



MICHIGAN NSP2 CONSORTIUM

POLICY AND PROCEDURES MANUAL

CULTIVATION & PROCUREMENT OF PROGRAM PARTNERS

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I. INTRODUCTION

A. What is Section 3?

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the normal expenditure of certain HUD funds typically results in new jobs, contracts, and other economic opportunities. When these opportunities are created, Section 3 requires that low and very low income persons residing in the community in which the funds are spent (regardless of race and gender), and the business that substantially employ them, will receive priority consideration.

Section 3 is a tool for fostering local economic development, neighborhood economic improvement, and individual self-sufficiency. It ensures that the expenditure of local funds has a multiplier effect by targeting local low and very low income persons and qualified businesses for jobs, training, and contracting opportunities.

B. Definitions

Section 3 Area Resident is defined as follows:

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:
 - a). a low-income person – any person with a gross household income less than 80% of the area median income (adjusted for household size) as established by HUD; or
 - b). a very low income person – any person with a gross household income less than 50% of the area median income (adjusted for household size) as established by HUD
3. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing the evidence (if requested) that the person is eligible for the preference.

Section 3 Business Concern is a business that meets the following criteria:

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

Section 3 Service Area: The geographical area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of local government in which the Section 3 covered assistance is expended.

C. Who is Required to Meet Section 3?

Section 3 applies to jobs created as a result of projects receiving NSP2 funding through MSHDA, whether those opportunities are generated by the grantee, a sub-recipient, and/or a contractor. The requirements of Section 3 apply to all projects/activities with NSP funds- regardless of the actual amount that is spent on each individual unit/property. Section 3 applies to the entire covered project regardless of whether the activity was fully or partially funded with NSP2 assistance. Responsible parties involve:

1. Grantees that receive \$200,000 or more of NSP2 funding must meet the Section 3 requirement for all projects/ activities involving housing construction, demolition, rehabilitation, or other public construction. Therefore, all members of the Michigan NSP2 Consortium – MSHDA, City and Land Banks – must meet Section 3 requirements.
2. Contractors or sub-contractors that are awarded contracts for the construction and rehabilitation activities that exceed \$100,000 share the responsibility of Section 3 with the grantee.

Section 3 is only triggered when a grantee, subrecipient, contractor, or subcontractor meets the funding threshold AND projects require “new hires” or contracting opportunities. Section 3 regulations do not require hiring or contracting unless it is necessary to complete a project.

II. SECTION 3 REQUIREMENTS FOR NSP2

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 as defined in 24 CFR Part 135.32 for new employment, training, or contracting opportunities that are created during the expenditure of covered funding. Section 3 must be executed in a manner consistent with Federal, State, and local laws and does not supersede these laws, nor do these laws cancel or override the Section 3 obligation.

Section 3 is race neutral and is directed at low-income and very-low income persons. Responsibilities of Grantees, Sub-recipient, Contractor and/or Sub-Contractor include:

1. **Making an effort to the greatest extent feasible to meet** the minimum numerical goals found at 24 CFR Part 135.30.
 - a). 30 percent of the aggregate number of new hires will be Section 3 residents; and
 - b). 10 percent of all covered construction contracts will be awarded to Section 3 business concerns; and
 - c). **3 percent of all non-construction covered contracts will be awarded to Section 3 business concerns**

Recipients that fail to meet the numerical goals above bear the burden of demonstrating why it was not possible. Describe the efforts that were taken, barriers encountered, and any other relevant information that will allow auditors to make a determination regarding compliance.

2. Implementing procedures to notify Section 3 residents and business concerns about training and employment opportunities generated by Section 3 covered assistance;
3. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
4. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
5. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts. The Section 3 Clause may be found as **Exhibit A – Section 3 Clause for Contracts**;
6. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
7. Assisting and actively cooperating with the department in obtaining the compliance of contractors and subcontractors;
8. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
9. Documenting actions taken to comply with Section 3; and

10. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

III. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

The law requires that grantees, subrecipients, contractors and subcontractors to, the greatest extent feasible, use area residents as trainees and employees and to award contracts to local businesses while being consistent with existing federal, state, and local laws.

A. Section 3 Residents

A grantee, sub-recipient, or contractor must take definite steps to expand resident training and employment opportunities. This includes making efforts to inform residents and make them aware of available training and employment positions, encouraging residents to participate in the job application process, and actually employing Section 3 area residents.

