

## Section 3 Business Participation, Preference and Plan Certification

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Contractor Name: \_\_\_\_\_

Contract # \_\_\_\_\_

### Part 1.0 - Introduction to Section 3

- 1.1 Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3), recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities, including those communities served by the Housing Authority of the City of Cumberland and Cumberland Housing Alliance (hereinafter, "Cumberland Housing"). Section 3 requires Cumberland Housing to ensure that employment and other economic and business opportunities generated by HUD financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.
- 1.2 A "**Section 3 resident**" is defined as: 1) A public housing resident in a Cumberland Housing development; or 2) A low income resident of Cumberland, MD. *(A low income resident is defined as an individual with a household income at or below the Low, Very Low, or Extremely Low income limits per family size shown below. The Area Median Income (AMI) for Cumberland is \$55,100 and along with the income limits below are effective March 28, 2016.)*

Income Limit Category	Family Size							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Extremely Low (30% AMI)	\$15,200	\$17,350	\$20,160	\$24,300	\$28,440	\$32,580	\$36,730	\$40,890
Very Low (50% AMI)	\$25,250	\$28,850	\$32,450	\$36,050	\$38,950	\$41,850	\$44,750	\$47,600
Low (80% AMI)	\$40,400	\$46,200	\$51,950	\$57,700	\$62,350	\$66,950	\$71,550	\$76,200

- 1.3 A "**Section 3 business concern**" is a business that can provide evidence that it meets one of the following:
- 1.3.1 It is 51% or more owned by a Section 3 resident;
- 1.3.2 At least 30% of its full time employees include persons that are currently Section 3 residents, or within 3 years of the date of first employment with the business concern were Section 3 residents; or
- 1.3.3 Provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications.

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### 1.4 Applicability

1.4.1 **Regardless of whether a proposer claims a Preference in response to a solicitation, the recipient of the award will be required "to the greatest extent feasible," implement the requirements of Section 3 during the ensuing awarded contract term.**

1.4.2 In response to a competitive solicitation, proposers are not required to respond to Cumberland Housing with a claim of a Preference (meaning, such claim is optional and failure to respond with a claim of a Preference will not cause the proposer to be deemed non-responsive); however, if a proposer does claim a Preference, then Cumberland Housing will consider, investigate, and determine the validity of each such claim for a Preference.

1.4.3 As a part of a competitive solicitation, Cumberland Housing will offer all proposers the option of a Section 3 Preference, as described below, with up to a maximum of 15 additional points awarded in the formal proposal review process.

1.4.4 It is possible that a contractor may demonstrate to Cumberland Housing's satisfaction that he/she has made a good faith and reasonable effort to comply with the requirements of Section 3, but it is not feasible to implement any portion of the Section 3 program. Such failure must be fully documented by the contractor and approved by Cumberland Housing, or that contractor may be deemed not responsible by Cumberland Housing and the contract may be, at the discretion of Cumberland Housing, not awarded or terminated.

1.5 Be aware that the following Section 3 Clauses will be a part of every applicable contract Cumberland Housing executes, and when a contractor executes the contract he/she is thereby agreeing to comply with the following:

1.5.1 The work to be performed under this contract is project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S. C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

1.5.2 The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

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- 1.5.3 The contractor will send to each labor organization or representative of workers with which s/he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- 1.5.4 The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of this regulation.
- 1.5.5 Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department of HUD issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 24 CFR, Part 135.
- 1.5.7 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.
- 1.5.8 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 Action (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).
- 1.6 This form must be fully completed, accompanied by all required attachments, for any proposer claiming a Section 3 Business Preference (hereinafter, "Preference"). This fully completed form and any attachments thereto, will become a part of any ensuing contract. Each proposer shall mark an "X" where provided following for all that apply to his/her claim of a Preference.

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- 1.7 The proposer shall provide a detailed work plan clearly explaining how each following "preference claim" will be accomplished. Failure on the part of the proposer to include any such required attachment fully explaining the claim of the proposer shall result in Cumberland Housing not considering the claim for a Preference (though Cumberland Housing may, if awarded, later require the proposer to submit the information to satisfy the Section 3 requirements of the ensuing contract).

### Part 2.0 - Current Status as a Section 3 Business Concern

We hereby complete the following to verify our firm's current status as a "Section 3 business concern":

- 2.1 Yes\_\_\_ No\_\_\_:** Our firm is 51 percent or more owned by Section 3 residents of Cumberland Housing developments. If "Yes," we hereby submit the following noted documentation to verify this claim; if "No," proceed directly to the following Section 2.2.

