

# **St. Johns County Community Development Block Grant — Disaster Recovery Labor Compliance Policies and Procedures**

February 6, 2019  
Revised March 9, 2023



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## OVERVIEW

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The U.S. Department of Housing and Urban Development (HUD) allocated Community Development Block Grant-Disaster Recovery (CDBG-DR) funds to the State of Florida to be distributed in federally-declared disaster counties impacted by Hurricanes Hermine and Matthew for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C) 5301 et seq.) and described in the State of Florida Action Plan for Disaster Recovery.

HUD allocated \$89,632,120 in CDBG-DR funding for recovery programs in St. Johns County (SJC). St. Johns County has entered into an agreement with Florida Department of Economic Opportunity (agreement # H2338) to administer these disaster recovery funds.

Allocations, waivers, and alternative requirements applicable to this funding were published in the Federal Register on August 7, 2017 at 82 FR 38812; January 18, 2017 at 82 FR 5591; and November 21, 2016 at 81 FR 83254.

## VERSION HISTORY

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#1	02/06/2019	NA	NA
#2	09/26/2019	NA	NA
#3	04/12/2022	NA	NA
#4	03/08/2023	NA	Renamed Labor Compliance Policies and Procedures
#5	03/08/2023	4	Added Labor Compliance Standards Officer
#6	03/08/2023	5-10	Added Davis Bacon Policy and Procedure

## VERSION POLICY

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Version history is tracked in the table above, with notes regarding version changes. The date of each publication is also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and issuance of a new primary version number.

Non-substantive changes within this document that do not affect the interpretation or applicability of the policy (such as minor editing or clarification of existing policy) will be included in minor version updates denoted by a sequential number increase after the primary version number.

## LABOR COMPLIANCE PURPOSE

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Labor Compliance is the process of ensuring the CDBG-DR Program enforces the Davis Bacon and Section 3 requirements required by the Department of Labor for CDBG funded programs. Specifically for St Johns County CDBG-DR a Labor Compliance Officer has been designated to monitor Davis-Bacon Act (40 USC, Chapter 3, Section 276a-276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) and Section 3 compliance.

DAVIS BACON - Davis-Bacon labor standards requirements are triggered at different thresholds under the CDBG Program, which is further discussed later in this manual. These labor standards require that workers receive no less than the prevailing wages being paid for similar work in the same area. Additional information is available on HUD's Office of Labor Relations web site at [www.hud.gov/offices/olr](http://www.hud.gov/offices/olr) and the forms referenced herein are available at HUDClips at <http://www.hud.gov/offices/adm/hudclips/>.

SECTION 3 - Section 3 applies to St. Johns County, as a subrecipient of the Florida Department of Economic Opportunity (DEO), as well as to any subrecipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition, or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

## LABOR STANDARDS COMPLIANCE OFFICER

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St Johns County CDBG-DR Program will designate a Labor Standards Compliance Officer (LCSO) to ensure contractors under the program are in full compliance with Davis Bacon and Section 3 requirements.

Davis Bacon Responsibilities:

- Determine the applicability of Davis-Bacon labor standards provisions to the project.
- Obtain appropriate wage determination, which indicates the current prevailing pay rates for various labor classifications in the area of the project, and ensure that it is included in the bid package and contract documents.
- Attend pre-construction conferences to review Davis Bacon requirements with the contractor to review all facets of the project, including Davis-Bacon requirements with experienced and inexperienced contractors.
- Review weekly payroll reports to verify compliance; including the use of the correct wage rate determination, proper work classification, number of hours worked and the hourly rate of pay for each employee on a project. These reports must be submitted by prime contractors and subcontractors.
- Monitor construction contractors by conducting site visits to interview employees regarding their wages. Investigate violations of labor standards regulations and make recommendations for contractor suspension/debarment when sufficient evidence of a violation has been documented.
- Complete and submit the Semi-Annual Enforcement Report form (HUD-4710). The form and instructions for its completion (HUD-4710i) are available on HUD's web site and HUDClips (<http://www.hud.gov/offices/adm/hudclips/>).

