
Insert Project Owner's Name

**MINORITY/WOMEN'S BUSINESS ENTERPRISE
AND SECTION 3
PLAN**

(Project Name)

(PHFA Project #)

INTRODUCTION

The Minority and Women's Business Enterprise (MWBE) and Section 3 Plan establishes minority business enterprise (MBE), women's business enterprise (WBE), and Section 3 business minimum participation levels (MPLs) to be used as a guide in determining project owner and prime bidder compliance with Federal MBE, WBE, and Section 3 requirements. The Pennsylvania Housing Finance Agency (The Agency) assumes that owners and prime contractors comply with these requirements if they meet the MBE, WBE, and Section 3 MPLs.

Owners of PennHOMES developments and their prime contractors must also conduct outreach to seek participation by Socially and Economically Restricted Businesses (SERBs) who provide professional services. There is no MPL for SERB participation.

Owners of PennHOMES developments shall adopt the sample MWBE and Section 3 Plan, including completion of all applicable exhibits, prior to receiving the Agency's loan commitment. Owners, contractors, and subcontractors shall utilize this plan to meet the requirements of the Commonwealth's MWBE and Section 3 Plan. Exhibits to the Plan include monthly and annual reports on owner and prime contractor efforts to meet MWBE and Section 3 MPLs.

This Plan is designed so that you can easily insert the project name and project owner's name on the cover sheet and page one. However, it is very important that you thoroughly read and understand this Plan because the Agency will monitor the project for compliance with its requirements.

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POLICY STATEMENT

It is the public policy of the (_____),
Insert Project Owner Name
hereinafter referred to as the "Project Owner", to promote the opportunity for full participation by minority and women's business enterprises ("MBEs" and "WBEs"), Socially and Economically Restricted Businesses (SERBs), Section 3 residents, and Section 3 businesses in all project related employment, training, and contracting opportunities to the greatest extent feasible.

APPLICABILITY

A. Section 3 Requirements

1. Project Owner

The Project Owner, as a recipient of more than \$200,000 in HOME funds, shall meet Section 3 objectives to the greatest extent feasible in accordance with all Federal, state and local laws and regulations for training, employment and contracting opportunities generated as a result of the project.

2. Prime Contractors

Contractors and subcontractors performing work on the project for which the amount of the contract or subcontract exceeds \$100,000, shall meet Section 3 objectives to the greatest extent feasible in accordance with all Federal, state and local laws and regulations for training, employment and contracting opportunities generated as a result of the project.

3. Material Suppliers

Section 3 objectives are not applicable to contracts for the purchase of supplies and materials that do not include the installation of the material. However, Section 3 objectives are applicable whenever a contract for materials, which exceeds \$100,000, includes the installation of the materials.

4. Applicability to Entire Project

Section 3 requirements apply to the entire project, regardless of whether the project is fully or partially funded with PennHOMES funds.

B. MWBE/SERB Requirements

The project owner shall take all necessary affirmative steps to assure that it and its prime contractors use MBEs, WBEs, and SERBs when possible, in accordance with this Plan for all project-related contract awards that exceed \$25,000.

DEFINITIONS

A. The Agency - The Pennsylvania Housing Finance Agency

B. Bidder Responsiveness - Actions taken by prime contract bidders to seek participation by MWBE and Section 3 suppliers, manufacturers, and subcontractors and Section 3 residents. Responsiveness includes submission of Form STD-168, MBE/WBE/Section 3 Contract/Solicitation and Commitment Statement (Exhibit 3), and if needed; an explanation for failure to achieve minimum levels of participation. This statement shall include demonstration that the bidder has not engaged in discriminatory practices and may include impediments encountered despite actions taken. A prime bidder may also indicate other economic opportunities, which were provided in its efforts to comply with Section 3.

