Awardees will be required to submit a report to OHCS, demonstrating outcomes of MWESB firm bidding opportunity efforts, contracting and sub-contracting efforts
- Non-COBID Certified firms can be listed as a qualified MWESB firm but are encouraged to complete its certification with the COBID office by the end of construction.
- Applicants will be required to provide a profile of the general contractor and management agent including history of addressing diversity, equity and inclusion, summary of marketing efforts, culturally relevant publications, and organizations, and efforts addressing racial and equity goals utilized in bidding opportunities
- Applicants will list all non-COBID MWESB firms utilized in the OHCS funded project
- Applicants will utilize any and all firms identifying as MWESB firms and include professional MWESB firms (Brokers, Architects, Engineering, Marketing..) in their MBE contract awards.
- If applicant utilizes MWESB General Contractor (GC), GC will include its profits (from proforma) in the MBE contract award section.

1.02 Applicability

OHCS financed developments trigger the COBID/ MWESB/SDVBE firm marketing and outreach applicant requirements and performance goals described in this Manual. Financing includes the following state and federal programs: Low Income Housing Tax Credits (LIHTC), Housing General Housing Account Program (GHAP), Local Innovation Fast-track (LIFT), Permanent Supportive Housing (PSH), Oregon Affordable Housing Tax Credits (OAHTC), Preservation Funds, Manufactured Park Preservation, Agriculture Workforce Housing Tax Credits (AWHTC), HOME Investment Partnerships, and National Housing Trust Fund (HTF).

1.03 Statutory and Regulatory Authorities

The COBID/ MWESB/SDVBE Certified firm marketing, outreach, and participation in the construction of OHCS affordable housing aligns with similar state and federal requirements and processes to eliminate bias and barriers for businesses owned by COBID/ MWESB/SDVBE firms to provide the state with goods and services.

Specific Program Regulations:

- Home Investment Partnerships. 24 CFR §92.350 directs participating jurisdictions including Oregon Housing and Community Services to establish and oversee minority outreach programs within the jurisdiction to ensure the inclusion of minorities and women and entities owned by minorities and

women, in all contracts entered into by the participating jurisdiction § 92.508(a)(7)(ii) jurisdiction requires documentation and record keeping of efforts taken to implement an outreach program, the amount of contracts and documentation.

- National Housing Trust Fund. 24 CFR §93.407(a)(5)(ii) requires records demonstrating compliance with 2 CFR §200.321 regarding grantees' s activities related to MBE/WBE/SDVBE

1.04 Responsibilities

Oregon Housing and Community Services (OHCS)

- Notify the owner/developer at the approval of funding, of the COBID/MWESB/SDVBE firm participation goals and objectives along with where to find this Manual on the OHCS's website: <https://www.oregon.gov/ohcs/development/Pages/mwesb-sdvbe-rental-housing.aspx>.
- Provide this Manual and all appendices to the owner/developer at application (see appendix B)
- Monitor performance of owner/developer with respect to COBID/MWESB and OHCS requirements

Owner/Developer

- Provide this Manual and all appendices to the prospective contractors before bidding, contractor will acknowledge receipt of Manual by signing document (see appendix B)
- Identify Owners MWESB/SDVBE COBID firm participation level goal for project
- Outline the steps the construction team will take to achieve the owner's goals for participation by COBID/ MWESB/SDVBE subcontractors and suppliers
- Provide summary of general contractor's profile and team member demographics
- Provide details of general contractor's history of addressing MWESB/SDVBE sub-contractor diversity, equity, and inclusion in affordable rental housing projects
- List summary of marketing strategies listing of any culturally based marketing publications or organizations utilized for COBID/ MWESB/SDVBE firm bidding outreach
- Describe the subcontractor's outreach efforts for Non-COBID/ MWESB/SDVBE certified contractors utilized for bid submissions, if any.
- Developer will list all non-COBID/ MWESB/SDVBE firms utilized in project
- List any opportunities of partnerships for sub-tier contracts by teaming up with smaller contracting firms with larger firms in a mentor/protégé relationship
- Utilize OHCS's reporting Matrix and submit quarterly (see appendix C)
- Utilize OHCS's reporting Matrix and submit at construction completion or Final Application (see appendix C)

Chapter 2 – Requirements

2.01 Participation Goals

OHCS encourages participants seek COBID and non-COBID MWESB/SDVBE professional firms to increase the participation level of minority owned businesses in its construction project to meet OHCS’ MWESB/SDVBE goal for each region. Total MWESB participation will be determined utilizing construction cost (including Broker, Architect, Engineering, Attorney...). General contractor and the developer can utilize and include non-COBID/ MWESB/SDVBE firms in their MWESB reporting provided that the MWESB/SDVBE firm listed will be encouraged and assisted to become a COBID certified firm prior to construction completion of project.

OHCS also encourages the utilization of local labor and partnering with the community to help build healthy, affordable homes which addresses OHCS’ goal of increasing apprenticeship programs in Oregon and improve economic and social vitality while increasing pathways out of poverty.

