



## SECTION 3 POLICY

Approval and Adoption: February 24, 2012

This policy is developed for Florence Housing Authority (hereafter referred to as the Authority) for its exclusive use as a recipients of HUD certain financial assistance such as public housing Operations, Modernization and Development funds. This policy shall be binding upon all contracting.

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## **BACKGROUND ON THE SECTION 3 REGULATION**

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, is to “ensure that employment and other economic opportunities generated by certain HUD financial funding shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed toward low and very low-income persons, particularly those who are recipients of government funding for housing, and to Business Concerns which provide economic opportunities to low- and very low-income persons.”

Consistent with 24CFR Part 135, as a recipient of HUD funding, Florence Housing Authority requires fulfillment of Section 3 obligations on all contracts that make use of that assistance. These policies are implemented regardless of the contract amount or whether it is designated as housing construction, housing rehabilitation, lead based paint abatement or other public construction project. The Authority works to ensure the provision of employment, training, contracting, and other economic opportunities to its residents and other low income persons. In doing so, the Authority utilizes Section 3 as a means of promoting stability and self-sufficiency to Section 3 Residents. Implementation procedures may be amended periodically by the Authority to insure that the policy requirements are being met and/or to enhance the efficiencies of compliance.

### **I. APPLICABILITY**

Section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Section 3 requirements apply to all projects and activities funded whole or in part with covered funds and the entire project budget is then a subject to Section 3.

### **II. DEFINITIONS**

Please refer to the 24 CFR 135.5 for a full list of prevailing definitions found in the regulation.

**NEW HIRES:** full-time employees for permanent, temporary or seasonal employment opportunities for any specific Authority related contract.

**RESIDENT OWNED BUSINESS (ROB):** A ROB is a Business Concern owned or controlled by Public Housing Residents, or low income Residents of the City of Florence Residents that are: (a) at least 51% owned and operated by one or more public housing residents; and (b) whose management and daily business operations are controlled by one or more such individuals. For purposes of Section 3 compliance, a ROB must also meet the definition of a Section 3 Business Concern as described below.

**EMPLOYMENT OPPORTUNITIES GENERATED BY SECTION 3 COVERED ASSISTANCE:** All employment opportunities generated by the expenditure of Section 3 covered funding (i.e.

operating funding, development funding, and modernization funding) and with respect to Section 3 covered housing and community development funding, all employment opportunities arising in connection with Section 3 covered projects, including management and administrative jobs (including architectural, engineering, or related professional services and jobs directly related to administrative support of these activities) connected with the Section 3 covered project.

**RECIPIENT:** Any recipient which receives Section 3 covered funding, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such recipient, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include Section 3 contractors.

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

**SECTION 3 BUSINESS CONCERN:** As defined by HUD, a Section 3 Business Concern is one:

- A. That is Fifty-one (51%) percent or more owned by Section 3 Residents; or
- B. Whose permanent, full-time employees includes persons, at least 30 percent of whom are current Section 3 Residents, or were Section 3 Residents within three (3) years of the date of first employment with the Business Concern if the contractor is working on a redeveloped or replacement asset; or
- C. That provides evidence of a commitment to subcontract a minimum of 25 percent of the total contract award amount (including any modifications) to Section 3 Business Concern s as defined in A or B. Example: If the Contract Amount is = \$1,000,000, contractor must subcontract at least 25% or \$250,000 to Section 3 Business Concern (s) as defined in A or B in this part.

**SECTION 3 CLAUSE:** The contract provisions and sanction set forth in 24 CFR 135.38

**SECTION 3 COVERED ACTIVITY:** Any activity that is funded by Section 3 covered funding.

**SECTION 3 COVERED ASSISTANCE:** Section 3 applies to the following HUD assistance (section 3 covered assistance):

- (1) Public and Indian housing assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:
  - (i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);
  - (ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and
  - (iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

**SECTION 3 COVERED CONTRACT:** A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered funding or for work arising in connection with a Section 3 Covered Project. “Section 3 Covered Contracts” do not include contracts for the purchase of supplies and materials except, whenever a contract for materials includes the installation of the materials, the contract constitutes a “Section 3 Covered Contract”.

**SECTION 3 COVERED PROJECT:** The construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development funding.

**SECTION 3 JOINT VENTURE:** An association of Business Concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the Business Concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:

- Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
- Performs at least 25% of the work and is contractually entitled to compensation proportional to its work.

**LOW INCOME PERSON:** Families (including single persons) whose incomes do not exceed 80% of the median income for the project area.

**VERY LOW INCOME PERSON:** Families (including single persons) whose incomes do not exceed 50% of the median family income for the project area.

Please refer to [www.huduser.org/portal/datasets/il.html](http://www.huduser.org/portal/datasets/il.html) for current, local Income Limit information.

- ❖ Select current year.
- ❖ Select “Access Individual Income Limit area”
- ❖ Select “click here for FY XXXX IL Documentation” (where XXXX is the current fiscal year)
- ❖ Select State & County

### **III. GOALS OF THE SECTION 3 REGULATION**

The Authority’s Section 3 protocol seeks to aid Section 3 residents to the greatest extent feasible in three ways, listed in order of preference:

*A. Hiring low- and very low-income workers*

Attempt to hire at least 30% of the aggregate number of full-time new hires by the Authority and its contractors must be Section 3 residents, with a preference

for residents at the development where the work is being performed or in the area where the work is being performed.