- Maintain a comprehensive log of all payroll submittals, discrepancies, and penalties for each project and contractor

### Section 3 Responsibilities

- Determine the applicability of Section 3 requirements for the project.
- Complete and submit regular reports in the form and manner required by Florida DEO.
- Take steps to receive and maintain records to document compliance with the Section 3 program objectives. Such records will include specific information and that a subrecipient, contractor and subcontractor carried out responsibilities properly. The Contracting Compliance Report (*Appendix 4*) is due from each contractor on a monthly basis and the Section 3 Summary Report is due from main contractors on a quarterly basis (*Appendix 5*).
- Maintain a comprehensive log of all Section 3 report submittals, discrepancies, and penalties for each project and contractor

## DAVIS BACON

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Once it is determined that a construction project is subject to federal labor standards requirements, certain steps must be taken to ensure compliance. Specifically, all contracts must include all applicable labor standards language and the appropriate wage decision in construction bid and contract documents.

### WAGE RATE DECISIONS

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The Davis-Bacon wage decision that applies to a project contains a schedule of work/job classifications and the minimum wage rates that must be paid to persons performing particular jobs. Some wage decisions cover several counties and/or types of construction work.

The LCSO may access federal wage rate decisions through the internet at [www.wdol.gov](http://www.wdol.gov). Federal wage determinations are generally issued for four characters of construction work: Residential, Building, Heavy, and Highway. It is important to understand the differences when determining which construction character is involved in order to select an appropriate determination.

- Residential projects involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.
- Building construction generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies, and apartment buildings greater than 4 stories high. This includes all construction within and including the exterior walls, both above and below grade.
- Heavy construction is generally considered for all construction not properly classified as highway, residential, or building. Construction of dams, bridges, water, sewer line and flood control projects will typically be categorized as heavy construction.
- Highway projects include construction, alteration or repair of roads, streets, highways, runways, parking areas, sidewalks and most other paving work not incidental to building or heavy construction.

If a work classification that is needed for the project does not appear on the wage decision that will be used, the LCSO must request an additional classification and wage rate from HUD. Requests must be made in writing through the LCSO and must meet certain criteria to be approved. HUD will consider whether the requested classification and wage rate may be approved. All requests are forwarded to DOL for final determination.

HUD should be consulted if there are questions about properly identifying the type of wage determination and/or modifications.

## **CONSTRUCTION REQUIREMENTS**

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During construction, SJC is responsible for enforcing the labor standards requirements. This includes good construction management techniques (e.g., pre-construction conferences, issuance of notices to proceed, and payments tied to compliance with the labor requirements), in addition to payroll reviews and worker interviews.

## **PRE-CONSTRUCTION CONFERENCE**

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The LCSO will attend the The grantee/PJ can use this opportunity to clearly present the Federal statutory compliance requirements as well as performance expectations. Items to be covered at the preconstruction conference include:

- Explain that the contractor must submit weekly payrolls with Statements of Compliance signed by an officer of the company, and that the prime contractor is responsible for obtaining and reviewing payrolls and Statements of Compliance from all subcontractors.
- Explain that wages paid must conform to those included in the wage rate decision included in the contract.
- Explain that employee interviews will be conducted periodically during the project.
- Emphasize that a copy of the applicable wage rate decision and the Davis-Bacon poster (WH-1321) must be posted at the job site.
- Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is certified by the Bureau of Apprenticeship and Training or a state apprenticeship agency recognized by BAT. If apprentices or trainees are to be used, the contractor must provide the grantee/PJ with a copy of the individuals' registration in the apprenticeship program.
- If the prime contract amount is \$100,000 or greater, explain that workers must be paid overtime if they work more than 40 hours in one week, and that failure to pay workers at least time and a half for overtime hours worked violates the Contract Work Hours and Safety Standards Act. In addition to restitution, noncompliance with this law makes the contractor liable for liquidated damages of \$10 per day for every day each worker exceeded 40 hours a week without being paid time and a half.
- Explain that no payroll deductions can be made that are not specifically listed in the Copeland Anti-kickback Act provisions unless the contractor has obtained written permission of the employee. Unspecified payroll deductions are a serious discrepancy and must be resolved prior to further contractor payments.
- The LCSO should also describe the compliance monitoring that will be conducted during the project, and indicate that discrepancies and underpayments discovered as a result of compliance monitoring must be resolved prior to making final payment to the

contractor. Remind the contractor that willful violations may be subject to contract termination and debarment from future contracts for up to three years. Failure to pay specified wages may result in contractor payments being withheld to satisfy liabilities for unpaid wages and liquidated damages.