- C. Bidder Responsibility - Non-discrimination in the selection of subcontractors, suppliers, and manufacturers and use of Section 3 businesses and residents to the greatest extent feasible. Bidders are presumed to meet these responsibilities if minimum levels of participation (MPLs) are achieved. Non-discrimination can also be demonstrated by submitting Exhibit 3 and supplemental evidence that failure to achieve minimum levels of participation was not motivated by consideration of race or gender; that MBEs/WBEs were not treated less favorably than others; and that solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs
- D. Business Enterprise - Any legal entity that is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.
- E. Contractor/Subcontractor - Any entity that contracts to perform work in connection with the project or work generated by the expenditure of The Agency's PennHOMES HOME Investment Partnership funds.
- F. Control - The exclusive or ultimate and sole control of a business including, but not limited to, capital investment and all other financial, property, acquisition, contract negotiation, and legal matters, officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possession of the requisite knowledge and expertise to run the particular business and control shall not include majority or absentee ownership. Further, control by a minority individual or woman shall not be deemed to exist in any case where any non-minority owner or employee of the business is disproportionately responsible for the operation of the firm.
- G. Minority Business Enterprise (MBE)

A business concern that is:

- 1. a sole proprietorship, owned and controlled by a minority; or
- 2. a partnership or joint venture controlled by minorities in which 51% of the beneficial ownership interest is held by minorities; or
- 3. a corporation or other entity controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.

H. Minority Person

Persons who are citizens of the United States and who are Black Americans, Hispanic Americans, Native Americans, or Asian-Pacific Americans.

- 1. Black (African) Americans - Persons having origins from any of the Black groups of Africa. The term includes persons having origins in any of the original peoples of the Cape Verdes Islands.
- 2. Hispanic Americans - Persons having their origins from one or more of the Spanish-speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America or the Caribbean Islands.
- 3. Native Americans - Persons having origins from one or more of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.
- 4. Asian-Pacific Americans - Persons having origins from one or more of the original peoples of the Far East, Southeast Asia or the Pacific Islands, including China, Japan, Korea, Samoa, and the Philippine Islands.

I. Owner - Owner of the housing proposed for Agency funding.

J. Prime Bidder/Contractor

For MBE/WBE/SERB purposes, the Prime Bidder means all contractors that contract directly with the Project Owner and award subcontracts over \$25,000 (e.g., general contractors, construction managers, etc.). For Section 3 purposes, a Prime Bidder means all contractors or subcontractors with project-related contracts in excess of \$100,000, regardless of whether their contract is with the project owner or general contractor.

K. Section 3 Business Concern - means a business concern:

1. that is 51 percent or more owned by Section 3 residents; or
2. whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. that provides 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) of this definition of "Section 3 business concern."

A business seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested that the business is a Section 3 business as defined above.

L. Section 3 Residents - A Section 3 resident means:

1. a public housing resident or
2. an individual who resides in the metropolitan area or nonmetropolitan county where the project is located and who is:
 - a. a low-income person, defined as families (including single persons) whose incomes do not exceed 80 percent of the median income of the area, with adjustments for smaller and larger families, or
 - b. a very-low income person, defined as families (including single persons) whose incomes do not exceed 50 percent of the median income of the area, with adjustments for smaller and larger families.

A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

M. Section 3 Contracting And Economic Opportunities Generated By The Project

Contracting opportunities include contracts or subcontracts (including professional service contracts) awarded by the project owner or contractor for work generated by the expenditure of PennHOMES funds or for work arising in connection with the project.

These contracts do not include contracts for the purchase of supplies and materials unless the contract for materials includes the installation of the materials.

N. Section 3 Employment Opportunities Generated By The Project

Employment opportunities generated by the project includes all employment opportunities generated by the project owner or any contractor or subcontractor with project-related contracts exceeding \$100,000.

Employment opportunities include all employment opportunities arising in connection with the project, including management and administrative jobs connected with the project. Management and administrative jobs

include architectural, engineering or related professional services required to prepare plans, drawings specifications or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

O. Section 3 Joint Venture

A Section 3 joint venture is a written agreement between business concerns, one of which qualifies as a Section 3 business, to engage and carry out a specific business venture where the businesses combine their efforts, resources and skills for joint profit, but not necessarily on a continuing or permanent basis and for which the Section 3 business concern:

1. Is responsible for a clearly defined portion of the work to be performed,
2. holds management responsibilities in the joint venture,
3. performs at least 25% of the work and
4. is contractually entitled to compensation proportionate to its work.

P. Section 3 New Hires

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Q. Section 3 Service Area

The Section 3 service area means the geographical area in which the persons benefiting from the project reside. The service area shall not extend beyond the unit of general local government where the project is located.

