



Section 3 Compliance for Construction Contractors

Section 3 – Economic opportunities for low-income persons.

10/05/2010

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968 requires Marin Housing Authority to direct a portion of its spending toward low-income persons living in the communities it serves. One way Marin Housing Authority (MHA) achieves this goal is by awarding contracts to businesses that have made a commitment to providing opportunities to low-income persons in Marin County.

If you are bidding on or have been awarded a contract on a MHA Section 3 covered project, you must commit to and meet minimum Section 3 compliance requirements as described below. This packet is designed to clarify any questions you might have about your responsibilities. It is also designed to help you implement these requirements.

Contractor Compliance Requirements

All MHA contractors and subcontractors on Section 3 covered projects are required to meet the following hiring and contracting goals:

- 30% of all new hires for the covered project must be Section 3 Residents,
- 10% of all building trades subcontracts must be to Section 3 Businesses, and
- 3% of all other subcontracts (excluding materials only contracts) must be to Section 3 Businesses.

Section 3 Reporting Requirements

Companies that contract directly with MHA will report on their Section 3 compliance according to the following schedule. Reporting documents unless otherwise indicated should go to the MHA Project Manager for the project being reported on. Subcontractors on a MHA project are required to report to the company with which they have a contract.

What to Report	When to Report
Section 3 Business Self-Certification	With Bid (if requesting preference)
Labor Survey	With Bid, within 10 days of Notice to Proceed, 50% Completion, and Contract Close
Subcontractor Survey	With Bid, within 10 days of Notice to Proceed, 50% Completion, and Contract Close

Additional Support

If you have questions not answered in this packet or need additional support in meeting your Section 3 compliance requirements, you may contact Rachel Trares, Compliance Officer for Grants and Contracts, at 415-491-2350 or rtrares@marinhousing.org.

SECTION 3 CONTRACTOR COMPLIANCE

FREQUENTLY ASKED QUESTIONS

Who is a Section 3 Resident?

For purposes of Marin Housing Authority, a Section 3 Resident is either:

1. A Marin Housing Authority public housing resident;
- OR
2. A Marin County resident with household income at or below the following income guidelines.

Marin County 2010 Median Household Income Limits							
Household Size	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person
Low (80%) Income Limits	\$60,200	\$68,800	\$77,400	\$86,000	\$92,900	\$99,800	\$106,650

What is a Section 3 Business?

There are three ways in which a business can achieve Section 3 status:

Status 1: Resident Owned Business

Fifty-one percent (51%) or more owned by a Section 3 Resident (either public housing resident or low-income Marin County resident).

Status 2: Resident Employed Business

Thirty percent (30%) of permanent, full-time employees are Section 3 Residents (either public housing residents or low-income Marin County residents).

Status 3: Subcontracting to Section 3 Businesses

Twenty-five percent (25%) of the dollar amount of the awarded contract must be subcontracted to Section 3 Businesses. This option is only available to Primary Contractors.

How does MHA define “new hire”?

MHA considers a contractor’s current workforce to be employees that have appears on the contractor’s active payroll for at least 60 days of the 100 working days prior to the award of the Section 3 covered contract. Any employee that is hired for work under the covered contract and has not

appeared on the contractor's active payroll for 60 days or more of the 100 working days prior to awarding the covered contract is considered a new hire.

How does MHA define "permanent, full-time employee"?

In order to be considered **permanent**, an employee must be:

- A direct employee of the company wishing to achieve Section 3 Business status, and
- Filing a position that is intended to last for the duration of the Section 3 covered project.

While MHA understands that it is difficult to predict how long an employee will remain in a given position, it should be the intention of the company to keep the employee for the duration of the covered project. If, in an audit, it is found that a Section 3 Resident was counted as a permanent employee but let go prior to the completion of the covered project, additional documentation may be required regarding the permanent nature of the position.

In order to be considered **full-time**, an employee must work a minimum of 32 hours per week.

What is the difference between a contractor complying with Section 3 regulatory requirements verses a contractor being a Section 3 Business?

In order to **comply with Section 3 regulations** every contractor or subcontractor on a Section 3 covered project must meet minimum numerical goals regardless of whether they qualify as a Section 3 Business. The numerical goals are:

- 30% of all new hires for the covered project must be Section 3 Residents,
- 10% of all building trades subcontracts must be to Section 3 Businesses, and
- 3% of all other subcontracts (excluding materials only contracts) must be to Section 3 Businesses.

