



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
Business Services Bureau

HUD SECTION 3 COMPLIANCE GUIDELINES

REVISED December 18, 2017

Policy

Notwithstanding anything contained in federal law, the Contractor (throughout this checklist, reference to "Contractor" shall mean prime contractor and shall include "Developer" as applicable) and its subcontractors shall comply with Section 3 hiring requirements (24 CFR Part 135) and shall:

1. Contract with Section 3 businesses for a minimum of ten percent (10%) of the total dollar amount of all building trades work at the subject project site.
2. Contract with at least Section 3 businesses for a minimum of three percent (3%) of the total dollar amount of all other Section 3 covered contracts.
3. Hire Section 3 residents for a minimum of thirty percent (30%) of total hours, above the existing Core Workforce.

The City is committed to working with the Contractor to successfully achieve Section 3 requirements.

Definitions

► **Existing Core Workforce:** The core workforce is composed of those employees whose names appeared on the Contractor's active payroll for fifty (50) of the one hundred (100) working days prior to award of the project to the Contractor; and who possess any license required by state or federal law for work; and who have the ability to safely perform the basic functions of the applicable trade.

► **Section 3 Coordinator:** Representative(s) of the City available to assist the Contractor and any subcontractor(s) meet the Section 3 goals described above.

► **Section 3 Business:** A business that is fifty-one percent (51%) or more owned by a Section 3 resident; **or** whose permanent, full-time employees include a minimum of thirty percent (30%) current Section 3 residents or workers who were Section 3 residents within three (3) years of the date of their first employment with the business.

► **Section 3 Resident:** A low-income individual whose household income does not exceed eighty percent (80%) of the area median income for the Los Angeles County-Long Beach area and who resides in the City of Long Beach or Signal Hill or an individual who lives in public housing. **For Section 3 business certification, expands to Long Beach-LA-Santa Ana Metropolitan Statistical Area (Attachment A, "HUD Income Limits," provides guidelines).**

Section 3 Business Enterprises – Compliance Requirements

Prior to bid opening, the Section 3 Coordinator will provide the Contractor/Vendor with the direction to meet the **10% subcontracting goal of all construction contracts** and **3% subcontracting goal of the total dollar amount for non-construction related** Section 3 covered contracts **Section 3 Subcontracting Requirement**.

Prior to bid opening, the Contractor shall do the following:

Contract with Section 3 businesses for a minimum of 10% of all construction contracts and construction related contracts. Contract with Section 3 businesses for **3% of the total dollar amount for non-construction related** Section 3 covered contracts.

The Contractor who fails to meet the contracting requirement must demonstrate that it utilized its best efforts to contract with Section 3 businesses for a minimum of ten percent (10%) of the total dollar amount of all building trades work at the project site.

1. **Advertise** subcontracting opportunities **at least 14 calendar days prior to the bid/proposal due date** and provide documentation that confirms the date the advertisement was placed.

Four (4) advertisements are required to document best efforts which include at least one agency per category listed below:

1. Business Assistance Agencies, Minority Contractors Associations and/or Community Organizations
2. Publications that advertise opportunities for to obtain assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
3. Agencies administering HUD Youthbuild programs, Long Beach Chamber of Commerce or local chambers of commerce
4. Trade association papers/newsletters, local media, such as community television networks, newspapers of general circulation, and/or radio advertising.

Publishing Sources for HUD Section 3 Contracting Opportunities can be found on the City's website at the following web address:

<http://longbeach.gov/finance/business-info/compliance/hud-section-3-program/>

2. Provide **written notice** of such opportunities **to all known Section 3 businesses** who can provide the services in which you are proposing/bidding. This notice **shall be sent fourteen (14) calendar days prior to bid opening/proposal due date** time to allow the Section 3

businesses to respond to the bid invitation. The Section 3 Business List can be found on the City's website at the following web address: <http://www.longbeach.gov/finance/business-info/compliance/hud-section-3-program/>

4. **Follow up** on all non-responsive solicitations of Section 3 businesses and provide additional information about the contracting opportunity.

