Knox County Community Development

Section 3 Requirements: Overview & Policy

Section 3 Overview and Policy

Overview of HUD's Section 3 Requirements

What is Section 3?

Section 3 is a provision of the U.S. Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Projects that receive “HUD financial assistance” that are required to comply with Section 3 regulations are:
1. Any public and Indian Housing programs that receive (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937
2. Recipients of housing and community development assistance in excess of $200,000 expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to contracts and subcontracts in excess of $100,000 awarded in connection with the Section 3-covered activity (as found in HUD Form 60002).

The enabling regulations for Section 3 can be found in 24 CFR Part 135.

Knox County Community Development (“KCCD”) as a recipient of HUD financial assistance in excess of $200,000 annually, requires compliance from all developers, sponsors, contractors and subcontractors with contracts in excess of $100,000.

NOTE: Contractors, subcontractors, developers and sponsors will be referred to as “contractors” throughout this document. For additional information, please see “Definitions” in the Appendix.

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Who are Section 3 Residents?

Section 3 residents are public housing residents or persons who live in the area where KCCD administers federal funds (Knox County) and who have a household income that falls below HUD’s income limits. Low to moderate income is defined as 80% or below the median income of Knox County, as adjusted for household size.

What is a Section 3 Business Concern?

A business that:

- Is fifty-one (51%) percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, twenty-five percent (25%) or more of the dollar amount of the awarded contract.

What programs are covered?

Created by the Housing and Urban Development Act of 1968, Section 3 applies to public and Indian housing programs, housing and community development programs, and other Federal and HUD assistance [24 CFR Part 135.3].

What types of economic opportunities are available under Section 3?

- Job training
- Employment
- Contracts

Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3.

What kinds of Section 3 performance will be monitored by HUD?

- Whether all contracts awarded by the HUD grantee (KCCD) contain the required Section 3 language in all applicable contracts;
- The number of Section 3 training opportunities coordinated by the HUD grantee (KCCD);
- Whether thirty percent (30%) of all new hires by contractors were “Section 3 residents;” and

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- Whether at least ten percent (10%) of the total dollar amount of all contracts’ building trades work and three percent (3%) of the total dollar amount of all other applicable contracts were awarded consistent with the requirements of being a “Section 3 Business.”

Impact of Section 3 Requirements upon KCCD

What must KCCD do to meet Section 3 goals?

In order to achieve the 30% goal for new hires (Section 3 residents) and 10% goal for contracting (Section 3 business concerns), KCCD will need to implement procedures for programs that will report on Section 3 activities. Procedures are required for:

1) Notification of potential Section 3 opportunities by publication: on KCCD/Knox County’s website, Knox County Purchasing Department’s website, or published in the newspaper;
2) Compliance with HUD’s Section 3 requirements; and
3) Annual reporting of Section 3 performance.

How will KCCD require Section 3 compliance of its contractors, developers, and sponsors?

KCCD requires all developers, contractors and sub-contractors to attend a KCCD- sponsored Section 3 training at least once annually.

KCCD requires all developers, contractors and sub-contractors to utilize, to the greatest extent feasible, Section 3 Business concerns.

KCCD requires all developers, contractors and sub-contractors to utilize, complete, or have completed a set of forms which document the developer’s, contractor’s and sub-contractor’s efforts to meet Section 3 requirements.

Specific draws, by contract, are conditioned on the complete submission of required Section 3 forms.

How does HUD require compliance of KCCD?

HUD receives annual reports from its recipients of financial assistance, monitors the performance of contractors and investigates complaints. HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 residents.

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businesses. In addition, HUD will monitor Section 3 compliance by analyzing the CAPER submitted by its recipients on an annual basis.
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KCCD’s Section 3 Policy

General Policy Statement

It is the policy of Knox County Community Development (KCCD) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

KCCD implements this policy in part by providing special consideration to contractors that create employment and business opportunities for qualified low- and very low-income persons residing in Knox County.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3), requires KCCD to ensure that employment and other economic and business opportunities generated by U.S. Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

Section 3 Contracting Policy and Procedure

The KCCD will monitor and require compliance for all HUD-funded contracts that fit within the Section 3 guidelines, as defined by HUD Form 60002.

