

MONTGOMERY COUNTY, OHIO

SECTION 3 CONTRACTING

POLICY & PROCEDURES

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 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).

Section 3 requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by assistance covered by Section 3, for contracts or subcontracts exceeding \$100,000.

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. 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).

Contractors who do not qualify as Section 3 business concerns, but who enter into contracts with Montgomery County or its subrecipients must agree to comply with certain general conditions (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. In addition each contractor and subcontractor must submit quarterly documentation of Section 3 compliance (refer to Section 3 Compliance Report). Failure to comply with these 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 Judy Mott, Community Development Manager at (937) 224-3641.

WHAT IS A SECTION 3 BUSINESS CONCERN?

A Section 3 Business Concern is a business concern, as defined in this section—

- That is fifty-one percent (51%) or more owned by Section 3 residents; or
- 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 employment with the business concern were Section 3 residents; or
- 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. (Refer to Section 3 Business Concern Certification Application – Exhibit 1)

WHO IS A SECTION 3 RESIDENT?

For purposes of Montgomery County, a Section 3 resident is:

- A resident of government-assisted housing;
- An individual who lives in Montgomery County and whose income falls below HUD's published guidelines for low- or very low income.

ORDER OF PROVIDING PREFERENCE SECTION 3 BUSINESS CONCERN

When considering the award of contracts to business concerns, and more than one Section 3 business concern is being considered, to the greatest extent possible, awards shall be made in the following order of priority:

a) Category 1 – Business owner(s) is/are resident(s) in the neighborhood area in which the contract shall be expended;

b) Category 2 – Business owner(s) is/are resident(s) of government-assisted housing in other qualifying low-income areas in Montgomery County;

c) Category 3 – Business owner(s) hires participants in HUD Youthbuild program being carried out in the project boundary area.

d) Category 4 – Business owner(s) is/are resident(s) of Montgomery County who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

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

WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

Montgomery County and its subrecipients 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 County's 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 Section 3 Clause).

This will include:

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, including training and/or apprenticeship positions, available to Section 3 residents (all categories) in order of priority.
4. As positions are vacated during completion of contract, following 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.

ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT

When considering the employment of a Section 3 resident, the following order of priority is followed as outlined in 24 CFR 135.32:

- a) **Category 1** – Residents of government-assisted housing and those income eligible living in the neighborhood area in which the contract shall be expended;
- b) **Category 2** – Residents of government-assisted housing in other qualifying low-income areas in Montgomery County;
- c) **Category 3** – Participants in HUD Youthbuild program being carried out in the project boundary area.
- d) **Category 4** – Montgomery County residents who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum qualifications.

SECTION 3 INCOME LIMITS

All residents of government-assisted housing qualify as Section 3 residents. Additionally, individuals residing in Montgomery County who meet the income limits set forth below can also qualify for Section 3 status.

Income Eligibility Guideline

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Very Low (50%) Income Limits	\$21,600	\$24,700	\$27,800	\$30,850	\$33,350	\$35,800	\$38,300	\$40,750
Low (80%) Income Limits	\$34,550	\$39,500	\$44,450	\$49,350	\$53,300	\$57,250	\$61,200	\$65,150

SECTION 3 Procurement Documents and Requirements

Montgomery County has initiated efforts to enhance hiring of Section 3 residents in specific procurement areas. These initiatives are designed to set the requirements for resident hiring and developing and/or strengthening administrative procedures for facilitating contractors' hiring of Section 3 residents residing in Montgomery County.

Procurement Documents

Each bidder/proposer must include a Section 3 Action Plan which indicates its commitment to meet Montgomery County's Section 3 resident hiring requirements.

If a bidder/proposer fails to submit a Section 3 Action Plan and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive".

For Invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy Montgomery County's resident hiring requirements may be a factor used in determining whether the bidder is "responsive".