- 2.1.1 \_\_\_ Housing Authority resident lease;
- 2.1.2 \_\_\_ Evidence of participation in a public assistance program;
- 2.1.3 \_\_\_ Articles of Incorporation;
- 2.1.4 \_\_\_ Fictitious or Assumed Business Name Certificate;
- 2.1.5 \_\_\_ List of owners/stockholders and % of each;
- 2.1.6 \_\_\_ Latest Board minutes appointing officers;
- 2.1.7 \_\_\_ Organization chart with names and titles and brief functional statement;
- 2.1.8 \_\_\_ Partnership Agreement;
- 2.1.9 \_\_\_ Corporation Annual Report.

- 2.2 Yes\_\_\_ No\_\_\_:** Our firm's workforce includes 30 percent of residents of the Cumberland Housing developments or within three (3) years of the date of first employment with our firm, were residents of Cumberland Housing developments. If "Yes," to justify this claim we hereby submit the following documentation within the table below; if "No," proceed directly to the following Section 2.3.

Classification	Total Number of Current Permanent Employees	Total Number of Section 3 Resident Employees
Trainees		
Apprentices		
Journeypersons		
Laborers		
Supervisory		
Superintendent		
Professional		
Clerical		
Other:		

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**2.2.1** If there are quantities entered within the above table, we hereby attach a listing of all employees listed within column (3), including each person's name, total annual income, and a copy of a tax return for each, justifying the Section 3 (low or very-low income) claim (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).

**2.3** **Yes\_\_\_ No\_\_\_:** We hereby provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "Section 3 business concern."

Name of Section 3 Firm Receiving the Subcontract	Total Amount of Subcontract(s)	Percentage the Subcontract(s) is/are of the Total Proposed Contract Amount
	\$	%
	\$	%

**2.3.1** Attach fully executed copies of any contracts noted above.

**2.3.2** Proof of the income of the ownership of the Section 3 firm receiving the subcontract, such as a copy of the last tax return for the owner(s) (please be sure to "black-out" all but the last 4 digits of the person(s) social security number).

**2.4** **INSTRUCTIONS FROM CUMBERLAND HOUSING.** If your firm is unable to claim Section 3 status as detailed within this Part 2.0, please move on to and complete the information within the following Part 3.0.

### **Part 3.0 - Additional Efforts to Satisfy the Requirements of Section 3**

**3.1** Whereas the answer to each of the preceding issues within Part 2.0 is "No," we hereby verify as to each of the following "Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents"; specifically, in each case our firm (for each item marked with an "X" within the "Will" column, attach a full narrative description of the work plan detailed how the noted commitment will be accomplished):

Will	Will Not	Description of Commitment (if marked within the "Will" Column)
		Enter into "first source" hiring agreements with organizations representing Section 3 residents.
		Sponsor a HUD-certified "Step-Up" employment and training program for Section 3 residents.
		Establish training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 residents in the building trades.

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Will	Will Not	Description of Commitment (if marked within the "Will" Column)
		Advertise the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where Category 1 or Category 2 persons (as these terms are defined in §135.34) reside.
		Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. Where Category 1 or Category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.
		Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where Category 1 or Category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
		Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by Cumberland Housing or Contractor representative or representatives at a location in the housing development or developments where Category 1 or Category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
		Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where Category 1 or Category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.
		Arranging for a location in the housing development or developments where Category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or Contractor representative or representatives.
		Conducting job interviews at the housing development or developments where Category 1 or Category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.
		Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for Cumberland Housing's or Contractor's training and employment positions.
		Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the Cumberland Housing's or Contractor's training and employment positions.

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Will	Will Not	Description of Commitment (if marked within the "Will" Column)
		Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
		Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns identified in Part 135), that will undertake, on behalf of Cumberland Housing, other recipient or Contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that Cumberland Housing or Contractor intends to fill.
		For Cumberland Housing, employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)
		Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions
		Undertaking job counseling, education and related programs in association with local educational institutions
		Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities
		After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
		Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

- 3.2** Section 3 Preference Claim, Training and Employment Opportunities. The undersigned proposer hereby claims that it will, as detailed within 24 CFR §135.34, provide such "opportunities" as denoted following to:

Will	Will Not	Description of persons such Opportunities will be provided to (if marked within the "Will" Column)
		Residents of the housing development or developments for which the Section 3 covered assistance is expended (Category 1 residents).
		Residents of other housing developments managed by the Agency that is expending the Section 3 covered housing assistance (Category 2 residents).
		Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the Section 3 covered assistance is expended (Category 3 residents);
		Other Section 3 residents (attach complete description).