Applications will be scored on their approach to MWESB/SDVBE engagement and contracting and how well this implements the OHCS MWESB policy. OHCS MWESB/SDVBE Manual and reports can be located at: <https://www.oregon.gov/ohcs/development/Pages/mwesb-sdvbe-rental-housing.aspx>

Regional Groups	Regions	MWESB Goal
Metro Oregon	1	30%
Rural Oregon	2, 3	20%
Rural Oregon	4, 5	20%

* **Regions 1** include Clackamas, Columbia, Multnomah, Washington, and Yamhill

* **Regions 2 & 3** include Clatsop Tillamook, Yamhill, Polk, Marion, Lincoln, Benton, Linn, Lane, Coos, Douglas, Curry, Josephine, Jackson

** **Regions 4 & 5** include Wasco, Sherman, Gillam, Jefferson, Wheeler, Crook, Deschutes, Klamath, Lake, Morrow, Umatilla, Union, Wallowa, Grant, Baker, Harney and Malheur

For Region 1, a 30 percent certified firm goal of total construction costs for projects funded by OHCS resources is established based on availability. OHCS will align the basics of its MWESB/SDVBE strategy with the Metro framework with additional requirements the Housing Stability Council may direct.

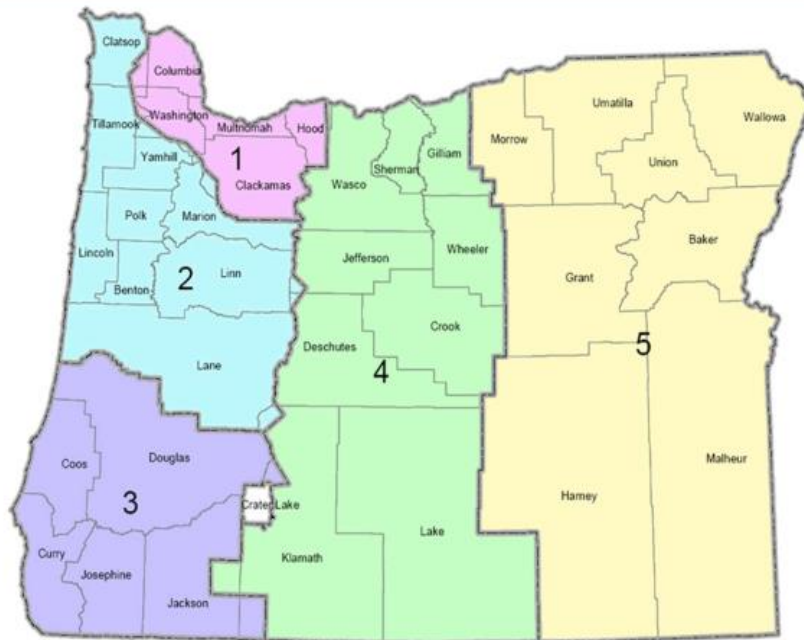
For Regions 2 -5 a minimum of 20 per cent local economic development utilization for contractors and workforce for the first year to establish a data baseline. OHCS understands the challenges and differences in demographics, certified firms and availability of resources for rural Oregon. OHCS will seek a stakeholder participation and input to establish long-term goals and requirements, with separate tracks for COBID contracting and for workforce/apprenticeship.

The required MWESB/SDVBE plan in the Application [NOFA] will be evaluated on track record and experience, history of contracting COBID firms and/or women and minority owned businesses (outreach, marketing, engagement), how the plan matches with project location (metro/urban and rural), representation of COBID firms on core development team, and any supporting information for the proposed OHCS regional goal and participation rate.

OHCS will review project by project their established goals and participation rates. Each project should establish their MWESB/SDVBE goals based on the hard and soft construction costs to include construction, professional and operational costs factored by availability. Availability is understood as the total dollar value of scopes of work that are or would be available to any MWESB/SDVBE firms, and small businesses.

Applicants receiving OHCS funding will be required to submit quarterly reports demonstrating outcomes of their efforts to contract with MWESB/SDVBE and COBID contractors/subcontractors using the state COBID registry, and submit a final report outlining the Applicant’s efforts in meeting their target goals in their final application

Regions



Participation Goals	Regions	Goal
Metro Oregon	1	30%
Non-Metro	2, 3	20%
Rural Oregon	4,5	20%

2.02 Affirmatively Marketing to MWESB/SDVBE Firms

Developers/owners and contractors should maintain evidence of efforts made to demonstrate proof of the MWESB/SDVBE outreach. Efforts to include COBID must allow sufficient time to effectively participate in the bidding and/or application process. Good faith efforts to achieve success may be demonstrated by providing documentation detailing outreach plans an activity, including affirmative steps defined in federal regulations at 2 CFR 200.321:

1. Requiring the prime contractor, seek out participation with MWESB/SDVBE firms
2. Placing qualified COBID firms on solicitation lists.
3. Using the services and assistance, as appropriate, of the COBID, Business Oregon, Professional Business Development Group (PBDG), Office of Veterans Business Development, Oregon Association of Minority Entrepreneurs, Native American Business Network, Network of Entrepreneurial Women and Women Entrepreneurs of Southern Oregon.
4. Ensuring that small and minority businesses are solicited whenever they are potential sources.
5. When possible, dividing total requirements, when they are economically feasible, into smaller tasks or quantities to permit maximum participation by COBID firms
6. Establishing delivery schedules, where the requirement permits, that encourage participation by MWESB/SDVBE firms

Chapter 3 – Performance and Compliance and Report

3.01 Compliance Summary

To demonstrate compliance with OHCS's MWESB/SDVBE firm affirmative marketing requirements, developers and project sponsors must identify jobs and indicate those bids by minority-owned; women-owned using OHCS's MWESB Matrix Report. For projects with federal funds, the owner/developer/contractors must complete the HOME program HUD Form 40107 for the state to complete its Consolidated Annual Performance and Evaluation Report (CAPER), and HOME Annual Performance Reports. OHCS may request additional documentation, if necessary, to ensure compliance with this obligation.