SECTION 3 OPPORTUNITIES PLAN (SERVICE & PROFESSIONAL CONTRACTS)

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

The Section 3 Action Plan is to be completed for service and professional contracts. There are two ways in which Section 3 can be fulfilled:

1. Subcontract or joint venture with a Section 3 business concern. The business must be 51% of more owned by a qualifying low-income resident, or subcontract/joint venture with a business that employs full-time, 30% or more low and very-income individuals residing within Montgomery County.

2. Direct hiring of Montgomery County low and very low-income neighborhood residents based on the Resident Hiring Scale.

The completed Section 3 Action Plan must be submitted as part of the bid package for all Montgomery County HUD-funded projects in excess of \$100,000. Each contractor is required to attend a preconstruction conference with Montgomery County or its subrecipient's staff where contractual obligations will be explained, the contractor's Section 3 dollar amount will be determined, and the contractor's hiring goals will be discussed.

The Section 3 Action Plan that is submitted with the RFQ/RFP/IFB and the final copy that is submitted to the Section 3 Coordinator must be signed and include the title of person executing the plan.

A Section 3 Compliance Status Report is due quarterly and is the Contactor's communication tool on compliance with Section 3. Contractors may contact the Section 3 Coordinator with any questions regarding forms, responsibilities or requirements relative to Section 3.

SECTION 3 FORMS

Thank you for your interest in participating in Montgomery County's Section 3 Program. These next two pages and subsequent forms are meant as a guide to help you satisfy the County's Section 3 compliance reporting requirements. The information provided below identifies the attachments that must be submitted to the County, what entities must submit these attachments (contractor, sub-recipient, sub-contractor), and when these attachments must be submitted.

INITIAL DOCUMENTATION

HUD Section 3 Acknowledgement & Action Plan

- Contractors must complete and submit this form with their other bid materials
- All Sub-contractors (with contracts that exceed \$100,00 must complete and submit this form prior to the issuance of Notice to Proceed
- Please be sure to also complete as part of the Bid materials the Section 3 components of bid forms MBE6 through MBE12 and EEO1

Existing Core Workforce List

- Contractors AND all sub-contractors must submit their workforce list prior to the issuance of Notice to Proceed

CONTRACTING OPPORTUNITIES

Section 3 Covered Contracts & Professional Services Roster

- Contractors AND all sub-contractors must submit this prior to awarding contracts

COMPLIANCE REPORTING

Section 3 Business & Community Outreach Contact Logs (samples provided)

- Contractors AND all sub-contractors must submit documentation quarterly demonstrating their efforts to reach the Section 3 contracting, hiring, and training goals using appropriate forms that identify their efforts. See the samples that have been provided.

Employment & Training Opportunity Worksheet for New Hires and Trainees

- Contractors AND all sub-contractors must submit this form quarterly, identifying new employees

Quarterly Section 3 Compliance Reports

- Contractors AND sub-recipients AND all sub-contractors must submit the Summary Report of Economic Opportunities for Low Income Persons and the Summary Report of Contractors Efforts to Achieve Section 3 Compliance quarterly



HUD SECTION 3 ACKNOWLEDGEMENT AND ACTION PLAN

The Section 3 Acknowledgement and Action Plan must be completed by Contractor(s) as part of the bid package and covered sub-contractors prior to the issuance of the Notice to Proceed.

By signing below you acknowledge that you have received a copy of Montgomery County's Section 3 Action Plan and the HUD Section 3 Clause Certification and Compliance requirements stated therein.

The undersigned certifies to its commitment to comply with the County's Section 3 Plan, all Section 3 laws and regulations and to use the Dayton Metropolitan Housing Authority and the Montgomery County Job Center as ways to advertise available employment and/or training opportunities in connection with the project described below.

The undersigned further certifies that the information contained in this plan and submitted to the County and its subrecipient(s) is accurate and correct. The undersigned understands that the County or its subrecipient(s) may impose penalties and sanctions for any of the following:

- submission of false or inaccurate statements in this document and/or subsequent reports to the County;
- failure to achieve Section 3 contracting and employment goals for the project;
- failure to comply with the County's Section 3 Plan, Section 3 laws and regulations and/or its contract obligations.

