

Memorandum

CDBG Policy Guidance

Date: December 6, 2010
Policy 10-7

SC Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201
www.sccommerce.com

Subject: Section 3 Requirements
Attachment: Section 3 Clarifications
Resources: Implementation Manual, Chapter 8, Procurement; Chapter 12, Fair Housing and Equal Opportunity

CDBG funds are often the largest federal resource expended in many communities. Section 3 is a provision of the Housing and Urban Development Act of 1968 which is intended to ensure that the benefits of any employment or contracting opportunities generated because of CDBG covered projects be given to low and very low income persons or business concerns residing in the community where the project is located. While the requirement is not new, HUD has placed renewed emphasis on its provisions. It is important that grantees *document* their efforts to comply with Section 3 requirements.

The Implementation Manual contains additional information and resources to help comply with these requirements. At the recent 2010 Implementation Workshop, Section 3 requirements were reviewed and a handout was provided which included brochures, forms, notices, action plan, bidding and contract documents and a "Frequently Asked Questions" handout. These resources should help in understanding and documenting compliance. As a follow-up to the workshop, this policy memo is being issued with the attached Section 3 Clarifications to respond to questions.

This policy memorandum updates the 2010 Community Development Block Grant Program and becomes effective immediately unless otherwise stated. The program documents located on the SC Department of Commerce website has the most up to date policies of the CDBG program.

<http://www.sccommerce.com/cdbgformsanddocuments/cdbgformsanddocuments.aspx>

CDBG Section 3 Clarifications

What are grantees required to do to comply with Section 3?

- Implement procedures to notify residents and businesses of opportunities
- Notify contractors of requirements and include Section 3 clauses in solicitations and contracts which exceed \$100,000
- Facilitate training and employment of Section 3 residents and award of contracts to Section 3 businesses
- Do not use contractors with Section 3 violations
- Make efforts to reach numerical goals
- Document actions taken to comply and reasons if numerical goals are not reached

How is a Section 3 resident defined?

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.

Which forms included in the manual are required to document grantee compliance?

- **Section 3 Action Plan** – The action plan lists the specific tasks to be undertaken by the grantee to comply with Section 3. The plan must be signed by a responsible local government official and submitted at Start Up, but it should also be maintained in the grant files along with back-up documentation to show that each of the items on the plan were carried out.
- **Grantee Section 3 Summary Report** – submitted at Close Out to report on the specific employment and training opportunities available as a direct result of the CDBG assistance and the number provided to Section 3 residents

Which forms must be included in a bid package for contracts exceeding \$100,000?

- **Section 3 Information Sheet for Contractors/Businesses** – explains what the Section 3 requirements are and what is required of contractors
- **Section 3 Business Self-Certification Form** – used by contractors or subcontractors to document whether their firm qualifies as an eligible Section 3 business
- **Bidder's Proposed Section 3 Contracts/Subcontracts** – identifies the estimated number and dollar amount and type of subcontracts proposed for Section 3 eligible businesses
- **Contractor's Section 3 Business Utilization Report**- included in the bid package as a report to be filled out and submitted at the conclusion of the contract which identifies the actual subcontractors used on the project and those qualifying as Section 3
- **Bidder's Section 3 Estimated New Hires** – identifies the estimated number and type of employees expected to be hired as a result of the contract and the number targeted to be filled by Section 3 residents
- **Contractor's Section 3 New Hires Report** - included in the bid package as a report to be filled out and submitted at the conclusion of the contract which identifies the actual employees hired and the number who are Section 3 residents
- **Contract Special Provisions** – contains Section 3 clause

How can the additional resources provided in the manual help with compliance?

- **Section 3 Business and Employment Notice** – this sample notice should be used to document efforts to notify residents and businesses within Section 3 covered areas of the employment and business opportunities that may be available as a result of the CDBG funded project. The notice may be posted in the Section 3 covered area, sent to applicable organizations, or published in local media. While this notice is not required, grantees are required to provide some type of notification of opportunities.
- **Section 3 Resident Self Certification** – suggested form to be used to document the Section 3 eligibility of residents for employment or training opportunities or for businesses to document employees who are Section 3 residents
- **Section 3 Brochure, Information Sheet and Frequently Asked Questions**- these documents were developed by HUD and included in the CDBG Implementation Manual as tools in understanding the requirement. Please refer to the regulations and these HUD guidelines for further clarification of the requirements.

Are grantees required to give a preference to Section 3 Businesses in the award of contracts?

No. Section 3 does not supersede the general procurement requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Geographic preference is generally not allowed for competitive bids under these federal procurement requirements, but Section 3 consideration may be included as an evaluation factor in procurements where price is not the sole determining factor. Section 3 regulations encourage a preference for Section 3 Businesses and you may refer to the regulations for additional guidance if you choose to provide that preference.

What are the responsibilities of contractors with regard to Section 3?

Contracts that exceed \$100,000 are subject to Section 3 requirements.

- A business seeking to qualify as a Section 3 business bears the responsibility to certify or to submit evidence that the business qualifies using the Self Certification form for Business and attaching appropriate documentation as required by the form.
- The business is required to complete employment and business utilization forms as part of the bid proposal.
- The business must submit reports on the actual employment and business utilization achieved during the project prior to receiving final payment.

Do Section 3 requirements apply to subrecipients?

Yes. The Subrecipient Special Conditions include Section 3 clauses and the subrecipient should report on employment and business opportunities provided as part of the grant. The grantee will include this information in its Grantee Section 3 Summary Report prior to close out.

Do Section 3 hiring requirements apply to any employment by the grantee during the grant period?

No. Section 3 employment or training opportunities are those available as a direct result of the CDBG assistance.

What actions can a grantee take to comply with hiring and training goals?

- Enter into “first source” hiring agreements with organizations that represent Section 3 residents
- Sponsor employment training programs for Section 3 residents
- Advertise training/employment opportunities by distributing flyers to residents of public housing and other areas where Section 3 residents live or post notices in the area
- Contact local organizations that represent Section 3 residents
- Sponsor informational meetings
- Provide assistance to residents in completing job applications and/or holding interviews in locations where Section 3 residents live
- Consult/coordinate with existing job training programs

What actions can a grantee take to comply with Section 3 business utilization?

- Advertising contracting opportunities through trade association newsletters, local media, newspapers of general circulation, and radio advertising or by posting notices.
- Contacting business assistance agencies, minority contractor associations and community organizations to inform them of contracting opportunities and requesting assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts in connection with Section 3 projects.
- Developing a local list of eligible Section 3 Businesses.
- Holding workshops on contracting procedures for Section 3 Businesses