



# Shelby County Government

## Department of Housing

1075 MULLINS STATION RD, MEMPHIS, TENNESSEE 38134-7795  
Tel: (901) 222-7600 Fax: (901) 222-7621

Lee Harris,

Mayor

### Memorandum

**To:** Businesses and Non-Profit Organizations

**From:** Scott Walkup, Administrator  
Department of Housing  
Division of Planning and Development

**Subject:** Section 3 Businesses

Businesses and non-profit organizations are encouraged to review the information contained in the following materials to determine qualification as a Section 3 business.

Section 3 is a provision of the U.S. Housing and Urban Development (HUD) Act of 1968 that involves ensuring federal dollars received by local communities used for select projects include Section 3 business contracting goals. Businesses that are owned by or significantly employ low- to very-low income residents are considered Section 3.

Section 3 businesses will receive preference for contracting opportunities on select federally-funded projects.

Please review the following information to determine if your business or non-profit organization qualifies as a Section 3 business.

For additional information about Section 3 and Section 3 businesses, please contact Mr. Mario Moton at 901-222-7614 or [Levester.Moton@shelbycountyttn.gov](mailto:Levester.Moton@shelbycountyttn.gov)

# **Frequently Asked Questions and Answers About Section 3 of the Housing & Urban Development Act of 1968**

## **1. What is Section 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

## **2. What is Shelby County DPD's requirements regarding Section 3?**

As a recipient of HUD financial assistance meeting the funding thresholds of Section 3, DPD is required to the greatest extent feasible comply with all provisions of 24 CFR Part 135. This includes providing preference to Section 3 businesses on select projects. Preference to Section 3 businesses means that Shelby County DPD and DPD award recipients' procurement procedures include methods to provide preference to Section 3 businesses to the "greatest extent feasible".

## **3. Are there goals established by DPD to meet the federal requirements of Section 3?**

Yes, the following goals are established for projects governed by Section 3:

### **Section 3 Businesses (projects valued at \$100,000 or more)**

To the greatest extent feasible, at least ten percent (10%) of the total dollar amount of a construction contract will be awarded to Section 3 businesses.

To the greatest extent feasible at least three percent (3%) of the total dollar amount of a non-construction contract will be awarded to Section 3 Businesses.

### **Section 3 Residents (applies to all projects)**

Thirty percent (30%) of new positions must be made available to low – to very low- income residents. Contractors are encouraged to provide long-term employment. They may count a Section 3 resident employee for three years to meet the business criterion that at least 30 percent of the permanent, full-time employees are Section 3 residents.

## **4. What is a Section 3 Business?**

Section 3 business concerns are businesses that can provide evidence that they meet one of the following:

- 51 percent or more owned by Section 3 residents; **or**

- At least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; **or**
- Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

**5. What is the definition of full-time employee when considering the qualifications for a Section 3 business?**

According to information provided by the U.S. Department of Housing and Urban Development-Office of Fair Housing and Equal Opportunity, full-time means a worker who works 40 hours a week or somewhere close to that.

**6. What does Section 3 resident mean?**

A “Section 3 resident” is:

- A public housing resident; or
- A low- or very low-income person residing in the Metropolitan area or Non-metropolitan County in which the Section 3 covered assistance is expended.

**7. How is “low-income” determined?**

The term “low-income” is used in the Section 3 regulation to include both low- and very low-income individuals. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>

**8. How is “Metropolitan area” and “Non-metropolitan County” defined?**

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. Non-metropolitan County means any county outside of a metropolitan area.

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

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

**10. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?**

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm’s compliance with technical and public policy requirements.

- Preference to Section 3 business concerns means that a recipient’s or contractor’s procurement procedures include methods to provide preference to Section 3 business concerns.

**11. Are funds provided to recipients that comply with the requirements of Section 3?**

No. There is no need for funds to be provided to ensure Section 3 compliance because the Section 3 requirements are only triggered **when** new jobs and/or contracting opportunities are created during the completion of covered projects/activities.

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

- Recipients and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities.
- Employment goals are based on “new hires”, which is defined as full-time employees for permanent, temporary or seasonal employment opportunities.
- Recipients and contractors are encouraged to provide long-term employment. They may count a Section 3 resident employee for three years to meet the business criterion that at least 30 percent of the permanent, full-time employees are Section 3 residents.

**13. Does a business have to be incorporated to be considered as a Section 3 eligible business?**

No, a business does not have to be incorporated to be a Section 3 business concern. It can be any type of business- sole proprietorship, partnership or a corporation.