I, the undersigned

Officer or Authorized Agent of Company
Printed

Officer/Agent's Title
Print

Signature

Date



HUD SECTION 3 ACKNOWLEDGEMENT AND ACTION PLAN (cont.)

For MONTGOMERY COUNTY FUNDED PROJECTS

Project Name _____

Project Address _____

Project Area _____

Bid/Award Amount _____

Contractor/Company Name _____

Company's Sec 3 Contact _____

Company Address _____

	City	State	Zip
	_____	_____	_____

Company Phone _____

Fed Tax Id No. _____

State Tax Id No. _____

Email of Company Contact _____

General Contractor
(if being completed by Sub) _____

Contract Award Date (to sub) _____

Montgomery County Section 3 Goals/Estimates

Instructions: This form must be completed by the Bidder and each Contractor and Subcontractor. Specify in the TOTAL column, the total number of construction dollars that your business will subcontract; the total number of non-construction dollars that your business will subcontract, and the total number of new hires to be made. Apply to those amounts the percentage indicated in the Section 3 % Goals column. The resulting number is your company's initial Section 3 goals, which the County's Section 3 Coordinator will verify.

Part 1: Project Information

Project Name: _____

Contractor/Company: _____

Section 3 Contact: _____ Contract/Bid Amount: _____

Phone Number: _____ Email: _____

Part 2: Section 3 Contracting and Employment Goals

10% of Building/Const. Contracts
(Note: Contracts for purchase of supplies and materials only are not subject to goals unless the projects includes installation of product)

3% of All Other Non Construct. Contracts
(architect, appraisal, etc.)

30% of New Hires (Note: One Sec. 3 resident must be hired when a company makes 1, 2, or 3 new hires)

	TOTAL	Section 3 % Goals	Section 3 (\$ or #) Goals*
Building Trade/Construction Contracts		10% of TOTAL	
Non-Construction Contracts		3% of TOTAL	
New Hires		30% of TOTAL	
*(multiply the TOTAL by the Section 3 % Goal to get the Section 3 Goal # or \$)			

Complete pages MBE-6 through MBE-12 and EEO1 to document your contact with potential subcontractors as well as your own hiring.

MONTGOMERY COUNTY EXISTING CORE WORKFORCE LIST

Must be completed by all Contractors and sub-contractors **prior to issuance of Notice to Proceed**. Please include a certified payroll list with this form. If a certified payroll will be submitted to the County's Section 3 Coordinator, then you are not required to submit a duplicate certified payroll list.

Company Name: _____

Project: _____ Project No.: _____

Submitted by: _____ Telephone No.: _____

The following is a list of "Core Employees." These employees, in accordance with the definition of an Existing Core Workforce, have been on the active payroll for fifty (50) out of the last one hundred (100) business days prior to the award. The Contractor, at any tier must submit this form prior to commencing work on the project.

The Contractor shall provide to the Section 3 Coordinator or designee proof of their "Core Workforce" upon request. Alternative worksheets may be submitted only if it contains at minimum the same information shown below is contained.

Employee Name	SSN Last 4	Job Classification	Hire Date	Date Last Employed	Office Use Only

If you require additional space, please attach sheets with the appropriate information.

**MONTGOMERY COUNTY SECTION 3 COVERED CONTRACTS & PROFESSIONAL
SERVICES ROSTER**

List **all** Contractors, Firms, and Vendors that have been awarded a contract. Each Contractor and sub-contractor that will award their own contracts must also complete this form. Signify which businesses are Section 3 Business Concerns. Note: Contractors that have been awarded in excess of \$100,000 must submit a Section 3 Action Plan.

Company Name/ Contact	Service Provided	Date of Contract	% of Total Contracts Awarded	\$ of Contract	Sec. 3? Yes/No

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Contractor's Quarterly Section 3 Compliance Report
 Montgomery County Community Development Department
 Summary Report of Contract & Subcontract Activity.