## **NOTICE TO PROCEED**

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A Notice to Proceed will be issued to the contractor, which marks the start of contract performance and, if applicable, provides the basis for assessing liquidated damages.

### **Payroll Review**

Once construction is underway, the prime/general contractor must complete a weekly payroll report for its employees on the covered job and sign the Statement of Compliance. The prime/general contractor must also obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project.

To ensure compliance, certified payroll reports should be submitted promptly by the prime/general contractor to the LCSO. The DOL payroll form (WH-347) does not have to be used, but alternative payroll documentation must include all of the same elements in order to determine compliance with applicable regulations.

The Statement of Compliance must be completed and submitted in conjunction with the payroll form (or alternate equivalent payroll documentation). The contractor can submit the documentation one of two ways:

- Signed by an owner or officer of the firm or an authorized representative of the owner or officer of the company. The signature must be an original signature and the LCSO should retain the original copy. The prime contractor and any subcontractors must maintain a copy of the payrolls for no less than 3 years following completion of the work.
- Certified and submitted electronically through the use of an acceptable electronic payroll system. Electronic submission does not include the signed pdf files, faxed or emailed copies.

The payrolls should be reviewed by the prime contractor to ensure that there are no discrepancies or underpayments. The prime contractor is responsible for the full compliance of all subcontractors on the project and will be held accountable for any wage restitution that may be necessary. This includes restitution for underpayments and, potentially, liquidated damages that may be assessed for overtime violations.

LCSO should review/spot-check payrolls to ensure that workers are being paid no less than the prevailing Davis-Bacon wages and that there are no discrepancies or violations. Items to be spot-checked should include:

- The correct classification of workers;
- A comparison between the classification and the wage determination to determine whether the rate of pay is at least equal to the rate required by the determination;
- A review to ensure that work by an employee in excess of 40 hours per week is being compensated for at rates not less than one and one-half times the basic rate of pay;
- Review of deductions for any non-permissible deductions



- The Statement of Compliance has an original signature by the owner, officer of the firm or authorized representative.
- The Payroll and Statement of Compliance are originals or are certified and submitted electronically. Photocopies are not permissible.

Where underpayments of wages have occurred, the LCSO is responsible to make sure the correct wages are paid and that the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. Where corrections are made, ensure that they are reported on a certified payroll report.

## ON-SITE INTERVIEWS

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The LCSO will periodically conduct job site interviews with workers. The purpose of the interviews is to capture observations of the work being performed and to get direct information from the laborers and mechanics on the job as to the hours they work, the type of work they perform and the wage they receive.

Interviews should occur throughout the course of the construction and include a sufficient sample of job classifications represented on the job as well as workers from various companies to allow for a reasonable judgment as to compliance.

Information gathered during an interview is recorded on the Record of Employee Interview form (HUD-11).

- The interview should take place on the job site and be conducted privately (this is a one on-one process). Interviews are confidential.
- The LCSO should observe the duties of workers and take notes before initiating interviews. Employees of both the prime contractor and subcontractors should be interviewed.
- To initiate the interview, the LCSO shall:
  - Properly identify himself/herself;
  - Clearly state the purpose of interview; and
  - Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.
- When conducting employee interviews, the interviewer should pay particular attention to:
  - The employee's full name;
  - The employee's permanent mailing address;
  - The last date the employee worked on that project and number of hours worked on that day. The interviewer should make it clear that these questions relate solely to work on the project and not other work.
  - The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage decision.
    - The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay.
    - If it appears the individual may be underpaid, the interviewer should closely question the worker:
      - Ask for any records.
      - Arrange to re-interview the employee, if appropriate.
    - Enter the worker's statement of his/her classification.
    - Observe duties and tools used:



