

**CITY OF NEW BRITAIN**

**St. Thomas Aquinas Site  
Redevelopment**

**Request for Proposals  
for Builders/Developers**

**COMMISSION ON COMMUNITY AND  
NEIGHBORHOOD DEVELOPMENT  
Chairman David Buckwell**

**DEPARTMENT OF PLANNING & DEVELOPMENT  
Jack S. Benjamin, Director  
27 West Main Street, Suite 311  
New Britain, CT 06051**



## CITY OF NEW BRITAIN



### Request for Proposals for a Qualified Builders/Developers for the Redevelopment of the Former St. Thomas Aquinas High School Site



#### CONTENTS

SECTION	PAGE
1. Introduction	1
1.1 Invitation to Bidders	
1.2 Instructions to Bidders	
1.3 Delivery of Turn-Key Product	
2. Property Profile	5
2.1 Site History	
2.2 Demolition + Environmental Project	
2.3 Existing Conditions	
2.4 Parcel Data	
2.5 Land Use Regulations	
2.6 Regional Locus Map	
3. Federal Regulations	12
3.1 M/WBE	
3.2 Davis-Bacon	
3.3 Section III	
3.4 Project Signage	
4. Project Requirements	13
4.1 Construction Phasing	
4.2 General Product Specifications	
5. Home Design	14
5.1 Sample Home Designs	
6. Proposal Outline	16
6.1 Proposal Contents	
7. Submission Requirements	18
8. Timeline	18
9. Evaluation Rubric	19
10. Disclaimer	19

## RFP FOR THE REDEVELOPMENT OF THE FORMER ST. THOMAS AQUINAS HIGH SCHOOL SITE

### 1. Introduction

#### 1.1 Invitation to Bidders

The City of New Britain Commission on Community and Neighborhood Development (CCND), acting through the City of New Britain Department of Planning & Development (the Department OR the Owner), is soliciting bids for qualified builders or developers for the redevelopment of the former St. Thomas Aquinas School site at 74 Kelsey Street, New Britain, Connecticut 06051.

The Department will receive complete, sealed bids until **2:00pm on Friday, August 11, 2023**.

The project consists of: **complete foundation and site work and construction of eleven (11) single-family homes and associated utility connection work, landscaping, and acquisition of Certificates of Occupancy.**

The bid documents are available for review and maybe be obtained online at the following site address:

<https://www.newbritainct.gov/services/planning-n-development/community-development/project-bid-opportunitieshtm>

A mandatory **site walk-through** for prospective bidders will occur on **Tuesday, July 11, 2023 at 10:00am**.

**Questions** regarding the Request for Proposals must be submitted electronically to Jack Benjamin, Director of Planning & Development, at jack.benjamin@newbritainct.gov before close of business (4:00pm) on **Friday, July 14, 2023**. No questions will be answered on an individual basis. All questions will be compiled in a document with corresponding answers and posted for public viewing on Wednesday, July 19 at the following site address: <https://www.newbritainct.gov/services/planning-n-development/community-development/project-bid-opportunitieshtm>

The City reserves the right to accept or reject any or all bids or any part of a bid presented, or to invite proposals as its interest may appear.

Bidders are directed to review *Section 3. Federal Regulations* upon receipt of the bid documents to understand and affirm project compliance with federal requirements, including wage-rate standards and other regulations.

#### 1.2 Instructions to Bidders

- **RECEIPT AND OPENING OF BIDS:** Immediately following close of bid submission window on Friday, August 4, 2023, the Department will hold a Bid Opening on the same date and time, on **August 11, 2023 at 2:00pm** in the Department of Planning & Development, City Hall 3<sup>rd</sup> Floor, in 313, 27 West Main Street, New Britain, Connecticut. **BIDS MUST BE SEALED WHEN SUBMITTED.**

- PREPARATION OF PROPOSAL: Proposals may be drafted and submitted per each firm’s individual format of choice, however all bidders must complete formal bids on the *Form of Bid* document; including activity or unit quantities, prices and amounts, and totals. The bidder’s attention is directed to the stipulations set forth in the *Form of Bid* and agreed to by the bidder with submittal of a bid for the project. All bids shall be subject to all requirements of the bid documents, including *technical specifications* and *blueprints/drawings*, any referenced documents, and the *instructions to bidders*. All bids must be regular in all respects with no interlineation, excisions, or special conditions shall be made or included in the *bid forms* by the bidder.

Proposals must include the following in sealed envelopes, to be read and reviewed upon unsealing at the Bid Opening:

- a) Form of Bid
  - b) Statement of Qualifications
  - c) Notary Certificate
  - d) Non-Collusion Affidavit
  - e) Certifications of Equal Opportunity Employment
  - f) Prospective Vendor’s(s’) Residency and Tax Certificate
  - g) Bid Guaranty
  - h) Bid Requirements and Conditions Document
- BID DOCUMENTS
    - Bid Documents will consist of the following:
      - Bid, Bond, or Contract Requirements and Conditions Documents
      - Bid Proposal Submittal Document
      - General Conditions
      - Technical Specifications and Blueprints or Drawings
  - QUALIFICATIONS OF BIDDER: The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, including interviews of previous clients sourced independently by the Owner or submitted by the bidder, and the bidder shall agree to submit any and all information for investigation of firm’s practices and history as requested by the Owner. The Owner reserves the right to reject any and all bids should evidence gleaned through investigation fail to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and complete the work outlined therein.
  - DISQUALIFICATION OF BIDDERS: The Owner will not consider multiple proposals from an individual, partnership, firm or corporation, or association under the same or different filing names. Any or all proposals shall be rejected if there are reasonable grounds to believe multiple proposals have been submitted in collusion by bidder(s) and participants in such collusion shall be barred from consideration of future proposals.

- NON-COLLUSION AFFIDAVIT
  - a) Each bidder submitting a bid to the Owner for the work outlined within the bid documents upon which bidding is based shall execute and attach to the proposal the *Non-Collusions Affidavit*, claiming that said bidder has not colluded with any other persons or firm or corporation in regard to bid submission.
  - b) Before executing any subcontract, the successful bidder shall submit the names of any proposed subcontractor for prior approval and an affidavit in the form herein.
  
- BID SECURITY GUARANTY: Each bid must be accompanied by a certified check from the bidder in the amount of ten percent (10%) of the total bid amount, payable to the City of New Britain. Such bonds shall be returned to all bidders, with the exception of the three (3) lowest bidders, within three days after the formal bid opening. The remaining checks shall be returned to the three lowest bidders within 48 hours of the accepted bidder's execution of the contract, or within 90 days should no contract be executed. The bid shall be accompanied by a letter from an approved bonding company stating that said bonding company shall bond the contractor for one hundred percent (100%) of the total bid amount should said bidder be awarded contract for the project.
  
- POWER OF ATTORNEY: Attorneys in fact who sign bid bonds or contract bonds must file with each bond a copy of their power of attorney to sign said bonds.
  
- CONFLICT OF INTEREST: No member, officer, or employee of the Owner, or its designees or agents, no member of the governing body of the municipality in which the project is situated, and no other public official shall have any interest, direct or indirect, in any contract or subcontract or associated proceeds thereof, under the agreement.
  
- CONDITIONS OF WORK: All bidders are responsible for informing themselves fully of the conditions related to construction and labor under which the work shall be performed. Failure to do so shall not relieve a successful bidder of the obligation to furnish any and all materials and labor necessary to carry out the scope of work and specifications set out in the bid. Work shall be performed in such a manner as not to conflict with or adversely affect other contractors or individual's(s') performance of routine duties.
  
- OBLIGATIONS OF BIDDER AND SITE INSPECTION: Prior to bid submittal, it is the responsibility of each bidder to visit the project site and familiarize themselves with existing conditions and any attributes of the site that may impact proposed work. It is the responsibility of the bidder to acquaint themselves with all terms and specifications laid out within the bid documents and all applicable Federal, State, and/or City laws, codes, regulations, and requirements that impact land use, building construction, and other activities and products associated with successful completion of the project. It is further the obligation of the bidder to bring to the attention of the Owner any omissions, errors, or other inconsistencies within the bid documents.
  
- ENFORCEMENT OF TERMS AND CONDITIONS: The bidder(s) are hereby notified that all terms and conditions of the *contract* and these bid documents shall be rigidly enforced.

