



## CITY OF ROYAL OAK

### A COMPLIANCE GUIDE TO SECTION 3 REQUIREMENTS

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#### **PURPOSE**

The purpose of this manual is to provide a guide of Section 3 requirements. The manual provides a description of the Federal requirements and a copy of required forms.

#### **BACKGROUND**

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by financial assistance from programs administered by the U.S. Department of Housing & Urban Development (HUD), such as the Community Development Block Grant (CDBG) program, be directed to low- and very low-income persons and to business which provide economic opportunities to such persons.

#### **DETERMINING APPLICABILITY**

Section 3 requirements apply to individually funded projects  $\geq$  \$200,000.

Individual projects subject to Section 3 requirements involve public improvements such as the repair, construction, or installation of public improvements, landscaping, etc.

The individual / site specific project may be funded entirely or partially by the City of Royal Oak's Community Development Block Grant (CDBG) program.

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It does not apply to the city's CDBG-funded owner-occupied, single-family housing rehabilitation program. Program guidelines permit a maximum rehabilitation loan amount of \$40,000 per individual house.

It does not apply to professional service contracts for non-construction services that require an advance degree or professional licensing.

It does not apply to the purchase of materials, supplies, or equipment, unless installation "work" is involved.

#### **CONTRACTOR'S RESPONSIBILITY**

If the submitted bid is  $\geq$  \$200,00, the contractor must complete and submit the Section 3 Self Certification Form.

**SECTION 3 SELF-CERTIFICATION FORM (REQUIRED FOR BIDS ≥ \$200,000)**

**CITY OF ROYAL OAK, MICHIGAN**

\_\_\_\_\_  
Name of Firm (d.b.a. if applicable)

\_\_\_\_\_  
Firm Federal Tax Id. #:

\_\_\_\_\_  
Firm DUNS #:

\_\_\_\_\_  
Name of Firm Representative & Title

\_\_\_\_\_  
Representative's Email:

\_\_\_\_\_  
Signature of Firm Representative

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

Meets the below definition of a Section 3 Business under at least one of the following qualifying basis:

At least 51% owned and controlled by very low- or low-income persons;

Greater than 75% of labor hours performed over the prior 3 months were performed by Section 3 Workers or Targeted Section 3 Worker; or

At least 51% owned and controlled by current public housing residents.

Does not meet the above definition of a Section 3 Business.

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To qualify as very low- or low-income, a household may earn no greater than the following per the number of individuals living in household.

1 individual \$0 - \$44,800   2 individuals < \$51,200   3 individuals < \$57,600   4 individuals < \$64,000   5 individuals < \$69,150   6 individuals < \$74,250  
Detroit-Warren-Livonia, MI HUD Metro FMR Area, effective: 04-01-2021

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To qualify as a Section 3 Worker, the contractor must provide documentation to demonstrate that:

- 1) A worker's self-certification that their income is below the income limit from the prior calendar year;
- 2) An employer's certification that the worker is employed by a Section 3 business;
- 3) An employer's certification that the worker's income from that employer is below the income limited when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis;
- 4) A worker's self-certification of participation in a means-tested program such as public housing or Section 8 assisted housing; or
- 5) Certification from a Public Housing Authority, or the owner or property manager of project-based Section 8 assisted housing, or the administrator of tenant-based Section 8 assisted housing that the worker is participating in one of their programs.

\_\_\_\_\_  
To qualify as a Targeted Section 3 Worker, the contractor must provide documentation to demonstrate that:

- 1) An employer's certification that the worker is employed by a Section 3 business;
- 2) An employer's confirmation that a worker's residence is within 1 mile of the job site(s); or
- 3) A worker's self-certification and evidence that the worker is a YouthBuild participant.

If self-certified as a *Section 3 business*, contractors shall supply documentation that they meet one of the following criteria:

- 1) At least 51% owned and controlled by very low- or low-income persons;
- 2) Greater than 75% of labor hours performed over the prior 3 months were performed by Section 3 Workers; *or*
- 3) At least 51% owned and controlled by current public housing residents.