3.02 Compliance Timeline

Project Selection

- OHCS will notify owner/developer at time of reservation

Initial Introduction Call

- OHCS will discuss and provide this Manual and all appendices to owner/developer via email or in person at time of call or meeting
- Owner/developer certifies (by signing certification attached) that they will comply with laws prohibiting discrimination in employment.

Reporting

- Owner/developer and contractor will record name, address, and bid information and results of bid for all MWESB/SDVBE firms and submit to OHCS via MWESB Matrix
- Owner/developer and general contractor will record name and COBID # (if applicable) in OHCS MWESB Matrix
- Owner/developer and general contractor will record name, address, and bid information of any non-COBID MWESB/SDVBE firms bidding on project and submit to OHCS via MWESB Matrix
- OHCS will review and record compliance with applicable goals

At start of construction

- Owner/developer and general contractor will continue (if necessary) to solicit bids as required through construction completion
- Owner/developer and general contractor will report new bids (if any) and contracts through construction completion
- OHCS will continue to monitor MWESB participation until construction completion

Quarterly Reporting (calendar quarter)

- Submit MWESB quarterly report
- OHCS will continue to monitor MWESB participation and discuss any changes to MWESB/SDVBE sub-contractors with developer

Upon completion of construction

- Owner/developer and general contractor must update the OHCS COBID firm participation and submit final report reflecting the COBID and Non-COBID MWESB/SDVBES participation level in the OHCS funded development

3.03 OHCS MWESB Report Submission Timeline

Below is a timeline for submission of OHCS MWESB Equity reports for all OHCS funded projects.

Reports:

- Initial MWESB Equity report (application)
- Housing Stability Council Report

- MWESB Equity quarterly report
- Final MWESB Equity Report (Final application)

Timelines:

All OHCS funded projects (including LIHTC) currently under construction (construction close prior to January 2021)

- Require Final MWESB Equity Report at Final Application

2021 and future NOFA's, 4% and 9% LIHTC projects

- First calendar quarter-end after construction close, Initial MWESB Equity report
- Quarterly, at calendar quarter-end, MWESB Equity quarterly report
- Construction completion/Final Application, Final MWESB Equity Report

New 4% & Conduit Bonds

- * Tier 2 requirement at application, Housing Stability Council Report (HSC)
- * Quarterly, at calendar quarter-end, MWESB Equity quarterly report
- * Final Application Final MWESB Report

Chapter – 4 - Penalties

4.01 Penalty

Failure to strictly comply with the requirements set forth in the Oregon Housing and Community Services COBID Compliance Manual section **1.04. Owner/Developer responsibilities**; Manual may result in reduction or limitation of MWESB points awarded to sponsor/owner in future OHCS NOFA applications.

1.04. Owner/Developer responsibilities.

Owner/Developer

- Provide this Manual and all appendices to the prospective contractors before bidding, contractor will acknowledge receipt of Manual by signing document (see appendix B)
- Identify Owners MWESB/SDVBE COBID Certified firm participation level goal for project
- Outline the steps the construction team will take to achieve the owner's goals for participation by COBID Certified subcontractors and suppliers
- Provide summary of general contractor's profile and team member demographics
- Provide details of general contractor's history of addressing MWESB/SDVBE sub-contractor diversity, equity, and inclusion in affordable rental housing projects
- List summary of marketing strategies listing of any culturally based marketing publications or organizations utilized for COBID Certified firm bidding outreach
- Describe the subcontractor's outreach efforts for Non-COBID MWESB/SDVBE certified contractors utilized for bid submissions, if any.
- Developer will list all Non-COBID MWESB/SDVBE firms utilized in the OHCS funded project
- List any opportunities of partnerships for sub-tier contracts by teaming up with smaller contracting firms with larger firms in a mentor/protégé relationship
- Utilize OHCS's reporting Matrix and submit quarterly (see appendix C)
- Utilize OHCS's reporting Matrix and submit at construction completion or Final Application (see appendix C)

Appendix A – Terms

COBID	Certification Office for Business Inclusion and Diversity
Contractor/Subcontractor	An entity that contracts to perform work in conjunction with the project or work generated by expenditure of Oregon Housing and Community Services deferred multifamily financing .
Minority	An entity Persons who are of the following racial or ethnic groups: American Indian or Alaskan Native, Asian, Black /African American, Native Hawaiian or other Pacific Islander, Hispanic or Latino.
Minority Business Enterprise	An MBE is a business that is both owned and controlled by minorities. This means that there must not be less than 51 percent minority ownership of the business and the minority ownership must control the management and daily operations of the business.
Women Business Enterprise	An MBE is a business that is both owned and controlled by women. This means that there must not be less than 51 percent women ownership of the business and the women ownership must control the management and daily operation of the business
SDVBE	A Service-Disabled Veteran Business Enterprise, is a Veteran-Owned Small Business that is at least 51 percent owned by a veteran with a service-related disability as defined by the Department of Veteran’s Affairs.

MWESB Acknowledgment and Certification - LIFT

Owner/Developer/Sponsor

Owner/Developer has been supplied with a copy of and has read the Oregon Housing and Community Services Multifamily MWESB Compliance Manual and fully understands and acknowledges the obligation and commitment to reaching the required MWESB participation percentage in all of OHCS funded projects including **LIFT Homeownership funded projects**. Using MWESB professional services (I.E., architect, engineer, site reports, etc) are recommended to help achieve your MWESB goals. Goals are outlined for the region and county this project is located below.