- **WITHDRAWAL OF BIDS:** Bidders may withdraw bids only via written request, submitted electronically to jack.benjamin@newbritainct.gov.
- **BID ACCEPTANCE AND AWARD OF CONTRACT:** The Owner will accept one of the submitted bids on this contract OR will reject all bids on any or all contracts. Acceptance of the bid and Notice of Award will be in writing and signed by the Owner or its designee and transmitted to address in successful bidder's proposal. The Notice shall contain information and instructions as to the time and place set for execution of the Contract. The successful bidder shall appear at the designated time and place to execute the Contract and furnish all bonds and certificates of insurance required.
- **LIQUIDATED DAMAGES FOR FAILURE TO ENTER CONTRACT:** The successful bidder shall execute and deliver the contract and required bonds within 10 days after receipt of notice of bid acceptance. Failure or refusal to do so shall cause the bidder to forfeit to the Owner, as liquidated damages for such refusal, the security deposited with the bid.
- **PERFORMANCE BOND SECURITY:** The bidder awarded the contract shall, at the time of signing the contract, submit an executed performance bond in the amount of 100% of the Contract amount conditioned upon the faithful performance of the Contract. Said performance bond shall be from a company authorized to transact business in the State of Connecticut. The approved bond shall contain a labor and materials bond for 100% of the Contract amount for the payment of all persons performing labor or furnishing of materials in connection with this Contract.
- **SUBCONTRACTING PROTOCOL:** The successful bidder may utilize the services of specialized subcontractors on the portions of the work which under normal practices are performed by specialized subcontractors. The successful bidder shall not award any portion of the work without written approval of the Owner- the acceptance of which shall reside with the Owner and whose decisions shall be final. The successful bidder shall be solely responsible to the Owner for the performance, finished products, acts, and omissions of subcontractors and persons directly or indirectly employed thereby. The successful bidder shall cause appropriate provisions to be included in all subcontracts relative to the project to bind subcontractors to the provisions of the Contract and Bid Documents as applicable to work performed by the subcontractor on the project; and appropriate provisions to give the Owner the same powers and authority over any subcontractor as it has over the Contractor under provisions of said Document.
- **EQUAL EMPLOYMENT OPPORTUNITY (EEO):** Attention of the bidder is called to the applicable State and Federal requirements for ensuring that employees and applicants for employment are not discriminated against because of their race, creed, sex, color, or national origin.
- **START OF CONSTRUCTION:** The successful bidder agrees to commence construction within ten (10) calendar days after receipt of Notice to Proceed from the Owner.
- **MUNICIPAL APPROVALS: LAND USE AND BUILDING:** The Contractor shall be responsible for obtaining all the necessary permits and approvals from the City of New Britain and the State of Connecticut, as required to complete the work in accordance with the Technical Specifications and or Blueprints/Drawings and other Contract Documents. The Owner will assist within its means in the approval process, however any delays to the Contractor or the project, or any actions against either due

to failure to obtain the necessary approvals or to do so in a timely manner, or due to the Contractor's lack of knowledge of the necessary approvals or approvals process, remain solely the responsibility of the Contractor.

- **LAWS & REGULATIONS:** The bidder's attention is directed to the fact that all applicable State and Municipal laws, rules, ordinances, and regulations of all authorities having jurisdiction over construction work in the locality of the project shall apply to the contract throughout, and they are deemed to be included herein as if written out in full.
- **HEALTH AND SAFETY REGULATIONS:** The bid documents and construction documents, and the joint phases of construction are hereby contemplated to be governed at all times by applicable provisions of federal laws including but not limited to the latest amendments of the following:
  - Any and all OSHA and workplace health and safety regulations;
  - William-Steiger Safety and Health Act of 1970;
  - Part 1910 – Occupational Safety and Health Standards (Ch. SVII, Title 29, CFR); and
  - Part 1926 (formerly Part 1518) – Safety and Health Regulations for Construction (Ch. XIII, Title 29, CFR)
- **SALES TAX:** The Owner is exempt from Connecticut Sales and Use tax, however the exemption is not conveyed to the contractor, who shall pay all taxes on materials, equipment, and services; the contractor shall include prices of taxes in the bid.

### 1.3 Delivery of Turn-Key Product

The awarded bidder shall produce and deliver a "turn-key product" to the Owner upon completion of the contract. The product shall be entirely ready for sale by the Owner to homebuyers, including active connection to utilities, acquisition of all local approvals for occupancy of buildings, and completed finishes required for clean, safe, and comfortable living. The Owner shall have full confidence that the builder/developer has produced a high quality product with modern amenities that new residents should be able to live in and enjoy. The site shall be fully cleaned and decommissioned of any and all construction and development-related materials, products, equipment, and waste or byproducts of construction activities upon completion of contract.

## **2. Property Profile**

### 2.1 Site History

St. Thomas Aquinas High School was Roman Catholic senior high school in operation from 1955 to 1999. The school was founded by parish priests and parents as New Britain's first Catholic high school for boys and girls. Enrollment peaking in the 1970's at about 600 students and slowly declined over the next twenty years. Between 1995 and 1999 enrollment dropped from about 240 students to fewer than 100 students. In July 1999, the Archdiocese of Hartford shut down the school and leased the building to Charter Oak Preparatory School, which remained there for only two years until 2002.

The City acquired the site in 2010, which had been vacant for almost a decade. Attempts to market the site as an apartment conversion project were unsuccessful due to the deteriorated state of the building and lack of available funding. The cost to demolish the building and remediate the site were prohibitive for private redevelopment, and the City moved forward with a plan to clear the site for a residential subdivision.

The site contained an 88,000 square foot brick building that was recently demolished in 2022. The demolition cost was approximately \$2 million, and was funded by the City, U.S. Department of Housing and Urban Development HOME funds, and funds from the federal American Rescue Plan Act.

## 2.2 Demolition + Environmental Project

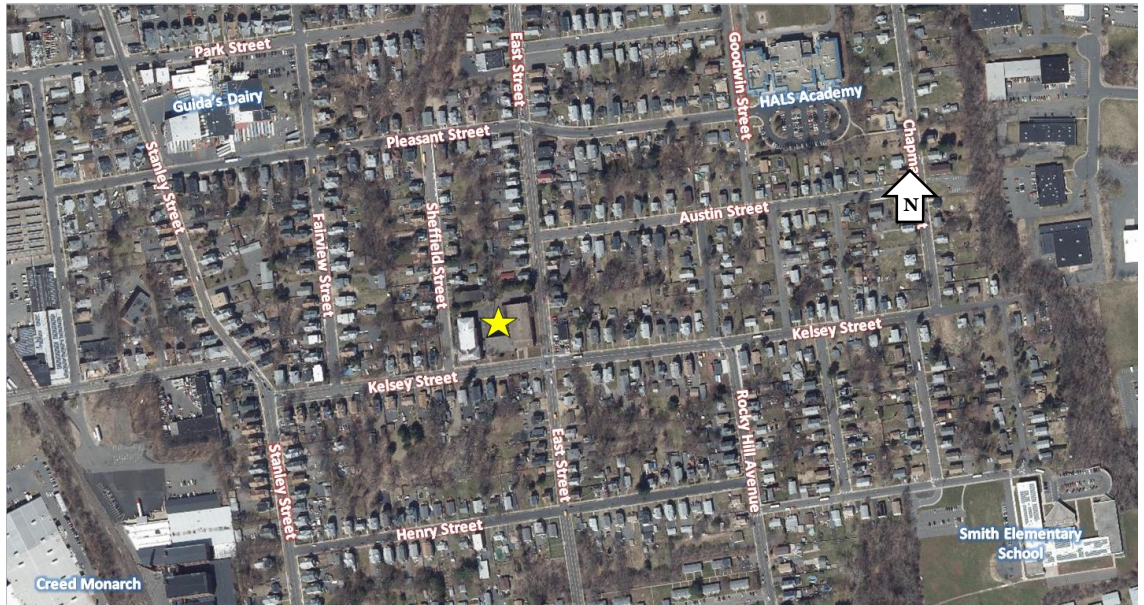
During the Fall of 2021, the City of New Britain, through its Department of Planning & Development, solicited bids and selected a contractor for the demolition of the former St. Thomas Aquinas High School building and removal of demolished materials, including hazardous materials, off site. Wiese Construction of Norwich, with oversight from Comprehensive Environmental Inc. (CEI), completed the demolition and removal of demolished building materials and performed the additional alternate bid project component, the complete grading and preparation of the site for redevelopment and the construction of single-family homes. The demolition and remediation project was funded through federal ARPA funding and through Mayor Stewart’s blight line.

*Former St. Thomas Aquinas High School Building*



### 2.3 Existing Conditions

The former site of St. Thomas Aquinas School, which was recently demolished, has been regraded and prepared for redevelopment, creating approximately 2.20 acres of buildable area. It is located in the heart of New Britain's East Side neighborhood, fronting on Kelsey Street to the south, Sheffield Street to the west, and East Street to the east. Located a half mile from the Central Business District (CBD) future residents have convenient access to shopping, schools, municipal services, and CTfastrak, making it an easy commute to Hartford and surrounding areas.



#### SITE CONDITIONS

The 74 Kelsey Street parcel underwent complete demolition and removal of subgrade structures on the site and brought to grade using clean, construction-grade fill. Soil compaction testing was performed during the grading process to ensure fill compaction to buildable standards. Grading was completed to allow for adequate drainage via runoff and sheet-flow without necessitating on-site drainage infrastructure. Upon approval of compaction and finish grade standards, the soil was stabilized with a grass mix and maintained to ensure proper stabilization through groundbreaking. The site's grade drops about 15' gradually from east-to-west, approximately parallel to the 330'+ lot line frontage along Kelsey Street.

*View from East Street*



*View from East Street*



*View from Kelsey Street*

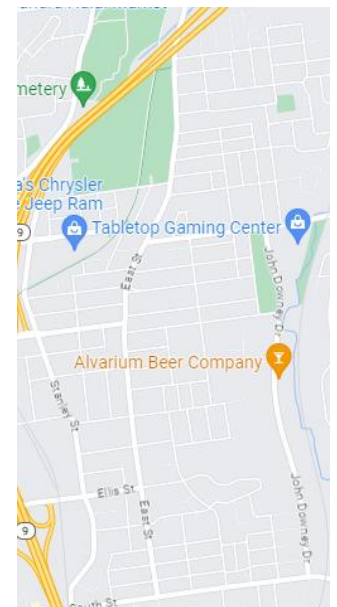


*View from Sheffield Street*



## NEIGHBORHOOD

The East Side neighborhood is a dense, walkable, largely residential district, bounded by the west, northwest, and north by the Route 9 corridor, to the east by the Newington town line, and to the south by South Street. The neighborhood is comprised of a mix of one, two, and three family buildings along the side streets, and a greater concentration of three, four, six, and eight unit buildings along the major corridors. Kelsey Street, on which the site is located, is one of the neighborhood's secondary east-west routes, while East Street, on the site's eastern line, is one of the East Side's two major north-south thoroughfares, along with Stanley Street.