**14. Is a non-profit organization considered a “business” for the purposes of Section 3?**

Yes. A non-profit organization is a legitimate business. The non-profit organization must meet the criteria of a Section 3 business concern as defined in 24 CFR Part 135.5 in order to receive Section 3 preference.

**16. How may a business be granted Section 3 status with DPD ?**

A business may be given consideration as a Section 3 by completing a Section 3 Business Certification Form and a Section 3 Business Profile Form. All documents will be reviewed by the Department of Housing. Confirmation of Section 3 status will be provided in writing.

**17. How may a Section 3 Business Certification Form and Section 3 Business Profile Form be received?**

Section 3 forms may be received by contacting:

Mario Moton  
Shelby County Department of Housing  
1075 Mullins Station Road  
Memphis, TN 38134  
Phone: (901) 222-7614  
Fax: (901) 222-7621  
Email: [Levester.Moton@shelbycountyttn.gov](mailto:Levester.Moton@shelbycountyttn.gov)

# Understanding Section 3

Section 3 is a Local Jobs and Contracting Initiative Utilizing Federal Housing Grant Funds.

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## What is Section 3?

Section 3 is a HUD requirement designed to ensure that the HUD funds invested in housing and community development activities provide employment opportunities for low income people.

HUD's regulations state that "to the greatest extent feasible," businesses and employers working on HUD-funded projects must make a good faith effort to train and employ low-to very low-income individual in the area (called "Section 3 residents") and also to contract with business identified as Section 3.

In summary, the obligations of Section 3 are:

1. Provide training for Section 3 residents, and report on the outreach and training undertaken.
2. To the greatest extent feasible hire and train Section 3 residents, and report on employees and new hires.
3. To the greatest extent feasible contract with Section 3 businesses, and report on contracts and subcontracts.

## **Contracting Obligations: Applies to projects valued at \$100,000 or more**

Section 3 requires that award recipients fulfill the following obligations:

- Meet HUD's contracting requirement (the "minimum numerical target for contracting") that Section 3 businesses receive at least 10% of the building trade contracts for the project, and at least 3% of the total amount for all non-building trade contracts.
- "To the greatest extent feasible" contract with Section 3 business concerns identified as
  - 51 percent or more owned by Section 3 residents; or
  - At least 30 percent of its full-time employees include persons that are currently Section 3 residents, or were Section 3 residents within 3 years of the dated of first hire; or
  - Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to businesses that meet one of the qualifications above.

## **Hiring Obligations: Applies to all Projects**

Section 3 requires that to the greatest extent feasible award recipients fulfill the following obligations when new employees are hired:

- Meet HUD's hiring requirement (the "minimum numerical target for training and employment") that 30% of new hires be Section 3 individuals
- "To the greatest extent feasible" provide preference to hire area residents who are:
  - Low- to very low- income residents of the housing development or developments in which the HUD funds shall be expended; or
  - Low- to very low- income residents of other housing developments managed by the local Millington Housing Authority or the Memphis Housing Authority; or
  - Participants in HUD Youthbuild Programs; or
  - All other residents (including Section 8 recipients) of Memphis Metropolitan Area who meet the low-to very low-income guidelines for Section 3 preference.

# Section 3 Business Certification Form

Shelby County Division of Planning and Development

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

Address\_\_\_\_\_

City\_\_\_\_\_ State\_\_\_\_\_ Zip\_\_\_\_\_

Federal Employer Identification Number\_\_\_\_\_ Duns Number\_\_\_\_\_

## Type of Business

Corporation       Partnership       Sole Proprietorship       Joint Venture

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Please select one of the following three qualification methods for status as a Section 3 business.

**Section 3 resident-owned business (51 % of more owned by Section 3 residents)**

The following documents may be required in the future as added confirmation of status

- Complete list of Section 3 resident owners
- Section 3 Resident Certification Forms for each Section 3 resident owner

**At least 30 % of permanent, full-time workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business**

The following documents may be required in the future as added confirmation of status

- Complete list of all current full-time employees
- Complete list of employees claiming Section 3 status and employees Section 3 Resident Certification forms.
- Other evidence of Section 3 status less than 3 years for date of employment

**Subcontracting 25% of the dollar amount awarded to qualified Section 3 businesses**

The following documents may be required in the future as added confirmation of status

- Complete list of subcontracted Section 3 businesses and subcontract amount

I certify to the best of my knowledge that the information contained here within is true and accurate.