All covered Contractors and subcontractors must complete this form.

Contractor Name & Address	Contact Person	Reporting Period	Date
	Telephone Number	Email Address	
	Project Description	Start Date	Completion Date
	Total Amount of Award \$	Prime Contractor o Sub-Contractor o	
Construction Contracts			
Total \$ Amount of all Contracts Awarded on the Project	Total \$ Amount of Const Contracts Awarded to Section 3 Businesses	Percentage of Total \$ Amount Awarded to Section 3 Businesses	Total No. of Section 3 Businesses Awarded Contracts
\$	\$	%	
Non-Construction Contracts			
Total \$ Amount of all Contracts Awarded on the Project	Total \$ Amount of Const Contracts Awarded to Section 3 Businesses	Percentage of Total \$ Amount Awarded to Section 3 Businesses	Total No. of Section 3 Businesses Awarded Contracts
\$	\$	%	

Office Use Only
Construction Contract Goal – 10% of total dollar amount of construction work
Section 3 Construction Contract Goal \$ _____ Achieved _____
Non-Construction Contract Goal – 3% of total dollar amount of other contracts
Non-Construction Contract Goal \$ _____ Achieved _____

Certified this ____ day of _____, 2010 By: _____

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MONTGOMERY COUNTY SECTION 3 EMPLOYMENT AND TRAINING OPPORTUNITY COMPLIANCE WORKSHEET

To be completed by Contractors and sub-contractors.

To ensure efforts are made to reach Montgomery County’s numerical goals for job placement of low-income individuals; all Contractors shall provide information on all available employment and training opportunities related to the project. This document must be submitted with certified payrolls. This is a **mandatory quarterly submittal**.

Company Name		Project Name		Project Number	
Project Start Date	Project End Date	Reported by o Prime Contractor o Subcontractor			
# of Core Employees	Proposed # of New Hires	Proposed # of Section 3 Hires	Contract Amount \$		
Proposed % of Section 3 New Hires	# of New Employees Hired for Construction Work	# of New Employees Hired for Non-Construction Work			
Name of New Hire	New Hire Job Titles	Sect. 3 Yes/No	Estimated Start Date	Estimated End Date	Office Use

Office Use Only	
Section 3 Employment Goals – 30% of new hires	Actual Hiring Goal: _____ Achieved _____

Contractor's Quarterly Section 3 Compliance Report

Montgomery County Community Development

Summary Report of Economic Opportunities for Low Income Persons

Section 3 of the HUD Act mandates that the department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low-and very low-income persons, particularly those who are recipients of government housing. The information provided will be used to monitor the program recipient's compliance with Section 3, to assess the County's efforts to meet the objectives of Section 3, prepare reports for HUD, and by recipients as a self monitoring tool. All Contractors and

Contractor Name & Address		Contact Person			Reporting Period	Date	
		Telephone Number			Email Address		
		Project Description			Start Date	Completion Date	
		Total Amount of Award \$			Prime Contractor o Sub-Contractor o		
Job Category	# of New Hires	Total No. of Hours that are New Hires	No. of New Hires that are Sec 3 Residents	Total No. of Hours that are Sec 3 Residents	No. of Sec 3 Employees & Trainees	Total No. of hours that are Sec 3 Employees & Trainees	
Total for this Reporting Period							
Total from Contract Start Date							

sub-contractors must complete and submit this form.

Certified this ____ day of _____, _____

By: _____

Contractor's Section 3 Compliance Report

For the Montgomery County Community Development Office

Summary Report of Contractor's Efforts to Achieve Section 3 Compliance. All Contractors and sub-contractors must complete this form.

Indicate below the efforts made to direct employment and other economic opportunities, to the greatest extent feasible, toward low-and very low-income persons and businesses providing opportunities to low-income persons.