The East Side is comprised of a vast majority of multi-family homes. The area around the Aquinas site is especially heavily built with multi-family structures, as single family homes in Census Tract 4153 (in which the site is located) comprise just over 6% of the housing stock. The neighborhood has an active NRZ (Neighborhood Revitalization Zone) committee that has been expressly interested in the construction of single families on the site due to the neighborhood's overwhelming demand for new single family homes. The area's income and home value data approximates the data for the rest of the City of New Britain. The housing stock was mainly constructed between 1900 and World War II, with interspersed post-war construction in some parts of the neighborhood.

Census Tract 4153	
<b>Population</b>	2,521
<b>Per Capita Income</b>	\$19,566
<b>Median Household Income</b>	\$44,009
<b>Median Home Value</b>	\$179,500
<b>Multi-Family Buildings</b>	94%
<b>Rental Proportion</b>	81%
<b>Housing Units Built Pre-1939</b>	72%

## 2.4 Parcel Data

Parcel Information	
Lot Size	95,832 s.f. (2.20 acres)
Zoning	T
Current Use	Vacant
Current Owner	City of New Britain
Census Tract	4153
Map Block Lot	B9A 12
Approximate Grade	Elevation drops approximately 15-20 ft. from Sheffield Street to East Street (135 ft. to 115 ft.)
Utilities	Direct hydrant access, City sewer, natural gas, underground wires
GPS Coordinates (approx.)	41.662748, -72.765769
Population w/ 1-mile Radius (approx.)	17,461
Population of New Britain (2020 Census)	74,135
Population of Hartford County (2020 Census)	899,498
New Britain Median Household Income	\$51,586
New Britain Home Value (2021)	\$195,166

## 2.5 Land Use Regulations

### ZONING

The parcel is located in the T District (Two or Single Family Dwellings) a residential district that permits two and single family detached dwellings. The dimensional standards for the district are shown in the table below:

Zoning Table T District (two or single family dwellings)	
Lot Area – Minimum (sq. ft.)	6,000
Lot Area – Minimum per dwelling unit (sq. ft.)	3,000

Floor Area Ratio – Maximum	0.75
Lot Coverage - % of total lot area occupied by main accessory buildings	30
Lot Width	50
Height	40
Yard Setbacks – Front/Side/Rear	25/7/25
Side – total for both on interior lot	17
Side – abutting a side street on a corner lot	12
<b>Accessory Buildings</b>	
Coverage of required rear yard – Maximum	35
Height in required rear yard – Maximum (ft.)	15
Setback from any lot line – Minimum (ft.)	3

### LIVE NEWBRITAIN: 2021-2031 PLAN OF CONSERVATION AND DEVELOPMENT

The vision for the future of New Britain’s residential neighborhoods is established in the Plan of Conservation and Development (POCD) through the *Live Newbritain* section which identifies goals such as; creating healthy, affordable, and livable neighborhoods; maintaining a diverse housing stock for all life stages and income levels; and to upgrade, modernize, and rehabilitate the housing stock in New Britain. New Britain’s diverse

**4. Maintain a Diverse Housing Stock that Supports All Life Stages and Income Levels**

**5. Upgrade, Modernize, and Rehabilitate the Housing Stock**

**6. Bolster Homeownership Programs**

neighborhoods are anchored by strong mix-use corridors such as East Street. These well-traveled corridors contain a mix of housing, retail, services, and restaurants that rely on strong transportation connections to the surrounding residential neighborhoods. In recent years, New Britain has focused on investments in sidewalks, streetscapes, and utility infrastructure in order to help foster these connections.

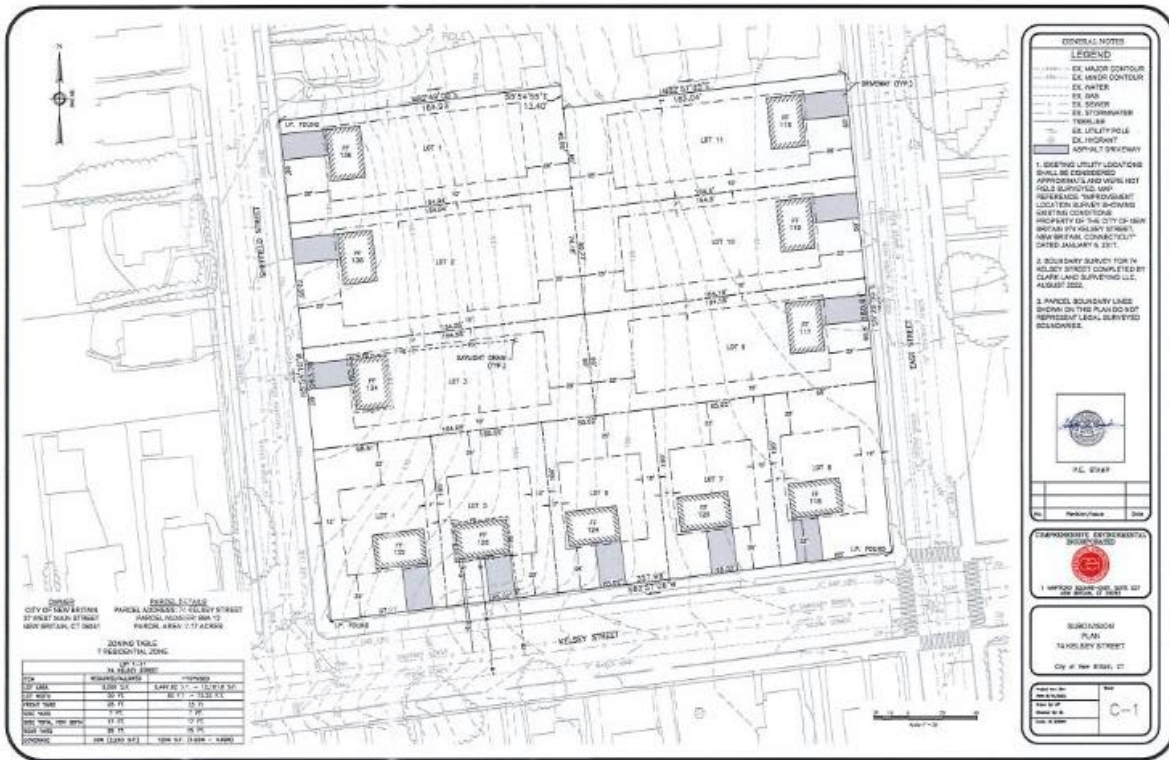
The site is located in the *Live – Adapt* area identified in the POCD. This area is categorized by moderate to high density residential neighborhoods which radiate from the Downtown. Strong sidewalk, bicycle, and transit connections provide easy access to Downtown and employment opportunities in the larger region. The housing stock in this area is aging, therefore the neighborhood will need to adapt and modernize in order to provide high quality, well maintained choices for all households.

### ENTITLEMENTS

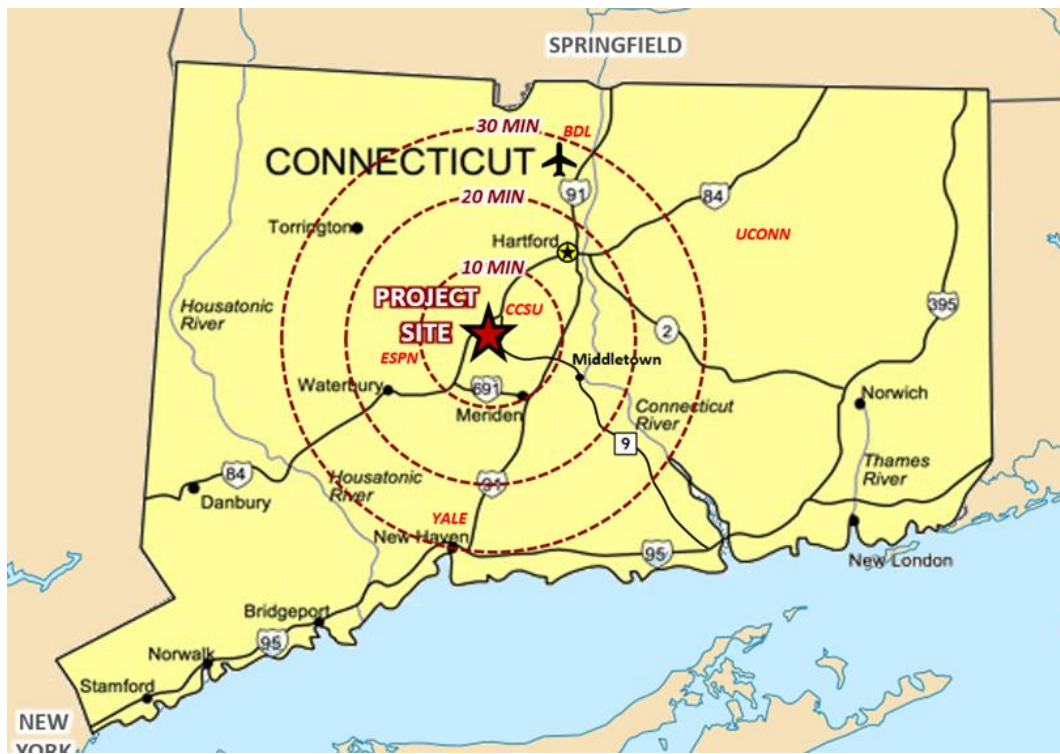
The City of New Britain has pursued and been granted the necessary land use entitlements and zoning variances for construction of the 11 single family homes on site. Variances for building setback on Sheffield Street were granted by the Zoning Board of Appeals at the September 2022 regular meeting, while the subdivision was approved by the City Plan Commission during the same month. By the City’s best estimation, the T zone’s by-right dimensional construction standards and the variances granted by the ZBA should be

sufficient for construction. Any further variances found to be required by the selected bidder shall be pursued by the builder/developer.