In order to qualify as a **Section 3 Business** and receive the preferences available to Section 3 Businesses, your company must be **one** of the follow:

- **Status 1: Resident Owned Business** – Fifty-one percent (51%) or more owned by a Section 3 Resident (either public housing resident or low-income Marin County resident).
- **Status 2: Resident Employed Business** – Thirty percent (30%) of permanent, full-time employees are Section 3 Residents (either public housing residents or low-income Marin County residents).
- **Status 3: Subcontracting to Section 3 Businesses** – Twenty-five percent (25%) of the dollar amount of the awarded contract must be

subcontracted to Section 3 Businesses. This option is only available to Primary Contractors.

What preferences are available for contractors or subcontractors that meet Section 3 Business status?

If your company meets the definition of a Section 3 Business or makes a commitment to meeting the definition in the completion of the covered contract, you will be eligible for preference in the award of the contract. The type of preference available depends on the type of procurement process required. Every MHA Section 3 covered request for proposal, bid, or quote will include the Section 3 Business preference available and the weight of that preference in the selection process. If you are a subcontractor of an MHA primary contractor, any preference provided for Section 3 Businesses in awarding subcontracts will be handled by the primary contractor. Please contact the primary contractor for their Section 3 Business preference information.

What is a MHA primary contractor?

A MHA primary contractor is any business that has a contract directly with MHA. If a primary contractor awards subcontracts under a Section 3 covered project, the primary contractor must include the Section 3 Clause in all covered subcontracts. It must hold its subcontractors to the same contractor compliance requirements the primary contractor must meet. It is also responsible for gathering and maintaining documentation regard its subcontractors' Section 3 compliance and Section 3 Business status.

Can subcontractors of primary contractors meet Section 3 Business status by Status #3: Subcontracting?

No, the regulations do not allow for subcontractors to meet Section 3 Business status by additional subcontracting. Subcontractors of MHA primary contractors can only be Section 3 Businesses by Status 1: Resident Owned or Status 2: Resident Employed. However, if a subcontractor chooses to subcontract any portion of their Section 3 covered contract, the subcontractor must meet the Section 3 compliance requirements:

- 10% of all building trades subcontracts must be to Section 3 Businesses, and
- 3% of all other subcontracts (excluding materials only contracts) must be to Section 3 Businesses.

How long do Section 3 documents need to be stored?

Documents relating to Section 3 status unless otherwise indicated must be stored and made available for Section 3 audits for at least 5 years from the close of the contract to which they apply.

How do I find Section 3 employees?

MCCDC – MHA has partnered with the Marin City Community Development Corporation (MCCDC) to provide a central location for community members to find out about job openings on MHA projects and for MHA contractors to get referrals of qualified job seekers that are Section 3 eligible. If you would like to utilize MCCDC, contact Drew Douglass, Enterprise Development Director, at (415) 339-2843.

Marin Employment Connection – MEC offers a wide range of services to both job seekers and employers. You can do on-site recruitment as well as free job posting. For more information about the services offered, contact MEC Business Services Information Line at (415) 507-2100.

Canal Alliance – Canal Alliance is a social service agency located in the Canal district of San Rafael. They offer a wide range of job search and support services to Marin residents. If you wish to post a job opening, you can contact Bob Jackson, Economic Development Director, at (415) 306-0438.

CAM's Marin Job's and Career Services – Community Action Marin (CAM) offers training, job placement, and job retention services through its Marin Job's and Career Services. You can post job opening and get referrals of qualified candidates. The program works with many formerly incarcerated job seekers, so please include in your posting any minimum requirements with regard to criminal convictions. For more information, contact Josie Dea at (415) 526-7542.

What if I can't find qualified Section 3 Residents using the resources above?

It is the responsibility of the contractor and subcontractor to meet the Section 3 Resident hiring requirements of their contract. If the resources listed above are not helpful, you may need to broaden your search by placing ads on online services such as Craigslist or in local newspapers.

SECTION 3 COVER PROJECT **LABOR PLAN**

Primary Contractor: _____

Sub-Contractor (if applicable): _____

Completed By: _____ Title: _____ Date: _____

Instructions:

If completing plan at bid or Notice to Proceed – list all current employees and employees you intend to hire in completing the Section 3 covered contract. If completing at 50% or contract close – list only current staff; do not provide hiring goals.