*B. Awarding contracts to Section 3 business concerns*

Attempt to award at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction, must be awarded to Section 3 business concerns. Attempt to award at least 3% of the total dollar amount of all other Section 3 covered contracts.

*C. Providing other economic opportunities*

If the two goals above cannot be met by the Authority or its contractors, other training and employment opportunities can be provided to substitute for goals A and B. Firms may provide other economic opportunities and will be responsible for soliciting and contracting a qualified firm experienced in providing a Department of Labor Approved curriculum consistent with Section 3 requirements [135.11] in the area of resident training in the following areas:

- Employment Readiness and Professional Development
  - Section 3 Small Business Concern Development Training
  - Building Construction Trades Classroom Training
  - Other direct skills trainings unrelated to public housing solicited commodities
- These are described further in section VII below.

#### **IV. Authority Responsibilities**

The Authority, as the recipient of HUD funding, accepts the responsibility of not only enforcing the Section 3 requirements, but also pro-actively facilitating compliance with Section 3. The Authority fulfills this responsibility in the following ways:

- A) Notifying Section 3 residents of opportunities through posting job openings in the offices of procurement and community development, and in local media;
- B) Conveying that the contract work is a Section 3 Covered Contract in any advertisement for bids and proposals
- C) Notifying contractors in each pre-bid meeting of the Section 3 requirements;
- D) Incorporating the HUD mandated Section 3 clauses in all contracts;
- E) Providing Resident Certification and Affidavit forms for employment at the Authority offices and allowing applications to be submitted at appropriate city locations;
- F) Encouraging the training of Section 3 residents through the Authority contractors;
- G) Facilitating an opportunity annually for contractors to meet interested Section 3 residents for employment. A list can be developed as a resource for the Authority and contractors when seeking to hire Section 3 workers
- H) Facilitating an opportunity annually for small contractors to meet large prime contractors interested in bidding work awarded by the Authority;

- I) Documenting actions taken to comply with Section 3 requirements including all results and impediments;
- J) Reporting annually on its efforts regarding Section 3 implementation (Form-60002);
- K) Refusing to award contracts to businesses or persons who have previously violated Section 3 requirements;
- L) Posting all job sites funded by the Authority with a location or phone number of whom and how to apply for any opportunities for employment, training or contracting.

#### **V. Contractor Responsibilities**

The 30% new hiring goal and 10% & 3% contracts awarded goal are the only safe harbors whereby a contractor will have complied with Section 3. If the two goals above cannot be met by the contractor, other training and employment opportunities can be provided to substitute for those goals, but documentation should be submitted explaining why those numerical goals could not be met. If a contractor substitutes economic opportunities for its achievement of the numerical goals, their efforts need to be equivalent to those that would be required to meet those goals. The acceptability of these efforts will be determined by the Authority, or in cases of a complaint, by HUD.

Examples of activities to demonstrate these efforts are listed in the appendix to part 135 of the Code of Federal Regulations—24 CFR Part 135. Section A above of this document applies to fulfilling the first goal of hiring 30% Section 3 residents, and Section B applies to fulfilling the second goal of awarding 10% & 3% of contracts to Section 3 business concerns. Examples include distributing or posting flyers advertising positions to be filled, contacting the Authority for a list of Residents they may have complied that have expressed interest in Section 3 employment, notify the local authority about open positions, holding job informational meeting for residents, etc. Contractors must submit with any bid or proposal an action plan describing the implementation of Section 3. Omission of this document with a bid or proposal makes that contractor non-responsive, and therefore ineligible to be awarded a contract.

#### **VI. Preferences and Eligibility**

*Note: All persons that are recipients of housing assistance by the government are Section 3 Residents and Public housing residents are a top priority Section 3 Resident. The businesses owned by public housing residents are also top priority business concerns. When employment or contracting opportunities are offered and all requirements are met and remain equal, public housing residents/businesses within the Authority shall be provided preference over other Section 3 residents/business concerns and non-section 3 residents/business concerns.*

- A) Regarding the hiring of Section 3 residents, Preference shall be given to those residents who live at the project site where the covered assistance is expended. These will be considered Tier I residents. Next Preference shall be given to any resident of any other property owned or managed by the Authority. Last, Section 3 residents from the entire City shall be sought. These will be considered Tier II residents. If no Section 3 residents are available from the project site where the project is located or any other property owned or managed by the Authority, the contractors shall give Preference to any non-Section 3 Resident without regard for their residency. At all times, Authority Residents successfully completing training

from any approved training course authorized and recognized by the Authority shall receive a Priority Preference over Tier I residents as a direct reward for their initiative.

