

City of Newburgh New York



2020 - 2024

**Section 3
Plan**

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I. SECTION 3 OVERVIEW

The City of Newburgh ("City") is committed to helping the residents of the City achieve their goals of self-sufficiency by providing opportunities for employment. The City provides opportunities on its construction, demolition, and rehabilitation projects by requiring its contractors, in accordance with this City of Newburgh Section 3 Plan including Forms attached hereto ("Section 3 Plan") to hire qualified City residents to facilitate economic opportunity for such residents.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) and 24 CFR 135.1 et seq. 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 City residents with not more than eighty (80%) percent of individual or family median income in the City, being the Service Area for applicable HUD funding, under 24 CFR 135.34(a)(2)(i) ("Section 3 Residents"), and to business concerns which provide economic opportunities for Section 3 Residents.

All contractors approved by the City for wholly or partially HUD-funded projects exceeding \$200,000 in cost must adhere to the Economic Opportunities guidelines of this Section 3 Plan. The Section 3 regulations require that recipients of certain HUD financial assistance, to the greatest extent possible, provide employment and contract opportunities for Section 3 Residents in connection with projects and activities in the City.

The Section 3 regulations recognize that HUD funding typically results in projects/activities that generate new employment and contracting opportunities. The economic opportunities requirements of Section 3 apply to recipients of HUD Community Development and Block Grant Funding for projects exceeding \$200,000. The requirements of Section 3 only apply to those projects involving housing construction, rehabilitation, demolition, or other public construction.

CONTRACT SIZE:

If the estimated value of the project is \$0-200,000, including both HUD and non-HUD funding, Section 3 requirements do not apply.

Projects exceeding \$200,000, including both HUD and non-HUD funding, and all contracts therein must complete all requirements of this Section 3 Plan.

The general guidelines are as follows:

30% of the aggregate number of New Hires for the Section 3 Covered Project shall be Section 3 Residents; and

10% of the aggregate dollar amount of all covered contracts and subcontracts for the Section 3 Covered Project shall be awarded to businesses which are owned by at least 51% Section 3 Residents and whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents ("Section 3 Businesses.")

II. KEY TERMS

New Hire: A new hire is a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

Section 3 Business: A contractor or a subcontractor for a Section 3 Covered Project which is owned by at least 51% Section 3 Residents, or whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents, or has committed 25% of the dollar amount of its subcontracts to Section 3 Businesses.

Section 3 Resident:

1. Resident of Public Housing in the City; or
2. Individual that resides in the City and whose family income for the previous calendar year did not exceed eighty (80%) percent of the median income for individuals and families in the City, as set forth in the most recent decennial Census, with adjustments for smaller and larger families, as may be updated annually by the U.S. Census Bureau, American Community Survey. See Form A for most recent median income calculations for Newburgh.

Section 3 Covered Projects: A Section 3 Covered Project means a project exceeding \$200,000 in aggregate cost involving the construction or rehabilitation of housing, other public construction, or demolition using all or some HUD funding.

III. SECTION 3 CLAUSE

The Section 3 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 language (referred to collectively 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), 24 CFR 135.1 et seq., and the 2011 - 2015 Section 3 Plan ("Section 3 Plan). 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 residing in the City of Newburgh known as Section 3 Residents, with preference given to Category 1 under 24 CFR 135.34(a)(2)(i);*

- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3, together with the Section 3 Plan. As evidenced by their execution of this Contract, the Contractor certifies that it is under no contractual or other impediment that would prevent it from complying with the Part 135 regulations and the attached Section 3 Plan;*
- C. The Contractor agrees to post copies of the Section 3 Plan together with a notice of new hiring under this Contract in conspicuous places at the work site where both current employees and applicants for employment positions can see the notice as well as in locations within the City of Newburgh that provide employment and training opportunities, and other locations, which list of locations shall be identified by the Department of Planning and Development. The Department of Planning and Development may require that certain notices be posted in both English and Spanish. The notice shall describe the Section 3 preference, shall set forth minimum number of job titles subject to hire including 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 and the Section 3 Plan in every subcontract to this Contract, 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 attached Section 3 Plan. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of and/or does not intend to comply with the regulations in 24 CFR Part 135 and the attached Section 3 Plan;*
- E. The Contractor shall certify that any vacant employment positions including apprenticeship and 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 and the attached Section 3 Plan require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under such regulations and the Section 3 Plan; and*
- F. Noncompliance with HUD's regulations in 24 CFR part 135 and/or the Section 3 Plan may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.*

IV. CITY OF NEWBURGH ROLE & RESPONSIBILITIES

The City of Newburgh Department of Planning & Development ("Department") has a role and responsibility in ensuring these courses of action are successfully pursued. The Department will coordinate the Section 3 efforts of the City, monitor all activity under this Section 3 Plan and make compliance determinations.