KCCD’s Section 3 Plan

The KCCD has developed a Section 3 Plan to identify the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3.

To strengthen KCCD’s compliance with and reporting for Section 3 activities, the agency has developed policies and procedures to guide implementation and reporting.

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This policy is divided into five sections:

- KCCD Responsibilities
- Program Participant Responsibilities
- Section 3 Residents as Trainees
- Section 3 Residents as Employees
- Section 3 Business Concerns

KCCD Responsibilities

- **KCCD requires all developers, contractors, and sub-contractors to attend a training at least once annually on Section 3**

  KCCD will offer Section 3 training at least annually following the award of any contract undertaking work based upon HUD financing.

- **Developers, contractors and sub-contractors will be required, in responding to any Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bids (IFB), or other solicitation from KCCD or its sub-recipients, to agree to complete Section 3 training within a reasonable timescale, should their bid be successful.**

  Developers, Contractors and sub-contractors will be required to attend an annual Section 3 training should they be selected as the winning bidder. Should timescale dictate, a specially arranged Section 3 training may be organized for developers/contractors who have or will be signing a contract to undertake work based on HUD financing.

  KCCD will maintain a list of persons who have successfully completed the Section 3 training for future reference.

- **KCCD requires all developers, contractors, and sub-contractors, to the greatest extent feasible, to utilize Section 3 Business Concerns.**

  KCCD will maintain a database of Section 3 Business Concerns which shall be available to all developers, contractors and sub-contractors.
Program Participant Responsibilities

- **Written procedures governing notification to eligible residents about employment and training opportunities generated by KCCD Section 3 covered assistance.**

  24 CFR 135.32 (a) requires that HUD grantees (KCCD) must provide adequate notification to all potential Section 3 eligible residents about possible Section 3 employment and training opportunities.

- **Written procedures governing notification to Section 3 Business Concerns about contracting opportunities generated by Section 3 covered assistance.**

  24 CFR 135.32 (b) requires that HUD grantees (KCCD) must provide adequate notification to all potential Section 3 business concerns about contract opportunities generated by Section 3 covered assistance.

To assist developers, contractors and sub-contractors in identifying Section 3 businesses, KCCD will create and maintain a database of Section 3 Business Concerns.

- **Setting numerical goals for employment and training opportunities for residents and contracting employees for Section 3 Business Concerns.**

  In accordance with 24 CFR 135.32 (c), KCCD has set established employment, training, and contracting goals for contractors and subcontractors in order to comply with Section 3 requirements:

  - Thirty percent (30%) of all new hires for applicable projects – per calendar year; and
  - Ten percent (10%) of the total dollar amount of all contracts’ building trades work and three percent (3%) of the total dollar amount of all other applicable contracts – per calendar year

  It is the responsibility of contractors to implement progressive efforts to attain Section 3 compliance.

- **Documentation of compliance with Section 3 regulations, any impediments encountered in implementing the Section 3 program, and corrective actions taken to remedy any problem areas.**

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Section 3 Residents as Trainees

- Documentation of Training Positions Generated for Section 3 Residents.

- Documentation that Trainees Meet Section 3 Eligibility Criteria.

Section 3 Residents as Employees

- Documentation of the Number of Permanent Full-time and Part-time Positions Generated for Section 3 Residents.

- Documentation that Section 3 Employees Meet Eligibility Criteria.

Section 3 Business Concerns

- Documentation of the Number, Dollar Value, and Types of Contract Awards Made to Section 3 Business Concerns.
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24 CFR 135.36 (a) (2) and 24 CFR 135.36 (b) requires that HUD grantees (KCCD) document the number, dollar value, and types of contract awards made to Section 3 Business Concerns. In accordance with Section 3 regulations, contractors and subcontractors (including professional service contractors) – to the greatest extent feasible – are required to pursue contracting opportunities with Section 3 business concerns, in the following order of priority:

**Category 1:** Business concerns that are 51% or more owned by residents of the housing development for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.