- B) Regarding the contracting opportunities for Section 3 business concerns, preference shall be given to business concerns owned at least 51% by any Authority residents of where the project is located and where the covered assistance is expended. Next, any Authority residents of any other property owned or managed by the Authority. Last, Section 3 business concerns that are owned at least 51% by residents of the City shall be sought. If no Section 3 business concern is available from the City where the project is located, the contractors shall give Preference to any non-Section 3 business concern.
- C) Regarding eligibility, a Section 3 resident seeking employment must fulfill the requirements of the sought position and, if asked, must provide evidence of their Section 3 status (e.g., receipt of public assistance, tax return). A Section 3 business concern seeking to win a contract must fulfill the requirements of the contract and, if asked, provide evidence of their Section 3 status.

#### **VII. Other Economic Opportunities**

For contracts or all purchase orders, other economic opportunities may only be used where a contractor or sub-recipient can not comply with the hiring or subcontracting goals set forth in the Preference Tier structure in paragraph VI. Whenever the other economic opportunities are employed they must equal or exceed 3% of the total contract value including any change orders.

#### **VIII. Complaints and Compliance**

Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following address (or as otherwise directed by HUD):

**Assistant Secretary for Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
Regional Field Office**

The complaint must be in writing and be received within 180 days from the date of the action upon which the complaint is based. It should include the complainant's name and address, the Authority or contractor's name and address, and a description of the acts in question. The complainant will receive a response from HUD within 10 days in which further investigation will be explained.

#### **Attachments**

24 CFR Part 135 – Section 3 Regulation

# FLORENCE HOUSING AUTHORITY

## STANDARD SECTION 3 OPERATING PROCEDURES

Policy Effective Date: \_\_\_\_\_, 20\_\_

Procedural Change Date: \_\_\_\_\_, 20\_\_

### Procedure Title: Section 3

This operating procedure is tied to the Operating Policy on Section 3 designed to achieve and maintain compliance with the HUD Act of 1968 revised 1992 and 1994.

The procedures contained within are relative to the Section 3 daily operations in:

- Hiring
- Procurement
- Contracting
- Compliance Management
- Solicitation Package and Certification Documents

#### **Section 1 - Hiring**

This procedure encompasses all employment types including full time, part time, long term, short term, temporary and special assignments. In the process of seeking new employees for the Authority, the following procedures should be followed in an effort to create as many employment opportunities for Tier I HUD direct recipients:

**Step 1** Refer to any list of graduates from any employment readiness training programs sponsored by the Authority. Notify those Tier I persons first of any employment opportunities and invite them to apply for the position. Only make direct contact below Tier I or beyond persons when no Tier I residents can be secured through any other means listed below.

**Step 2** Post the position in community media sources that are generally available to low income residents and the general public.

**Step 3** When timing allows, place a notice of the position(s) in any newsletters, notices or bulletins.

**Step 4** Place an advertisement in the local newspaper of the open position. Be certain to list that the position is a **“Section 3 Covered Position and that HUD Recipients are encouraged to apply”**.

**Step 5** In reviewing all applicants, be certain to first select candidates that best fit the position requirements, if a Tier I resident is identified as a qualified candidate all things being equal with others in consideration, a preference should be given to the Authority Residents for employment.

**Step 6** As a means of compliance, we may establish a relationship and requirement with any temporary employment agency contractor that any person identified for placement with the Authority complete the Authority’s Self Certification form clarifying their qualifications as a city Resident. Any person certifying as a city Resident must be given preference for any assignment with the Authority providing they meet all other position requirements.



## **Section 2 - Procurement**

This policy on procurement procedures is relative only to Section 3 and is not designed to re-write the approved procurement policy for the Authority.

Whenever a service or service contract is solicited, these steps must be followed to provide priority in contracting to a Section 3 Resident Owned Business Concern (ROB) in line with the Authority's Section 3 Policy approved February 24, 2012.

**ROB Verification** Whenever ROB status is sought, the Authority staff shall request address and ownership verification of the 51% Owner/Operator rule as stated in the HUD Act of 1968. Use of the "**Section 3 Self-Certification Form**" attached to this policy is an acceptable statement of address and business data, when presented along with all other required incorporation documents including any Letter of Issuance of a Federal Employer Identification Number (FEIN) and state Articles of Incorporation.

**Step 1** During the development process of any solicitation or work project, there should be a determination as to whether or not the work can be and/or should be isolated to Resident Owned Businesses (ROB's) under the **24CFR Part 963.12 Alternative Procurement Method**. If so, than Steps 2-8 should be followed with respect for **ROB's ONLY**. Keep in mind, a qualified ROB can be one that is a Joint Venture Partnership where a non-ROB can participate at no more than 49% ownership, operations and profit. A statement where both parties have committed to these terms is required as validation of ROB status.

**Step 2** Refer to any list of graduates from any small business development training programs sponsored by or in partnership with the Authority. Notify any of those persons that are known to have a small business of any contract opportunities first and invite them to pick up a bid package. Though the work being solicited is not directly in line with their capabilities or line of work, they may be able to secure some sub-contracting opportunities. Encourage them to attend any pre-bid meetings to meet and introduce themselves and business concern to other contractors.

**Step 3** Post notice of the solicitation in community media sources where public housing and low income residents normally meet and provide notice to the local public housing authority.

**Step 4** the Authority it's sub-recipients and contractors must place a notice of the contracting opportunity(ies) in any public housing resident newsletters, notices or bulletins.