The Director of the Department or such Director's designee shall undertake the following tasks in coordination with other City departments, including but not limited to the City Engineer:

1. Include Section 3 compliant notification language together with copies of this Section 3 Plan in Invitations for Bids or RFPs for Section 3 Covered Projects.
2. Notify Section 3 Businesses that they must be certified prior to the participation in a bid or contract for a Section 3 Covered Project and confirm such certification prior to any bid being accepted.
3. Provide a pre-certification and pre-bid conference, helping potential bidders understand the Section 3 requirements of this Plan.
4. Identify and coordinate with local agencies, businesses, and institutions that currently provide employment training and hiring opportunities with the goal to have those agencies, businesses and institutions identify and regularly update the pool of qualified Section 3 Residents who would be available to fill new positions.
5. Provide to contractors who are required pursuant to this Plan to recruit qualified Section 3 Residents relevant information about local agencies, businesses and institutions that currently provide employment training and hiring opportunities.
6. Pursuant to this Plan, provide contractors with lists of locations for required recruitment outreach to Section 3 certified businesses and Section 3 residents.
7. Evaluate bids and proposals to determine if the contractors made best efforts to include responsible Section 3 Businesses for at least 10% of the dollar amount of the contract, and that such Section 3 Businesses demonstrated a plan to hire at least 30% of the New Hires for the project from Section 3 Residents.
8. Monitor compliance with the Section 3 Plan for Section 3 Covered Projects, including but not limited to Form D submittals.
9. Assist contractors during the project to maintain compliance with the Section 3 Plan.
10. Maintain relevant records of contractors who have been awarded a contract under this Plan that involve HUD financial assistance to demonstrate compliance with these requirements
11. Make compliance determinations.

Contractors which fail to meet the minimum numerical goals above bear the burden of substantiating why it was not possible to do so. Such justifications should describe the efforts made, barriers encountered, and other relevant information that will enable the Department to make a compliance determination. The Department reserves the right to request additional relevant information.

Recipients that submit Section 3 reports containing zeros without a sufficient explanation to justify their submissions shall be deemed in provisional noncompliance with the requirements of the Section 3 Plan for incomplete Form D submittal.

Failure to comply with the requirements of the Section 3 Plan shall result in liquidated damages under the Contract and possible sanctions including debarment, suspension, or denial of participation in HUD programs.

V. CONTRACTOR REQUIREMENTS & RESPONSIBILITIES

The Contractor agrees to utilize, and to implement the following specific steps directed at increasing the utilization of Section 3 Residents and Section 3 Businesses for Section 3 Covered Projects.

- A. To include, as part of Contractor's bid, the following information shall be included pertaining to subcontracts anticipated to be awarded by the Contractor:
 - 1. To provide the approximate number and dollar value of subcontracts to be awarded over the duration of the Section 3 Covered Project (this estimate should be broken down by type of business or profession by North American Industry Classification System (NAICS) code); and
 - 2. To provide, based on an analysis of the estimated subcontract needs, a target number and itemized value of subcontracts to be awarded to Section 3 Businesses.

- B. To implement a program or strategy for achieving the targets established for awards to Section 3 Businesses which would include the following steps:
 - 1. To insert the Section 3 Plan in all requests for subcontractor proposals, and to require all bidders on subcontracts to submit a proposal to the general contractor including utilization goals and the specific steps planned to accomplish the requirements of the Section 3 Plan;
 - 2. To formally contact unions, subcontractors, and trade associations which operate in the City to secure their cooperation for this program; and
 - 3. To insure that project area business concerns which have been certified by the Department of Planning and Development are notified of pending sub-contractual opportunities in their NAICS code.

- C. To provide 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 Residents to be utilized must be included to display steps directed to meeting the goals as follows:
 - 1. To attempt to recruit from within the City the necessary number of Section 3 Residents through signage placed at the site for the project together with comprehensive media and institutional and organizational outreach as directed by the Department of Planning and Development; and
 - 2. To maintain a list of names and addresses of all Section 3 Residents who have applied whether on their own or on referral from any source, and to employ such person, if otherwise eligible and qualified and if a vacancy exists.

- D. To maintain records, including copies of correspondence, memoranda, payroll records, etc., to document that all of the above steps have been taken.

VI. CONTRACTOR SECTION 3 REPORTS

Each contractor under a Section 3 Covered Project shall be required to submit a Form D report as a performance measurement tool together with each request for payment under the Contract ("Section 3 Report"). All Section 3 Reports should contain the following information:

1. The total dollar amount of the Contract;
2. The total dollar amount of the Contract that has been received to date (prior to this progress payment) for the Contract;
3. The dollar amount of the Contract that has been awarded to date to Section 3 Businesses;
4. The total number of employees that have been hired to date as a result of performing the Contract;
5. The number of New Hires that have been hired to date as a result of the Contract and the number of Section 3 Residents in such New Hires;
6. The number of Section 3 Residents in such New Hires who are still working on the project; and
7. A narrative description of the specific actions that have been taken to date by the contractor, subcontractors, and others to ensure compliance with the Section 3 Plan.