R. Socially/Economically Restricted Business (SERB)

SERBs are businesses whose economic growth and development have been restricted based on social and economic bias. Such businesses are:

1. Commonwealth-certified minority and women owned businesses, or
2. certain restricted businesses whose development has been impeded because their primary or headquarter facility is physically located in an area designated by the Commonwealth as being in an enterprise zone.
3. Businesses will not be considered socially/economically restricted if one of the conditions listed below exists:
 - (a) The business has gross revenues exceeding four million dollars annually; or
 - (b) The concentration of an industry is such that 50 percent of the market is controlled by the same type of SERB (MBE/WBE) or business within designated enterprise zones.

S. Women's Business Enterprise (WBE) A business concern that is:

1. a sole proprietorship, owned and controlled by a woman; or

2. A partnership or joint venture controlled by women in which 51% of the beneficial ownership interest is held by women; or
3. a corporation or other entity controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.

T. Women

United States citizens who are of the female gender.

PROCEDURES-OWNER COMPLIANCE

A. Minimum Participation Levels (MPLs)

The project owner has established minimum levels of participation (MPLs) for the employment and/or training of Section 3 residents and for the utilization of Section 3 businesses, MBEs, and WBEs. These MPLs were established for each bid category to be used solely as a guide in determining prime bidder responsibility. MPLs are applied to PennHOMES projects as a whole and to each bid category (e.g., nonconstruction, construction). The MPLs are as follows:

MBEs	5% of the total dollar amount of all contracts
WBEs	3% of the total dollar amount of all contracts
Section 3	10% of the total dollar amount of all building trades work contracts, 3% of all non-building trade contracts, and 30% of all new hires generated (at all job levels) as a result of the project.

B. Safe Harbor and Compliance

In the absence of evidence to the contrary, compliance with MWBE and Section 3 requirements is presumed if MPLs are achieved.

If MPLs are not met, the project owner, its contractors, and subcontractors will document why it was not feasible to meet the numerical goals. Justification may include impediments encountered despite actions taken. The project owner, its contractors, and subcontractors may also provide other economic opportunities, such as those listed below, in an effort to comply with Section 3.

1. For employment and training opportunities:
 - a. Using “upward mobility”, “bridge” and trainee positions to fill vacancies,
 - b. hiring Section 3 residents in management and maintenance positions within other housing developments and,
 - c. hiring Section 3 residents in part-time positions.
2. For contracting opportunities:
 - a. Establishing, stabilizing or expanding Section 3 business concerns, including micro-enterprises,
 - b. forming Section 3 joint ventures,
 - c. providing financial support for affiliating with franchise development,
 - d. using labor-only contracts for building trades and

- e. purchasing supplies and materials from housing authority resident-owned businesses.

C. Compliance Responsibilities

The project owner has the responsibility comply with Section 3, MBE, WBE requirements in its own operations, and ensure compliance in the operations of its prime contractors and subcontractors.

This responsibility includes ensuring non-discrimination in the selection of subcontractors, suppliers, and manufacturers and meeting Section 3 hiring and contracting MPLs to the “greatest extent feasible”. Responsibility can be demonstrated by submitting Exhibits 2 and 3 and supplemental evidence that failure to achieve MPLs was not motivated by consideration of race or gender; that MBEs/WBEs were not treated less favorably than others; that solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs, and that impediments were encountered despite actions taken to meet Section 3 goals.

For Section 3 purposes, this responsibility includes but may not be necessarily limited to the following actions:

1. Implementing procedures designed to notify Section 3 residents about training and employment opportunities generated by the project and Section 3 business concerns about contracting opportunities generated by the project.
2. Notifying potential contractors for the project of their Section 3 responsibilities and incorporating the Section 3 clause in all solicitations and contracts.
3. Facilitating the training and employment of Section 3 residents at all job levels and awarding contracts to Section 3 business concerns by undertaking the following Efforts to Award Contracts to Section 3 Business Concerns and to Offer Training and Employment Opportunities to Section 3 Residents, as appropriate, to meet the MPLs.

