

**CALHOUN COUNTY LAND BANK AUTHORITY**

**SECTION 3 CONTRACTING**

**POLICY AND PROCEDURES**

**TO PROMOTE SECTION 3 IN THE**

**HOUSING AND URBAN DEVELOPMENT**

**ACT OF 1968 (12 U.S.C. 1701U)**

May 24, 2011

Revised April 27, 2015

## **Introduction**

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low and very-low income individuals, especially recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income individuals. (Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u.)

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3 business concern (Exhibit 1). The Section 3 business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8) (Exhibit 4).

Contractors who do not qualify as Section 3 business concerns, but who enter into contracts with the Calhoun County Land Bank Authority, must agree to comply with certain general conditions (see Exhibits 3 & 4). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. Included in these conditions is the requirement that each contractor and subcontractor submit with each pay request a report of Section 3 compliance. Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts.

Please direct any questions you may have regarding this information to:

269-781-0777 or [landbank@calhouncountymi.gov](mailto:landbank@calhouncountymi.gov)

## **General Section 3 Policy Statement**

It is the policy of the Calhoun County Land Bank Authority to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, and to take action to ensure that both job applicants and existing employees are given fair and equal treatment.

The Calhoun County Land Bank Authority implements this Section 3 policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for Section 3 residents of the Calhoun County and other qualified low- and very low-income persons residing within the County limits.

The goal of this policy is to reach a reasonable level of success in the recruitment, employment, and utilization of Calhoun County residents and other eligible persons and businesses by

contractors working on contracts partially or wholly funded by the United States Department of Housing and Urban Development (HUD). The Calhoun County Land Bank Authority shall examine and consider a contractor's or vendor's potential for success in providing employment and business opportunities to Section 3 residents prior to acting on any proposed contract award.

### **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S. C. 1701u) (Section 3) requires the Calhoun County Land Bank Authority to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, and consistent with existing federal, state, and local laws, be directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

### **Applicability**

Applicability for Section 3 covered housing and community development assistance are as follows:

- A. Recipient:** The Calhoun County Land Bank Authority is required to follow Section 3 on housing and community development programs for all projects that receive HUD assistance.
- B. Contractor and Subcontractor:** Section 3 is required by contractors and subcontractors performing work on all Section 3 covered programs.

### **Calhoun County Land Bank Authority's Section 3 Procurement Requirements**

The Calhoun County Land Bank Authority will incorporate Section 3 requirements in the bidding document for all procurements that include HUD funding. All responding bidders must certify their acknowledgement of the Section 3 contracting and employment provisions required by this Act. Bidders must complete the *"Affidavit of Contractor Concerning Section 3 Covered Contracts"* (Exhibit 5) and include it in their bid packet. Failure to complete and include this form in their bid submittal may deem their bid non-responsive. The awarded contractor will be required to maintain all the required documentation to support their compliance with Section 3.

- A. Numerical Goals for Meeting Section 3 Requirements:** The Calhoun County Land Bank Authority does not directly engage in training or hiring in regards to Section 3 but awards contracts to contractors that may be required to hire, train, and subcontract to Section 3 businesses. The Calhoun County Land Bank Authority will ensure that, to the greatest extent feasible, contractors will provide training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns.

In accordance with 24 CFR 135.30 (c); the numerical goals set forth in this section apply to contracts awarded in connection with all Section 3 covered projects and Section 3 covered

activities. Each recipient and contractor and subcontractor may demonstrate compliance with the requirements of this part by committing to award to Section 3 business concerns the following:

1. At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
2. At least three (3) percent of the total dollar amount of all other Section 3 covered contracts.

**B. Contractor/Subcontractor Responsibilities:** If a contractor/subcontractor needs to hire new persons to complete a Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The following numerical goal applies to contractors and subcontractors:

1. At least 30 percent of new hires on the Section 3 covered contract shall be Section 3 residents.

Section 3 residents or business concerns are not guaranteed employment or contracting opportunities under Section 3. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the expenditure of covered assistance. Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

**C. Definition of a Section 3 Business Concern:** A Section 3 Business Concern is a business concern, is defined by the following:

1. A business that is fifty-one percent (51%) or more owned by Section 3 residents; or
2. A business whose permanent, full-time employees include persons, at least thirty percent (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. A business that provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.

*Note: A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above (see Exhibit 1 "Certification for*

*Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability”.)*

**D. Definition of a Section 3 Resident:** For purposes of the Calhoun County Land Bank Authority, a Section 3 resident is defined as one of the following:

1. A Battle Creek Housing Commission Resident; or
2. An individual who lives in Calhoun County and whose income falls within the guidelines for low- or very low income.

*Note: A resident seeking to eligibility as a Section 3 resident shall submit evidence that the business meets one of the guidelines stated above (see Exhibit 2 “Section 3 Resident Status Eligibility Form”).*

**E. Section 3 Income Limits:** Residents residing within the Calhoun County who meet the income limits set forth on the HUD can qualify for Section 3 Status. Because HUD periodically updates its income requirements, the following table has been included for informational purposes only.

From May 1, 2014 through June 30, 2015, HUD income requirements are as follows:

Percentage	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
20% AMI	\$7,400	\$8,460	\$9,520	\$10,560	\$11,420	\$12,260	\$13,100	\$13,940
30% AMI	\$11,100	\$12,700	\$14,300	\$15,850	\$17,150	\$18,400	\$19,700	\$20,950
40% AMI	\$14,800	\$16,920	\$19,040	\$21,120	\$22,840	\$24,520	\$26,200	\$27,880
50% AMI	\$18,500	\$21,150	\$23,800	\$26,400	\$28,550	\$30,650	\$32,750	\$34,850
60% AMI	\$22,200	\$25,380	\$28,560	\$31,680	\$34,260	\$36,780	\$39,300	\$41,820
70% AMI	\$25,900	\$29,610	\$33,320	\$36,960	\$39,970	\$42,910	\$45,850	\$48,790
80% AMI	\$29,600	\$33,800	\$38,050	\$42,250	\$45,650	\$49,050	\$52,400	\$55,800
100% AMI	\$37,000	\$42,300	\$47,600	\$52,800	\$57,100	\$61,300	\$65,500	\$69,700
120% AMI	\$44,400	\$50,760	\$57,120	\$63,360	\$68,520	\$73,560	\$78,600	\$83,640

**Business Concerns Seeking Section 3 Preference in Bid Awards**

Businesses that meet the requirements of a Section 3 business concern and wish to seek consideration for preference in bid awards must complete the “*Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability*” form (Exhibit 1) in their bid submittal. All supporting documentation as indicated in Exhibit 1 must be included to be eligible for Section 3 preference.

**Order of Providing Section 3 Preference in Bid Awards**

When considering the award of contracts to business concerns, and more than one Section 3 business concern is being considered, priority consideration shall be given, where feasible to the following:

1. A Section 3 business concern that provides economic opportunities for Calhoun County Section 3 residents (category 1 businesses);
2. Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youth Build programs (category 2 businesses); or
3. Other Section business concerns.

*Note: A Section 3 business concern seeking any of the above preferences shall submit evidence that it meets the guidelines of that preference (Exhibit 1).*

### **Procurement Preference**

This section provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the “contracting party”) for implementing the Section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

#### **A. Small Purchase Procedures**

For Section 3 covered contracts aggregating no more than \$100,000, the methods set forth in this paragraph (A) or the more formal procedures set forth in paragraphs (B) and (C) of this section may be utilized.

1. **Solicitation:** Quotes may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of the following:
  - a. the Section 3 covered contract to be awarded with sufficient specificity;
  - b. the time within which quotes must be submitted; and
  - c. the information that must be submitted with each quote.

If the method described in paragraph is utilized, there must be an attempt to obtain quotes from a minimum of three qualified sources to promote competition. Fewer than three quotes are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotereceived in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotes.

## 2. **Award.**

- a. Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 business concern with the lowest responsive quote. If the Section 3 businesses' quote is not the lowest responsive quote, then the contract will be awarded to the next lowest responsive quote from a certified Section 3 business if it is not more than 5% higher than the lowest responsive quote.
- b. Where the Section 3 covered contract is to be awarded based on factors other than price, a request for quotes shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quote. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 5 to 10 percent of the total number of available rating points to be set aside for the provision of preference for Section 3 business concerns. The contract shall be awarded to the responsible firm whose quote is the most advantageous, considering price and all other factors specified in the rating system.

**B. Sealed Bids:** For procurement by sealed bids (Invitations for Bids), preference in the award of Section 3 covered contracts that are awarded under a sealed bid process may be provided as follows:

1. **Solicitation:** Bids shall be solicited from all businesses (Section 3 business concerns, and non-Section 3 business concerns).
2. **Award:** Shall be made to the qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid is within the following guideline:
  - a. The bid from the Section 3 business concern is not more than 5% higher than the total bid price of the lowest responsive bid from any responsible bidder.

If no responsive bid by a Section 3 business concern meets the requirements of paragraph of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

**C. Competitive Proposals:** Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).

1. **Solicitation:** For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals

(RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

2. **Evaluation & Award:** One of the evaluation factors shall address both the preference for Section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (Section 3 strategy), as disclosed in proposals submitted by all business concerns (Section 3 and non-Section 3 business concerns). This factor shall provide for a range of 5 to 15 percent of the total number of available points to be set aside for the evaluation of these two components.
  - a. The component of this evaluation factor designed to address the preference for Section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.
  - b. With respect to the second component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the contractor's Section 3 strategy to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm (either Section 3 or non-Section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

## **Enforcement**

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

- A. Discussion of contract requirements:** During the pre-bid and/or pre-construction conference, the objective shall be to provide Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail:
  1. Davis-Bacon (Construction contracts only);
  2. The Calhoun County Land Bank Authority Purchasing Policy; and
  3. Minority and Women Owned Business Participation.
- B. Requirements for non-Section 3 contractors:** The Calhoun County Land Bank Authority will, *to the greatest extent feasible*, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the satisfaction that it has the ability to perform successfully under

the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all businesses must (including Section 3 businesses), the general conditions of compliance (refer to Exhibit 3), as described below:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making vacant positions available, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order of priority.
4. As positions are vacated during the term of the contract, applying guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

**C. Internal Section 3 Complaint Procedure:** In an effort to resolve complaints generated due to non-compliance through an internal process, Calhoun County Land Bank Authority encourages submittal of such complaints to its Property & Project Coordinator or Executive Director:

1. Filing Requirements:
  - a. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
  - b. Complaints must be filed within thirty (30) calendar days after the complainant become aware of the alleged violation.
2. Investigation Requirements:
  - a. An investigation will be conducted if complaint is found to be valid. The Calhoun County Land Bank Authority Executive Director or Property Manager will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.

- b. The Executive Director or Property & Project Coordinator will provide written documentation detailing the findings of the investigation of the Calhoun County Land Bank Authority. The Calhoun County Land Bank Authority will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the Calhoun County Land Bank Authority a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity  
United States Department of Housing and 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 mission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.



**EXHIBIT 2**

**THE CALHOUN COUNTY LAND BANK AUTHORITY SECTION 3 RESIDENT STATUS ELIGIBILITY 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.

An example of evidence of eligibility for the preference is evidence of residency in Calhoun County **AND** receipt of public assistance, evidence of participation in a public assistance program, or evidence of income at or below 80% of area median income. (See attached Exhibit 3.)

**Certification for Resident Seeking Section 3 Preference in Training and Employment**

I, \_\_\_\_\_, am a legal resident of Calhoun County and meet the income eligibility guidelines for a “low-” or “very low-income” person per the Calhoun County Section 3 Income limits.

My permanent address is: \_\_\_\_\_  
\_\_\_\_\_

I have attached the following documentation as evidence of my status:

- Copy of lease (Residency)
- Copy of receipt of public assistance or of participation in a public assistance program (Income)
- Copy of MI State ID or Drivers License (Residency)
- Copy of most recent Federal Income Tax Filing (Income)
- Other evidence as described below:  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

### EXHIBIT 3

#### Section 3 Income Limits

Residents residing within the Calhoun County who meet the income limits set forth on HUD’s website ([http://www.huduser.org/portal/datasets/il/il2010/select\\_Geography.odn](http://www.huduser.org/portal/datasets/il/il2010/select_Geography.odn)) qualify for Section 3 Status.

Because HUD periodically updates its income requirements, the following table has been included for informational purposes only. As of March 4, 2015, HUD income requirements were as follows:

#### Calhoun County, Michigan

FY 2014 Income Limit Area	Median Income	FY 2014 Income Limit Category	Size of Household							
			1 Person	2 People	3 People	4 People	5 People	6 People	7 People	8 People
Calhoun County	\$55,600	Extremely Low (30%)	\$11,100	\$12,700	\$14,300	\$15,850	\$17,150	\$18,400	\$19,700	\$20,950
		Very Low (50%)	\$18,500	\$21,150	\$ 23,800	\$26,400	\$28,550	\$30,650	\$32,750	\$34,850
		Low (80%)	\$29,600	\$33,800	\$ 38,050	\$42,250	\$45,650	\$49,050	\$52,400	\$55,800

## EXHIBIT 4

**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 or 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 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).

**EXHIBIT 5**

**AFFIDAVIT OF CONTRACTOR CONCERNING  
SECTION 3 COVERED CONTRACTS IN EXCESS OF \$100,000**

STATE OF MICHIGAN    )

)ss.

COUNTY OF CALHOUN    )

The undersigned being first duly sworn, deposes and says as follows:

1.       That the undersigned is the authorized representative of the contractor.
2.       That the contractor understands that this affidavit pertains to a Section 3 Covered Contracts.
3.       That the contractor has reviewed the following clauses, understands the same, and further understands that they are applicable to all Section 3 Covered Contracts:
  - A. The work to be performed under the 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 the contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of the contract, the parties to the 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 or 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 the 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 the 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 the 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.