FORM A
SECTION 3 RESIDENT PREFERENCE CLAIM FORM
THE CITY OF NEWBURGH
ELIGIBILITY FOR PREFERENCE

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 receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____ am a resident of the City of Newburgh and meet the income eligibility guidelines for a Section 3 Resident.

I reside at this address: _____

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

- | | |
|---|---|
| <input type="checkbox"/> Copy of lease/ deed | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of Drivers license | <input type="checkbox"/> Copy of Previous Year's Tax Return |
| <input type="checkbox"/> Copy of Evidence of participation in a public assistance program | <input type="checkbox"/> Other Evidence |

Signature: _____

Print Name: _____ Date: _____

FORM A, cont.

SECTION 3 INCOME LIMITS

All residents of public housing developments of the Newburgh Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the City of Newburgh who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required. In addition, income tax returns from the previous tax year is required to document income.

Income Eligibility Guideline

Number in Household	Income less than 80% of Newburgh median	Household Income
1 Individual		
2 Individuals		
3 Individuals		
4 Individuals		
5 Individuals		
6 Individuals		
7 Individuals		

FORM B
CERTIFICATION FOR BUSINESS CONCERNS SEEKING
SECTION 3 PREFERENCE IN CONTRACTING AND
DEMONSTRATION OF CAPABILITY

Name of Business:		
Address of Business:		
Type of Business:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership
	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Joint Venture
NAICS Code (See attached):		

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:	
<input type="checkbox"/> Copy of resident lease	<input type="checkbox"/> Copy of receipt of public assistance
<input type="checkbox"/> Copy of evidence of participation in a public assistance program	<input type="checkbox"/> Other evidence

For Business entity as applicable:	
<input type="checkbox"/> Copy of Articles of Incorporation	<input type="checkbox"/> Certificate of Good Standing
<input type="checkbox"/> Assumed Business Name Certificate	<input type="checkbox"/> Partnership Agreement
<input type="checkbox"/> List of owners/stockholders and % ownership of each	<input type="checkbox"/> Corporation Annual Report
<input type="checkbox"/> Organization chart with names and titles and brief function statement	<input type="checkbox"/> Latest Board minutes appointing officers
	<input type="checkbox"/> Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:	
<input type="checkbox"/> List of subcontracted Section 3 business(es) and subcontract amount	

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:	
<input type="checkbox"/> List of all current full-time employees	<input type="checkbox"/> List of employees claiming Section 3 status
<input type="checkbox"/> PHA/IHA Residential lease less than 3 years from day of employment	<input type="checkbox"/> Other evidence of Section 3 status less than 3 years from date of employment

FORM B, cont.

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

(Corporate Seal)

Authorizing Name and Signature

Attested by: _____

FORM B, cont.

North American Industry Classification System (NAICS)

236 Construction of BuildingsT	238130 Framing Contractors
2361 Residential Building ConstructionT	23814 Masonry Contractors
23611 Residential Building ConstructionT	238140 Masonry Contractors
236115 New Single-Family Housing Construction (except For-Sale Builders)	23815 Glass and Glazing Contractors
236116 New Multifamily Housing Construction (except For-Sale Builders)	238150 Glass and Glazing Contractors
236117 New Housing For-Sale Builders	23816 Roofing Contractors
236118 Residential Remodelers	238160 Roofing Contractors
2362 Nonresidential Building ConstructionT	23817 Siding Contractors
23621 Industrial Building ConstructionT	238170 Siding Contractors
236210 Industrial Building Construction	23819 Other Foundation, Structure, and Building Exterior Contractors
23622 Commercial and Institutional Building ConstructionT	238190 Other Foundation, Structure, and Building Exterior Contractors
236220 Commercial and Institutional Building Construction	2382 Building Equipment ContractorsT
237 Heavy and Civil Engineering ConstructionT	23821 Electrical Contractors and Other Wiring Installation ContractorsT
2371 Utility System ConstructionT	238210 Electrical Contractors and Other Wiring Installation Contractors
23711 Water and Sewer Line and Related Structures ConstructionT	23822 Plumbing, Heating, and Air-Conditioning ContractorsT
237110 Water and Sewer Line and Related Structures Construction	238220 Plumbing, Heating, and Air-Conditioning Contractors
23712 Oil and Gas Pipeline and Related Structures ConstructionT	23829 Other Building Equipment ContractorsT
237120 Oil and Gas Pipeline and Related Structures Construction	238290 Other Building Equipment Contractors
23713 Power and Communication Line and Related Structures ConstructionT	2383 Building Finishing ContractorsT
237130 Power and Communication Line and Related Structures Construction	23831 Drywall and Insulation ContractorsT
2372 Land SubdivisionT	238310 Drywall and Insulation Contractors
23721 Land SubdivisionT	23832 Painting and Wall Covering ContractorsT
237210 Land Subdivision	238320 Painting and Wall Covering Contractors
2373 Highway, Street, and Bridge ConstructionT	23833 Flooring ContractorsT
23731 Highway, Street, and Bridge ConstructionT	238330 Flooring Contractors
237310 Highway, Street, and Bridge Construction	23834 Tile and Terrazzo ContractorsT
2379 Other Heavy and Civil Engineering ConstructionT	238340 Tile and Terrazzo Contractors
23799 Other Heavy and Civil Engineering ConstructionT	23835 Finish Carpentry ContractorsT
237990 Other Heavy and Civil Engineering Construction	238350 Finish Carpentry Contractors
238 Specialty Trade ContractorsT	23839 Other Building Finishing ContractorsT
2381 Foundation, Structure, and Building Exterior ContractorsT	238390 Other Building Finishing Contractors
23811 Poured Concrete Foundation and Structure Contractors	2389 Other Specialty Trade ContractorsT
238110 Poured Concrete Foundation and Structure Contractors	23891 Site Preparation ContractorsT
23812 Structural Steel and Precast Concrete Contractors	238910 Site Preparation Contractors
238120 Structural Steel and Precast Concrete Contractors	23899 All Other Specialty Trade ContractorsT
23813 Framing Contractors	238990 All Other Specialty Trade Contractors

