

## **SECTION 3 CONTRACTING**

### **POLICY AND PROCEDURE**

## INTRODUCTION

**It is the mission of the Housing Authority to provide a variety of safe, sanitary, accessible, decent and affordable housing to eligible citizens of the City of St. Petersburg, while enhancing and promoting resident self-sufficiency.**

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (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 individuals, especially recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income individuals. (Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u).

Section 3 requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by public housing assistance covered by Section 3, regardless of the amount of the contract or subcontract. Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3-business concern. (Refer to What Is A Section 3 Business Concern?). The Section 3 business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8).

Contractors who do not qualify as Section 3 business concerns, but who enter into contracts with the Housing Authority of the City of St. Petersburg, must agree to comply with certain general conditions (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. Included in these conditions is the requirement that each contractor and subcontractor submit with each pay request a report of Section 3 compliance (refer to Section 3 Compliance Report). Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts (refer to Sanctions for Contractor's Noncompliance).

Please direct any questions you may have regarding this information to:  
St. Petersburg Housing Authority (727) 323-3171 X222

## WHAT IS A SECTION 3 BUSINESS CONCERN?

**A Section 3 Business Concern is a business concern, as defined in this section--**

1. That is fifty-one percent (51%) or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items 1 or 2 above.

**NOTE:** A BUSINESS CONCERN SEEKING TO QUALIFY FOR SECTION 3 SHALL CERTIFY AND SUBMIT EVIDENCE THAT THE BUSINESS MEETS ONE OF THE GUIDELINES STATED ABOVE. (REFER TO CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY FORM – EXHIBIT 1)

## **WHO IS A SECTION 3 RESIDENT?**

**For purposes of the Housing Authority of the City of St. Petersburg, a Section 3 resident is:**

1. A public housing resident;
2. An individual who lives within the City of St. Petersburg, and whose income falls within the guidelines for low- or very low-income.

## **ORDER OF PROVIDING PREFERENCE SECTION 3 BUSINESS CONCERN**

When considering the award of contracts and more than one Section 3 business concern is being considered, to the greatest extent possible, awards shall be made in the following order of priority:

1. A Section 3 business concern that is fifty-one percent (51%) or more owned by resident(s) of the public housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) of the residents of the public housing development in which the work is directed:
2. A Section 3 business that is majority owned by resident(s) of other developments owned by The Housing Authority of the City of St. Petersburg, but not the housing development in which the work is directed, or whose full-time, permanent employees include at least thirty percent (30%) residents of other developments owned by The Housing Authority of the City of St. Petersburg, but not the housing development in which the work is directed;
3. HUD Youthbuild programs that are being carried out in the City of St. Petersburg, or in the development in which the Section 3 covered assistance is expended.
4. A Section 3 business concern that is majority owned by a Section 3 resident who is not a public housing resident or whose permanent, full-time workforce includes no less than thirty percent (30%) Section 3 residents who are not public housing residents, or that subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to Section 3 business concerns.

**Note: A Section 3 business concern seeking any of the above preferences shall submit evidence that it meets the guidelines of that preference.**

## WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

The Housing Authority will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the Housing Authority's satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all businesses must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, names of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order of priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

## **ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT**

When considering the employment of a Section 3 resident, the following order of priority is followed as outlined in 24CFR135.32:

- 1. Category 1 – Section 3 Resident**  
Residents of the housing development or developments in which the contract shall be expended.
- 2. Category 2 – Section 3 Resident**  
Residents of other housing developments managed by the Housing Authority of the City of St. Petersburg
- 3. Category 3 – Section 3 Resident**  
Participants in a HUD Youthbuild program.
- 4. Category 4 – Section 3 Resident**  
All other residents (including Section 8 recipients) of the City of St. Petersburg who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

## SECTION 3 INCOME LIMITS

All residents of public housing developments of The Housing Authority of the City of St. Petersburg qualify as Section 3 residents. Additionally, individuals residing in the City of St. Petersburg and who meet the income limits set forth below, can also qualify for Section 3 status.

| <b>Number In Household</b> | <b>Very Low Income</b> | <b>Low Income</b> |
|----------------------------|------------------------|-------------------|
| 1 individual               | \$ 20,700              | \$33,150          |
| 2 individuals              | \$23,700               | \$37,900          |
| 3 individuals              | \$26,650               | \$42,600          |
| 4 individuals              | \$29,600               | \$47,350          |
| 5 individuals              | \$31,950               | \$51,150          |
| 6 individuals              | \$34,350               | \$54,950          |
| 7 individuals              | \$36,700               | \$58,700          |
| 8 individuals              | \$39,050               | \$62,500          |



## SECTION 3 CLAUSE

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u Section 3. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and, the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled 1) after the contractor is selected but before the contract is executed, and 2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).