<https://www.oregon.gov/ohcs/development/Documents/admin/MWESB/OHCS-MWESB-Compliance-Manual.pdf>

Regional Groups	Regions	MWESB Goal
*Metro Oregon	1	30%
**Rural Oregon	2, 3	20%
***Rural Oregon	4, 5	20%

* **Regions 1** include Clackamas, Columbia, Multnomah, Washington, and Yamhill

** **Regions 2 & 3** include Clatsop Tillamook, Yamhill, Polk, Marion, Lincoln, Benton, Linn, Lane, Coos, Douglas, Curry, Josephine, Jackson

*** **Regions 4 & 5** include Wasco, Sherman, Gillam, Jefferson, Wheeler, Crook, Deschutes, Klamath, Lake, Morrow, Umatilla, Union, Wallowa, Grant, Baker, Harney and Malheur

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For Regions 2 -5 a minimum of 20 per cent local economic development utilization for contractors and workforce for the first year to establish a data baseline. OHCS understands the challenges and differences in demographics, certified firms and availability of resources for rural Oregon. OHCS will seek a stakeholder participation and input to establish long-term goals and requirements, with separate tracks for COBID contracting and for workforce/apprenticeship.

Name:

Title:

Company:

Signature

MWESB Acknowledgment and Certification

Owner/Developer/Sponsor

Owner/Developer has been supplied with a copy of and has read the Oregon Housing and Community Services Multifamily MWESB Compliance Manual and fully understands and acknowledges the obligation and commitment to reaching the required MWESB participation percentage in all of OHCS funded projects including non-competitive 4% conduit Bond projects. Using MWESB professional services (I.E., architect, engineer, site reports, etc) are recommended to help achieve your MWESB goals. Goals are outlined for the region and county this project is located below.

<https://www.oregon.gov/ohcs/development/Documents/admin/MWESB/OHCS-MWESB-Compliance-Manual.pdf>

Regional Groups	Regions	MWESB Goal
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Name:

Title:

Company:

Signature:

Appendix C

GC MWESB Equity Matrix

OHCS seeks to record and report the participation level of COBID firms utilized in its Affordable Rental Housing funded projects. MWESB Equity Matrix: The MWESB Equity Matrix is designed to record and track MBE participation in OHCS Multifamily Affordable Housing projects.

The **GC MWESB Equity Matrix** consists of 5 Tabs (including instruction tab)

Tab 1. COBID Outreach Summary, this tab details the Contractors own demographics, history of DEI efforts with COBID and BIPOC firms, Contractors Cultural outreach, and bidding outreach efforts

Tab 2. Trade by Ethnicity tracks the ethnicity of professionals, contractor, and sub-contractors employees.

Tab 3. Tracks the total award by MBE sub-categories, made to COBID registered professionals, contractor, and sub-contractors.

Tab 4. Diversity Grid, Auto fill, reports percentage of funds awarded to subcontractors

FREQUENTLY ASKED QUESTIONS

for

SECTION 3

Published: March 25, 2021

The following is a guidance document published by the Department of Housing and Urban Development Office of Field Policy and Management for the purpose of providing answers to frequently asked questions about Section 3 of the HUD Act of 1968 (12 U.S.C § 1701u) and its associated regulations (24 C.F.R. Part 75). This document is intended to provide guidance for Section 3 funding recipients, subrecipients, contractors, subcontractors, workers, and other stakeholders.

This guidance document covers questions in several topic areas and is divided into parts that contain questions on that part's topic.

I. GENERAL QUESTIONS REGARDING SECTION 3:

1. What is Section 3?
2. What Do “Best Efforts” and “to the Greatest Extent Feasible” Mean?
3. What Does “Section 3 Worker” Mean?
4. What Does “Targeted Section 3 Worker” Mean?
5. What Does “Section 3 Business Concern” mean?
6. How are low-income and very low-income determined?
7. What is YouthBuild?
8. As a funding recipient, what are my Section 3 reporting goals?
9. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?
10. What is a Section 3 project?
11. Who is considered a recipient of Section 3 funding?
12. What are funding thresholds and how do they apply to Section 3 covered financial assistance?
13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?
14. Can a non-profit organization be considered a business concern for the purposes of Section 3?
15. What is a “Service Area” or “Neighborhood of the project”?
16. What if my agency does not meet all benchmark goals for employment or contracting?
17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?

II. APPLICABILITY:

1. What HUD assistance does Section 3 apply to?
2. Do the requirements of Section 3 apply to grantees on a per project basis?
3. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?
4. What recordkeeping responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?
5. Do the Section 3 requirements apply to material only contracts?
6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?
7. Are maintenance projects covered by Section 3?

Section 3 Frequently Asked Questions

8. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?
9. Are demolition projects covered by the requirements of Section 3?
10. Are professional service contracts required to be reported under Section 3?
11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?
12. Does Section 3 apply to labor hours by a Public Housing Authority?

III. CONSISTENCY WITH OTHER LAWS:

1. Are recipients required to comply with Federal/state/local laws in addition to Section 3
2. What is the relationship between Section 3 and Davis Bacon requirements?
3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?

IV. RECIPIENT RESPONSIBILITIES:

1. What are the responsibilities of recipient agencies under Section 3?
2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?
3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?
4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?
5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?
6. What are good strategies for targeting Section 3 workers and businesses?
7. Are funds provided to recipients so that they can comply with the requirements of Section 3?
8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?
9. Are recipients, developers, and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?
10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?
11. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

V. SECTION 3 CERTIFICATION:

1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?
2. What documentation must be maintained by HUD recipients, contractors and subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?
3. What are examples of acceptable evidence to determine eligibility as a Section 3 worker?
4. What are examples of acceptable evidence for determining eligibility as a Section 3 business concern?
5. Are all public housing residents considered Section 3 workers regardless of their income?
6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?
7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?
8. Does a business have to be incorporated to be considered a Section 3 eligible business?

VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:

1. How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?
2. How can I find Section 3 business concerns in my area?
3. Do the benchmark requirements only count toward new hires?
4. Should PHA's report on staff hours?
5. What category of PHA Staff should be included?
6. Are recipient agencies required to meet the Section 3 benchmarks, or are they optional?
7. Will there be changes to the benchmark requirements?
8. What is considered "other" public construction?
9. What is the meaning of the safe harbor determination?

VII. SECTION 3 COMPLAINTS:

1. How should complaints be made?
2. Where else can I file complaints alleging denied employment and contracting opportunities?

I. GENERAL QUESTIONS REGARDING SECTION 3:

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

2. What Do "Best Efforts" and "to the Greatest Extent Feasible" Mean?

"Best efforts" and "greatest extent feasible" are statutory terms, used in the statute in different contexts. As such, HUD uses both terms to track compliance, and there are many ways to interpret the language. Traditionally, HUD has used the terms interchangeably, as referenced in the statute, and will continue to be consistent with the statutory language. *See* 12 U.S.C. 1701u(b)-(d). These terms are integral to the statutory intent and provide flexibility, rather than administrative burden, to grantees or recipients of HUD funding.

HUD acknowledges that some perceive "best efforts" to be the more rigorous standard, while others perceive "greatest extent feasible" to be the more rigorous standard. HUD has determined not to define the difference between these two terms but rather to increase the emphasis on outcomes as a result of these efforts. A recipient's reported results will be compared to the outcome metrics defined in the benchmark notice. HUD program staff will evaluate the level of effort expended by those recipients that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. HUD included a list of examples in the regulation at 24 CFR §§ 75.15 and 75.25, including engagement in outreach efforts to generate job applicants who are Targeted Section 3

workers, providing training or apprenticeship opportunities, and providing technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

3. What Does “Section 3 Worker” Mean?

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 (see Question 6 of this part I of these FAQs, below);
2. The worker is employed by a Section 3 business concern (see Question 5 of part I, below); or
3. The worker is a YouthBuild participant.

4. What Does “Targeted Section 3 Worker” Mean?

A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who:

- (1) is employed by a Section 3 business concern; or
- (2) 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.

A Section 3 targeted worker for Housing and Community Development Financial Assistance projects is a Section 3 worker who:

- (1) is employed by a Section 3 business concern; or
- (2) 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 24 CFR § 75.5; or
 - (ii) A YouthBuild participant.

5. What Does “Section 3 Business Concern” mean?

A Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six-month period:

1. 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. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

6. How are low-income and very low-income determined?

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from:

<https://www.huduser.gov/portal/datasets/il.html>.

7. What is YouthBuild?

YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.

YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the required construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

The Division of Youth Services within the Employment and Training Administration's Office of Workforce Investment at the U.S. Department of Labor administers the YouthBuild program. Each year, more than 6,000 youth participate in approximately 210 YouthBuild programs in more than 40 states. More information can be found here: <https://www.dol.gov/agencies/eta/youth/youthbuild>.

8. As a funding recipient, what are my Section 3 reporting goals?

Your Section 3 reporting goals depend on the type of assistance you are receiving, whether public housing financial assistance or housing and community development financial assistance.

For public housing financial assistance, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. This means that the *5 percent* is included as part of the *25 percent* threshold.

For housing and community development financial assistance projects, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the *5 percent* is included as part of the *25 percent* threshold.

9. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The standards provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD

funding to direct employment, training, and contracting opportunities to low-income individuals, and the businesses that employ these persons within their community regardless of race and/or gender.

Minority Business Enterprise (MBE) means a business enterprise that is at least 51% owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Women's Business Enterprise (WBE) is an independent business concern that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S. or its territories; and whose management and daily operation is controlled by a woman with industry expertise.

Section 3 standards are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business concern outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs and other socially and economically disadvantaged businesses.

To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: https://www.hud.gov/program_offices/sdb.

10. What is a Section 3 project?

Section 3 projects are 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/or the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). (See Question 12 of this part I of these FAQs for more detail regarding Lead Hazard Control and Healthy Homes programs.)

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. The requirements of Part 75 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.

11. Who is considered a recipient of Section 3 funding?

A recipient is 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. It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 worker.

12. What are funding thresholds and how do they apply to Section 3 covered financial assistance?

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for public housing programs. The requirements of Section 3 apply to all programs receiving public housing financial assistance regardless of the amount of assistance received from HUD. Section 3 also applies to 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.

Section 3 projects are 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 (Lead Hazard Control and Healthy Homes (LHCHH) assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold).

The threshold is \$100,000 when 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, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LHCHH programs require Section 3 compliance if there is over \$100,000 of LHCHH funding for the project (neither HUD public housing financial assistance nor HUD housing and community development financial assistance is included in calculating whether the assistance exceeds the \$100,000 threshold). Recipients of LHCHH funding will also be required to comply with Section 3 regulations and report on the entirety of the project when the total amount of HUD housing and community development financial assistance to the project exceeds \$200,000 (LHCHH funding is not included in calculating whether the total assistance exceeds the \$200,000 threshold), or if any public housing financial assistance is provided.

13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?