*Subdivision Layout*



2.6 Regional Locus Map



### 3. Federal Regulations

The project is leveraging multiple funding sources, including federal funding, which carries its own requirements. Below is a synopsis of funding leveraged and projected to be leveraged through project completion:

Primary Funding:

- HOME Investment Partnership Program - United States Department of Housing and Urban Development
- Mayor's Blight Line - City of New Britain

As Needed:

- HOME-ARP - United States Department of Housing and Urban Development
- State and Local Fiscal Recover Funds - United States Treasury

#### 3.1 M/WBE

*For Minimum Acceptable Outreach Standards and other HUD MBE/WBE requirements, see ATTACHMENT A: MBE/WBE REQUIREMENTS*

#### 3.2 Federal Labor Standards

*For Davis Bacon Wage rate policy and federal labor standards provisions see ATTACHMENT B: FEDERAL LABOR STANDARDS PROVISION*

#### 3.3 Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of 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 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.

*For further information and FAQs on HUD Section 3 requirements see ATTACHMENT C: SECTION 3*

### 3.4 Project Signage

The builder/developer shall furnish signage that will remain on site during the entire construction process and all phases, which must include the following information:

REDEVELOPMENT OF THE FORMER ST. THOMAS AQUINAS SCHOOL SITE - 74 KELSEY STREET

HONORABLE ERIN E. STEWART, MAYOR

PROJECT FUNDED BY CITY OF NEW BRITAIN AND U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
HOME INVESTMENT PARTNERSHIPS PROGRAM [HUD]

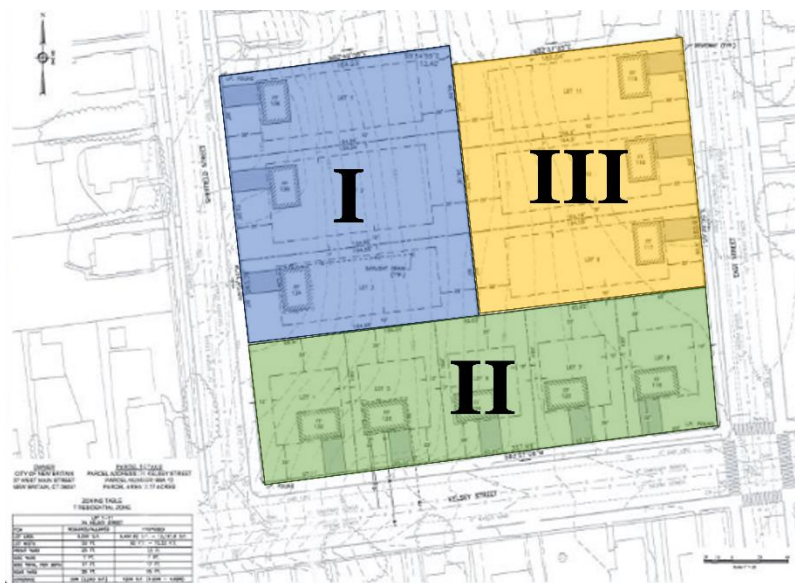
CONTRACTOR: [NAME]

CITY OF NEW BRITAIN COMMISSION ON COMMUNITY AND NEIGHBORHOOD DEVELOPMENT  
CHAIRMAN DAVID BUCKWELL

## 4. Project Requirements

### 4.1 Construction Phasing

The construction of the 11 single family homes is desired to be performed in phases; the suggested phasing is to construct the 3 homes on Sheffield Street in Phase I, the 5 homes along Kelsey Street in Phase II, and the 3 homes along East Street in Phase III. The first Phase is to begin immediately subsequent to groundbreaking in September 2023.



## 4.2 General Product Specifications

<b>Total Gross Floor Area per Dwelling</b>	1,100 – 1,300 sq. ft.
<b>Bedroom Count</b>	3
<b>Bathroom Count</b>	1.5-2
<b>Garages</b>	1 car
<b>Driveway</b>	1 car
<b>Washer/Dryer</b>	Yes; first/ground floor
<b>Finished Basement</b>	TBD

### RESPONSIBILITY OF DEVELOPER/BUILDER

The respondents shall acknowledge and agree to complete the following activities in addition to the construction activities associated with home construction:

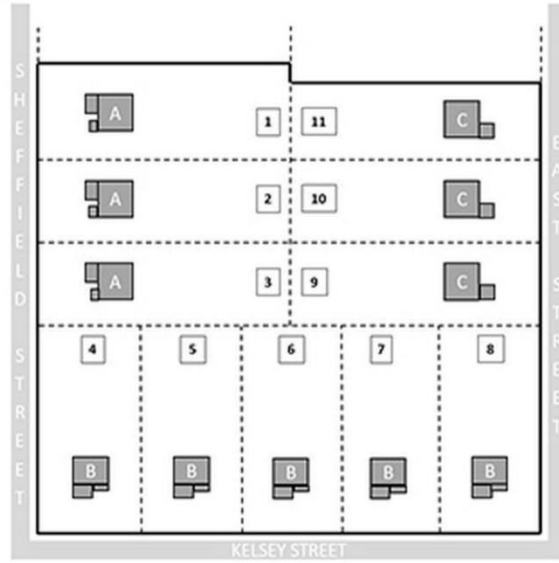
- Patching and repairing or installation of new sidewalk in locations where damaged or cuts required for drive access or utility trenching;
- Installation of all utility lines, laterals and connections between City and utility company service lines in rights-of-way and new homes;
- Finished landscaping/hardscaping and turf establishment; and
- Curb cuts and paved driveways connected to street access.

## 5. Home Design

### 5.1 Sample Home Designs

The City is encouraging all respondents to submit mature architectural renderings and suggested home designs. The following designs are guidance based on review and analysis of existing built environment and selection of designs harmonious with neighborhood, preferred product specifications (including floor plans, floor area, and amenities), and community input.

DESIGN GUIDE



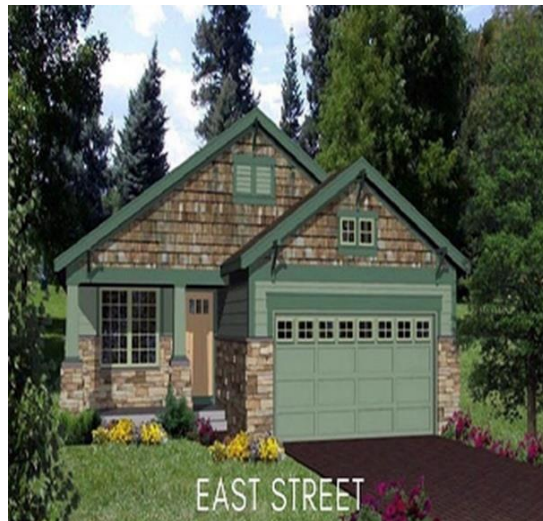
A



B



C



## 6. Proposal Outline

### PROPOSAL CONTENT

Proposals should clearly and concisely state the unique capabilities, experience, and advantages of the Respondent, and demonstrate the Respondent's capability to satisfy the requirements and objectives set forth in this RFP. The City intends to select a respondent developer based on review and evaluation of the information submitted in response to this RFP, interviews of references and any other information not provided by the Respondent. Each Respondent submitting a Proposal must demonstrate sufficient ability to secure financial resources and professional ability to develop the Site in a manner consistent with its Proposal. Therefore, the City is requesting a detailed redevelopment plan, as well as information regarding the respondents' accomplishments, capabilities, and experience.

