

Section 3

Contractor Handbook

for

The City of Middletown

Updated: May 27, 2010

Section 3 Contractor Steps

- 1.) You are notified of a Bid opportunity subject to Section 3
- 2.) Attend walk-through (if required)
- 3.) Prepare Section 3 strategy if applicable. Talk to Section 3 residents and Business Concerns to prepare appropriate bid.
- 4.) Submit bid with Section 3 plan and all required forms
- 5.) City will open sealed bids and document low bidder.
- 6.) City will review Section 3 plans and rank them accordingly.
- 7.) Contractor with the highest Section 3 ranking and within 10% or \$1,000 (whichever is less) of the lowest bid, wins the job.

Definitions to Know

Section 3 Resident – 1) a public housing resident; or 2) 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.

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 which is:

- 1) 51 percent or more owned by Section 3 residents; or
- 2) 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
- 3) 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.

Low-income person – families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of the U.S. Housing and Urban Development, with adjustments for smaller and larger families. However, the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

Very low-income person – families (including single persons) whose income do not exceed 50 percent of the median family income for the area, as determined by the Secretary of HUD with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of 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.

FAQ's

What Needs Done If the Contractor Qualifies as a Business Concern?

If qualified by ownership or employees of company:

- 1.) Complete Forms 1, 2, & 3 where applicable
- 2.) Form 4 must be completed by each employed Section 3 resident

If qualified by intending to subcontract 25% of contract dollars to Business Concerns:

- 1.) If Contractor intends to qualify as a Business Concern by subcontracting 25% of the dollars awarded, then Form 1 must be completed along with Form 5 (and other applicable forms) demonstrating that commitment.

The above Forms may be submitted at or prior to bid opening. Certifications for Business Concerns are valid for one year and must be renewed annually. However, Business Concerns that qualify as such by the 25% subcontract intention are only certified for the period of the awarded contract.

Can a Contractor That Does Not Qualify as a Business Concern Bid Section 3 Projects?

Yes, you may still bid the project. However, you will not receive any points (see next page). You must still submit Form 5 and Tables A, B, and C with your bid (see below).

How do I bid?

- 1.) Submit Form 5 describing your intent to apply Section 3 requirements. Applying Section 3 can be accomplished:
 - a. **If** the job requires new employment, by reaching out to Section 3 residents
 - b. **If** the job does NOT require new employment, but you are able to offer training, by reaching out to Section 3 residents for training opportunities.
 - c. **If** you plan to use subcontractors, by reaching out to Section 3 residents or Business Concerns.

- 2.) Submit Tables A, B, and C (with “Estimate” box checked).

- 3.) **If Section 3 is not feasible at time of bid**, use Table C to explain why it was not feasible. You must still submit all 3 Tables, but you will receive a 0 ranking score. However, you may still bid the project.

- 4.) Review Ranking Criteria (following page) to determine the best strategy to achieve the most points.

- 5.) Award of contract is given to the lowest bidder with the highest Section 3 ranking score providing the bid is within 10% or \$1,000 (whichever is less) of the lowest overall bid.

Example #1

<u>Contractor</u>	<u>Bid</u>	<u>Score</u>
A	\$8,000	10
B	\$8,500	20
C	\$8,900	50

Awarded to: Contractor B
 Although not lowest bid, “B” outranked “A” and “C” was not within the 10% or \$1,000 limit

Example #2

<u>Contractor</u>	<u>Bid</u>	<u>Score</u>
A	\$8,000	0
B	\$8,500	0
C	\$7,900	20

Awarded to: Contractor C
 Scores not relevant in this case due to other contractors having “0” score

Example #3

<u>Contractor</u>	<u>Bid</u>	<u>Score</u>
A	\$8,000	30
B	\$8,500	40
C	\$8,800	50

Awarded to: Contractor C
 “A” was lowest, but “B” outranked “A”, yet “C” outranked both & was within 10% limit.

Evaluation of Section 3 Proposals by Priority Ranking

Section 3 proposals will be evaluated by the Community Revitalization Department. Each Section 3 proposal will be separately evaluated. Grading of any criterion will be done in five (5) steps. The following ranking criteria only apply if the bidder with a higher Section 3 ranking (as determined below) is within 10% or \$1,000 (whichever is less) of the lowest bid. **The contractor must complete Tables A, B, and C if he/she can not complete any of the items below.** The evaluation criteria and points available are as follows:

50 Available Points for Section 3 ranking:

1. Section 3 Economic Opportunities Plan for Low and Very Low residents of the Project area:

0 available points

This is mandatory for any Section 3 project. Therefore, zero (0) points will be awarded to the Bidder who has an existing Section 3 Plan or who commits to start and use such a plan on the project (See Contractor Section 3 Economic Opportunities Plan – Form 5). Any contractor failing to provide this requirement will be excluded from the bid.