*** A complete list of NAICS can be found at <http://www.census.gov/eos/www/naics/>. Please indicate if you would like to receive information regarding work conducted by the City of Newburgh within those industries*

**FORM B(a)
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 or other federal assistance (FA) Programs

Employee Name	Address	Date of Hire	Fulltime/Part-time	Trade	Section 3 Resident (Yes/No)	Public Housing Resident (Yes/No)

*Attach additional sheets where needed

TOTAL NUMBER OF EMPLOYEES: _____

By signing below you hereby certify to the City of Newburgh, New York 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: _____

FORM C

SECTION 3 BUSINESS 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 the City of Newburgh for a Section 3 Covered Project, as will be specified in the bid documents.

- A. The following information related to subcontracts to be awarded.
- 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
 - Based on an analysis of the estimated contract needs, a target number and value of contracts to be awarded to Section 3 Businesses (these targets should consider the availability of qualified Section 3 Residents);
 - Section 3 Businesses 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 Businesses which would include the following steps:
- 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;
 - To formally contact unions, subcontractors, and trade associations in the City to secure their cooperation for this program; and
 - To insure that all appropriate project area business concerns, which are certified by the Department of Planning and Development are notified of pending sub-contractual opportunities.
- C. 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 Residents to be utilized in these areas must be included to display steps directed to meeting the goals as follows:
- To attempt to recruit from within the City the necessary number of Section 3 Residents through: Local advertising media, signs placed at the proposed site for the project together with comprehensive media and institutional and organizational outreach, as directed by the Department of Planning and Development, operating within or serving the project area.
 - To maintain a list of all Section 3 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.

- D. Maintain detailed 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 Newburgh, New York 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. You further certify that any vacant employment positions including apprenticeship and training positions, that are filled (1) after you are selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 and the attached Section 3 Plan require employment opportunities to be directed, shall not be filled to circumvent your obligations under such regulations and the Section 3 Plan. 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	

FORM D
Section 3 Report

(to be filed at time of each request for payment or, at a minimum,
every two months from the date of signing a contract, whichever comes first)

Date	
Contract Name	
Project Description	
Contract Amount	
Amount Received to Date	
Amount Awarded to Section 3 Businesses	
Total # of Employees Hired as a Result of Performing Contract to Date	
Number of New Hires who have been hired to date as a result of the Contract	
Of such number of new hires in Question 8, the number of Section 3 Residents to date who have been hired	
Of such Section 3 Residents who have been hired, the number of whom are still working on the project	
Describe specific actions taken to date by contractor, subcontractors and others to ensure compliance with the Section 3 Plan	

If the Section 3 goals below were not feasible to meet, provide written explanation / justification:

1. 30% of the aggregate number of New Hires for the Section 3 Covered Project shall be Section 3 Residents; and
2. 10% of the aggregate dollar amount of all covered contracts and subcontracts for the Section 3 Covered Project shall be awarded to businesses which are owned by at least 51% Section 3 Residents and whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents ("Section 3 Businesses")

Signature: _____

Print Name of Person Completing Form: _____

Date: _____

FORM D(a)

SECTION 3 BUSINESS 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

*Attach additional sheets as necessary

By signing below you hereby certify to the City of Newburgh New York 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: _____

Signature: _____

Date: _____