- If worker's statements and observations made by the interviewer indicate the individual is performing duties conforming to classification, indicate this on the Record of Employee Interview form.
- If there are discrepancies, detailed statements are necessary.
  - Enter any comments necessary.
  - Enter date interview took place.
  - Sign the HUD-11.
- The Record of Employee Interview form (HUD-11) must be compared to the corresponding contractor and subcontractor payroll information.
- If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form and signed by the person who made the comparison. –
- If discrepancies do appear, appropriate action should be initiated. When necessary action has been completed, the results must be noted on the interview form. Appropriate steps must be taken to resolve the discrepancies.

## **PROGRESS PAYMENTS**

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Upon receipt of requests for payment during construction, LCSO should check that labor standards compliance is being met:

- All weekly payrolls and Statements of Compliance have been received, reviewed and any discrepancies resolved; and
- Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.

If there are open discrepancies the contractor's LCSO will be notified that payments will be withheld until the discrepancies are corrected. Once all discrepancies are resolved the progress payment will be signed by LCSO and forwarded for further payment processing.

## **FINAL PAYMENT**

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When construction work has been completed, the contractor will submit a final request for payment. Before making final payment, the LCSO must ensure that:

- All weekly payrolls and Statements of Compliance have been received and any discrepancies have been resolved;
- All discrepancies identified through job site interviews have been resolved; and
- All files are complete

## **DOCUMENTATION**

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LCSO must maintain documentation to demonstrate compliance with the labor standards requirements including:

- Bid and contract documents with the labor standards clause and wage decision;
- Payroll forms from the prime contractor and subcontractors, including signed statements of compliance;
- Documentation of on-site job interviews and review of the corresponding payroll to detect any discrepancies;
- Documentation of compliance violations that may have arisen (e.g., payments to workers for underpayments of wages or overtime); and
- Enforcement reports.

The labor standards compliance documents contain highly sensitive and confidential information. With the growing rise in identity theft and fraud, it is critical to carefully guard this sensitive information so that the person(s) for whom the information has been collected are not unduly exposed to financial or personal risk.

The standard compliance documents must be preserved and retained for a period of three years following the completion of work.

## SECTION 3

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Section 3 of the Housing and Urban Development Act of 1968 is intended to ensure that, to the extent feasible, low- and very low-income persons receive benefit in employment and related economic opportunities when such opportunities are generated by funding from the HUD. It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low income residents in connection with construction projects in their neighborhoods.

## SECTION 3 APPLICABILITY

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### ***Projects for which Section 3 Compliance is Required***

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

#### Section 3 requirements that apply to CDBG-DR Programs:

- Section 3 applies to St. Johns County, as a subrecipient of the Florida Department of Economic Opportunity (DEO), as well as to any subrecipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition, or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

#### Section 3 requirements that apply to CDBG-DR Projects:

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding \$100,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the State; and
- “Section 3 covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section

3 covered work (e.g., housing construction, housing rehabilitation and other public construction), arising in connection with construction projects. Professional service contracts that may constitute Section 3 “covered contracts” include construction contract oversight, engineering, architectural, environmental, and property evaluation, construction progress and construction draw inspection, and prevailing wage labor compliance.

The regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, reporting is still required. Recipients are not required to hire or enter into contracts with Section 3 residents or business concerns simply to meet the Section 3 goals, as anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought.

The County will apply Section 3 criteria and standards to “covered activities” within the following programs:

- Housing Recovery Program
  - Homeowner Voluntary Buyout and Acquisition
  - Homeowner Repair
  - Homeowner Reconstruction
  - Homeowner Elevation
  - Homeowner MHU Replacement
- Affordable Housing Projects
  - Victoria Crossing Apartment Project
  - San Marcos Heights Apartment Project
- Infrastructure Program: Infrastructure Recovery Program

## **SECTION 3 GOALS**

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The County will attempt to meet the Section 3 HUD numerical goals found at 24 CFR Part 135.30:

- Thirty percent (30%) of the aggregate number of new hires are Section 3 residents;
- Ten percent (10%) of the total dollar amount of all covered construction contracts are awarded to Section 3 business concerns; and
- Three percent (3%) of the total dollar amount of all covered non-construction contracts are awarded to Section 3 business concerns. Non-construction contracts may include, but not be limited to, accounting, payroll, bookkeeping, purchasing, data processing, marketing, printing, environmental, architectural/engineering, and related.