2. Section 3 Contracting and Employment Opportunities for Contractors and Residents of the Project area:

20 available points

Eligible Section 3 Bidders who hire Section 3 residents or Business Concerns from the service area to participate in the project will receive ten (10) points. If the hired Section 3 resident(s) or Business Concern(s) resides within the City of Middletown, the bidder will receive an additional ten (10) points. Residents and contractors must certify and submit evidence that they are a Section 3 resident (Form 4) or Business Concern (as defined in Part 135.5) (Forms 1, 2, & 3) in the project area. Tables A, B, and C must be completed and returned with the bid package.

A "Section 3 resident" is: 1) a public housing resident; or 2) 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.

A "Business Concern" is a business that is: 1) 51 percent or more owned by Section 3 residents; or 2) 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 3) 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.

3. Section 3 Business Concerns:

25 Available points

Twenty-five (25) points will be awarded to any Bidder who qualifies and is certified as a Section 3 Business Concern (Forms 1, 2, & 3).

4. Training and Apprenticeship Programs:

5 available points

Five (5) points will be awarded to any Bidder who has an existing training or apprenticeship program for the designated Section 3 residents and Business Concerns that will be used on this project, or who commits to start and use such a program on the project (provide program description on company letterhead).

5. Pricing and Award:

The lowest bidder with the most points wins the bid providing it is within 10% or \$1000 (whichever is less) of the overall lowest bid.

OK....You Won the Bid. Now What?

- 1.) Utilize the databases provided by the City or on your own to recruit Section 3 residents or Business Concerns to hire.
- 2.) Utilize the databases and sources provided by the City or on your own to provide training opportunities to Section 3 residents.
- 3.) ALL Section 3 residents must complete Form 4
- 4.) Any subcontracted Business Concerns that have not been certified with the City must complete Forms 1, 2, and 3.
- 5.) ALL contracts and subcontracts on a Section 3 project must include the Section 3 clause (following page).
- 6.) Once all contracts are in place, you may complete the job.
- 7.) At final invoice, submit:
 - a.) Contractor's Report
 - b.) Final confirmed numbers for Tables A, B, and C

Section 3 Clause

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. It must be included in all Section 3 covered contracts. 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 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 representative, 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 of job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, 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 obligations 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.

G. With respect to work performed in connection with Section 3 covered Indian Housing Assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Contractor Attempted to Hire Section 3 Residents But Was Unsuccessful. Is the Contractor In Trouble?

No.

As long as the attempt was made and documented to hire Section 3 Residents or Business Concerns and the contractor was unable to comply, there are no consequences. The contractor must still submit all proper documentation at time of final invoice and in Table C explain what he or she did to attempt to meet the goals and explain why it could not be obtained.

However, if the contractor did **not** make any documented attempt, then the following penalties apply:

1. First instance of non-compliance = written warning
2. Second instance of non-compliance = monetary penalty to be spelled out in the contract
3. Third instance of non-compliance = debarment from future projects
4. Egregious action of non-compliance = immediate monetary penalty and/or debarment from future projects and termination of existing contract

Contractor is a Business Concern by Means of Committing to Subcontract 25% of the Contract Dollars to a Business Concern. Contractor has Several Section 3 Contracts Going at the Same Time. Can the Contractor have 0% Subcontracted on One Contract and 50% on the Other to Keep in Compliance with the Business Concern Commitment?

No.

Under the City of Middletown guidelines, the 25% requirement will be applied to each assigned contract under a Section 3 project.

Contractor is a Business Concern by Means of Committing to Subcontract 25% of Dollars to a Business Concern. Contractor Attempted But Was Not Able to Comply. Is the Contractor Able to Be Considered a Business Concern on the Next Bid if He Makes the Same Commitment?

Maybe.

It will depend on the reasons given in Table C. If the Contractor simply decided not to subcontract services despite saying he would in the Section 3 bid, then No, he shall not be considered a Business Concern on the next bid.

However, if the documented attempt was made to subcontract to Business Concerns and the contractor was not able to comply, then the steps taken to comply must be documented on Table C. In this case, the contractor would be allowed to be considered a Business Concern on the next bid if he makes the same commitment.