**Step 5** the Authority it's sub-recipients and contractors must place an advertisement in the local newspaper of the contract opportunity(ies). The ad must include a notice that the contract opportunity is a "**Section 3 Covered Contract and that HUD Resident Owned Business Concerns are encouraged to apply**".

**Step 6** All procurements must include the attached "**Section 3 Action Plan and Certification**" for contractors to complete and return with their responses. Any response that is received without the completed form, signed and notarized should be considered non-responsive and the response rejected.

**Step 7** In reviewing the solicitation responses, any contractors that are identified as qualified Section 3 Concerns should be reviewed and if legitimate, granted a preference in contracting according to the HUD example on the policy attachment titled, "**Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns**".

**Step 8** When procurements require point scores as part of the award process, there should always be bonus awards of **15 Points awarded to Qualified ROB's** and **10 points awarded for non-ROB Section 3 Business Concerns after they meet all other requirements.** These are bonus points only not made a part of the required points.

**Step 9** All solicitations shall require that respondents convey prior compliance with Section 3 on any HUD funded contract. **If the contractor has not complied on any HUD funded contract issued since January 2011, they should be considered non-responsive** and not eligible for award unless they are certifying as a current Section 3 Concern or committing to hire at least one (1) Tier I Resident for the life of the contract to be awarded.

**Step 10** All solicitations must include a Certification of prior compliance with HUD Section 3 as a requirement for participation in the current solicitation. The respondent should be required to list any HUD funded contracts they worked on in the past three years and list how they complied with Section 3. See the attached form titled: **"Previous Compliance Certification"**.

### **Section 3 - Contracting**

**Step 1** The following language is to be added to all new contracts effective immediately:

"All contractors claiming a preference in contracting by meeting any of the three qualifications including; a Resident Owned Business, Hiring 30% of New Hires and/or Sub-contracting at least 25% of total award to a Section 3 Concern shall maintain that status throughout the life of the contract. Failure to meet this requirement will result in penalties up to and including contract termination. The Authority, its sub-recipients and contractors shall execute these remedies to achieve compliance in this order:

- A. Based on the first observation or report of non-compliance with Section 3, the contractor will be sent an e-mail by the compliance management contractor notifying them of their non-compliance issue. The contractor will have until the next payroll or 14 calendar days, whichever is lesser to bring the contract into compliance.
- B. If at any time a contractor fails to bring the contract into compliance, the Authority must withhold all future payments until the contract is in compliance.
- C. The contractor shall have up to 15 business days from the most recent notice of non-compliance to meet compliance as a final cure period or justify in writing to the Authority why it can not meet compliance. The Authority must render a response to the contractor within 10 business days of receipt of its letter of reason for non-compliance. If the Authority deems the cause to be unacceptable, at its option, can extend the cause period one time for up to 5 days to allow the contractor to identify and secure other compliance options, or
- D. If the contractor fails to take any corrective action to bring the contract into compliance within 7 business days from the most recent notice of non-compliance, or the Authority does not accept any of their corrective plans and justifications for non-compliance, the Authority must terminate the contract immediately. **All funds due to the contractor shall be held** and a financial workout of the agreement shall proceed within 24 hours of termination.

**Step 2** Any contractor claiming to meet Section 3 compliance by committing to hire residents or fund training itself **shall meet compliance within seven (7) calendar days of contract start** or the Authority shall halt all work related to the agreement and the actions listed in steps 1-4 in this section shall apply.

#### **Section 4 – Compliance Management**

The Authority institutes two methods of compliance management. For certain major contracts the Authority employs a specialized consulting management firm [Motivation, Inc.] to handle complete oversight of contractor compliance. For routine and small contracts the Authority does its own compliance management internally. The Authority completes its own annual report to HUD.

#### **Section 5 – Solicitation Package and Certification Documents**

The following compliance package includes all the required forms that meet the Section 3 regulation and should be included in ALL solicitations despite the contract value.

**-End of Section 3 Procedure-**

The Section 3 information contained in the following pages is to be inserted in its entirety into every solicitation for work or contracts by the authority, its contractors and sub-contractors. All required forms and the Section 3 Clause are already included along with instructions to all contractors bidding work.

All contractors requiring any sub-contractors **MUST** issue this package and receive the completed required forms below on pages 6-12 before issuing any contracts.

Remember, there must be a reasonable (3) bids for all contracts and the residents of the authority must be informed of the opportunity and given every chance to submit bids before an award is made.

Any contractor not meeting these requirements will have violated the Section 3 regulation and their contract may and likely will be terminated. If any contractor is terminated for failure to meet Section 3 requirements they will not be able to win awards on any other HUD funded contracts anywhere.

## Section 3 Clause

**Training and Employment Opportunities for Residents in the Project Area** (Section 3, HUD Act of 1968; 24 CFR 135)

(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 Section 3 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.

## Section 3 Solicitation Overview and Instructions for Contractors

Florence Housing Authority's Section 3 policy requires that when the Section 3 regulation is triggered by a need for new hires (whether individual employees, contractors or sub-contractors), every effort within the contractor's disposal must be made to the greatest extent feasible to offer all available employment and contracting opportunities to its residents based on the tiers below. Only when the regulation is triggered by a contractor and they are unable to offer employment or contracting. The contractor may offer employment related training to the Authority residents. The training must be in an amount equal to or exceeding 3% of the total contract award.