B. Section 3 Businesses

Making an effort to the greatest extent feasible to award contracts to Section 3 businesses means:

1. Identifying Section 3 businesses located within the boundaries of the Section 3-covered project area;
2. Making these Section 3 businesses aware of contracting opportunities;
3. Encouraging the participation of these businesses in the procurement process and submitting qualifications, proposals and bids during the procurement process; and
4. Awarding contracts to these Section 3 business concerns.

An example of a grantee and its awarded contractor of making an effort to the greatest extent feasible to meet Section 3 would be:

1. Identify the number and type of positions that are needed to undertake the program or project, and of those identifying the number and type of positions that are vacant;
2. Recruit Section 3 residents for all vacant positions through methods such as advertising through local media, PHAs, community organizations, employment development agencies and job training centers, and homeless shelters. Prominently display notices at the project site or other locations where they are likely to be seen by low- and very low-income residents.
3. Use trainees on the project, where feasible.
4. Hire Section 3 residents and Section 3 business concerns.
5. Keep records of any Section 3 residents hired and the positions for which they were hired.

IV. IMPLEMENTATION OF SECTION 3

The Grantee must implement policies during procurement and contracting that comply with Section 3. Despite the method of procurement used, the solicitation of bids/proposals and the final contract documents must include notice of Section 3 obligations. The Grantee must develop and grant preferences to those contractors that provide economic opportunities to Section 3 residents and business concerns. Note that preference requirements only apply to the Grantee. The Grantee should attach **Exhibit B – Section 3 Certification Form** to all requests for qualifications, proposals and bids and required and ensure that all contractors complete and submit the form with their responses to the procurement process.

1. MSHDA recommends that the Grantees complete the following to implement and comply with Section 3 requirements:
2. Require Notice of Section 3 requirements in any and all solicitations for qualifications, proposals, bids and quotes.
3. Identify and target solicitations to all Section 3 eligible small local businesses via mail, phone call, meetings and advertisements.
4. Ensure that the Section 3 clause is included in all contract documents awarded as part of NSP2.
5. Develop and implement a business outreach plan to continue and expand efforts to hire local Section 3 eligible businesses.
6. Require any and all bidders to indicate how they will comply with Section 3.
7. Award contracts to businesses that provide economic opportunities to low- and very low-income persons and are located in NSP2 target areas.
8. Establish certification procedures that ensure that contractors meet Section 3 requirements
9. Provide a mandatory Section 3 workshop in conjunction with a state or local workforce development agency, that assists contractors to recruit, hire and retain Section 3 residents and businesses
10. Provide copies of your Section 3 plan, review the plan with contractors, and have contractors certify receipt.
11. Develop and enforce penalties for noncompliance and incentives for good performance of meeting or exceeding Section 3 requirements.

V. SECTION 3 REPORTING REQUIREMENTS

Throughout NSP2 to the end of the award period, you will be required to report on Section 3 information to MSHDA. Therefore, it is imperative and required that the grantee and its contractors have procedures, process and required forms and documentation to track for the following:

1. Efforts made to direct employment and other economic opportunities generated by the NSP2-assisted project and grant.
2. Total number of employees working on the job/housing award
3. Total number of employees working on the job/the-housing award that are Section 3 residents and trainees.

MSHDA will provide templates and training to assist grantees in meeting the requirements. (For your information, see attached templates as initial reporting and guidance requirements.) The grantee, sub-recipient and each applicable contractor or sub-contractor working on the NSP2 project will have to track and report the following:

1. The efforts made to direct employment and other economic opportunities generated by NSP2 to Section 3 residents and businesses.
2. Total number of employees working on the NSP2-assisted project.
3. Total number of employees working on the NSP2-assisted project that meet Section 3 requirements.
4. Total number of new hires/trainees hired to work on the NSP2-assisted project and grant.

5. Total number of new hires/trainees hired to work on the NSP2-assisted project and grant that meet Section 3 requirements listed by trade/profession.
6. Number of hours worked on the NSP2-assisted project and grant by all employees.
7. Number of hours worked on the NSP2-assisted project and grant by all employees that meet Section 3 requirements.
8. Number of hours worked on NSP2-assisted project and grant by new hires/trainees
9. Number of hours worked on NSP2-assisted project and grant by new hires/trainees that meet Section 3 requirements.

VI. LIST OF CHECKLISTS AND TEMPLATES

-  Section 3 Clause for Contracts
-  Sample Certification Form for Residents
-  Sample Certification Form for Businesses
-  Section 3 Summary Report