If the County awards CDBG-DR funds to units of local government, nonprofit organizations, subrecipients, or other funded entities, the County will require that the minimum numerical goals set forth at 24 CFR Part 135.30 be met for all covered projects or programs. The County will inform its subrecipients, contractors, and other funded entities of the requirements of

Section 3, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

## **SECTION 3 DEFINITIONS**

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### *Section 3 Residents*

A “Section 3 resident” is: 1) a public housing resident; or 2) a low- or very low-income person, as further defined, residing in the metropolitan statistical area or non-metropolitan county in which federal funds that implicate Section 3 are expended. An individual is eligible to be considered a “Section 3 resident” if the annual wages or salary of the person is at, or under, 80% Area Median Income (“AMI”) for a one-person family for the jurisdiction.

The County recognizes the importance of ensuring that low- and very-low income residents benefit from CDBG-DR projects built in their communities. Therefore, contractors are likewise expected to demonstrate, through their implementation actions, that Section 3-eligible residents are included in their hiring goals and are indeed beneficiaries of hiring policies and practices.

Where possible, preference shall be provided a priority consideration in the following order:

- Section 3 residents who live in the neighborhood of the project;
- Participants in HUD Youthbuild programs; and
- Other Section 3 residents, including residents of the metropolitan area or non-metropolitan county.

### *Section 3 Business Concerns*

A Section 3 eligible business concern is a business that can provide evidence it meets one of the following:

- 51 percent (51%) or more of the business is owned by Section 3 residents; or
- At least thirty percent (30%) of the business’s full-time employees include persons who are currently Section 3 residents, or within three (3) years of the date of first employment with the business concern were Section 3 residents; or
- Evidence, as required, of a commitment by the business to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two paragraphs.

Where possible, priority consideration will be given to the following businesses (in the following order):

- Section 3 business concerns that provide economic opportunities for Section 3 residents in the neighborhood of the project;
- Applicants selected to carry out HUD Youthbuild programs; and
- Other Section 3 businesses.

## **SECTION 3 HIRING POLICY**

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Under the County's Section 3 Policy, subrecipients, contractors, and subcontractors are contractually obligated to:

1. Conduct employment outreach to community-based agencies such as community action agencies, and local Housing Authorities for all new hires.
2. Accept and give preferential employment consideration to referred Section 3 eligible residents who are qualified for the positions available.
3. Provide appropriate employment outreach signage at the project site and throughout the project area to inform low- and very-low neighborhood residents of employment opportunities.
4. Distribute employment outreach flyers throughout the project community and with community-based organizations and Housing Authorities regarding employment opportunities.
5. Contact local Workforce Investment Boards (WIB) to market the availability of jobs.

The County, including contractors and subcontractors, must certify low- and very-low income persons as "Section 3 eligible". "Appendix 1" provides a sample certification form. These requirements will also apply to any funded entities, such as "construction contract managers" who are engaged to oversee and manage any CDBG-DR funded projects that are considered "Section 3 covered contracts."

## **SECTION 3 BUSINESS OPPORTUNITY POLICY**

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The County is committed to ensuring that designated Section 3-eligible business concerns derive economic benefit from HUD-assisted projects built in their communities. Subrecipients, contractors, subcontractors are likewise expected to demonstrate that Section 3 certified business concerns are included in the contracting goals and are economic beneficiaries of business and procurement policies and practices. Section 3 eligible business concerns must be given priority in contracting for appropriate work.