### I. Tiers for offering all opportunities to Section 3 Residents and Resident Owned Businesses

1. **Tier I** are Authority residents/resident owned businesses at the property where the work is being performed
2. **Tier I** are Other Residents/resident businesses of the Authority
3. **Tier II** are other low and very low income persons and Youthbuild participants in this authority's service area

### II. What is a Section 3 Business Concern and how do they receive Preference in contract award?

*A business that meets these certification definitions must receive Preference in contracting:*

1. Is 51% or more owned by Section 3 residents;
2. Employs Section 3 residents for at least 30% of its full-time, permanent staff; or (**During the entire life of the contract**)
3. Provides evidence of a commitment to subcontract to Section 3 business concerns, 25% or more of the dollar amount of the awarded contract.

### III. Important Items to remember about receiving Preferences in contract award

- Anytime you can elect to hire at 30% of your total New Hires, or
- Sub-contract at least 25% of your total award to a Section 3 Business Concern
- YOU MUST MAINTAIN THOSE PREFERENCE LEVELS DURING THE ENTIRE CONTRACT OR RISK HAVING THE CONTRACT TERMINATED FOR FAILURE TO COMPLY

### IV. Other Methods of Compliance

Contractors can provide an array of trainings to Section 3 residents that are employment related, skills enhancing or employment readiness in nature. Here are the methods of achieving compliance through this method:

1. Contractor must develop a solid professional curriculum and it must be approved by a qualified state Department of Labor or the Authority.
2. Contractor may identify a person or persons that are qualified to provide the training within their staff.

3. Contractors can partner with other groups that provide the desired training and pay them directly for the service.
4. The contractor can sub-contract the Section 3 compliance training to an outside firm specializing in training and educational programs to Section 3 residents.

**V. All Contracts and All Contractors must meet Section 3 compliance by:**

- A. Giving notice of any and all opportunities for employment and contracting to the local PHA and other low and very low income area residents and businesses by running ads, distributing flyers, community announcements, letter to targeted persons, newsletters, etc. as far in advance of the opportunity as possible.
- B. Clearly stating the requirements for applying for and achieving the opportunity and that the project is paid by “Section 3 Covered funds under the HUD Act of 1968”.
- C. Utilizing the Section 3 Clause when soliciting any work.
- D. Hold informational or “How to Apply” meetings when possible prior to requesting bids or taking applications so the residents or businesses are encouraged to apply for the opportunity.
- E. Help link residents or businesses to local resources that may be available to help prepare them for applying for and achieving the opportunity.
- F. Work with the Authority in developing a communication and follow up process to track and report all Section 3 application and hiring activities to ensure the reporting of compliance efforts, and that contracting and sub-contracting are accurate.
- G. Provide Preference in hiring and contracting to Section 3 applicants and contractors when all factors are equal for the opportunity including price and salary requests.
- H. Contractors must provide this package to all sub-contractors when soliciting bids; meet all the same processes in A-F; and provide Preference to all sub-contractors meeting the definitions as stated in Item II on page 14 in that order of priority when all factors remain equal between Section 3 and non-Section other respondents.

### Section 3 Contract Compliance Cure and Termination Processes

This language is a component of contract compliance with the work you are responding to in this solicitation. It is being placed in the Section 3 compliance section for ease of reference and due notice. The full requirements are provided in the Section 3 Clause found elsewhere in this package or in the HUD forms 5370-C or 5370 C1 as may be applicable.

All contractors claiming a Preference in contracting by meeting any of the three qualifications including; a Resident Owned Business, Hiring 30% of New Hires and/or Sub-contracting at least 25% of total award to a Section 3 Concern shall maintain that status throughout the life of the contract. Failure to meet this requirement will result in penalties up to and including contract termination. Any contractor triggering the regulation by doing any hiring or contracting once they are awarded the contract through execution must comply with the Section 3 requirements by executing the efforts on their Certification and Action Plan in accordance with the Authority's Section 3 Action Plan.

The Authority shall execute these remedies to achieve compliance in this order:

- A. Based on the first observation or report of non-compliance with Section 3, the contractor will be sent an e-mail by the compliance management contractor notifying them of their non-compliance issue. The contractor will have until the next payroll or 14 calendar days, whichever is lesser to bring the contract into compliance.
- B. If at any time a contractor fails to bring the contract into compliance, the Authority must withhold all future payments until the contract is in compliance.
- C. The contractor shall have up to 15 business days from the most recent notice of non-compliance to meet compliance as a final cure period or justify in writing to the Authority why it cannot meet compliance. The Authority must render a response to the contractor within 10 business days of receipt of its letter of reason for non-compliance. If the Authority deems the cause to be unacceptable, at its option, can extend the cause period one time for up to 5 days to allow the contractor to identify and secure other compliance options, or
- D. If the contractor fails to take any corrective action to bring the contract into compliance within 7 business days from the most recent notice of non-compliance, or the Authority does not accept any of their corrective plans or justifications for non-compliance, the Authority must terminate the contract immediately. **All funds due to the contractor shall be held** and a financial workout of the agreement shall proceed within 24 hours of termination. The workout is to include a contract deduct equal to the total Section 3 contract violation of opportunities provided to non-Section 3 residents or business because they were not offered according to the contract and regulation award. All remaining funds can be paid out based on work satisfactorily completed per the agreement.

