



# Section 3 Contractor Guide

Housing Authority of the City of Austin

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Section 3 Program

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<https://www.hacanet.org/business-opportunities/section-3/>

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# INTRODUCTION

The Housing Authority of the City of Austin (HACA) has compiled this Section 3 Contractor Guide to assist contractors and subcontractors in complying with the requirements of Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992 (hereafter “Section 3”). Section 3 requires that, to the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low-income residents, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-income persons. The HUD regulations at [24 CFR Part 135](#) establish the standards to be met by Public Housing Authorities, such as HACA, to ensure that the requirements of Section 3 are met.

HACA is committed to helping the residents of its public housing communities, its Section 8 Housing Choice Voucher (HCV) holders, and other qualified low-income persons residing in the Austin-Round Rock-San Marcos Metropolitan Statistical Area (MSA), achieve their goals of self-sufficiency by providing opportunities for training and employment. The Austin-Round Rock-San Marcos MSA includes the following counties: Bastrop, Caldwell, Hays, Travis, and Williamson. HACA’s policy will provide economic opportunities for low and very-low income persons of this area; and to businesses that provide these opportunities for low and very-low income persons. These opportunities will be in the form of training, contracting and employment.

## SECTION 3 FAQ’s

**1. Who are Section 3 Residents?**

- a. A public housing resident; or
- b. A [low income](#) person residing in the Austin-Round Rock-San Marcos MSA (includes Bastrop County, Caldwell County, Hays County, Travis County, and Williamson County).

FY 2019 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Low (80%) Income Limits	\$ 52,850	\$ 60,400	\$ 67,950	\$ 75,500	\$ 81,550	\$ 87,600	\$ 93,650	\$ 99,700

**2. What is a Section 3 Business Concern?**

Section 3 Business Concerns are businesses that meet one of the following:

- a. 51% or more owned by Section 3 residents; or
- b. At least 30% of its full time employees are Section 3 residents, or were Section 3 residents within three years of the date of first hire; or
- c. Provide evidence of a commitment to subcontract to Section 3 business concerns, 25% or more of the dollar amount of the awarded contract.

**3. What is a Section 3 covered contract?**

A Section 3 covered contract is a contract or subcontract, including a professional service contract, awarded by HACA for work generated by HUD funds.

#### 4. When is Section 3 triggered?

Section 3 requirements are only *triggered* when the need for new jobs and/or contracting opportunities are created during the completion of covered contracts. Section 3 residents are not guaranteed employment and Section 3 business concerns are not guaranteed contracts. They must receive preference when demonstrating they meet the qualifications for these new opportunities.

#### 5. Numerical goals and preference (priority):

- a. *Employment*: Contractors and subcontractors will make every effort within their disposal to obtain a minimum of thirty percent (30%) of the total number of new hires annually shall be Section 3 residents, in the following order of priority:
  - i. Priority 1: Residents of the housing development or developments for which the contract shall be performed or the Section 3 covered assistance is expended.
  - ii. Priority 2: Residents of other housing developments managed by HACA.
  - iii. Priority 3: Participants in HUD Youthbuild programs being carried out in the Austin-Round Rock-San Marcos metropolitan statistical area.
  - iv. Priority 4: HACA's HCV holders, as well as all other residents residing in the Austin-Round Rock-San Marcos MSA who meet the income guidelines for Section 3 preference.
- b. *Contracting*: Contractors and subcontractors will make every effort within their disposal to obtain the minimum goals for contracting.
  - i. Ten percent (10%) of the total dollar amount of Section 3 covered contracts for building trade work for maintenance, repair, modernization, development, rehabilitation, or construction is awarded to Section 3 business concerns.
  - ii. Three percent (3%) of the total dollar amount of all other Section 3 covered contracts (non-building trade contracts) is awarded to Section 3 business concerns.
  - iii. The following order of preference (priority) will be used:
    1. Priority 1: Business concerns that are 51% or more owned by residents of the housing development(s) for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.
    2. Priority 2: Business concerns that are 51% or more owned by HACA residents other than the housing development where the work is to be performed; or whose full-time permanent workforce includes 30% of these persons as employees.
    3. Priority 3: HUD Youthbuild programs being carried out in the Austin-Round Rock-San Marcos MSA.
    4. Priority 4: Business concerns that are 51% or more owned by a Section 3 resident(s), or whose permanent full-time workforce includes no less than 30% Section 3 residents; or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

Businesses seeking a Section 3 preference will be required to provide a certification and supporting documentation that the business is a Section 3 business concern.