Check all that Apply:

_____ Attempted to recruit low-income residents through local advertising media, and signs prominently displayed at the project site.

_____ Partnered or coordinated events with community organizations and/or public and private agencies in the area in which the project is located, or similar methods.

_____ Coordinated with Youthbuild programs in the metropolitan area in which the Section 3 Project is located.

Describe additional methods undertaken to achieve the objectives of Section 3 Compliance (attach additional pages if necessary):

Indicate what specific strategies and outreach efforts were used for contracting with Section 3 business concerns and for hiring Section 3 residents:

Contractor: _____ Project: _____

SECTION 3 BUSINESS CONTACT LOG



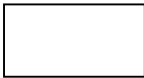
Project Name: _____

Company Name: _____

This sample form or a similar form must be maintained during the entire period of the solicitation phase and entire period of construction to record contact with businesses. Record all efforts used to meet Section 3 obligations and affix documents that support such efforts (e.g. proof of mailing, fax transmittal, e-mails, etc.).

Attach additional pages if necessary.

Date/Time	Company	Method of Contact	Contact Person	Other Efforts	Results of Communication
Example: 1/10/10/ 10:00 AM	Example: Jane Doe Contracting	Example: Fax – 651- 123-7654	Example: Jane Doe: Owner	Example: Craigslist, Twitter, Text, other social media	Example: Fax sent to Jane requesting participation. Jane thinks bus qualifies as Sec 3. Will include them as part of proposed team.



SECTION 3 COMMUNITY OUTREACH CONTACT LOG

Project Name: _____ Project Number: _____

Company Name: _____

This sample form or a similar form must be maintained during the entire period of the solicitation phase and entire period of construction to record community outreach efforts. Record all efforts used to meet Section 3 obligations and affix documents that support such efforts (e.g. proof of mailing, fax transmittal, e-mails, etc.).

Date/Time	Company	Method of Contact	Contact Person	Other Efforts	Results of Communication
Example: 1/10/10/ 11:00 AM	Example: XYZ Non- Profit	Example: Fax – 651- 123-7654	Example: Jane Doe, Owner	Example: Craigslist, Twitter, Text, other social media	Example: Spoke to Jane Doe to coordinate a Section 3 networking event.

SECTION 3 COMPLIANCE CHECKLIST

For Recommended Use by Contractors, Sub-recipients, and Subcontractors

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Creation of Action Plan	Yes/No	Date Complete
1. I designated a Section 3 compliance officer/contact for the project		
2. I attended the project's pre-bid meeting		
3. I attended the project's pre-con meeting		
4. The County approved my Section 3 Action Plan		
5. My subcontractors with contracts in excess of \$100,000 have each submitted a complete Section 3 Action Plan to the County's Section 3 Coordinator		

Soliciting Bids/Contracting	Yes/No	Date Complete
1. I have obtained a list of certified Section 3 business concerns from the Dayton Metropolitan Housing Authority		
2. I solicited at least 3 bids from the list of Section 3 businesses for each service that requires subcontracts (I allowed adequate time for the business to respond and/or submit a proposal or bid).		
3. I provided plans and specifications or information regarding the location of plans and specifications to Section 3 business concerns.		
6. I turned to the following outreach agencies: _____ and _____; to assist with efforts to conduct outreach to meet contracting goals		
7. I recorded my efforts to subcontract to Section 3 business concerns		
8. I included my efforts and their results with the bid packet I submitted for the project		

Compliance	Yes/No	Date Complete
1. I submitted quarterly Section 3 compliance reports with the County or its subrecipient		
2. I identified the Section 3 businesses utilized for the project		
3. I identified all contractors and new hires utilized for the project		
4. I submitted the company's existing core workforce list or a certified payroll list to the County's Section 3 Coordinator or its subrecipient		

Impediments, Concerns, Enforcement	Yes/No	Date Complete
1. I have documented the efforts taken and the impediments encountered in trying to satisfy Section 3 requirements		
2. I have paid the penalty as assessed by the County		