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- 3.3** Section 3 Preference Claim, Section 3 Business Concerns. The undersigned proposer hereby claims that it will, as a result of the contract award, and as detailed within 24 CFR §135.36, provide such "opportunities" as denoted following to:

Will	Will Not	Description of persons such Opportunities will be provided to (if marked within the "Will" Column)
		Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3 covered assistance are expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (Category 1 businesses). <i>(15 additional points will be awarded on a competitive proposal)</i>
		Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by Cumberland Housing that is expending the Section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (Category 2 businesses). <i>(11 additional points will be awarded on a competitive proposal)</i>
		HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the Section 3 covered assistance is expended (Category 3 businesses). <i>(7 additional points will be awarded on a competitive proposal)</i>
		Business concerns that are 51 percent or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 residents (Category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. <i>(3 additional points will be awarded on a competitive proposal)</i>

- 3.4** INSTRUCTIONS FROM CUMBERLAND HOUSING. If your firm is unable to satisfy the requirements of Section 3 as detailed within this Part 3.0, please move on to and complete the information within the following Part 4.0.

### Part 4.0 - Potential Hiring Efforts to Satisfy the Requirements of Section 3

- 4.1 Though our firm has a desire to satisfy the requirements of Section 3, we are unable to do so as detailed within the previous Part 2.0 or Part 3.0. Accordingly, we hereby agree to satisfy the requirements of Section 4 by one or both of the following methods:
- 4.1.1 Section 3 Hiring Goals. As a result of receiving award of this contract, our firm will need to hire additional employees and we hereby commit to the following number of Section 3 New Hires:

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Classification	Total Number of Current Permanent Employees	Total Number of New Hires that will result from award of this contract	Goal: Total Number of Section 3 New Hires that the Contractor anticipates will result from award of this contract
Trainees			
Apprentices			
Journeypersons			
Laborers			
Supervisory			
Superintendent			
Professional			
Clerical			
Other:			

4.1.2 **INSTRUCTIONS FROM CUMBERLAND HOUSING.** If your firm is unable to satisfy the requirements of Section 4 as detailed within the immediate preceding Part 4.1.1, please move on to and complete the information within the immediate following Part 4.1.3.

4.1.3 Interviewing and Potential Hiring of Cumberland Housing Residents. Our firm hereby agrees to, as a part of our new hire process for any open positions at any time during the period of time this contract is in effect, if our firm hires any new employees (for any position), we will:

- 4.1.3.1 Review Cumberland Housing's listing of resident(s) who have registered, thereby declaring his/her desire to interview and accept a job;
- 4.1.3.2 In the same manner that we do with other applicants, conduct an interview with such resident(s) who have claimed experience within a certain skill set or field and have expressed a desire to interview; and
- 4.1.3.3 If, as a result of the interview and any applicable testing or checking that our firm conducts for all persons interviewing, the resident(s) qualifies for the position and passes all such testing (e.g. skills test; drug tests; credit checks; background check; etc.), we hereby agree to offer the position to the Cumberland Housing resident.
- 4.1.3.4 Our firm hereby agrees that all Cumberland Housing resident(s) will, during the interview process, be treated equal to and in the same manner as, any non-resident person who interviews with our firm.

NOTE: Our firm shall have no responsibility to hire any resident who does not, as a result of the aforementioned testing and checks, qualify for the position, though the Contractor will, as detailed following, be

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required to report to Cumberland Housing the results of such testing and checks, and fully inform Cumberland Housing as to why the resident(s) were not hired.

- 4.1.3.5 Further, we hereby agree to inform Cumberland Housing in writing of the following information within 5 days after a new employee has been hired: The position title; The name of the person hired; The date the Cumberland Housing listing of Agency resident(s) desiring interviews were reviewed by the Contractor; The name(s) of Cumberland Housing resident(s) that the Contractor contacted for an interview and the date, time, and method that such contact took place; The results of the contact (specifically, did or did not the interview take place; if so, when-if not, why); Pertaining to any Cumberland Housing resident(s) who were not hired, the results of any tests and checking that the Contractor completed (especially any such results that prevented the resident(s) from being offered the position).

The undersigned proposer hereby declares that the information within this completed form (and any attachments) is, to the best of his/her knowledge, true and accurate. He/she is aware that if Cumberland Housing discovers that any such information is not true and accurate, such shall allow Cumberland Housing to NOT award the proposer a Preference; and if Cumberland Housing deems such is warranted (e.g. in the case of submitting information the proposer knows to be untrue), declare such proposer to be nonresponsive and not allow the proposer to receive an award.

He/she is aware that if he/she receives an award as the result of this competitive solicitation, even though he/she may not receive a Preference from Cumberland Housing as a result of this submittal, he/she will still be required, to the greatest extent feasible, implement a Section 3 Plan, including a commitment to interview and consider hiring Section 3 persons (most specifically, residents of Cumberland Housing) whenever the successful proposer has need to hire additional employees during the term of the ensuing contract.

The undersigned contractor hereby affirms that the foregoing is true and accurate and that he/she hereby agrees to comply as denoted herein.

Firm Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Date: \_\_\_\_\_