Required documentation to accompany bid/proposal documents listed below:

1. **Best Effort Cover Sheet**

2. The Contractor must demonstrate best efforts by detailing all efforts made on a contact log similar to **Attachment I** and affixing documents to the log that support such efforts (e.g., proof of mailing, fax transmittal sheets, e-mails, etc.), and advertising in local media. The contact log must at a minimum include the following:

- ▶ **Company called**
- ▶ **Contact information (telephone or fax number, e-mail address)**
- ▶ **Contact person**
- ▶ **Time**
- ▶ **Date**
- ▶ **Results of the conversation**

2. All contact with these businesses must be documented by providing a contact log (**Attachment I**) or a list of businesses contacted via fax, mail or e-mail. If a contact log is used it must include the information noted in **Attachment I**. If other lists are used, they should at a minimum include company name, address, contact person (if available), date contacted via fax, mail or e-mail, and result of contact.

3. **An executed HUD Section 3 Affidavit (Attachment B)**. This document is to be submitted with the Prime Contractor's bid. Must be completed by all subcontractors prior to issuance of Notice to Proceed.

4. Submit a Business Information Form (**Attachment J**) for the **Prime Contractor and all listed subcontractors** with the Prime's Bid. If not available with Bid Documents, each form must be received by the City by 10:00 a.m. of the next working day. **This requirement must be met whether or not the Section 3 Contracting Requirement is met.** The Section 3 Coordinator will use this form to determine if the subcontractor qualifies as a Section 3 business enterprise.

5. **Signed copy of the Section 3 Guidelines** agreeing to adhere to the City of Long Beach Housing and Urban Development (HUD) Section 3 Policy and Checklist as stated herein

Section 3 Workforce – Compliance Requirements

During construction, the Contractor shall do the following:

1. **The Contractor shall hire Section 3 residents for a minimum of thirty percent (30%) of total hours, above the existing Core Workforce.** If the Contractor fails to meet this hiring requirement, the Contractor shall be subject to penalties outlined in Effects of Noncompliance on page 8. To avoid imposition of such penalties, the Contractor must demonstrate that it utilized its best efforts to hire Section 3 residents for a **minimum of thirty percent (30%) of total hours, above the existing Core Workforce.** The Contractor may demonstrate best efforts by detailing all efforts made on a contact log similar to **Attachment I** and affixing documents to the log that support such efforts (e.g., proof of mailing, fax transmittal sheets, e-mails, etc.).
2. The Contractor shall submit the following documentation to the City's Section 3 Coordinator at a date and time to be specified:
 - **An executed HUD Section 3 Compliance Certificate (Attachment C).** This document is to be submitted prior to issuance of notice to proceed and becomes a part of the Contractor's contract with the City and required for each subcontractor. Must be completed by all contractors prior to the issuance of Notice to Proceed.
 - A list of the **Existing Core Workforce** for the prime contractor and each listed subcontractor (**Attachment D**). Must be submitted prior to the issuance of Notice to Proceed.
 - A **Project Employee Survey Form (Attachment E)** for each new employee for the prime contractor and each listed subcontractor. The list shall include the employee's name, address, occupation, and date of hire. This form will be used to determine if the employee is or qualifies as a Section 3 resident, or in situations of subcontractors, whether they qualify as a Section 3 business.
 - An **Employment Forecast Form (Attachment F)** identifying the trades that will be used, numbers of workers needed, and forecasted number of hours for each trade. This form must be submitted even if no new hires are anticipated. (This is a mandatory monthly submittal.)

In addition to submitting the documentation listed above, during construction of the project, the Contractor shall do the following:

1. If applicable, work with local unions and agencies administering HUD Youthbuild programs to request hiring priority for journeymen and

apprentices who are Long Beach and Signal Hill residents. The Contractor shall provide priority to Long Beach and Signal Hill residents for all hiring opportunities so as to ensure that a minimum of thirty percent (30%) of all new hires are Long Beach or Signal Hill residents. A sample letter is provided in these Section 3 documents.