**Category 2:** Business concerns that are 51% or more owned by residents of the Authority’s public housing development(s) other than the housing development where the work is to be performed; or whose full-time permanent workforce includes 30% of these persons as employees.

**Category 3:** Business concerns that are 51% or more owned by a Section 3 resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents (category 4 business); or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

- **Documentation that Section 3 Businesses Performed Successfully under Contracts Awarded in Compliance with Section 3.**

24 CFR 135.36 (c) requires that HUD grantees (KCCD) document that businesses awarded contracts in compliance with Section 3 perform successfully.

**Section 3 Clause**

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

A. The work to be performed under this 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

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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 or 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. The Section 3 Coordinator will maintain a list of those in violation. The contractor should consult with Section 3 Coordinator if this occurs.

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

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CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.

F. The contractor agrees to submit all required Section 3 forms at the first draw of funds, and updated Section 3 forms before the release of the final payment or retainage, whichever is applicable.

G. The contractor understands and agrees that the contractor and all subcontractors thereof are required to attend a KCCD sponsored Section 3 training at least once annually.

H. Noncompliance with HUD’s regulations in 24 CFR parts 135 may result in sanctions, termination of the contract for default, and debarment or suspension from future HUD assisted contracts.

Section 3 Complaint Policy

As a general policy statement, Knox County Community Development (KCCD) will investigate any complaints of non-compliance with Section 3 requirements thoroughly. Complaints should be directed to:

Iain Christie
Grants Program Coordinator
400 Main Street, Suite 630
Knoxville, TN 37902
iain.christie@knoxcounty.org

Complainants about Section 3 non-compliance can also be directed to the Knoxville Office of the U.S. Department of Housing and Urban Development:

Section 3 Coordinator
U.S. Dept. of Housing and Urban Development
John J. Duncan Federal Building
710 Locust Street, Third Floor
Knoxville, TN 37902-2526
Phone: (865) 545-4370

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Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires KCCD to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

General Policy Statement

It is the policy of Knox County Community Development (KCCD) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran’s or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

KCCD implements this policy in part through the awarding of contracts to contractors that create employment and business opportunities for qualified low- and very low-income persons residing in Knox County.
Section 3 Definitions

**Applicant** – Any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency 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.

**Business Concern** – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** - any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Developer** – For-profit and non-profit entities that apply to KCCD for funds to construct homes and apartments on KCCD-owned land and to rehabilitate once-KCCD-owned buildings. Developers – like contractors – are subject to Section 3 compliance for work performed in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing Development** – low-income housing owned, developed, or operated by Knox County Community Development or its’ grantees in accordance with HUD's regulations.

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**Low-income person** – families (including single persons) whose incomes do not exceed 80 per cent of the median income for the area, adjusted for household size.

**New Hires** – full-time employees for permanent, temporary or seasonal employment opportunities.

**Recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, 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 entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

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

**Section 3 Business Concern** – a business concern,

1) That is 51 percent or more owned by Section 3 resident: or

2) Whose permanent, full-time employees include persons, at least 30 percent 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 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance** –

1) Public housing development assistance provided pursuant to Section 5 of the 1937 Act;

2) Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;

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3) Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;

4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** – the contract provisions set forth in Section 135.38.

**Section 3 Covered Contracts** – a contract or subcontract in excess of $100,000 (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. Section 3 covered contracts do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation (FAR).

**Section 3 Covered Projects** – a KCCD-sponsored project (in a KCCD new construction, finance, or rehabilitation program) that is receiving KCCD funds in excess of $100,000.

**Section 3 Resident** – a public housing resident or an individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – families (including single persons) whose income do not exceed 50 per cent 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 50 percent 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.