For a worker to qualify as a *Section 3 Worker*, the contractor must provide documentation to demonstrate that:

- 1) A worker's self-certification that their income is below the income limit from the prior calendar year;
- 2) An employer's certification that the worker is employed by a Section 3 business;
- 3) An employer's certification that the worker's income from that employer is below the income limited when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis;
- 4) A worker's self-certification of participation in a means-tested program such as public housing or Section 8 assisted housing; *or*
- 5) Certification from a Public Housing Authority, or the owner or property manager of project-based Section 8 assisted housing, or the administrator of tenant-based Section 8 assisted housing that the worker is participating in one of their programs;

For a worker to qualify as a *Targeted Section 3 Worker*, the contractor must provide documentation to demonstrate that:

- 1) An employer's certification that the worker is employed by a Section 3 business;
- 2) An employer's confirmation that a worker's residence is within 1 mile of the job site(s).
- 3) A worker's self-certification and evidence that the worker is a YouthBuild participant.

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Contractors:

- must refrain from entering into agreements with subcontractors that have been found in violation of the requirements of Section 3 requirements.
- are encouraged to register with HUD's online portal for Section 3 job opportunities.
- must obtain a Section 3 Self Certification Form from each subcontractor and forward it to the city.
- must incorporate the Section 3 Clause in subcontract documents.
- if additional employees are required to complete the funded project, the contractor shall provide disseminate notice of vacant training and employment positions to a local YouthBuild program such as SER Metro-Detroit Jobs for Progress, Inc. or local labor organizations or trade publication or Oakland Technical Schools apprentice and training liaison.
- *must submit weekly certified payroll reports and specifically identify individual employees that meet the definition of Section 3 Worker or Targeted Section 3 Worker.*

Subcontractors are subject to the provisions referenced in the above paragraph.

**SECTION 3 CLAUSE**

The contractor shall include the following clause in all subcontractor agreements.

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligation 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.

## **CITY'S RESPONSIBILITY**

The city shall assist contractors, subcontractors, and subrecipients by performing the following activities:

- 1) Notify all applicants for CDBG funded projects of the Section 3 applicability;
- 2) "Section 3 Clause" shall be included in all applicable written agreements;
- 3) Provide clarification of the Section 3 requirements;
- 4) Provide the appropriate guidelines and forms;
- 5) Monitoring, verifying and notify with regard to compliance;
- 7) Moderate and direct Section 3 complaints to the appropriate source;
- 8) Collect all applicable supporting documentation, forms, and reports;
- 9) Report all required data to HUD; and
- 10) Take any or all the following steps to meet HUD's benchmark goals.

## **BENCHMARK GOALS**

Minimum 25% of the projects' total number of labor hours shall be performed by Section 3 Workers.

Minimum 5% of the project's total number of labor hours shall be performed by Targeted Section 3 Workers.

## **EFFORTS TO ATTAIN COMPLIANCE WITH BENCHMARK GOALS**

If reporting indicates that the city has not met the Section 3 benchmarks, the city must report in a method prescribed by HUD program offices on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b).

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 Workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 Workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 Workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 Workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 Business.
- Provided technical assistance to help Section 3 Business understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 Business.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business.
- Promoted use of business registries designed to create opportunities for disadvantaged

and small businesses.

- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

## **COMPLAINT PROCEDURE**

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Royal Oak encourages submittal of such complaints to the planning division of its community development department.

A complaint of non-compliance shall be provided in writing and must contain the name of the complainant and a brief description of the alleged violation of 24 CFR Part 135.

Complaints must be filed within thirty (30) days after the complainant becomes aware of the alleged violation.

An investigation will be conducted if the complaint is found to be valid. The city will conduct an informal, but thorough investigation affording all interest parties, if any, an opportunity to submit testimony and / or evidence pertinent to the complaint.

The city will provide written documentation detailing the findings of the investigation no later than thirty (30) days after the filing of the complaint.

If complainant wishes to have their concerns considered outside the City of Royal Oak, a complaint may be filled with:

Assistant Secretary for Fair Housing and Equal Opportunity  
US Department of Housing & Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.