2. Use the Request for Craft Employees Form (**Attachment L**) or Worker Requisition Form (**Attachment M**), as applicable, to notify the local Workforce Development Office, non-profit entities, and community-based organizations of available employment opportunities at the project site. As new construction employees are needed by the Contractor or subcontractor, the following should be followed:
 - a. **Union Contractors:** Contractors are required to submit a letter (**Attachment K**) and the Request for Craft Employees Form (**Attachment L**) to their respective unions notifying them of the Contractor's Section 3 obligations when requesting workers.
 - b. **Non-Union Contractors:** Non-Union contractors are required to use the Worker Requisition Form (**Attachment M**) and submit same to the City's Workforce Development Bureau when requesting new workers.
3. Post public notices announcing **HUD Section 3 Job and Contracting/Business Opportunities (Attachment H)**. The Contractor shall post these notices at the jobsite.
4. With each monthly application for payment, the Contractor shall provide to the Section 3 Coordinator or designee, by the fifteenth (15th) calendar day of the following month, Contractor and subcontractor documentation to confirm compliance with Section 3 requirements. These documents shall include, but not be limited to:
 - a. Certified Payrolls
 - b. **Monthly Section 3 Hiring Report (Attachment G)** for the Contractor and each subcontractor showing employee name, employer, date hired and occupation
 - c. **Construction Jobs Survey Form (Attachment E)** for all new hires
 - d. **Monthly Forecasting Form (Attachment F)**
5. Submit other such documentation that the City may require to demonstrate the Contractor's/subcontractor's compliance with Section 3 requirements, such as follow up contact logs for Section 3 applicant inquiries.

During construction of the project, the Contractor shall provide all required information to the Section 3 Coordinator or designee who will do the following:

1. Coordinate with the City's workforce development bureau and other community organizations that provide workforce opportunities and training.
2. Provide to the Contractor all documents and responses from Section 3 applicants for the purpose of having the Contractor follow up and respond to such inquiries. Such follow-up must be documented with a contact log similar to **Attachment I** or by providing a list of follow-ups contacted via fax, mail or e-mail. Fax, mailing lists and/or e-mail distributions should contain the applicant's name, fax number, mailing address or e-mail address, and the date faxing, mailing or e-mailing occurred.

Section 3 Workforce and Business Enterprises – Effects of Noncompliance

The City is committed to working with the Contractor to meet the hiring and contracting requirements. **In this regard, the Contractor shall include the Section 3 Coordinator in all meetings related to complying with the hiring and subcontracting goals.** Failure to meet these goals or to assist in the documentation of the Contractor's best efforts to meet these goals, shall result in a penalty equal to ten percent (10%) of each subsequent progress payment application beyond any normal retention until the deficiency is corrected. Upon remediation of the deficiency, the penalty amount will be released to the Contractor. In the event that the Contractor fails to provide required documentation regarding both the thirty percent (30%) hiring and ten percent (10%) subcontracting goals, the maximum penalty that may be assessed is ten percent (10%) of each subsequent progress pay application.

Note: In the event a subcontractor fails to furnish the required documentation to the Contractor, the Contractor at its discretion shall withhold a penalty equal to ten percent (10%) of each payment application from that subcontractor. Upon remediation of the deficiency, the Contractor shall release the penalty amount to the subcontractor. The maximum penalty that may be assessed against a subcontractor is ten percent (10%) of each subsequent pay application.

24 CFR part 135
§ 135.38 Section 3 clause

§ 135.38 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; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be

directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

HUD Section 3 Contract/Business Opportunity and Workforce Development Compliance Personnel List

	Contracting/ Business	Employment Opportunities
Contact	HUD Section 3 Coordinator	Sal Barajas Pacific Gateway Coordinator
Phone	(562) 570-6200	(562) 570-3651
Address	City Hall 333 W. Ocean Blvd, 7th floor Long Beach, CA 90802	Pacific Gateway Network 3447 Atlantic Avenue Long Beach, CA 90806
Email	lbpurchasing@longbeach.gov	Salvador.barajas@pacific-gateway.org
Fax	(562) 570-5099	(562) 570-4551

For additional outreach efforts, please refer to page 17 of the Section 3 Attachments entitled 'HUD Appendix to Part 135 (Attachment N).

I, the undersigned

(Officer or authorized agent of company—Print Name)

Signature's Title

agree to adhere to the City of Long Beach Housing and Urban Development (HUD) Section 3 Policy and Checklist as stated herein.

Signature

Date