- a. Efforts To Award Contracts To Section 3 Business Concerns

The owner shall facilitate the award of contracts to Section 3 businesses by undertaking activities such as those listed below:

- (1) Maintain and make available to Contractors, a registry of eligible Section 3 businesses, using minority and disadvantaged business listings made available by the United States Department of Labor, United States Small Business Administration, Pennsylvania Department of General Services’ Bureau of Contract Administration and Business Development, the Pennsylvania Department of Commerce’s Office of Small Business, community organizations, and public or private institutions serving the project area.
- (2) Make available to the contractors and subcontractors a list of those Section 3 businesses who have responded to advertisements and expressed interest in participating in the project.
- (3) In determining contractor responsibility, consider past Section 3 records and current plans for Section 3 participation.
- (4) Contacting business assistance agencies, minority contractors associates and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses.
- (5) Provide written notices to all known Section 3 businesses.

- (6) Follow up with Section 3 businesses who have expressed an interest.
 - (7) Advise Section 3 business concerns of where they can find assistance and linking them to support services through the Pennsylvania Department of General Services, Pennsylvania Department of Commerce, United States Department of Labor, United States Small Business Administration, U.S. Department of Commerce, etc.
 - (8) Advertising contracting opportunities through trade association papers and newsletters and through local media, such as newspapers of general circulation community television networks, and radio advertising.
 - (9) Actively support Section 3 joint ventures.
- b. Efforts To Offer Training And Employment Opportunities To Section 3 Residents
- (1) Attempts to recruit first from the neighborhood, then from the municipality, county, and SMSA where the project is located through local media advertising, such as newspapers of general circulation, community television networks, and radio advertising. Written advertisements will highlight in bold print that employment and training opportunities will be provided to low and very low income persons, including participants in Youthbuild programs, to the greatest extent feasible,
 - (2) Advertising available positions by posting flyers in the common areas in the housing development or developments where low income persons reside in the neighborhood, then from the municipality, county, then SMSA where the project is located.
 - (3) Consulting with State and local agencies administering training programs funded through Job Training Partnership Act (JTPA) or JOBS, probation or parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for positions.
 - (4) Maintain a list of all Section 3 residents who have applied either on their own or on referral from any source, and employ such person if otherwise eligible and/or qualified and if a vacancy exists. If no vacancies exist, the Project Owner and Prime Contractors shall consider and list the Section 3 resident for the first available opening.
- 4. Evaluating contractors in accordance with this plan and utilizing Exhibits 4, 5 and 6 to evaluate RFPS and IFBs for responsiveness to SERB and Section 3 requirements.
 - 5. Assisting and actively cooperating with the Agency in obtaining Section 3 compliance by prime contractors and subcontractors and refraining from entering into any contract with any contractor where the project owner has notice or knowledge that the contractor has been found in violation of the Section 3 requirements.
 - 6. Documenting actions taken to comply with the requirements of the regulations, the results of actions taken and impediments, if any.

D. Preferences for Section 3 Businesses and SERBs

Preferences for SERB professional services, Section 3 employees and trainees, and Section 3 businesses are to be given in accordance with the ranking priorities listed below. The project owner and its prime contractors will incorporate these ranking priorities into their selection processes for all project-related contracts and new employment positions.

SERB and Section 3 preferences are separate and distinct ranking criteria. SERB requirements are only applicable to professional services contracts. Therefore, the project owner and its prime contractors shall include both the Section 3 and SERB preferences as separate selection criteria when they evaluate professional services contracts.

SERB preferences are not applicable to selection criteria for employees, trainees, or construction-related contracts. Therefore, the project owner and its prime contractors shall include only Section 3 preferences as selection criteria when they evaluate construction contracts and applicants for new positions.

The Procedures-Invitations for Bids (IFB)/Request For Proposals (RFP) Section of this Plan (pages 16-28) covers the practical application of the preference requirements. The project owner and its prime contractors will apply preferences for professional service RFPs using the priority point system described below and on pages 26-28 and Exhibit 4. The project owner and its prime contractors will apply preferences for construction contracts and employment by determining whether they meet their "Responsibilities" (page 20) and whether bids are "Responsive" (page 19 and Exhibits 5 and 6). Project owners, prime contractors, and subcontractors will also complete the other applicable Exhibits to this Plan to meet their "Responsibilities" under this Plan.