To be eligible for Disadvantaged Business Enterprise (DBE) certification, the business must be a small business as defined by the Small Business Administration standards and be 51% owned and controlled by one or more socially and economically disadvantaged individuals, based on Small Business Administration (SBA) standards and definitions. Further, per U.S. Small Business Administration guidelines, African Americans, Hispanics, Native Americans, Asian-Pacific Islanders, Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged.

The County, including contractors and subcontractors, must document outreach efforts related to Section 3-eligible business concerns. The County, including contractors and subcontractors, must also certify businesses/subcontractors as "Section 3 eligible." See *Appendix 2* for a certification to be submitted by a business indicating its Section 3 status.

## **REQUIRED CONTRACT LANGUAGE AND CERTIFICATION OF BIDDER(S)**

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The County and its covered contractors are required to notify potential contractors/subcontractors of the Section 3 requirements, and must incorporate the Section 3 clause in all solicitations and contracts (*Appendix 3*).

## **ADDITIONAL OUTREACH AND TRAINING EFFORTS**

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The County also recognizes that outreach, training, and education are critical components of a successful Section 3 strategy.

## **DOCUMENTING SECTION 3 EFFORTS**

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The County will complete and submit regular reports in the form and manner required by Florida DEO.

The County will take steps to receive and maintain records to document compliance with the Section 3 program objectives. Such records will include specific information and that a subrecipient, contractor and subcontractor carried out responsibilities properly. The Contracting Compliance Report (*Appendix 4*) is due from each contractor on a monthly basis and the Section 3 Summary Report is due from main contractors on a quarterly basis (*Appendix 5*).

Compliance with Section 3 requirements will tracked by Contractor in a Section 3 log. Monthly and quarterly reports will be required of all contractors along with specific outreach efforts.

## **ENFORCEMENT**

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Contractor invoices are routed through the Labor Compliance Officer for review and approval. Contractors that fail to submit their monthly and quarterly reports will be penalized by having their payment invoices held until compliance has been achieved.

The Contractor will be notified at the time so they have the opportunity to correct the deficiency. Delinquencies will be noted in the log along with the effort by the Labor Compliance Office to cure the deficiency

## **COMPLAINTS AND COMPLIANCE REVIEWS (PURSUANT TO SECTION 135.76)**

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Any Section 3 resident or business may file a complaint alleging noncompliance with Section 3 by a subrecipient, contractors, and subcontractors. Complaints will be investigated by the County; if appropriate, voluntary resolutions will be sought.

The complainant shall have appeal rights to the Secretary of the U.S. Department of Housing and Urban Development concerning any agency decision. Section 3 residents and businesses may also seek judicial relief. Complaints must be submitted to HUD within one hundred and eighty (180) days of the action or omission upon which the complaints based. Complaints are to be filed in writing tithe local Fair Housing and Equal Opportunity (FHEO) office or the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5100, Washington, DC 20410-2000

A written complaint must contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HUD Recipient or Contractor);
- Description of acts or omissions in alleged violation of Section 3; and
- Statement of corrective actions sought.

Written complaints should be filed with:

Name: Joe Giammanco  
Title: Director, Disaster Recovery and Grants  
Address: 500 San Sebastian View  
St. Augustine, Florida 32084

Upon receipt of a written complaint, the County will designate person(s) to investigate the specific allegations of the complaint and render a finding. If it is determined that the subrecipient/contractor/subcontractor has functioned in such a manner as to breach the contractual obligations of the approved Section 3 Plan, the County will be notified of such findings and of the corrective measures that will be required. The County will respond to the complainant.

Complaint procedures are included in the County's Complaint and Appeal Process.

Any Section 3 resident or business may file a complaint alleging noncompliance with Section 3 by a subrecipient, contractor, or subcontractor. Complaints will be investigated by the County.

### **SCOPE OF SECTION 3 POLICY**

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This document describes the steps to be taken by the County, in connection with the use of CDBG funds, to comply with Section 3 of the Housing and Community Development Act of 1968 (as amended, 12 U.S.C. 1701u). For purposes of Section 3 compliance, nothing in this document should be construed to neither expand the scope of Section 3 nor constitute an agreement by the County to undertake processes or procedures beyond those required to satisfy Section 3.