For public housing financial assistance, Public Housing Authorities (PHAs), regardless of size or number of public housing units, are required to comply with Section 3 and its reporting requirements. However, small PHAs (fewer than 250 units) are permitted to report qualitatively as permitted under 24 CFR § 75.15(d). Some examples of those qualitative efforts are listed in the answer to Question 15.

As previously stated, Section 3 also applies to projects with more than \$200,000 in funding from housing and community development financial assistance programs. The following is a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Housing Trust Fund (HTF)
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Emergency Solutions Grants (ESG)
- University Partnership Grants

- Economic Stimulus Funds
- 202/811 Grants
- Lead Hazard Control Grants (\$100,000 threshold; see Question 12, above, in this part I of these FAQs)
- Healthy Homes Production Grants (\$100,000 threshold; see Question 12, above, in this part I)
- Rental Assistance Demonstration (RAD) (see most recent RAD Notice, found through HUD’s RAD website, www.hud.gov/rad/)

*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact Section3@hud.gov to determine applicability to a particular project/activity.

14. Can a non-profit organization be considered a business concern for the purposes of Section 3?

Yes. A non-profit organization can be a business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR § 75.5 in order to receive Section 3 preference. See response to Question 5 above.

15. What is a “Service Area” or “Neighborhood of the project”?

“Service area” or the “neighborhood of the project” means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

16. What if my agency does not meet all benchmark goals for employment or contracting?

If reporting indicates that the agency has not met the Section 3 benchmarks, the agency must report in a method prescribed by HUD program offices on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b).

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- 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.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?

Yes. Recipients will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they meet all benchmark goals and certify compliance with prioritization requirements found in 24 CFR § 75.9 or §75.19. However, if subsequent HUD enforcement activities reveal that the recipient has failed to comply with the recipient responsibilities set forth at 24 CFR §75.13 or §75.23, this compliance determination may be rescinded.

II. APPLICABILITY:

1. What HUD assistance does Section 3 apply to?

Section 3 applies to both:

a) Public Housing Financial Assistance –

- (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 subsections (i) through (iii).

b) Housing and Community Development Financial Assistance expended for housing rehabilitation, housing construction, or other public construction. See Question #2 below for applicability thresholds.

2. Do the requirements of Section 3 apply to grantees on a per project basis?

Yes, for housing and community development financial assistance projects. Section 3 projects are 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. See Question 12 of part I of these FAQs.

Section 3 applies to all public housing financial assistance funds, regardless of the amount of assistance from HUD.

3. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3 if the amount of HUD funding for the project exceeds the regulatory thresholds (listed in Section I, Question #11).

For RAD projects, Section 3 applies regardless of what money is used to pay for repairs. Per the RAD Notice, “While most RAD conversions do not utilize funding covered by Section 3, HUD has established the alternative requirement that any Work required by the conversion after the RAD Closing that involves housing rehabilitation or housing construction is subject to the Section 3 requirements applicable to housing and community development activities as set forth in 12 U.S.C. 1701u(c)(2) and (d)(2) and the regulations derived from such provisions except that, with the exception of transactions receiving HUD housing and community development assistance, such as CDBG (24 CFR part 570) or HOME (24 CFR part 92), first priority for employment and other economic

opportunities shall be given to residents of public housing or Section 8 assisted housing. Otherwise, the receipt of Section 8 rental assistance does not, in itself, trigger the applicability of Section 3.”

4. What recordkeeping responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. Examples of documentation can be found in 24 CFR §75.31.

5. Do the Section 3 requirements apply to material only contracts?

No. Section 3 does not apply to material only contracts or those that do not require any labor. For example, a contract for office or janitorial supplies would not be covered by Section 3. In this example, Section 3 would be encouraged but not required. However, a contract to replace windows that includes the removal of existing windows and the installation of new windows would be covered due to the involvement of labor.

6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?

No. Section 8 project-based voucher or project-based rental assistance housing assistance payment contracts, are not covered by the statute, including properties converted through the Rental Assistance Demonstration (RAD).

7. Are maintenance projects covered by Section 3?

Yes, but only for PIH funded programs administered by Public Housing Authorities.

8. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?

No, reduction and abatement of lead-based paint hazards focuses on mitigating lead paint hazards only, not conducting general rehabilitation activities.

9. Are demolition projects covered by the requirements of Section 3?

Yes. Recipients of assistance covered by Section 3 should, where feasible, comply with Section 3 benchmarks.

10. Are professional service contracts required to be reported under Section 3?

No, professional service contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported as a part of total Section 3 labor hours. However, this exclusion does not cover all non-construction services.

However, professional services staff labor hours are permitted to be reported and PHAs will be given credit for reporting opportunities created for professional services by including professional services labor hours in the numerator, and not in the denominator, of the reported outcome ratios. The reporting structure in the rule allows a recipient to count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.

11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD grant to perform housing construction, rehabilitation, or other public construction and the total HUD assistance to the project exceeds \$200,000, then Section 3 applies to the project.

12. Does Section 3 apply to labor hours by a Public Housing Authority?

Yes. Section 3 applies to all Public Housing capital, operating, or development funds.

III. CONSISTENCY WITH OTHER LAWS:

1. Are recipients required to comply with Federal/state/local laws in addition to Section 3?

Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, recipients of Section 3-covered assistance are required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations.

2. What is the relationship between Section 3 and Davis Bacon requirements?

Compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under the Davis-Bacon Act (40 U.S.C. 3141 et seq.) and implementing U.S. Department of Labor regulations in 29 CFR Part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public housing projects are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. (24 CFR § 965.101).