Nothing shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled. A business seeking a contract or a subcontract shall submit evidence to the project owner, contractor or subcontractor (as applicable), if requested, sufficient to demonstrate, to the satisfaction of the party awarding the contract, that the business is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

1. SERB Participation (Professional Services Contracts Only)

Priority Rank 1 Proposals submitted by Commonwealth approved SERBs.

Priority Rank 2 Commitments by proposers not considered to be SERBs that significantly utilize approved SERBs in joint ventures.

Priority Rank 3 Commitments by proposers not considered to be SERBs that aggressively pursue the utilization of approved SERBs in subcontracting opportunities.

Each proposal will be rated for its approach to enhancing the utilization of SERBS. The priorities will be evaluated with priority 1 receiving the greatest value and the succeeding priorities receiving a value in accordance with the above listed priority ranking.

2. Section 3 Employment and Training Preferences

Project Owner, and its contractors and subcontractors with project-related contracts exceeding \$100,000, shall give preference to Section 3 residents in training and employment, to the greatest extent feasible, in the following order of priority:

Priority Rank 1 Section 3 residents residing in the proposed project (if occupied), neighborhood, municipality, and county where the project is located (collectively, referred to as category 1 residents);

Priority Rank 2 Participants in HUD Youthbuild programs (category 2 residents),

Priority Rank 3 Where the project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 10 1301 et seq.), homeless persons residing in the neighborhood, municipality, and county where the project is located shall be given the highest priority;

Priority Rank 4 Other Section 3 residents,

Priority Rank 5 At Project Owner's discretion, recipients of certificates or vouchers under the Section 8 housing assistance program, within the neighborhood, municipality, and county where the project is located.

Nothing shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

3. Section 3 Contracting Opportunities Preferences

The project owner, and prime contractors (its contractors and subcontracts with project-related contracts exceeding \$100,000) shall direct their efforts to provide contracting opportunities to Section 3 business concerns, to the greatest extent feasible, in the following order of priority:

Priority Rank 1 Section 3 business concerns that provide economic opportunities for Section 3 residents of the proposed project (if occupied), the project neighborhood, municipality or county where the Section 3 covered project is located (category 1 businesses);

Priority Rank 2 Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

Priority Rank 3 Other Section 3 businesses.

A Section 3 business concern seeking a contract or a subcontract shall certify or submit evidence, sufficient to demonstrate to the satisfaction of the party awarding the contract, that the business is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. The potential contractor's record in complying with Section 3 requirements must be considered as part of this determination.

E. Records and Reports

1. The project owner will send letters to prime contractors, confirming MWBE and Section 3 contract awards and explaining the monthly reporting requirements (Exhibit 7) In addition, the owner will send letters to all Section 3, MBE, and WBE subcontractors (copy to prime contractors) explaining their monthly reporting requirements (Exhibit 8)
2. The Project Owner shall complete all exhibits to this plan reflecting its project-related employment, training, and contracting opportunities, solicitations, and commitments.
3. The Project Owner and the Agency will review all reports received from prime contractors and all subcontractors to determine if the commitments made by prime contractors in their bids are being met. This review is to be done prior to final payment being made to contractors and/or subcontractors.
4. The Project Owner will keep such records as are necessary to determine compliance with its MBE, WBE, SERB, and Section 3 requirements. These records must be in sufficient detail to indicate the contract work performed, the number, and percentage of Section 3 businesses, Section 3 residents, MBEs, WBEs, and SERBs performing project-related work.
5. The project owner and contractor must retain Section 3 and MBE records related to the construction period for a period of four years after the Agency's administrative closeout of the project's HOME funds. The project owner must retain Section 3 records related to ongoing project hiring for a period of three years after the affordability period referenced in the loan documents. If any litigation; claim, negotiation, audit, or other action has been started before the previously mentioned record retention periods, the records must be retained until the completion

of the action and resolution of all issues which arise from it or until the end of the previously referenced record retention period, whichever is later.

6. Agency, Commonwealth, or Federal compliance personnel may make periodic reviews of records pertaining to relevant contracts.

PROCEDURES - CONTRACTOR COMPLIANCE

A. Contract Provisions

The project owner will include following provisions in construction and professional service contracts:

1. Section 3 Clause

Project Owner will incorporate the following "Section 3 Clause" in all project-related contracts and subcontracts that exceed \$100,000:

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to the contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

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.

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.

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.