# APPENDICES

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## Appendix 1 – Sample Section 3 Resident Certification Form

### RESIDENT EMPLOYMENT OPPORTUNITY DATA

#### Eligibility for Preference

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in 24 CFR Part 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

<p>I, _____, am a legal resident of the _____ _____ and meet the income eligibility guidelines for a low- or very-low-income person.</p> <p>My permanent address is: _____ _____</p> <p>I have attached the following documentation as evidence of my status:</p> <table><tr><td><input type="checkbox"/> Copy of lease</td><td><input type="checkbox"/> Copy of receipt of public assistance</td></tr><tr><td><input type="checkbox"/> Copy of Evidence of participation</td><td><input type="checkbox"/> Other evidence</td></tr></table>	<input type="checkbox"/> Copy of lease	<input type="checkbox"/> Copy of receipt of public assistance	<input type="checkbox"/> Copy of Evidence of participation	<input type="checkbox"/> Other evidence
<input type="checkbox"/> Copy of lease	<input type="checkbox"/> Copy of receipt of public assistance			
<input type="checkbox"/> Copy of Evidence of participation	<input type="checkbox"/> Other evidence			

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Printed name

**Section 3 Resident Certification Page 2**

*SECTION 3 INCOME LIMITS*

All residents of public housing developments of the \_\_\_\_\_ Housing Authority qualify as Section 3 residents.

Additionally, individuals residing in the \_\_\_\_\_ (City/County) of \_\_\_\_\_ who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Eligibility Guideline

Number in Household	Very Low Income	Low Income
1 individual		
2 individuals		
3 individuals		
4 individuals		
5 individuals		
6 individuals		
7 individuals		
8 individuals		

## Appendix 2 – Sample Certification, Section 3 Business

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

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Type of Business:  Corporation  Partnership  Sole Proprietorship  Joint Venture

Attached is the following documentation as evidence of status:

**For Business claiming status as a Section 3 resident-owned enterprise:**

- Copy of resident lease  Copy of receipt of public assistance  
 Copy of evidence of participation in a public assistance program  Other evidence

**For business entity as applicable:**

- Copy of Articles of Incorporation  
 Certificate of Good Standing  
 Assumed Business Name Certificate  
 Partnership Agreement  
 List of owners/stockholders and % ownership of each  
 Corporation Annual Report  
 Latest Board minutes appointing officers  
 Organization chart with names and titles and brief function statement  
 Additional documentation

**For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:**

- List of subcontracted Section 3 business(es) and subcontract amount

**For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:**

- List of all current full-time employees  List of employees claiming Section 3 status  
 PHA/IHA Residential lease less than 3 years of employment  Other evidence of Section 3 status less than 3 years from date of employment

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

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

\_\_\_\_\_  
(Corporate Seal)

Authorizing Name and Signature

Attested by: \_\_\_\_\_

## **Appendix 3 - Contract Clause for Covered Contracts**

A. The Work to be performed under this Contract is part of a project assisted under a program providing direct federal financial assistance from the U.S. Department of Housing and Urban Development (HUD) and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities to low- and very low-income persons residing in the metropolitan area in which the project is located.

B. The parties to this Contract agree to comply with the requirements of 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this agreement, the parties certify that they are under no impediment what would prevent them from complying with these requirements.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

# Appendix 4 – Sample Contractors’ Section 3 Compliance Form



## CONTRACTORS’ COMPLIANCE FORM – SECTION 3

Contractor and all subcontractor(s) must sign, date and deliver this form monthly to the project’s Contract Manager.

Project Name \_\_\_\_\_

Project Location \_\_\_\_\_

For the Month of \_\_\_\_\_

### I. Hiring

\_\_\_ I have NOT hired any new employees during the month specified.

\_\_\_ I have hired \_\_\_ Section 3 employees, and/or \_\_\_ non-Section 3 employees during the month.

### II. Recruitment

\_\_\_ I have advertised to fill vacancy(ies) at the site(s) where work is taking place, in connection with this project. Below, I have checked the steps I have taken to find Section 3 low-income residents, from the targeted groups and neighborhoods, to fill any vacancies.