A complete proposal will include the following portions:

- Cover Letter
- Project Narrative

### COVER LETTER

The respondent is required to submit a cover letter that acknowledges ability and willingness to meet the following criteria in order for a proposal to be deemed complete and reviewed by City staff. Respondent must agree to:

- Co-host a Groundbreaking ceremony with the City of New Britain that may necessitate a partial mobilization of equipment during the month of September 2023.
- Enter into an agreement with the City of New Britain that will establish timelines for the project, including:
  - Groundbreaking date
  - Pre-Construction Activities (including site work)
  - Construction Staging
  - Funding and Financing
  - Preparation, Submission, and Approval of Final Site Plans
  - Permitting Process
  - Negotiation and Execution of Purchase and Sale Agreement
  - Projected Ribbon Cutting date (soft opening)

### PROJECT NARRATIVE

#### 1. Project Team

##### a. General Firm Qualifications

- i. Ownership structure, including a description of any joint venture and percentages owned.
- ii. Project Management
- iii. Architecture and Design
- iv. Engineering
- v. Construction Management
- vi. General Contractor
- vii. Commitment to utilize minority, women owned, or small business contractors
- viii. Post-development plan

- ix. Document describing the project team's recent experience with similar development projects, experience and qualifications including licenses held and status, and expected time commitment.
- x. Statement addressing whether any member of the ownership or project team has been involved in a legal dispute regarding real estate within the past 5 years, and disclosure of any existing relationship that could present a potential conflict of interest.
- b. References: Two financial and three development references that can be contacted at this time with respect to current and past project development experience:
  - i. Name and Title
  - ii. Organization Name
  - iii. Telephone number
  - iv. Description of contractual relationship

## 2. Product Description

- a. Development Plan and Design of Site Improvements
  - i. Proposed site sketches:
    1. Location and approximate footprint of buildings
    2. Consideration of zoning and entitlements, including site dimensional flexibility afforded by variances
    3. Landscaping
    4. Driveways and parking layouts
    5. Inclusion of memorial denoting the site of former St. Thomas Aquinas High School
  - ii. Potential number of residential units (indicate % of market rate vs. workforce housing)
  - iii. Description of energy efficiency/alternative energy components

## 3. Scope of Work

- a. Timeline + Phasing
- b. Construction Requirements
  - i. Project Management
    1. Designated point of contact between contractor and City
    2. On-site supervision
    3. Temporary facilities
    4. Licensing + Insurance
    5. General Contractor new home construction license (State of CT)
    6. Acknowledgement of requirements for subcontractor insurance licensure
    7. Appropriate insurance (per City of New Britain requirements)
- c. Construction Drawings
  - i. Site Work
  - ii. Full Architectural Plans + Floor Plans
  - iii. Building Construction
  - iv. Materials Specifications
  - v. Utilities + Infrastructure
- d. Project Closeout

## 4. Site and Building Plans

- a. Detailed site plan showing parcel boundary, building footprint, parking, landscaping, utilities, and other features on the site

- b. Detailed floor plans showing number of units on each floor, unit type and layout, building amenities, retail space, office space, and common areas
- c. Detailed building elevations identifying façade materials

5. Other

- a. Respondent is encouraged to include a brief description of any unique approaches, strengths or partnerships not covered in any of the above sections

## 7. Submission Requirements

Respondent must submit complete sealed bids to:

City of New Britain Department of Planning & Development  
 ATTN: Jack Benjamin, Director  
 27 West Main Street, Suite 311  
 New Britain, Connecticut 06051

*Sealed bids must be delivered in-person by **August 4, 2023 at 2:00pm** or postmarked by **July 28, 2023**.*

All proposals shall be clearly marked on the face of the sealed envelope with the title, “Proposal for the Development of the Former St. Thomas Aquinas Site”, and with the respondent’s name and address also clearly visible on the face of the envelope.

Persons submitting a proposal by mail or other delivery service bear the full responsibility for delivery to the designated office prior to the submission deadline.

Any necessary correction, modification or withdrawal may be submitted prior to the deadline in a sealed envelope, marked as stated above for the original submission, and shall indicate on the face of the envelope whether it is a correction, modification or withdrawal.

## 8. Timeline

<b>June 23, 2023</b>	Request for Proposals Released	<i>E-mail; website posting</i>
<b>July 11, 2023</b>	Pre-Bid Walkthrough [10:00am]	<i>On-site</i>
<b>July 14, 2023</b>	Deadline for Questions (electronic submission)	<i>E-mail</i>
<b>July 19, 2023</b>	Q+A Posted	<i>Website posting</i>
<b>July 28, 2023</b>	RFP Response Mail Drop Deadline	<i>Hard copy (mailed)</i>
<b>August 11, 2023</b>	Response Deadline + Sealed Bid Opening [2:00pm]	<i>Hard copy (hand delivered)</i>
<b>August 18, 2023</b>	Selection Notification Date	<i>E-mail</i>
<b>September 2023</b>	Groundbreaking	<i>On-site</i>

**9. Evaluation Rubric**

CRITERIA	POINT SCALE		
<b>Threshold Qualifications</b>			
<b>Completeness of Proposal</b>	<b>0-1</b> 0%-25% Complete	<b>2-3</b> 25%-75% Complete	<b>4-5</b> 75%-100% Complete
<b>Groundbreaking Date</b>	<b>0</b> Cannot Commit to September Groundbreaking		<b>2</b> Commitment to September Groundbreaking
<b>Estimated Cost Schedules</b>	<b>0</b> Incomplete or Infeasible Projection of Service, Contract, Labor, and Unit Pricing		<b>3</b> Reasonable and Accurate Projection of Service, Contract, Labor, and Unit Pricing
<b>Compliance with Federal Wage Rate Regulations</b>	<b>0</b> Non-compliant, Incomplete, or Unclear		<b>10</b> Compliant
<b>Section 3 Acknowledgement</b>	<b>0</b> Missing or Incomplete Statement to Adhere to Section 3 Preferences		<b>10</b> Commitment to Adhere to Section 3 Resident Preferences
<b>Subtotal</b>	<b>MINIMUM 20 pts – MAXIMUM 30 pts</b>		
<b>Development Plan [MAX 70 pts]</b>			
<b>Project Team</b>	<b>0-4</b> Little or No Relevant Experience	<b>5-9</b> Some Relevant Experience	<b>10-15</b> Substantial Relevant Experience
<b>Quality of Product</b>	<b>0-4</b> Low Quality of Construction and Building Design	<b>5-9</b> Moderate Quality of Construction and Building Design	<b>10-15</b> Highest Quality of Construction and Building Design
<b>Construction Timeline</b>	<b>0-4</b> Unreasonable or Incomplete	<b>5-9</b> Incomplete Schedule	<b>10-15</b> Clear, Complete, and Actionable Timeline
<b>Pro Forma</b>	<b>0-2</b> Project Success Infeasible or Unclear	<b>3-6</b> Reasonable Path to Project Success	<b>7-10</b> Clear and Viable Path to Project Success
<b>Site, Building Plans, and Architectural Drawings</b>	<b>0-4</b> No Plans	<b>5-9</b> Partial Site Plans or Renderings and Drawings	<b>10-15</b> Full Site and Floor Plans and Renderings and Drawings
<b>Subtotal</b>	<b>MAXIMUM 70</b>		
<b>TOTAL</b>	<b>MAXIMUM 100</b>		

**10. Disclaimer**

*The City of New Britain reserves the right to accept or reject any and all proposals.*

*In order for full proposal to be considered, respondents must reach the minimum points (20 pts.) outlined under threshold qualifications in VII. Evaluation Rubric.*

**ATTACHMENT A:  
MBE/WBE REQUIREMENTS**

## **GUIDANCE ON MBE/WBE OUTREACH**

### **I. Minimum Acceptable Outreach Standards**

Section 281 of the National Affordable Housing Act requires each participating jurisdiction to prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program. The program shall include minority and woman-owned businesses in all contracting activities entered into by the participating jurisdiction to facilitate the provision of affordable housing authorized under this Act or any other federal housing law applicable to such jurisdiction. Therefore, minimum HUD standards require that each participating jurisdiction's outreach effort to minority and women-owned businesses be:

- A good faith, comprehensive and continuing endeavor;
- Supported by a statement of public policy and commitment published in the print media of widest local circulation;
- Supported by an office and/or a key, ranking staff person with oversight responsibilities and access to the chief elected official; and
- Designed to utilize all available and appropriate public and private sector local resources.

### **II. Guidelines for a Minority/Women Business Outreach Program**

Under the minimum HUD standards cited above, the following guidelines are provided for use by participating jurisdictions in implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each participating jurisdiction should:

- Develop a systematic method for identifying and maintaining an inventory of certified minority and women's business enterprises (MBEs and WBEs), their capabilities, services, supplies and/or products;
- Utilize the local media, electronic and print, to market and promote contract and business opportunities for MBEs and WBEs;
- Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;
- Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and suppliers of goods and services;
- Sponsor business opportunity-related meetings, conferences, seminars, etc., with minority and women business organizations; and
- Maintain centralized records with statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Each participating jurisdiction, utilizing the standards and guidelines listed above, shall prescribe procedures and actions it will undertake in implementing a minority and women's business enterprise outreach program. The above items represent basic outreach-related activities and are not all-inclusive actions a participating jurisdiction may undertake.

## **GUIDANCE ON SECTION 3**

**(Refer to 24 CFR Part 135 for complete information)**

### **WHAT IS SECTION 3?**

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended by the Section 915 of the Housing and Community Development Act of 1992, requires that economic opportunities generated by HUD financial assistance for housing and community development programs be targeted toward low- and very low-income persons. In effect, this means:

- ❑ Whenever HUD assistance generates opportunities for employment or contracting, Public and Indian Housing Authorities, state and local grantees, and other recipients of HUD housing assistance funds must, to the greatest extent feasible, provide these opportunities to low- and very low-income persons and to businesses owned by or employing low- and very low-income persons.
- ❑ The Section 3 requirements apply to job training, employment, contracting and subcontracting and other economic opportunities arising from assistance provided for construction, reconstruction, conversion, or rehabilitation (including lead-based paint hazard reduction and abatement) of housing, other buildings, or improvements assisted with housing or community development assistance, including HOME.
- ❑ Section 3 applies to:
  - projects for which HUD's share of project costs exceeds \$200,000; and
  - contracts and subcontracts awarded on projects for which HUD's share or project costs exceeds \$200,000, and the contract or subcontract exceeds \$100,000.
- ❑ Recipients whose projects do not fall under Section 3 are nonetheless encouraged to comply with the Section 3 preference requirements.
- ❑ Recipients and their contractors and subcontractors must show preferences for giving training and employment opportunities to low-income persons, to the greatest extent feasible. They should show priority considerations for hiring low-income persons as follows:
  - (1) Low-income persons residing in the service area or neighborhood in which the project is located.
  - (2) Participants in HUD Youthbuild programs.
  - (3) If project is assisted under the McKinney Act, homeless persons in the project area of the project.
  - (4) Other Section 3 residents.