3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?

After the Section 3 new rule went into effect on November 30, 2020, Tribes and Tribally Designated Housing Entities under the Indian Housing Block Grant and Indian Community Development Block Grant programs are no longer required comply with Section 3 requirements.

The new rule at 24 CFR part 75 provides that 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 24 CFR Part 75.

IV. RECIPIENT RESPONSIBILITIES:

1. What are the responsibilities of recipient agencies under Section 3?

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75. These responsibilities include but are not limited to the following:

Designing and implementing procedures to comply with the requirements of Section 3: Recipient agencies must take an *active role* in ensuring Section 3 compliance. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, **comply with Section 3 and maintain records verifying that compliance.**

Facilitating the training and employment of Section 3 workers: The recipient agency must act as a facilitator, connecting Section 3 workers to training and employment opportunities.

Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity-building training.

Ensuring Contractor and Subcontractor Awareness of and Compliance with Section 3 Benchmarks and responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.

Ensuring Compliance and Meeting Numerical Benchmarks: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.

Reporting Requirements: **Recipient agencies must document all actions taken to comply with the requirements of Section 3 and report these activities either through the Section 3 Performance Evaluation and Registration System (SPEARS), for Public Housing financial assistance, or any reporting system designated by program areas overseeing other funding.**

2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?

On and after November 30, 2020, Section 3 regulations codified at 24 CFR Part 135 (the old rule) have not applied and will not apply to new grants, commitments, contracts, or projects. Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020 are still required to adhere to the requirements of the old rule. Recipients of such assistance or funds will still be expected to maintain records of Section 3 statutory, regulatory, and contractual compliance but will no longer be required to report Section 3 compliance to HUD in SPEARS.

HUD does not require funding recipients to change or alter contracts that were in place prior to the new Section 3 requirements becoming effective on November 30, 2020.

3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?

Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021 are subject to the new Section 3 regulations found in 24 CFR part 75, and HUD expects that funding recipients will begin following this final rule's requirements for new grants, commitments, and contracts. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 for these projects but will not be required to report to HUD on the requirements found in 24 CFR part 75.

During the transition period between November 30, 2020 and July 1, 2021, recipients are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, funding recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, recipients continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons and businesses that provide economic opportunities to low- and very low-income persons.

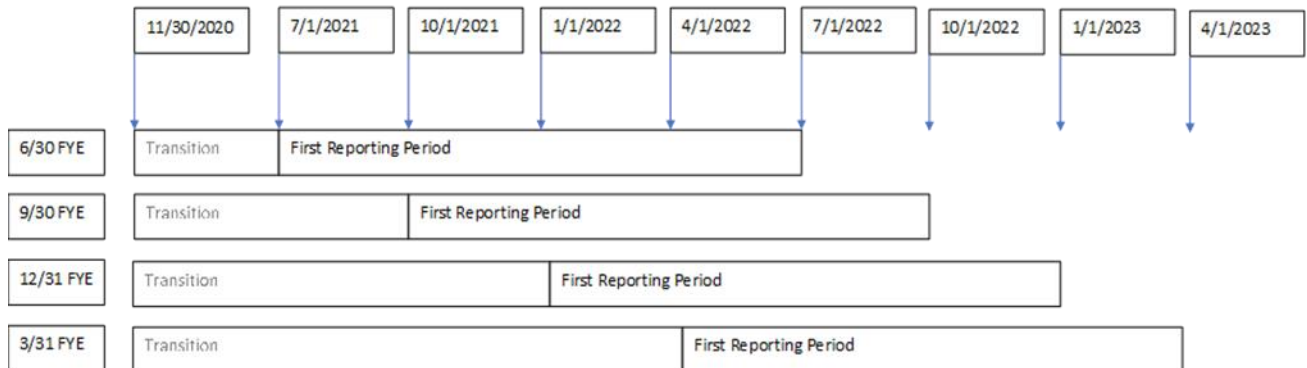
Recipients and employers should use this time to update policies and procedures for tracking labor hours and other requirements to ensure compliance with the new rules for projects for which funds are committed on or after July 1, 2021.

4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?

As of November 30, 2020, PHAs' requirement to report their Section 3 activities and efforts starts 60 days after the end of their first fiscal year that begins after July 1, 2021. Please see the charts below for examples of PHA reporting schedules:

Fiscal Year End	New Reporting Period Begins	New Reporting Period Ends
6/30/21	7/1/21	6/30/22
9/30/21	10/1/21	9/30/22
12/31/21	1/1/22	12/13/22
3/31/22	4/1/22	3/31/23

Section 3 Transition



5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?

All recipients of public housing financial assistance are required to follow the new Section 3 regulations found in 24 CFR part 75 beginning on November 30, 2020, and HUD expects that funding recipients and employers will begin following this final rule's requirements for new grants, commitments, and contracts on and after this date. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 but will not be required to report in SPEARS on the requirements found in 24 CFR part 75 until the recipient's first full fiscal year after July 1, 2021, as indicated in Question #4 above.

During the transition period between November 30, 2020 and a PHA or other recipient's required reporting start date, employers and grantees are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, PHAs and other recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, PHA's continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons, tenants of public and assisted housing, and businesses that provide economic opportunities to low- and very low-income persons.

6. What are good strategies for targeting Section 3 workers and businesses?

In order to successfully target Section 3 workers and businesses for employment and contracting opportunities, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3 coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities is instrumental in reaching Section 3's employment and contracting goals.