[illegible]

* Current employees is defined as any worker who has appeared on the Contractor's payroll for at least 60 days of the 100 working days prior to the award of this contract.

**** New hires is defined as any worker who has not worked 60 days or more of the 100 working days prior to the award of this contract.**

SECTION 3 COVERED PROJECT
SUBCONTRACTING PLAN

Primary Contractor: _____

Sub-Contractor (if applicable): _____

Completed By: _____ Title: _____ Date: _____

RFP/Q Number: _____ Project Name/Title: _____

Instructions:

If completing plan at bid or Notice to Proceed – list all anticipated subcontracts to be awarded in completion of the covered contract. If completing at 50% or contract close – list only current or closed subcontracts. Subcontracts for materials only should not be listed unless installation is included in the contract.

Name of Firm/Vendor	Service Being Provided	Dollar Amount (\$)	Section 3 (Y or N)

SECTION 3 BUSINESS SELF-CERTIFICATION

Name of Business: _____

Address of Business: _____
(Street) (City) (Zip)

Contact Person: _____ Phone: _____

Please check the box next to the appropriate status type of your Section 3 Business.

Note: Below each status type is a list of **documents required as evidence of your Section 3 eligibility**. MHA or its contractors must receive all required documents before your business can receive any preference based on your Section 3 Business status.

☐ **STATUS 1: RESIDENT OWNED BUSINESS**

Fifty-one percent (51%) or more owned by a Section 3 Resident (either public housing resident or low-income Marin County resident)

Attached Documentation Required:

For sole proprietor:

- Completed Section 3 Resident Self-Certification form

Additional documents for other business types:

- Copy of Articles of Incorporation, partnership agreement, or corporation annual report

☐ **STATUS 2: RESIDENT EMPLOYED BUSINESS**

Thirty percent (30%) of full-time, permanent employees are Section 3 Residents (either public housing residents or low-income Marin County residents).

Attached Documentation Required:

- Completed Labor Plan form, and
- Completed Section 3 Resident Self-Certification forms for all employees claimed as Section 3 Residents

☐ **STATUS 3: SUBCONTRACTING TO SECTION 3 BUSINESSES**

Twenty-five percent (25%) of the dollar amount of the awarded contract is subcontracted to Section 3 Business who qualified as Status 1 or Status 2. **Note:** This type of Section 3 Business status is only available to contractor's that contract directly with MHA. It is not available to subcontractors of a MHA primary contractor.

Attached Documentation Required:

- Completed Subcontracting Plan form, and
- Section 3 Business Self-Certification form for each subcontractor claiming Section 3 status

SECTION 3 CERTIFICATION STATEMENT

By signing below, I certify that:

- I am an authorized representative of the company named above,
- The company named above meets the requirements of the Section 3 status checked,
- I understand that the documents required as evidence of Section 3 status must be kept for at least 5 years from the date of closure of the contract for which they apply,
- I understand that noncompliance with HUD's regulations in 24 CFR part 135 (known as Section 3) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

SIGNATURE

PRINT NAME

DATE

SECTION 3 RESIDENT SELF-CERTIFICATION

Name: _____ Phone: _____

Home Address: _____
(Street) (City) (Zip)

Purpose of Section 3

Section 3 of the Housing and Urban Development Act of 1968, requires that Marin Housing Authority ensure employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to low-income persons, particularly recipients of government housing assistance, in Marin County.

A Section 3 Resident is:

For purposes of Marin Housing Authority, a Section 3 Resident is either:

1. A Marin Housing Authority public housing resident;
OR
2. A Marin County resident with household income at or below the following income guidelines.

Marin County 2010 Median Household Income Levels							
Household Size	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person
<u>Low (80%) Income Limits</u>	\$60,200	\$68,800	\$77,400	\$86,000	\$92,900	\$99,800	\$106,650

Statement of Certification

I, _____, certify that I have reviewed the Section 3 qualifications listed above and am eligible for Section 3 status because (check one):

☐ I am a Marin Housing Authority public housing resident;

Or

☐ I am a Marin County resident with household income below the amount listed above for my family size.

I understand that if requested, I must provide evidence of my eligibility by producing my most recent tax return and residential lease or mortgage statement in place at the date of signing this certification.

If you are unable to provide evidence of Section 3 eligibility, DO NOT SIGN BELOW. Penalties for falsely certifying Section 3 eligibility or being unable to provide evidence when requested may include termination of employment.

Signature: _____ Date: _____