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.

2. Reporting Requirements

- a. Prior to contract award, prime contractors must provide the Agency and Project Owner with a Section 3 Workforce Employment and Training Needs Table (Exhibit 2). This form estimates the number of workers and new hires that the prime contractor will need to complete the job.
- b. Prime contractors must provide the Agency and Project Owner with a monthly Section 3 Employment and Training Report (Exhibit 13). This report shall include the names of new employees and trainees, their employment categories, race, gender, number of hours worked, Section 3 hours as a percentage of total hours worked on the project, and Section 3 new hires as a total of total new hires.
- c. Prime contractors must provide the Agency and Project Owner with the Prime Contractor's MBE/WBE/Section 3 Contact and Solicitation Statement (Exhibit 3) on a monthly basis. This report shall include the names of all companies and individuals contacted or solicited for participation in the project, the type of work/material involved in the solicitation, the total dollar amount of each quote received, and the total dollar amount of each contract or subcontract award (including supplies).
- d. Prime contractors must provide the Agency and Project Owner with the Prime Contractor's Monthly MBE/WBE/Section 3 Business Utilization Report (Exhibit 10). The report shall include the names of and the total dollar amount paid to all Section 3, MBE, WBE subcontractors (including suppliers) utilized under this contract.
- e. Section 3, MBE, and WBE Subcontractors must provide the Agency and Project Owner with the Subcontractor's Monthly MBE/WBE/Section 3 Business Utilization Report (Exhibit 11) reflecting the prime contractors who have purchased their services and/or supplies. The report shall reflect the name of the prime contractor, the total dollar amount invoiced, and total dollar amount received for payment.
- f. The Project owner must provide the Agency with the Project Owner Section 3/MBE/WBE Annual Report (Exhibit 14) to report annual accomplishments regarding Section 3 employment and training as well as MBE, WBE and Section 3 contracting opportunities. This report should include contracting and hiring data for the project owner, prime contractors, and all subcontractors. The report is due on or before January 15th of each year and at the completion of construction, with the final construction payment request until every unit is occupied at least once.

3. Joint Ventures and Subcontracting

a. Joint Venture.

Project-related contracts that involve a joint venture with a Section 3, MBE, WBE, or SERB firm must include the following clause:

If the joint venture relationship between _____
Joint Venture Firm Names is dissolved, (Name Of Majority Owner Of The Contract),
 hereinafter referred to as the Majority Owner, as the majority owner of the contract, with a
 commitment to a _____
Appropriate Business Type-Section 3 or SERB firm, must maintain this
 commitment for the duration of the contract. If another _____
Appropriate Business Type-Section 3 or SERB
 joint venture cannot be formed, the Majority Owner must continue this commitment by entering into
 contractual agreement(s) with other _____
Appropriate Business Type-Section 3 or SERB to

perform on this contract. The Majority Owner must submit all changes to the Agency and the Project Owner for approval.

b. Subcontracting.

Project-related contracts that involve a subcontract with a Section 3, MBE, WBE, or SERB firm must include the following clause:

If the subcontracting commitment made to _____
Name of Subcontractor
in the amount of \$ _____ is terminated, _____
Name of firm awarded contract
with a \$ _____ commitment to a _____ firm must
Appropriate Business Type-Section 3 or SERB
maintain this commitment for the duration of the contract.
_____ must continue
Name of firm awarded contract
this commitment by entering into contractual agreements with other _____
firm(s) to perform on this contract. The Majority
Appropriate Business Type-Section 3 or SERB
Owner must submit all changes to the Agency and the Project Owner.

PROCEDURES - INVITATIONS FOR BIDS (IFB) OR REQUEST FOR PROPOSALS (RFP)

A. Advertisement - IFB Only

All advertisements for invitations to bid will include the following information:

“The prime bidders/offerors must submit documentary evidence of minority and women business enterprises and Section 3 businesses who have been contacted and to whom commitments have been made. In addition, prime bidders/offerors must submit documentary evidence of project-related employment and training opportunities available to Section 3 residents. Documentation of employment opportunities as well as contract solicitations and commitments shall be submitted concurrently with the bid.”