TABLE A

Estimated (time of bid)

Final (job completion)

PROPOSED SECTION 3 SUBCONTRACTOR: UTILIZATION BREAKDOWN

Type of Contract (Business or Profession)	Name of Subcontractor	Total Approximate Dollar Amount	Section 3 Businesses (Y / N)

COMPANY NAME

PROJECT NAME

SIGNATURE OF PERSON COMPLETING FORM

PRINT NAME

DATE

Attach additional sheets where needed.

TABLE B

Estimated (time of bid)

Final (job completion)

PROJECT WORK FORCE UTILIZATION BREAKDOWN

Job Category	Total Positions Needed for Project	No. Positions Occupied by Permanent Employees	Number of Positions Not Occupied	Number of Positions Filled with Section 3 Resident
Officer/Supervisors				
Professionals				
Technical				
Req. Sales/Rental Management				
Office/Clerical				
Service Workers				
Other				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Trainees				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Trainees				
Others				

Section 3 Resident

Individual residing within the Section 3 area whose family income does not exceed 80% of the median income in the Metropolitan Statistical Area (MSA) or in the county if not within a MSA in which the Section 3 covered project is located.

COMPANY NAME

PROJECT NAME

SIGNATURE OF PERSON COMPLETING FORM

PRINT NAME

DATE

TABLE C

Estimated (time of bid)

Final (job completion)

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

_____ Attempted to recruit and employ Section 3 residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.

_____ Attempted to recruit Section 3 residents for a training or apprentice program.

_____ Attempted to find and provide subcontracts to business concerns which meet the definition of Section 3 business concerns.

_____ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.

_____ Other; describe below:

Explain why not feasible OR why could not meet goals:

COMPANY NAME

PROJECT NAME

SIGNATURE OF PERSON COMPLETING FORM

PRINT NAME

DATE

BUSINESS EMPLOYEE LIST

COMPANY NAME _____
 ADDRESS _____
 TELEPHONE # (____) _____ FAX # _____

- * List all full-time employees of the company.
- * Proof of program participation is required for all participants of Public Housing (PH) Section 8 (Sec 8) or other federal assistance (FA) Programs.

Employee Name	Address	Date of Hire	FT or PT	Trade	Section 3 Resident (yes/no)	Public Housing Resident (yes/no)

Legend: FT = Full Time PT = Part Time

TOTAL NUMBER OF EMPLOYEES: _____

By signing below you hereby Certify to the City of Middletown and the Department of Housing and Urban Development (HUD) that the above information is true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

SIGNATURE: _____ DATE: _____

TITLE: _____

Attach additional sheets where needed.

SECTION 3 CONTRACTOR OR SUBCONTRACTOR PAYROLL REPORT
SECTION 3 PERMANENT, FULL-TIME EMPLOYEES ONLY

Submit documentation for each current public housing or other Section 3 Resident

EMPLOYEE NAME	EMPLOYMENT START DATE	HOURS PER WEEK

By signing below you hereby Certify to the City of Middletown and the Department of Housing and Urban Development (HUD) that the above information is true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

COMPANY NAME: _____

PRINT NAME: _____

AUTHORIZED COMPANY TITLE: _____

SIGNATURE: _____ DATE: _____

Attach additional sheets where needed.

SECTION 3 RESIDENT PREFERENCE CLAIM FORM

Eligibility for Preference

A Section 3 Resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 Resident, as defined in Section 135.5.

I, _____, am a legal resident of the
(NAME)

Cincinnati-Middletown, OH-KY-IN MSA (see following page) and qualify as a Section 3 Resident because I am a public housing resident OR meet the income guidelines as published at the bottom of this form. I have attached the following documentation as evidence of my public housing status. (Only if public housing resident, check at least one. Otherwise just sign below):

- | | |
|---|--|
| <input type="checkbox"/> Drivers License or State ID
With a current public housing address | <input type="checkbox"/> Proof of public residency |
| <input type="checkbox"/> Copy of Evidence of participation
in a public assistance program | <input type="checkbox"/> Other Evidence |

Name _____

Telephone _____

Address _____

County _____ State: _____

**FY 2010
FAMILY INCOME GUIDELINES
\$69,500 Median Family Income**

Family Size	Low Income (80% AMI)
1	\$38,950
2	\$44,500
3	\$50,050
4	\$55,600
5	\$60,050
6	\$64,500
7	\$68,950
8	\$73,400

By signing below you hereby Certify to the City of Middletown and the Department of Housing and Urban Development (HUD) that the above information is true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