Again, the persons hired should be qualified to perform the work required.

- ❑ Recipients and their contractors and subcontractors must direct their efforts to award Section 3 business concerns, to the greatest extent feasible, to Section 3 business concerns in the following preference order:
  - (1) Section 3 businesses that operate in the project area.

(2) Entities that carry out Youthbuild programs.

(3) Other Section 3 business concerns.

The business must be able to demonstrate that it can successfully perform under the terms and conditions of the proposed contract. In addition, these requirements do not restrict competition to only businesses meeting one of the priorities, nor do they authorize set-asides.

## **COMPLIANCE AND RECORDKEEPING**

- Numerical goals for meeting the greatest extent feasible requirement:
  - For training and employment opportunities resulting from Section 3-covered housing assistance, a commitment to employ 10% of the aggregate number of new hires each year over the duration of the Section 3 project.
  - For training and employment opportunities resulting from Section 3-covered community development assistance, a commitment to employ 30% of the aggregate number of new hires for a one-year period.
  - For contracts awarded in connection with Section 3-covered projects, a commitment to award at least 10% of the total dollar amount of contracts for building trades work and at least 30% of the total dollar amount of all other Section 3-covered contracts.
- All recipients of assistance must:
  - Amend their employment and procurement policies to comply with Section 3.
  - Include the Section 3 clause in covered contracts and subcontracts.
  - Document their best efforts to comply with Section 3 and their success at hiring low-income persons.
  - Monitor their own compliance and the compliance of their contractors and subcontractors.
  - Provide annual reports to the Assistant Secretary for Fair Housing and Equal Opportunity as requested.
- Recipients must maintain the following records:
  - The good faith efforts made to make low-income persons aware of the positions, and to encourage and facilitate their application.
  - The number and dollar value of all contracts awarded to businesses and, in particular, Section 3 businesses during the fiscal year.
  - A description of the best efforts made to award contracts to Section 3 businesses.
  - The mechanisms by which they ensured that contractors and subcontractors complied with the Section 3 preferences for training, employment, and contract awarding.
- The Assistant Secretary for Fair Housing and Equal Opportunity will conduct periodic compliance reviews.

**ATTACHMENT B:**  
**FEDERAL LABOR STANDARDS PROVISION**

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

---

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**ATTACHMENT C:**  
**SECTION 3**

# **FREQUENTLY ASKED QUESTIONS**

## **for**

### **SECTION 3**

**Published: March 25, 2021**

*The following is a guidance document published by the Department of Housing and Urban Development Office of Field Policy and Management for the purpose of providing answers to frequently asked questions about Section 3 of the HUD Act of 1968 (12 U.S.C § 1701u) and its associated regulations (24 C.F.R. Part 75). This document is intended to provide guidance for Section 3 funding recipients, subrecipients, contractors, subcontractors, workers, and other stakeholders.*

This guidance document covers questions in several topic areas and is divided into parts that contain questions on that part's topic.

#### **I. GENERAL QUESTIONS REGARDING SECTION 3:**

1. What is Section 3?
2. What Do “Best Efforts” and “to the Greatest Extent Feasible” Mean?
3. What Does “Section 3 Worker” Mean?
4. What Does “Targeted Section 3 Worker” Mean?
5. What Does “Section 3 Business Concern” mean?
6. How are low-income and very low-income determined?
7. What is YouthBuild?
8. As a funding recipient, what are my Section 3 reporting goals?
9. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?
10. What is a Section 3 project?
11. Who is considered a recipient of Section 3 funding?
12. What are funding thresholds and how do they apply to Section 3 covered financial assistance?
13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?
14. Can a non-profit organization be considered a business concern for the purposes of Section 3?
15. What is a “Service Area” or “Neighborhood of the project”?
16. What if my agency does not meet all benchmark goals for employment or contracting?
17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?

#### **II. APPLICABILITY:**

1. What HUD assistance does Section 3 apply to?
2. Do the requirements of Section 3 apply to grantees on a per project basis?
3. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?
4. What recordkeeping responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?
5. Do the Section 3 requirements apply to material only contracts?
6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?
7. Are maintenance projects covered by Section 3?

Section 3 Frequently Asked Questions

8. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?
9. Are demolition projects covered by the requirements of Section 3?
10. Are professional service contracts required to be reported under Section 3?
11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?
12. Does Section 3 apply to labor hours by a Public Housing Authority?

**III. CONSISTENCY WITH OTHER LAWS:**

1. Are recipients required to comply with Federal/state/local laws in addition to Section 3
2. What is the relationship between Section 3 and Davis Bacon requirements?
3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?

**IV. RECIPIENT RESPONSIBILITIES:**

1. What are the responsibilities of recipient agencies under Section 3?
2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?
3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?
4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?
5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?
6. What are good strategies for targeting Section 3 workers and businesses?
7. Are funds provided to recipients so that they can comply with the requirements of Section 3?
8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?
9. Are recipients, developers, and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?
10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?
11. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

**V. SECTION 3 CERTIFICATION:**

1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?
2. What documentation must be maintained by HUD recipients, contractors and subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?
3. What are examples of acceptable evidence to determine eligibility as a Section 3 worker?
4. What are examples of acceptable evidence for determining eligibility as a Section 3 business concern?
5. Are all public housing residents considered Section 3 workers regardless of their income?
6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?
7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?
8. Does a business have to be incorporated to be considered a Section 3 eligible business?

**VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:**

1. How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?
2. How can I find Section 3 business concerns in my area?
3. Do the benchmark requirements only count toward new hires?
4. Should PHA's report on staff hours?
5. What category of PHA Staff should be included?
6. Are recipient agencies required to meet the Section 3 benchmarks, or are they optional?
7. Will there be changes to the benchmark requirements?
8. What is considered "other" public construction?
9. What is the meaning of the safe harbor determination?

## **VII. SECTION 3 COMPLAINTS:**

1. How should complaints be made?
2. Where else can I file complaints alleging denied employment and contracting opportunities?

## **I. GENERAL QUESTIONS REGARDING SECTION 3:**

### **1. What is Section 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of 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 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 Do "Best Efforts" and "to the Greatest Extent Feasible" Mean?**

"Best efforts" and "greatest extent feasible" are statutory terms, used in the statute in different contexts. As such, HUD uses both terms to track compliance, and there are many ways to interpret the language. Traditionally, HUD has used the terms interchangeably, as referenced in the statute, and will continue to be consistent with the statutory language. *See* 12 U.S.C. 1701u(b)-(d). These terms are integral to the statutory intent and provide flexibility, rather than administrative burden, to grantees or recipients of HUD funding.

HUD acknowledges that some perceive "best efforts" to be the more rigorous standard, while others perceive "greatest extent feasible" to be the more rigorous standard. HUD has determined not to define the difference between these two terms but rather to increase the emphasis on outcomes as a result of these efforts. A recipient's reported results will be compared to the outcome metrics defined in the benchmark notice. HUD program staff will evaluate the level of effort expended by those recipients that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. HUD included a list of examples in the regulation at 24 CFR §§ 75.15 and 75.25, including engagement in outreach efforts to generate job applicants who are Targeted Section 3

workers, providing training or apprenticeship opportunities, and providing technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

### **3. What Does “Section 3 Worker” Mean?**

A Section 3 worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:

1. The worker’s income for the previous or annualized calendar year is below the income limit established by HUD (see Question 6 of this part I of these FAQs, below);
2. The worker is employed by a Section 3 business concern (see Question 5 of part I, below); or
3. The worker is a YouthBuild participant.

### **4. What Does “Targeted Section 3 Worker” Mean?**

A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who:

- (1) is employed by a Section 3 business concern; or
- (2) currently fits or when hired fit at least one of the following categories, as documented within the past five years:
  - (i) A resident of public housing or Section 8-assisted housing;
  - (ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
  - (iii) A YouthBuild participant.

A Section 3 targeted worker for Housing and Community Development Financial Assistance projects is a Section 3 worker who:

- (1) is employed by a Section 3 business concern; or
- (2) currently fits or when hired fit at least one of the following categories, as documented within the past five years:
  - (i) Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
  - (ii) A YouthBuild participant.

### **5. What Does “Section 3 Business Concern” mean?**

A Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six-month period:

1. At least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

## **6. How are low-income and very low-income determined?**

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from:

<https://www.huduser.gov/portal/datasets/il.html>.

## **7. What is YouthBuild?**

YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.

YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the required construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

The Division of Youth Services within the Employment and Training Administration's Office of Workforce Investment at the U.S. Department of Labor administers the YouthBuild program. Each year, more than 6,000 youth participate in approximately 210 YouthBuild programs in more than 40 states. More information can be found here: <https://www.dol.gov/agencies/eta/youth/youthbuild>.

## **8. As a funding recipient, what are my Section 3 reporting goals?**

Your Section 3 reporting goals depend on the type of assistance you are receiving, whether public housing financial assistance or housing and community development financial assistance.

For public housing financial assistance, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. This means that the *5 percent* is included as part of the *25 percent* threshold.

For housing and community development financial assistance projects, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the *5 percent* is included as part of the *25 percent* threshold.

## **9. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?**

Section 3 is both race and gender neutral. The standards provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD

funding to direct employment, training, and contracting opportunities to low-income individuals, and the businesses that employ these persons within their community regardless of race and/or gender.

Minority Business Enterprise (MBE) means a business enterprise that is at least 51% owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Women's Business Enterprise (WBE) is an independent business concern that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S. or its territories; and whose management and daily operation is controlled by a woman with industry expertise.

Section 3 standards are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business concern outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs and other socially and economically disadvantaged businesses.

To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: [https://www.hud.gov/program\\_offices/sdb](https://www.hud.gov/program_offices/sdb).

## **10. What is a Section 3 project?**

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*); and/or the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). (See Question 12 of this part I of these FAQs for more detail regarding Lead Hazard Control and Healthy Homes programs.)

The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

## **11. Who is considered a recipient of Section 3 funding?**

A recipient is any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization. It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 worker.

## **12. What are funding thresholds and how do they apply to Section 3 covered financial assistance?**

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for public housing programs. The requirements of Section 3 apply to all programs receiving public housing financial assistance regardless of the amount of assistance received from HUD. Section 3 also applies to the entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance.

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000 (Lead Hazard Control and Healthy Homes (LHCHH) assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold).

The threshold is \$100,000 when the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LHCHH programs require Section 3 compliance if there is over \$100,000 of LHCHH funding for the project (neither HUD public housing financial assistance nor HUD housing and community development financial assistance is included in calculating whether the assistance exceeds the \$100,000 threshold). Recipients of LHCHH funding will also be required to comply with Section 3 regulations and report on the entirety of the project when the total amount of HUD housing and community development financial assistance to the project exceeds \$200,000 (LHCHH funding is not included in calculating whether the total assistance exceeds the \$200,000 threshold), or if any public housing financial assistance is provided.

## **13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?**

For public housing financial assistance, Public Housing Authorities (PHAs), regardless of size or number of public housing units, are required to comply with Section 3 and its reporting requirements. However, small PHAs (fewer than 250 units) are permitted to report qualitatively as permitted under 24 CFR § 75.15(d). Some examples of those qualitative efforts are listed in the answer to Question 15.

As previously stated, Section 3 also applies to projects with more than \$200,000 in funding from housing and community development financial assistance programs. The following is a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Housing Trust Fund (HTF)
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Emergency Solutions Grants (ESG)
- University Partnership Grants

- Economic Stimulus Funds
- 202/811 Grants
- Lead Hazard Control Grants (\$100,000 threshold; see Question 12, above, in this part I of these FAQs)
- Healthy Homes Production Grants (\$100,000 threshold; see Question 12, above, in this part I)
- Rental Assistance Demonstration (RAD) (see most recent RAD Notice, found through HUD’s RAD website, [www.hud.gov/rad/](http://www.hud.gov/rad/))

\*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact [Section3@hud.gov](mailto:Section3@hud.gov) to determine applicability to a particular project/activity.

**14. Can a non-profit organization be considered a business concern for the purposes of Section 3?**

Yes. A non-profit organization can be a business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR § 75.5 in order to receive Section 3 preference. See response to Question 5 above.

**15. What is a “Service Area” or “Neighborhood of the project”?**

“Service area” or the “neighborhood of the project” means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

**16. What if my agency does not meet all benchmark goals for employment or contracting?**

If reporting indicates that the agency has not met the Section 3 benchmarks, the agency must report in a method prescribed by HUD program offices on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b).

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

**17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?**

Yes. Recipients will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they meet all benchmark goals and certify compliance with prioritization requirements found in 24 CFR § 75.9 or §75.19. However, if subsequent HUD enforcement activities reveal that the recipient has failed to comply with the recipient responsibilities set forth at 24 CFR §75.13 or §75.23, this compliance determination may be rescinded.

## **II. APPLICABILITY:**

### **1. What HUD assistance does Section 3 apply to?**

Section 3 applies to both:

#### a) Public Housing Financial Assistance –

- (i) Development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act; and
- (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in subsections (i) through (iii).

b) Housing and Community Development Financial Assistance expended for housing rehabilitation, housing construction, or other public construction. See Question #2 below for applicability thresholds.

### **2. Do the requirements of Section 3 apply to grantees on a per project basis?**

Yes, for housing and community development financial assistance projects. Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs. See Question 12 of part I of these FAQs.

Section 3 applies to all public housing financial assistance funds, regardless of the amount of assistance from HUD.

### **3. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?**

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3 if the amount of HUD funding for the project exceeds the regulatory thresholds (listed in Section I, Question #11).

For RAD projects, Section 3 applies regardless of what money is used to pay for repairs. Per the RAD Notice, “While most RAD conversions do not utilize funding covered by Section 3, HUD has established the alternative requirement that any Work required by the conversion after the RAD Closing that involves housing rehabilitation or housing construction is subject to the Section 3 requirements applicable to housing and community development activities as set forth in 12 U.S.C. 1701u(c)(2) and (d)(2) and the regulations derived from such provisions except that, with the exception of transactions receiving HUD housing and community development assistance, such as CDBG (24 CFR part 570) or HOME (24 CFR part 92), first priority for employment and other economic

opportunities shall be given to residents of public housing or Section 8 assisted housing. Otherwise, the receipt of Section 8 rental assistance does not, in itself, trigger the applicability of Section 3.”

**4. What recordkeeping responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?**

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. Examples of documentation can be found in 24 CFR §75.31.

**5. Do the Section 3 requirements apply to material only contracts?**

No. Section 3 does not apply to material only contracts or those that do not require any labor. For example, a contract for office or janitorial supplies would not be covered by Section 3. In this example, Section 3 would be encouraged but not required. However, a contract to replace windows that includes the removal of existing windows and the installation of new windows would be covered due to the involvement of labor.

**6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?**

No. Section 8 project-based voucher or project-based rental assistance housing assistance payment contracts, are not covered by the statute, including properties converted through the Rental Assistance Demonstration (RAD).

**7. Are maintenance projects covered by Section 3?**

Yes, but only for PIH funded programs administered by Public Housing Authorities.

**8. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?**

No, reduction and abatement of lead-based paint hazards focuses on mitigating lead paint hazards only, not conducting general rehabilitation activities.

**9. Are demolition projects covered by the requirements of Section 3?**

Yes. Recipients of assistance covered by Section 3 should, where feasible, comply with Section 3 benchmarks.

**10. Are professional service contracts required to be reported under Section 3?**

No, professional service contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported as a part of total Section 3 labor hours. However, this exclusion does not cover all non-construction services.

However, professional services staff labor hours are permitted to be reported and PHAs will be given credit for reporting opportunities created for professional services by including professional services labor hours in the numerator, and not in the denominator, of the reported outcome ratios. The reporting structure in the rule allows a recipient to count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.

**11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?**

Yes. If the recipient intends to use its HUD grant to perform housing construction, rehabilitation, or other public construction and the total HUD assistance to the project exceeds \$200,000, then Section 3 applies to the project.

**12. Does Section 3 apply to labor hours by a Public Housing Authority?**

Yes. Section 3 applies to all Public Housing capital, operating, or development funds.

### **III. CONSISTENCY WITH OTHER LAWS:**

#### **1. Are recipients required to comply with Federal/state/local laws in addition to Section 3?**

Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, recipients of Section 3-covered assistance are required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations.

#### **2. What is the relationship between Section 3 and Davis Bacon requirements?**

Compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under the Davis-Bacon Act (40 U.S.C. 3141 et seq.) and implementing U.S. Department of Labor regulations in 29 CFR Part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public housing projects are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. (24 CFR § 965.101).

#### **3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?**

After the Section 3 new rule went into effect on November 30, 2020, Tribes and Tribally Designated Housing Entities under the Indian Housing Block Grant and Indian Community Development Block Grant programs are no longer required comply with Section 3 requirements.

The new rule at 24 CFR part 75 provides that contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

#### **IV. RECIPIENT RESPONSIBILITIES:**

##### **1. What are the responsibilities of recipient agencies under Section 3?**

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75. These responsibilities include but are not limited to the following:

Designing and implementing procedures to comply with the requirements of Section 3: Recipient agencies must take an *active role* in ensuring Section 3 compliance. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 and maintain records verifying that compliance.

Facilitating the training and employment of Section 3 workers: The recipient agency must act as a facilitator, connecting Section 3 workers to training and employment opportunities.

Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity-building training.

Ensuring Contractor and Subcontractor Awareness of and Compliance with Section 3 Benchmarks and responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.

Ensuring Compliance and Meeting Numerical Benchmarks: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.

Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3 and report these activities either through the Section 3 Performance Evaluation and Registration System (SPEARS), for Public Housing financial assistance, or any reporting system designated by program areas overseeing other funding.

##### **2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?**

On and after November 30, 2020, Section 3 regulations codified at 24 CFR Part 135 (the old rule) have not applied and will not apply to new grants, commitments, contracts, or projects. Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020 are still required to adhere to the requirements of the old rule. Recipients of such assistance or funds will still be expected to maintain records of Section 3 statutory, regulatory, and contractual compliance but will no longer be required to report Section 3 compliance to HUD in SPEARS.

HUD does not require funding recipients to change or alter contracts that were in place prior to the new Section 3 requirements becoming effective on November 30, 2020.

**3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?**

Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021 are subject to the new Section 3 regulations found in 24 CFR part 75, and HUD expects that funding recipients will begin following this final rule's requirements for new grants, commitments, and contracts. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 for these projects but will not be required to report to HUD on the requirements found in 24 CFR part 75.

During the transition period between November 30, 2020 and July 1, 2021, recipients are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, funding recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, recipients continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons and businesses that provide economic opportunities to low- and very low-income persons.

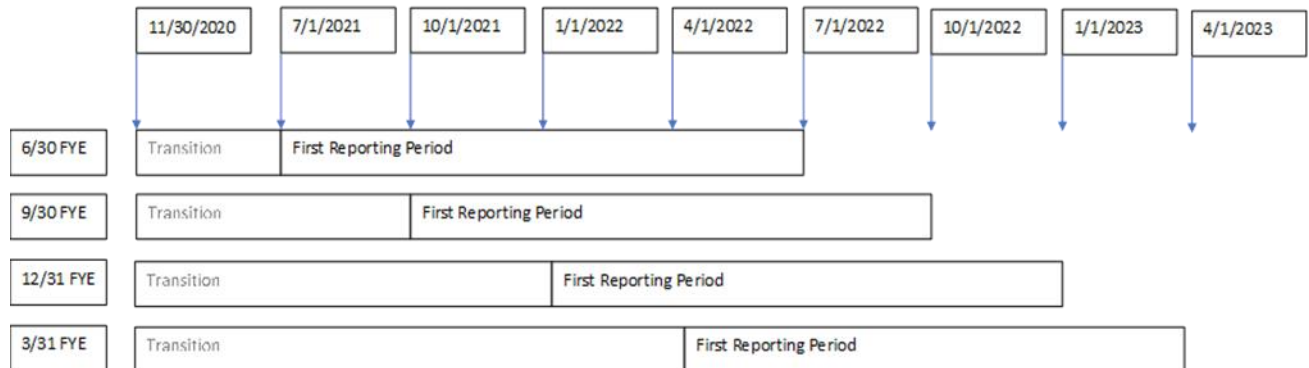
Recipients and employers should use this time to update policies and procedures for tracking labor hours and other requirements to ensure compliance with the new rules for projects for which funds are committed on or after July 1, 2021.

**4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?**

As of November 30, 2020, PHAs' requirement to report their Section 3 activities and efforts starts 60 days after the end of their first fiscal year that begins after July 1, 2021. Please see the charts below for examples of PHA reporting schedules:

<b>Fiscal Year End</b>	<b>New Reporting Period Begins</b>	<b>New Reporting Period Ends</b>
6/30/21	7/1/21	6/30/22
9/30/21	10/1/21	9/30/22
12/31/21	1/1/22	12/13/22
3/31/22	4/1/22	3/31/23

### Section 3 Transition



**5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?**

All recipients of public housing financial assistance are required to follow the new Section 3 regulations found in 24 CFR part 75 beginning on November 30, 2020, and HUD expects that funding recipients and employers will begin following this final rule's requirements for new grants, commitments, and contracts on and after this date. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 but will not be required to report in SPEARS on the requirements found in 24 CFR part 75 until the recipient's first full fiscal year after July 1, 2021, as indicated in Question #4 above.

During the transition period between November 30, 2020 and a PHA or other recipient's required reporting start date, employers and grantees are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, PHAs and other recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, PHA's continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons, tenants of public and assisted housing, and businesses that provide economic opportunities to low- and very low-income persons.

**6. What are good strategies for targeting Section 3 workers and businesses?**

In order to successfully target Section 3 workers and businesses for employment and contracting opportunities, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3 coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities is instrumental in reaching Section 3's employment and contracting goals.

It is recommended that recipient agencies establish procedures to certify Section 3 workers and Section 3 business concerns for employment and contracting opportunities. Thereafter, they should maintain a list of eligible workers and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 regulations at 24 CFR § 75.15(b) and § 75.25(b) for a listing of qualitative efforts.

**7. Are funds provided to recipients so that they can comply with the requirements of Section 3?**

No. Funding has not been appropriated for Section 3 compliance. Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities.

**8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?**

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals and Section 3 business concerns must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

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

Recipients, developers, and contractors are required, to the greatest extent feasible, to direct employment opportunities to low- and very low-income persons, including seasonal and temporary employment opportunities. Benchmark goals include the calculation of all Section 3 worker and Targeted Section 3 Worker labor hours as a percentage of all labor hours worked on a project.

Recipients, developers, and contractors are encouraged to provide long-term employment to ensure that they meet the benchmark goals.

**10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?**

A Small Public Housing Agency (less than 250 units) may elect to not report on labor hours. If the agency does elect not to report on labor hours, it is required to report solely on qualitative efforts as permitted in 24 CFR § 75.15(d).

**11. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?**

No. Recipients are not required to request contractors to make payments into a fund.

## V. SECTION 3 CERTIFICATION:

### 1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer from which they are seeking employment or contracting opportunities (e.g., the PHA, city, or local government). They should identify themselves as a Section 3 worker, Targeted Section 3 worker, or Section 3 business concern and provide whatever documentation that the recipient agency requires under their certification procedures. Prospective Section 3 workers and business concerns may self-certify that they meet the requirements as defined in the regulations. HUD recipients, contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns.

### 2. What documentation must be maintained by HUD recipients, subrecipients, contractors, and/or subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?

There are many ways that a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR part 75:

For a worker to qualify as a *Section 3 worker*, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a *Targeted Section 3 worker*, one of the following must be maintained:

#### **For Public Housing Financial Assistance projects:**

- (i) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (ii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iv) A worker's certification that the worker is a YouthBuild participant.

## **For Housing and Community Development Financial Assistance projects:**

- (i) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
- (ii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iii) A worker's self-certification that the worker is a YouthBuild participant.

The documentation must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR § 200.334, Retention Requirements for Records ([www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200\\_1334](http://www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200_1334)), which provides for retaining records for at least three years, as described in detail in that regulation..

A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

### **3. What are examples of acceptable evidence to determine eligibility as a Section 3 worker?**

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing project; or
- Evidence of participation in the YouthBuild program.

### **4. What are examples of acceptable evidence for determining eligibility as a Section 3 business concern?**

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

1. At least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

### **5. Are all public housing residents considered Section 3 workers regardless of their income?**

No. To qualify as a Section 3 Worker, an individual must meet one of the following criteria:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant.

**6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?**

No. As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal and state procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

**7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?**

It depends. Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria as a Section 3 business concern set forth in the regulation can be counted towards the Section 3 labor hour calculation.

**8. Does a business have to be incorporated to be considered a Section 3 eligible business?**

No. A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership, or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration.

## **VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:**

### **1. How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?**

To find local recipients' agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: [www.hud.gov/localoffices](http://www.hud.gov/localoffices).

### **2. How can I find Section 3 business concerns in my area?**

Contact local recipient agencies to find Section 3 business concerns in your area. Section 3 business concerns that have registered in the Section 3 Business Registry are also available at: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>.

### **3. Do the benchmark requirements only count toward new hires?**

No, the rule does not apply to only new hires, but if someone is currently on staff and qualifies as a Section 3 resident under 24 CFR part 135, they will need to re-certify as either a Section 3 worker or Targeted Section 3 worker under 24 CFR part 75.

### **4. Should PHA's report on staff hours?**

Yes, but not all PHA staff qualify as Section 3 workers. Only PHA staff that meet the definition of a Section 3 worker or Targeted Section 3 worker would qualify to be counted toward total Section 3 or Targeted Section 3 labor hours. Once a PHA determines that a Section 3 worker or Targeted Section 3 worker is hired or currently employed, the PHA would just report those hours as the numerator over the total labor hours funded with public housing financial assistance as the denominator.

### **5. What category of PHA Staff should be included?**

Both salaried and hourly workers need to be reported. There is a limited good faith assessment exception for PHAs and other recipient employers of hourly and salaried workers that are not subject to requirements specifying time and attendance reporting and do not have systems already in place to track labor hours. This exception is to address employers that do not already track labor hours without making changes in time and attendance or payroll.

### **6. Are recipient agencies required to meet the Section 3 benchmarks, or are they optional?**

The Section 3 benchmarks are minimum targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make best efforts, or to the greatest extent feasible, to achieve the benchmarks required for the number of labor hours performed by both Section 3 workers and Targeted Section 3 workers. If an agency fails to fully meet the Section 3 benchmarks, they must adequately document the efforts taken to meet the numerical goals (see Question #9 for a discussion of safe harbor.)

## **7. Will there be changes to the benchmark requirements?**

The Secretary of Housing and Urban Development is required in the Benchmark Notice published in the Federal Register to review and update the Benchmarks by Federal Register notice no less frequently than once every three years.

## **8. What is considered "other" public construction?**

Other public construction includes infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, and installing conduits for utility services.

## **9. What is the meaning of the safe harbor determination?**

Recipients will be considered to have complied with the Section 3 requirements and met the safe harbor, in the absence of evidence to the contrary, if they certify that they have followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

If a recipient agency or contractor does not meet the benchmark requirements but can provide evidence that they have made a number of qualitative efforts to assist low- and very low-income persons with employment and training opportunities, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

## **VII. SECTION 3 COMPLAINTS:**

### **1. How should complaints be made?**

Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, [www.hud.gov/](http://www.hud.gov/).

### **2. Where else can I file complaints alleging denied employment and contracting opportunities?**

You may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about your rights, please contact EEOC at: [www.EEOC.gov](http://www.EEOC.gov).

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.