\_\_\_ Placed signs or posters in prominent places at project site(s).

\_\_\_ Taken photographs of the above item to document that the above step was carried out.

\_\_\_ Distributed employment flyers to the administrative office of the local Public Housing

Authority.

\_\_\_ Kept a log of all applicants and indicated reasons why Section 3 residents who applied were not hired.

\_\_\_ Retained copies of any employment applications completed by Section 3 residents.

### III. Verification

\_\_\_ I have attached proof of all checked items.

I hereby certify that the above information is true and correct.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Business \_\_\_\_\_



Florida Department of Economic Opportunity | Caldwell Building |  
107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](http://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](http://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.





## Section 3 Summary Report Part 2

1. Construction Contracts	HUD Amount	Leveraged Amount	Total (HUD Amount + Leveraged Amount)
A. Total dollar amount of construction contracts awarded with covered funds expended during the reporting period			
B. Total dollar amount of contracts awarded to Section 3 businesses during the reporting period			
C. Percentage of the total dollar amount of construction contracts that were awarded to Section 3 businesses during the reporting period (i.e., Item B/ Item A= %)			
D. Total number of Section 3 businesses receiving construction contracts during the reporting period			
<b>2. Non-Construction Contracts</b>			
A. Total dollar amount of non-construction contracts awarded with covered funds expended during the reporting period			
B. Total dollar amount of non-contracts awarded to Section 3 businesses during the reporting period			
C. Percentage of the total dollar amount of non-construction contracts that were awarded to Section 3 businesses during the reporting period (i.e., Item B/ Item A= %)			
D. Total number of Section 3 businesses receiving non-construction contracts during the reporting period			



## Section 3 Summary Report Part 3

### E. Part III: Summary of Efforts

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply and maintain copies of all documentation as evidence of the actions checked below)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Entered into "first source" hiring agreements with organizations representing Section 3 residents.
- Established training programs, which are consistent with the requirements of the Department of Labor.
- Posted job postings within public housing developments(s) for employment opportunities available which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process.
- Advertised and/or issued print or electronic notices of employment opportunities to Section 3 residents.
- Advertised the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and/or radio advertising.
- Contacted public housing resident councils, resident management corporations, or other resident organizations, to request the assistance of these organizations in notifying Section 3 residents of the training and employment positions to be filled.
- Provided contractors a list of Work force development, social service, community based organizations, etc. that the recipient contacted to assist them with notifying Section 3 residents about employment and training opportunities.
- Initiated targeted community group meetings and mailings to recruit/attract Section 3 residents and Section 3 businesses.
- Conducted speaking presentations and or trainings to Section 3 residents and/or businesses.
- Employed Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance ("force account labor").
- Maintained a file of eligible qualified Section 3 residents for future employment positions.
- Utilized Payroll Certification, Worker Utilization Forms, and other types of data to identify potential employment and contracting opportunities.
- Maintained documentation of training provided to Section 3 residents.
- Provided contractors a list of Section 3 Residents that applied for jobs that were advertised (name, address and phone numbers).
- Contacted business development agencies, minority contractors associations, chambers of commerce, local Small Business Administration (SBA) and/or other similar community organizations to request their assistance in identifying section 3 businesses to be notified about HUD funded contracts.
- Used HUD's Section 3 Business Registry to locate local Section 3 businesses.
- Advertised and/or issued print or electronic notices of contracting opportunities to prospective Section 3 businesses.
- Provided contractors a list of Section 3 businesses to be notified about subcontracting opportunities (names, address and phone numbers).
- Advertised contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information at job sites.
- Initiated targeted community business group meetings and mailings to notify Section 3 business of contracting opportunities.
- Other efforts to achieve compliance (Please describe below).

Describe other Efforts to achieve compliance:

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Covered Recipients are required to either meet all three minimum numerical goals for employment and contracting (see below), or provide a description of the steps taken to meet the goals, barriers encountered, and actions that will be taken to address them. If your agency failed to meet all three Section 3 minimum numerical goals, please provide an explanation:

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