Signature

Date

Cincinnati-Middletown, OH-KY-IN Metropolitan Statistical Area

Dearborn County, IN

Franklin County, IN

Ohio County, IN

Boone County, KY

Bracken County, KY

Campbell County, KY

Gallatin County, KY

Grant County, KY

Kenton County, KY

Pendleton County, KY

Brown County, OH

Butler County, OH

Clermont County, OH

Hamilton County, OH

Warren County, OH

SECTION 3 CONTRACTOR ECONOMIC OPPORTUNITIES PLAN

_____ (Contractor) agrees to utilize, and to implement the following specific steps directed at increasing the utilization of lower income residents and businesses within a Section 3 covered area for a Section 3 qualified project, as will be specified in the bid documents.

- A. To list on Table A, the following information related to subcontracts to be awarded.
 1. An approximate number and dollar value of contracts to be awarded over the duration of the Section 3 covered project (this estimate should be broken down by type of business or profession); and
 2. Based on an analysis of the estimated contract needs, a target number and value of contracts to be awarded to Section 3 Business Concerns (these targets should consider the availability of Section 3 Business Concerns within the categories identified in the initial estimate of contract needs).
- B. To implement a program or strategy for achieving the targets established for awards to Section 3 Business Concerns which would include the following steps:
 1. To insert the Section 3 clause in all requests for subcontractor proposals, and to require all bidders on subcontracts to submit a Section 3 plan to the general contractor including utilization goals and the specific steps planned to accomplish these goals;
 2. To formally contact unions, subcontractors, and trade associations to secure their cooperation for this program; and
 3. To insure that all appropriate project area business concerns are notified of pending sub-contractual opportunities.
 4. Utilize databases listing Section 3 Business Concerns as provided by the City of Middletown to notify them of pending opportunities.
- C. To complete Table B, a listing of all projected trainee and employee workforce needs for all phases of the project by occupation, trade, skill level and number of positions. An estimated number of Section 3 area

residents to be utilized in these areas must be included on Table B. Steps directed at meeting these goals are as follows:

1. To attempt to recruit from within the City the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area. Although residents throughout the Metropolitan Statistical Area (MSA) can be selected, priority should be given to residents within the City of Middletown.
 2. To maintain a list of all lower income residents who have applied whether on their own or on referral from any source, and to employ such person, if otherwise eligible and if a vacancy exists.
 3. Utilize databases listing Section 3 residents and other contacts as provided by the City of Middletown.
- D. To complete Table C, and to maintain records, including copies of correspondence, memoranda, etc., to document that all of the above steps have been taken.

By signing below you hereby Certify to the City of Middletown and the Department of Housing and Urban Development (HUD) that all information provided by you for this bid and under this contract (if awarded) be true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

COMPANY NAME

PROJECT NAME

PROJECT NUMBER

SIGNATURE OF PERSON
COMPLETING FORM

PRINT NAME

DATE

SECTION 3 CONTRACTOR'S REPORT

NOTES: THIS MONTHLY REPORT FORM MUST BE COMPLETED AND SUBMITTED WITH ALL REQUESTS FOR PAYMENT AND FINAL PAYMENT.

Prime Contractor Name: _____ Project Title: _____

Total Prime Contract \$ _____ Total Subcontracts _____

INVOICE INFORMATION	
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Invoice No. _____	Current Invoice Amount \$: _____
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Date: _____

A. SECTION 3 SUBCONTRACTING GOALS	
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*This section is to be completed by Section 3 business concerns who have proposed to subcontract 25% of the dollar award to qualified Section 3 business concerns.

1. Total ALL Subcontracts \$ _____	2. Total Section 3 Subcontracts \$ _____
Section 3 Goals Accomplished% _____ (Section 3 Subcontracts ÷ Total Subcontracts)	

B. SECTION 3 EMPLOYMENT AND TRAINING GOAL TRACKING	
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*This section is to be completed by Contractors who have proposed to provide employment and/or training of Section 3 residents.

SUBCONTRACTOR COMPANY NAME (or) NEW HIRE NAME	TRADE / JOB	AMOUNT OF SUBCONTRACT (n/a if new hire)	TOTAL # NEW HIRES	TOTAL # SECTION 3 NEW HIRES
<i>Ex: BGC Contracting</i>	<i>Plumbers</i>	<i>\$12,000</i>	<i>5</i>	<i>3</i>

*Attach a sheet if additional lines are needed

COMMENTS: