



**Frequently Asked Questions and Answers
 About
 Section 3 of the Housing & Urban Development Act of 1968**

§ 24 CFR 135 – Economic Opportunities for Low-and Very Low-Income Persons

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain 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 persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons..

2. What does the term “Section 3 resident” mean?

A “section 3 resident” is:

- a) A public housing resident; or
- b) 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. In Mecklenburg County, it is the following:

2011 Mecklenburg County Area Median Income Limits

Family Size	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Low Income	\$37,800	\$43,200	\$48,600	\$54,000	\$58,350	\$62,650	\$67,000	\$71,300

Note: Mecklenburg County is part of the **Charlotte-Gastonia-Concord, NC-SC HUD Metro FMR Area**. The **Charlotte-Gastonia-Concord HUD Metro FMR Area** contains the following areas: Cabarrus County, NC; Gaston County, NC; Mecklenburg County, NC; Union County, NC; and York County, SC.

3. What does the term Section 3 Business Concern mean?

Section 3 business concerns are businesses that can provide evidence that they meet one of the following:

- a) 51 percent or more owned by Section 3 residents; or
- b) 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
- c) 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.

4. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

5. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm’s compliance with technical and public policy requirements.

Preference to Section 3 business concerns means that a recipient’s or contractor’s procurement procedures include methods to provide preference to Section 3 business concerns. Accordingly, if a Section 3 business concern is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the recipient agency can give preference to the Section 3 business in an effort to meet its numerical goals annually.

§ 24 CFR 135 Appendix to Part 135 II

This Section III 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).

(2) Procurement by sealed bids (Invitations for Bids). Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An 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—

(A) is within the maximum total contract price established in the contracting party’s budget for the specific project for which bids are being taken, and

(B) is not more than “X” higher than the total bid price of the lowest responsive bid from any responsible bidder. “X” is determined as follows:

x=lesser of:

When the lowest responsive bid is less than \$100,000	10% of that bid or \$9,000
When the lowest responsive bid is: At least \$100,000 but less than \$200,000	9% of that bid, or \$16,000
At least \$200,000, but less than \$300,000	8% of that bid, or \$21,000.
At least \$300,000, but less than \$400,000	7% of that bid, or \$24,000.
At least \$400,000, but less than \$500,000	6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million	5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million	2% of that bid, or \$105,000.
\$7 million or more responsive bid, with no dollar limit	1 ½ % of the lowest

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

6. *What responsibilities do contractors/subcontractors have if they receive Section 3 covered financial assistance?*

If the contractor/subcontractor has the need to hire new persons to complete the 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 same numerical goals apply to contractors and subcontractors (30% of new hires, 10% of construction contracts, and 3% of non-construction contracts).** In addition, the contractor/subcontractor must notify the recipient agency about their efforts to comply with Section 3 and submit any required documentation.

7. *Are recipients and contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?*

Recipients and contractors are required, to the extent feasible, to direct all employment opportunities to Low- and very Low-income persons- including seasonal and temporary employment opportunities.

8. *What if it appears that an entity is not complying with Section 3?*

Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

***For more information about Section 3, visit HUD's website,
<http://www.hud.gov/offices/fheo/section3/section3.cfm>***

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