B. Notification to MBEs, WBEs, Section 3 Businesses, and Section 3 Residents - IFB and RFP

The procedure for the project owner and prime contractor to notify MBEs, WBEs, Section 3 businesses, and Section 3 Residents of contract and employment opportunities will be as follows:

1. Notice of IFBs or RFPs -

During the Preprocessing Meeting, the Agency will provide the project owner with a listing of certified MBE/WBE firms in the project’s market area. The project owner and prime contractor will provide copies of IFB and RFP Notices to all MBE/WBE firms listed. (If there are more than ten firms listed in any IFB or RFP category, the project owner and prime contractor will provide copies of Notice of IFBs and RFPs to at least five MBE/WBE firms.)

The project owner and prime contractors are responsible for developing lists of qualified Section 3 businesses and will provide copies of IFB and RFP Notices to all known Section 3 businesses that they identify.

All IFBs and RFPs will include the following:

“The prime bidders/offerors must submit documentary evidence of MBE, WBE, and Section 3 businesses who have been contacted and to whom commitments have been made. In addition, prime bidders/offerors must submit documentary evidence of project-related employment and training opportunities available to Section 3 residents. Documentation of employment

opportunities as well as contract solicitations and commitments shall be submitted concurrently with the bid.”

2. Other Notices - Notices are to be sent to the following organizations: (as appropriate)

Local Minority Churches and Organizations;

Appropriate Minority Business Technical Assistance Organizations and/or Schools

Appropriate Minority, Women, and Small Business Contractor Associations

Appropriate Minority/Women Trade Organizations

Other business assistance agencies, community organizations, and media organizations such as trade association papers and newsletters, community television networks, local newsletters, and radio advertising.

3. Plans and Specifications - Plans and Specifications or Invitations for Bids on all projects will be made available to minority/women contractor associations, and trade organizations.
4. List of Planholders - The names of prime bidders/offers requesting bid documents will be made available upon request to Section 3 businesses identified by the project owner and prime contractors, and to certified minority/women businesses included on the DCA/DGS MBE/WBE lists.
5. Lists of MBEs, WBEs and Section 3 Businesses - The owner will provide each prime bidder/offers obtaining plans and specifications or RFPs for projects with lists of MBEs, WBEs, and Section 3 businesses from whom the prime bidder/offers will solicit bids for subcontracts, materials, and services. The owner may require that prime bidders assist the owner in its efforts to identify Section 3 businesses.

C. Construction Contract IFB Requirements

The following items will be placed in all bid documents:

1. Participation Level

- a. The Project Owner has established the following minimum participation levels (MPLs) for Minority Business Enterprises (MBEs), Women’s Business Enterprises (WBEs), Section 3 businesses, and Section 3 residents:

MBEs 5% of the total dollar amount of all contracts

WBEs 3% of the total dollar amount of all contracts

Section 3 10% of the total dollar amount of all contracts for building trades work, 3% of all non-building trade contracts and 30% of all new hires generated (at all job levels) as a result of the project.

MPLs are established for this project to be used solely as a threshold in determining prime bidder responsibility. Prime bidders are presumed to meet their responsibilities under the project owner’s MBE, WBE and Section 3 Plan if the dollar commitments to MBEs, WBEs, Section 3 businesses, and the number of Section 3 resident “new hires” reflect these participation levels. A prime bidder will not be rejected as not responsible solely because it fails to reach the MPLs. To determine the participation level that has been reached, a prime bidder may divide the total dollar amount of the commitments for the project by the total dollar amount of the prime bidder’s bid/contract.

- b. MBE, WBE, and Section 3 subcontracts will be credited toward the MPLs at 100%. MBE and WBE Stocking suppliers and manufacturers are credited at 100%. MBE and WBE Non-stocking suppliers, which are commonly and ordinarily the custom in the industry and a part of the industry's trade practices, are credited at 100%. Non-stocking suppliers, which are not commonly and ordinarily the custom in the industry nor a part of the industry's trade practice, are not credited.
- c. A firm that is both an MBE and a WBE will only receive credit toward MPLs as either an MBE or WBE, but not both. Prime bidders must indicate on the MBE/WBE Contact/Solicitation and Commitment Statement (Exhibit 3) whether the firm is being listed as either an MBE or a WBE. A firm may receive credit toward Section 3 and MWBE MPLs.
- d. An MBE, WBE, or Section 3 business who is the prime bidder on a project will receive no MPL credit for its own work effort for services provided. An MBE, WBE, or Section 3 business bidding as prime contractor must attempt to hire Section 3 residents and solicit Section 3 businesses and certified MBE/WBEs for participation in subcontracts, materials and/or supplies.
- e. MBE/WBE subcontractors must perform at least seventy-five percent (75%) of the cost of the subcontract, not including the cost of materials, with its own employees.