For more FAQs regarding Section 3, please visit <https://www.hacanet.org/business-opportunities/section-3/>

## CONTRACTOR RESPONSIBILITIES

The responsibilities by HUD on HACA are to ensure compliance with the Section 3 requirements in its own operations and the operations of its contractor's and subcontractor's. Contractors and subcontractors must, to the greatest extent feasible, adhere to the following responsibilities:

1. Notify, encourage and facilitate employment and training opportunities to Section 3 residents generated by Section 3 covered assistance;
2. Notify, encourage and facilitate award of contracts to Section 3 businesses generated by Section 3 covered assistance;
3. Incorporate the Section 3 Clause into all Section 3 covered contracts;
4. Submit HACA Section 3 forms, meet and discuss the Section 3 requirements and responsibilities with the potential contractor/subcontractor prior to commencement of work, providing additional assistance when needed;
5. Obtaining the above mentioned numerical goals for employment and contracting is considered to be in compliance with Section 3, absent evidence to the contrary;
  - a. Examples of activities to demonstrate efforts are listed in Section I and II of Appendix to [24 CFR Part 135](#).
6. Document and maintain records throughout the duration of the contract, including Section 3 efforts, implementation activities and impediments encountered;
7. Conduct compliance reviews and evaluation of the contractor's /subcontractor's compliance with Section 3 requirements;
8. Notify contractor of non-compliance and attempt to rectify compliance directly with HACA. If required, cooperate with HUD in directing instruction to obtain compliance of regulation 24 CFR Part 135;
9. Refrain from entering into contracts with contractors that are in violation of the regulations in 24 CFR Part 135;
  - a. Continuous violations and failure to comply with Section 3 requirements may result in sanctions, termination of contract for default, and debarment or suspension from future HUD assisted contracts, 24 CFR Part 135.38 Section 3 Clause Part F.
10. Direct and fully cooperate with HACA in response to complaints that the recipient, contractor or subcontractor is not in compliance with 24 CFR Part 135.

Contractors and subcontractors will be required to be in compliance with HACA's Section 3 requirements throughout the duration of the contract. HACA may require additional certifications and information to monitor compliance and for record keeping purposes. At the completion of the contract, a final determination for compliance with the Section 3 program will be made by HACA. The contractor's compliance with the Section 3 program may be used to determine contractor responsibility and bid responsiveness on future contracting opportunities with HACA.

For more examples of efforts that will be taken to comply with the requirements of Section 3, please see [Appendix to 24 CFR Part 135](#).

## SECTION 3 CLAUSE

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 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 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 subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

-end of clause-

[24 CFR 135.38 Section 3 clause](#)

## REPORTING

HACA must maintain appropriate records and documents to substantiate the information submitted to HUD. HACA requires contractors to submit Section 3 forms at time of bid, contract signing and/or start of a small project.

A Section 3 Compliance Report, including supporting documentation will be submitted to the Section 3 Coordinator monthly on the 10<sup>th</sup> for construction contracts and quarterly for service contracts.

## COMPLAINTS

Any Section 3 resident or Section 3 business concern (or authorized representative) may file a complaint alleging noncompliance with Section 3 by HACA, one of its contractors or subcontractors.

HACA encourages complaints alleging noncompliance to be submitted directly to HACA as soon as possible after the date of action or omission; preferably no later than 90 days from the date of the action upon which the complaint is based. HACA will adhere to the following guidelines when investigating complaints:

1. The complaint may be filed via phone at (888) 842-4484, mailed certified or via other means of tracking, or delivered in person at Housing Authority of the City of Austin, 1124 S. IH 35, Austin, TX 78704.
2. The complaint must include the name and address of the person filing the complaint, name and address of the respondent (HACA or its contractor or subcontractor), and a description of acts or omissions by the respondent of the nature and date of the alleged noncompliance.
3. HACA will conduct a thorough investigation of the complaint, affording all interested parties an opportunity to submit testimony and/or evidence pertinent to the complaint. Upon completion of the investigation, HACA will notify the complainant of the results of the investigation, and any actions taken to resolve the complaint, if applicable.

Complaints may also be filled with HUD, using form HUD-958, as follows:

1. The complaint must be received within 180 days from the date of the action upon which the complaint is based.
2. A complaint must be filed at the regional HUD office where the violation occurred, HUD Fort Worth Regional Office of Fair Housing and Equal Opportunity, 801 Cherry St., Unit 45, Suite 2500, Fort Worth, TX 76102.
3. The complaint must be in writing, signed by the complainant, and include the name and address of the person filing the complaint, name and address of the respondent, and a description of acts or omissions by the respondent of the nature and date of the alleged noncompliance.

The complainant will receive a response from HUD in which further investigation will be explained.

## SECTION 3 FORMS (ATTACHED)