Any contractor claiming to meet Section 3 compliance by committing to hire residents, fund training itself **shall meet compliance within seven (7) calendar days of contract start** or the Authority shall halt all work related to the agreement and the actions listed in steps A-D in this section shall apply.

The contractor understands and agrees that a compliance management firm will be used to conduct routine and certified payroll reviews to ensure compliance. Contractor agrees to provide the payroll data in an Excel or Word format each time the payroll is processed throughout the contract.



Florence Housing Authority  
Bidder/Offeror/Proposer – Exhibit \_\_\_\_\_  
Required Section 3 Action Plan and/or Certification

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Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

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

Business Activity: \_\_\_\_\_

All firms and individuals intending to do business with the Authority MUST complete and submit this Action Plan and submit it with the bid, offer, or proposal. Any solicitation response that does not include this document (completed, signed, and notarized) will be considered non-responsive and not eligible for award.

**I am Certifying as a Section 3 Concern and requesting Preference accordingly (Select only One Option):**

1. A business claiming status as a Section 3 Resident-Owned Business Concern (ROB) entity:  
**Initial here to select this option** \_\_\_\_\_

Provide Certification for Section 3 Residents and proof that they own a minimum 51% of the business

2. A business claiming Section 3 status, because at least 30% of the existing or newly hired workforce for this specific contract will be Section 3 residents throughout the entire contract period. If a Prime or General Contractor is electing this option, the 30% employment requirement will be for the entire project including all the sub-contractors employees:  
**Initial here to select this option** \_\_\_\_\_

**Check all methods you will employ to secure Section 3 Residents/Persons**

- Distribute Flyers door-to-door to ALL local public housing authorities
- Posting notice of opportunities on the housing authority's web site
- Run multiple advertisements in the local paper announcing the hiring opportunities
- Post signs at the entrance to the job site that it is a Section 3 covered project
- Notify residents and local community organizations including shelters and churches
- Refer to any list of Employment Readiness trained residents provided by the Authority
- Other: \_\_\_\_\_

I anticipate my total number of employees for this contract to be \_\_\_\_ and \_\_\_\_ will be qualified Section 3.

3. A business claiming Section 3 status by subcontracting 25% of the dollar award to qualified Section 3 Business:  
**Initial here to select this option** \_\_\_\_\_

- Provide a list of intended subcontract Section 3 business(es) with subcontract amount
- Provide certification & all supporting documentation for each planned subcontract Section 3 Business

I am **NOT** certifying as a qualified Section 3 Business Concern but if I trigger the regulation by doing any sub-contracting or hiring I will comply by (Select from below):

4. I commit to hiring and maintaining throughout the life of any contract awarded as part of this solicitation (Including and changes or modifications) at least \_\_\_\_ Tier I Section 3 Residents from the housing authorities lease holders or housing choice voucher holders administered by this Authority. Only if no Tier I residents can be secured, the contractor may hire other low and very low income persons within the service area. Sufficient written justification will be required as to why no Tier I Resident could be hired.

Check all methods you will employ to secure Section 3 Residents/Persons

- Distribute Flyers door-to-door to ALL local public housing authorities
- Posting notice of opportunities on the housing authority's web site
- Run multiple advertisements in the local paper announcing the hiring opportunities
- Post signs at the entrance to the job site that it is a Section 3 covered project
- Notify residents and local community organizations including shelters and churches
- Defer to any list of Employment Readiness trained residents provided by the Authority
- Other: \_\_\_\_\_

Initial here to select this option \_\_\_\_\_

5. I will commit to funding, from my contract, a qualified Section 3 training in place of Employment or Contracting in the amount of 3% or more of my total contract award as required by the Authority's policy. That training will commence within ten (10) days of contract start. My training will be:

- Employment Readiness Related Training 40 hours Classroom for up to \_\_\_\_ residents
- Employment Skills w/Readiness-Classroom Only 80 hours Classroom for up to \_\_\_\_ residents
- Employment Skills w/Readiness-Classroom and Job Site for a minimum of \_\_\_\_ (\_\_) residents
- Other: \_\_\_\_\_ for up to \_\_\_\_ residents

*(Contractor understands that if Job Site training is completed by having the trainee complete work comparable to HUD defined employment categories, the trainees must be paid Davis-Bacon wages and covered under their workers compensation insurance)*

Initial here to select this option \_\_\_\_\_

6. I will do the following to meet compliance that meet the 3% other economic requirements.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Initial here to select this option \_\_\_\_\_

My selected method of compliance is # \_\_\_\_\_ from above options #4 - #6.

If Contractor does not anticipate triggering the regulation, check this box  and initial by the reason below.

\_\_\_\_\_ I do not anticipate any new hires on this contract.

\_\_\_\_\_ I do not anticipate any new contracting by my firm on this contract.

Florence Housing Authority  
Bidder/Offeror/Proposer – Exhibit \_\_\_\_\_  
Required Previous Section 3 Compliance Certification

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Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

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

Business Activity:

\_\_\_\_\_

All firms and individuals intending to do business with the Authority **MUST** complete and submit this certification of prior compliance with their bid, offer, or proposal. Any solicitation response that does not include this document will be considered non-responsive and not eligible for award.

I am certifying that I have complied with the HUD Section 3 Regulations in my past contracts when required by employing the following:

1. I was a Section 3 Resident-Owned Business (ROB). List the Contracts Work and HUD Funded Entity:


2. I complied with Section 3 by employing at least 30% of the newly hired workforce for these contracts and maintained them throughout the entire contract period:

Check all methods you employed to secure Section 3 Residents/Persons

- Distribute Flyers door-to-door to ALL local public housing authorities
- Run multiple advertisements in the local paper announcing the hiring opportunities
- Post signs at the entrance to the job site that it is a Section 3 covered project
- Notify residents and local community organizations including shelters and churches
- Defer to any list of Employment Readiness trained residents provided by the Authority
- Other: \_\_\_\_\_

List the contracts worked and the HUD funded entity:


3. I complied with Section 3 by subcontracting 25% of the total dollar award to a qualified Section 3 Business:

List the contracts worked and the HUD funded entity and Section 3 Concern you sub-contracted to:

_____	_____	_____
_____	_____	_____
_____	_____	_____

4. I complied with Section 3 on a previous HUD funded contract by doing these things and with these entities:

(What was done?)

---

List Entities:

_____	_____	_____
_____	_____	_____
_____	_____	_____

5. I have never done any HUD funded contracting.  Check this box
6. I completed HUD Section 3 covered contracts in the past three years but was not required to meet compliance.  Check this box and initial by the corresponding reason below.

\_\_\_\_ I did not trigger the regulation by doing any new hires on the contract(s).

\_\_\_\_ I did not trigger the regulation by doing any new contracting by on the contract(s).

**Assurance of Compliance Certification**  
**Section 3 Action Plan**  
**Housing and Urban Development Act of 1968**  
**(12 U.S.C. 1701 U)**

**RE: Florence Housing Authority**

**Contract Name or Number:** \_\_\_\_\_

**Purpose:** To ensure that regulations promulgated under 24 CFR Part 135 Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects and the Section 3 Plan and Policy of Florence Housing Authority to the greatest extent feasible is adhered to, and to serve as the ‘assurance of compliance’ certification and action plan as required in the bid documents, supplemental general conditions, and HUD Forms 5370, 5370C or 5369 for the contract for any work with the Authority.

**Description of the project’s work detail:** The project work will be as listed in the final scope of work in the contract with the Authority including any change orders.

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

**Subcontractor(s):** \_\_\_\_\_

**Preliminary Statement for Work Force Needs:** Though employment readiness training is our preferred method of Section 3 compliance, it is our intent to identify any short-term and long-term employment or contracting opportunities for qualified Section 3 persons and concerns during the course of our contract with this housing Authority. Please list the status of all planned employment position and opportunities for this contract. **Preference for all opportunities must be given to public housing residents if they qualify.**

<u>Category</u>	<u># of Project Workforce Positions</u>	<u>Status of All Positions</u>
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Skilled

Semi Skilled Labor

Trainees

**“To the Greatest Extent Feasible”:**

The Contractor has identified \_\_\_ # of **OPEN** positions with respect to this contract. The positions are filled by the \_\_\_\_\_ (Position title) of the Contractor.

Should the scope of work or duties of the contractor change to a degree requiring a modification of the work force needs, the contractor shall put forth a good faith effort to fill vacant positions with the Authority resident applicants and/or very low-income area residents.

**Documentation of “To the Greatest Extent Feasible”:**

The contractor will work with the Authority property managers and staff to notify residents of any opportunities afforded under our contract. The contractor will partner with the Authority by giving preference of any employment opportunities to the Section 3 persons or concerns that have successfully completed the authorities most recent or previous employment readiness type training. It is the contractor’s intent to partner with the Authority in selecting new employees or businesses from the list they provide, or to execute its own company sponsored training. The contractor will seek to have the Authority provide a referral for a qualified training firm that can also provide technical assistance in working with the Section 3 covered persons and/or businesses to advise the contractor on how best to comply with the HUD regulations.

The contractor shall recruit or attempt to recruit from the Section 3 area the necessary number of low-income and very low-income residents through documentation of the following:

1. Local media advertising
2. Signs placed at the proposed site for the project and the Authority’s offices and flyers hand delivered to all local public housing apartments
3. Maintain a list of all low-income area residents who have applied, either on their own or from referral from any source, and employ such person if otherwise eligible and if a trainee vacancy exists.
4. Provide evidence that the contractor has not filled vacant employment positions in its workforce immediately prior to undertaking work in an attempt to circumvent Section 3 regulations.
5. Review and determine if low-income and very low-income residents meet minimum hiring qualifications. Applicants meeting such minimum qualifications, but not hired due to lack of job openings or for other operations reasons, will be placed on a priority hiring list and offered positions upon the occurrence of the first available appropriate job opening.