Signature\_\_\_\_\_

Date\_\_\_\_\_

Print Name\_\_\_\_\_

Title\_\_\_\_\_

# Section 3 Business Profile

## Shelby County Division of Planning and Development

This document is to be completed and submitted along with the Section 3 Business Certification Form to the Shelby County Department of Housing.

PLEASE PRINT

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

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Office Telephone ( ) \_\_\_\_\_ Fax Telephone ( ) \_\_\_\_\_

Contact Person \_\_\_\_\_

Email Address \_\_\_\_\_ Business Website \_\_\_\_\_

Employer Identification Number \_\_\_\_\_ DUNS Number \_\_\_\_\_

Date Business Established \_\_\_\_\_ Month \_\_\_\_\_ Date \_\_\_\_\_ Year \_\_\_\_\_

Number of Employees \_\_\_\_\_ Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Contract \_\_\_\_\_

Trade Description (please check all that apply)

<input type="checkbox"/>	Carpentry	<input type="checkbox"/>	Heating (HVAC)	<input type="checkbox"/>	Electrical
<input type="checkbox"/>	Painting	<input type="checkbox"/>	Masonry	<input type="checkbox"/>	Asbestos
<input type="checkbox"/>	Plumbing	<input type="checkbox"/>	Masonry Restoration	<input type="checkbox"/>	Lead Abatement
<input type="checkbox"/>	General Contractor	<input type="checkbox"/>	Roofing	<input type="checkbox"/>	Carpet/Flooring
<input type="checkbox"/>	Boiler/Burner Replacement	<input type="checkbox"/>	Exterminating	<input type="checkbox"/>	Ironwork
<input type="checkbox"/>	Architecture	<input type="checkbox"/>	Rubbish Removal	<input type="checkbox"/>	Demolition
<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____	<input type="checkbox"/>	Other: _____

Bonding Capacity \_\_\_\_\_ Insurance Capacity \_\_\_\_\_

**Contracts awarded over the last three (3) years**

Project Name or Developer's Name	Contract Amount
1. _____ _____	_____
2. _____ _____	_____
3. _____ _____	_____
4. _____ _____	_____

5. \_\_\_\_\_

**Additional Comments: (Attach additional sheets if necessary).**

## Section 3 Resident Certification Profile

### Shelby County Division of Planning and Development

This form is to be completed by residents seeking Section 3 status and the preference in training and employment or by new employees working on Section 3 covered projects.

#### Eligibility

A resident seeking Section 3 status shall submit evidence to the recipient contractor or subcontractor that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance or evidence of participation in a public assistance program.)

- All residents of public housing developments of the Memphis Housing Authority or Millington Housing Authority qualify as Section 3 residents.
- All individuals residing in all municipal and unincorporated areas of Shelby County, Tennessee who meet the low-to very low-income limits set forth below qualify as Section 3 status.
- A photo identification card and proof of current residency is required.

<b>2015 ANNUAL HOUSEHOLD INCOME</b>				
Select the statement that represents your household size and from that statement check the appropriate annual income level for your household, as verified by Federal Income Tax Returns, W-2s, Paycheck Stubs or other documents.				
	Low - Very Low Income Status		Non-Low Income Status	
My household size is 1 and my annual income was	<input type="checkbox"/>	\$32,500 or Less	<input type="checkbox"/>	More than \$32,500
My household size is 2 and my annual income was	<input type="checkbox"/>	\$37,150 or Less	<input type="checkbox"/>	More than \$37,150
My household size is 3 and my annual income was	<input type="checkbox"/>	\$41,800 or Less	<input type="checkbox"/>	More than \$41,800
My household size is 4 and my annual income was	<input type="checkbox"/>	\$46,400 or Less	<input type="checkbox"/>	More than \$46,400
My household size is 5 and my annual income was	<input type="checkbox"/>	\$50,150 or Less	<input type="checkbox"/>	More than \$50,150
My household size is 6 and my annual income was	<input type="checkbox"/>	\$53,850 or Less	<input type="checkbox"/>	More than \$53,850
My household size is 7 and my annual income was	<input type="checkbox"/>	\$57,550 or Less	<input type="checkbox"/>	More than \$57,550
My household size is 8 and my annual income was	<input type="checkbox"/>	\$61,250 or Less	<input type="checkbox"/>	More than \$61,250

**Certification:**

I certify that the information provided is true and correct. I also agree that the information contained in this survey may be shared with other agencies in order to verify the eligibility or ineligibility of this project if necessary. I understand that anyone who fraudulently covers up a material fact or who knowingly gives false information required for eligibility determination is subject to prosecution under applicable criminal law.

Print Name: \_\_\_\_\_

My permanent address is: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_