It is recommended that recipient agencies establish procedures to certify Section 3 workers and Section 3 business concerns for employment and contracting opportunities. Thereafter, they should maintain a list of eligible workers and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 regulations at 24 CFR § 75.15(b) and § 75.25(b) for a listing of qualitative efforts.

7. Are funds provided to recipients so that they can comply with the requirements of Section 3?

No. Funding has not been appropriated for Section 3 compliance. Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities.

8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals and Section 3 business concerns must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

9. Are recipients, developers, and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?

Recipients, developers, and contractors are required, to the greatest extent feasible, to direct employment opportunities to low- and very low-income persons, including seasonal and temporary employment opportunities. Benchmark goals include the calculation of all Section 3 worker and Targeted Section 3 Worker labor hours as a percentage of all labor hours worked on a project.

Recipients, developers, and contractors are encouraged to provide long-term employment to ensure that they meet the benchmark goals.

10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?

A Small Public Housing Agency (less than 250 units) may elect to not report on labor hours. If the agency does elect not to report on labor hours, it is required to report solely on qualitative efforts as permitted in 24 CFR § 75.15(d).

11. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

No. Recipients are not required to request contractors to make payments into a fund.

V. SECTION 3 CERTIFICATION:

1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer from which they are seeking employment or contracting opportunities (e.g., the PHA, city, or local government). They should identify themselves as a Section 3 worker, Targeted Section 3 worker, or Section 3 business concern and provide whatever documentation that the recipient agency requires under their certification procedures. Prospective Section 3 workers and business concerns may self-certify that they meet the requirements as defined in the regulations. HUD recipients, contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns.

2. What documentation must be maintained by HUD recipients, subrecipients, contractors, and/or subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?

There are many ways that a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR part 75:

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:

For Public Housing Financial Assistance projects:

- (i) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (ii) 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;
- (iii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iv) A worker's certification that the worker is a YouthBuild participant.

For Housing and Community Development Financial Assistance projects:

- (i) 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;
- (ii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iii) A worker's self-certification that the worker is a YouthBuild participant.

The documentation 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 § 200.334, Retention Requirements for Records (www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200_1334), which provides for retaining records for at least three years, as described in detail in that regulation..

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.

3. What are examples of acceptable evidence to determine eligibility as a Section 3 worker?

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing project; or
- Evidence of participation in the YouthBuild program.

4. What are examples of acceptable evidence for determining eligibility as a Section 3 business concern?

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

1. 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. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

5. Are all public housing residents considered Section 3 workers regardless of their income?

No. To qualify as a Section 3 Worker, an individual must meet one of the following criteria:

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.

6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal and state procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?

It depends. Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria as a Section 3 business concern set forth in the regulation can be counted towards the Section 3 labor hour calculation.

8. Does a business have to be incorporated to be considered a Section 3 eligible business?

No. A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership, or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration.

VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:

1. How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?

To find local recipients' agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: www.hud.gov/localoffices.

2. How can I find Section 3 business concerns in my area?

Contact local recipient agencies to find Section 3 business concerns in your area. Section 3 business concerns that have registered in the Section 3 Business Registry are also available at: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>.

3. Do the benchmark requirements only count toward new hires?

No, the rule does not apply to only new hires, but if someone is currently on staff and qualifies as a Section 3 resident under 24 CFR part 135, they will need to re-certify as either a Section 3 worker or Targeted Section 3 worker under 24 CFR part 75.

4. Should PHA's report on staff hours?

Yes, but not all PHA staff qualify as Section 3 workers. Only PHA staff that meet the definition of a Section 3 worker or Targeted Section 3 worker would qualify to be counted toward total Section 3 or Targeted Section 3 labor hours. Once a PHA determines that a Section 3 worker or Targeted Section 3 worker is hired or currently employed, the PHA would just report those hours as the numerator over the total labor hours funded with public housing financial assistance as the denominator.

5. What category of PHA Staff should be included?

Both salaried and hourly workers need to be reported. There is a limited good faith assessment exception for PHAs and other recipient employers of hourly and salaried workers that are not subject to requirements specifying time and attendance reporting and do not have systems already in place to track labor hours. This exception is to address employers that do not already track labor hours without making changes in time and attendance or payroll.

6. Are recipient agencies required to meet the Section 3 benchmarks, or are they optional?

The Section 3 benchmarks are minimum targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make best efforts, or to the greatest extent feasible, to achieve the benchmarks required for the number of labor hours performed by both Section 3 workers and Targeted Section 3 workers. If an agency fails to fully meet the Section 3 benchmarks, they must adequately document the efforts taken to meet the numerical goals (see Question #9 for a discussion of safe harbor.)

7. Will there be changes to the benchmark requirements?

The Secretary of Housing and Urban Development is required in the Benchmark Notice published in the Federal Register to review and update the Benchmarks by Federal Register notice no less frequently than once every three years.

8. What is considered "other" public construction?

Other public construction includes infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, and installing conduits for utility services.

9. What is the meaning of the safe harbor determination?

Recipients will be considered to have complied with the Section 3 requirements and met the safe harbor, in the absence of evidence to the contrary, if they certify that they have followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

If a recipient agency or contractor does not meet the benchmark requirements but can provide evidence that they have made a number of qualitative efforts to assist low- and very low-income persons with employment and training opportunities, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

VII. SECTION 3 COMPLAINTS:

1. How should complaints be made?

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. These offices can be found through the HUD website, www.hud.gov/.

2. Where else can I file complaints alleging denied employment and contracting opportunities?

You may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about your rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.