**Utilization of Businesses Located or Owned in Substantial Part by Persons Residing in the Area:**

The contractor does \_\_\_ does not \_\_\_ intend to subcontract any of the work identified in the scope of work cited in the bid specifications, scope of work or General Conditions.

Should the scope of work or needs of the contractor change, the contractor shall, to the greatest extent feasible, assure that subcontracts be awarded to business concerns within the Section 3 covered area, or to business concerns owned in the substantial part (at least 51%) by persons residing in the Section 3 covered area.

**Record Keeping:**

The contractor shall maintain on file all records related to employment and job training of low-income and very low-income residents or other such records, advertisements, legal notices, brochures, flyers, publications, assurances of compliance from subcontractors, etc, in connection with this contract. If there is a report that is needed as part of the submission you agree to provide it timely. The contractor shall, upon request, provide such records or copies of records the Authority, its staff, or agents.

**Reports:**

The contractor shall provide reports as required in connection with the contractor specifications. All certified and regular payrolls shall clearly detail which employees qualify under Section 3.

**Certification:**

The contractor will certify that any vacant employment positions, including training positions that filled:

- 1) After the contractor is selected but before the contract is executed, and
- 2) With persons other than those to who the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the subcontractor's obligations under 24 CFR Part 135.

**Grievance and Compliance:**

The contractor or subcontractor hereby acknowledges that they understand that any low-income and very low-income resident of the project area, for him/her or as representatives of persons similarly situated, seeking employment or job training opportunities in the project area, or any eligible business concerns seeking contract opportunities may file a grievance if a good faith effort was not followed. The grievance must be filed with HUD not later than one hundred eighty (180) calendar days from the date of the action (or omission) upon which the grievance is based.

I attest that the above information is true and correct.

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Signature	Print Name	Title	Date
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STATE OF \_\_\_\_\_)

\_\_\_\_\_ COUNTY)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that, \_\_\_\_\_, whose name as \_\_\_\_\_ of \_\_\_\_\_ is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as \_\_\_\_\_, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public

My Commission Expires:

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SECTION 3 SELF-CERTIFICATION AND SKILLS DATA FORM

The purpose of this form is to comply with HUD Section 3 administration and certification regulations.

Certification for Public Housing Residents or Others Seeking Employment or Training

I, \_\_\_\_\_, am legal resident of the United States and meet the income eligibility and federal guidelines for a Section 3 Resident as defined on the next page.

My home address is:

Form with fields for Must be a Street address not a P O Box #, Apt Number, City, State, Zip, Home #, Cell #

Large form box containing questions about education (Graduated High School or GED, Attended College, Trade, or Technical School), skills (Check the Skills, Trades, and/or Professions you have been employed in or contracted to do for others: Drywall Hanging, HVAC, Siding, Stucco, Data Entry, Administrative, CDL License, Fencing, Drywall Finishing, Electrical, Cabinet Hanging, Window/Door Repl., Roofing, Metal/Steel Work, Interior Painting, Interior Plumbing, Door Replacement, Concrete/Asphalt Work, Welding, Framing, Exterior Plumbing, Trim/Carpentry, Exterior Framing, Telephone Customer Service, Landscaping, Heavy Equipment Operator, Other), and certification status (I am certifying as a Section 3: Person seeking Training or Person seeking employment). Also includes a field for total annual household income and household size.

I certify that all of the information given above is true and correct. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual which may be grounds for termination of training, employment, or contracts that resulted from this certification. I attest under penalty of perjury that my total household income annually, based on my total household size as listed above is at or below the income amount for that specific size at the time of this document is being signed and notarized. I understand that proof of this statement may be requested in the future.

Signature
Acknowledgement on next page

Date

STATE OF \_\_\_\_\_)

\_\_\_\_\_ COUNTY)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that, \_\_\_\_\_, whose name as \_\_\_\_\_ of \_\_\_\_\_ is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as \_\_\_\_\_, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public

My Commission Expires: \_\_\_\_\_

**Purpose:**

The purpose of Section 3 of the Housing and Urban Development of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic and business opportunities generated by HUD Financial Assistance shall be directed to the Authority Residents and other low- and very low-income persons, particularly those who are recipients of government housing assistance and to business concerns which provide economic opportunities to Residents and other low- and very low-income persons.

Section 3 resident means:

- (1) A public housing resident; or
- (2) An individual who resides in the metropolitan area or non-metropolitan county in which the section 3 covered assistance is expended, and who is:

I. A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80% of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

II. A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2) defines this term to mean families (including single persons) whose incomes do not exceed 50% of the median family income for the area, as determined by the Secretary with adjustments made for smaller or larger families, except that the Secretary may establish income ceilings higher or lower than 50% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

- (3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Service area means the geographical area in which the persons benefiting from the section 3-covered project reside.

The figures below represent very low-income families; bottom figures represent low-income families.

FY 2012 Income Limits Summary		
Household Size	Very Low Income @ 50%	Low Income @ 80%
1 Person	\$18,800	\$30,100
2 Person	\$21,500	\$34,400
3 Person	\$24,200	\$38,700
4 Person	\$26,850	\$42,950
5 Person	\$29,000	\$46,400
6 Person	\$31,150	\$49,850
7 Person	\$33,300	\$53,300
8 Person	\$35,450	\$56,700