2. Responsiveness

- a. Prime bidders must complete and submit the MBE/WBE/Section 3 Contact/Solicitation And Commitment Statement (Exhibit 3) and the Section 3 Work Force Needs Table (Exhibit 2) with the bid. Failure to submit these forms with the bid, will result in the bid being rejected as nonresponsive.
- b. A prime bidder should only solicit MBE, WBE, and Section 3 subcontractors, vendors, manufacturers, or suppliers whose services, material, or supplies are within the scope of work and who the prime bidder reasonably believes it will choose to subcontract with or purchase from.
- c. Prime bidders failing to meet the MPLs must submit concurrently with the bid, an explanation of why the MPLs have not been met. This explanation must demonstrate that the prime bidder has not engaged in discriminatory practices in the solicitation and utilization of Commonwealth-certified MBEs/WBEs to perform as subcontractors or suppliers of goods and services related to the performance of the contract. The explanation must also demonstrate that the prime bidder has directed its efforts, to the greatest extent feasible, to provide project-related contracting, training, and employment opportunities to Section 3 businesses and Section 3 residents in the order of priority specified in the IFB or RFP. The evidence submitted by the prime bidder must demonstrate the following:
 - (1) Indicate whether Section 3, MBEs, and WBEs were solicited for each type of work the prime bidder expects to subcontract for and for all materials which the prime bidder expects to procure and, if not, the reason(s) why no such solicitation was made;
 - (2) Indicate the reason why commitments were not made to Section 3 business, MBE, and WBE for a type of subcontract work or materials in any areas where quotes were received from Section 3 businesses, MBEs, or WBEs, and;
 - (3) In any case where no quotations are received from, nor commitments made to Section 3, MBE, or WBE firms, indicate on Exhibit 3 that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
 - (4) Indicate whether Section 3 residents were solicited for each type of employment or training the prime bidder expects to hire, if not, the reason(s) why no such solicitation was made;
 - (5) Indicate the reason why Section 3 residents were not hired for new project-related employment and/or trainee positions;

- (6) In any case where no responses are received from Section 3 residents as a result of employment outreach efforts, explain the outreach efforts made to encourage Section 3 residents' awareness of the employment and/or training opportunities.
- d. If the prime bidder fails to submit such evidence, the bid submission shall be considered non-responsive and the bid rejected.
- e. Information related to the above shall be submitted on Exhibits 2 and 3.

3. Responsibility

- a. The submittals of each prime bidder are subject to review by the Agency or the Commonwealth to determine whether the prime bidder has discriminated in the selection of manufacturers, subcontractors, and suppliers and has met Section 3 hiring and contracting MPLs to the "greatest extent feasible". This includes cooperating with the project owner to take appropriate efforts to award contracts to Section 3 businesses and offer training and employment opportunities to Section 3 residents.

The prime bidder is presumed to have directed employment and economic opportunities to Section 3 residents and businesses to "greatest extent feasible" and not to have discriminated in its selections if it meets the MPLs. Where the MPLs are not met, the Project Owner and the Agency will determine whether discrimination has occurred and if "the greatest extent feasible" responsibility has been met. If, after investigation including a review of Exhibits 2 and 3, it is found that discrimination has occurred and/or that "the greatest extent feasible" responsibility has not been met, the prime bidder shall be deemed to be not responsible and the bid will be rejected.

- b. Documentation submitted by the prime bidder should meet the following standards for review:
 - (1) The prime bidder whose actions resulted in a limited or no commitment to MBEs and/or WBEs was not motivated by consideration of race or gender.
 - (2) MBEs, WBEs, Section 3 businesses, and Section 3 residents were not treated less favorably than other businesses or employment applicants in the hiring and/or contract solicitation and commitment processes.
 - (3) Solicitation, commitment, and hiring decisions were not based upon policies that disparately affect MBEs, WBEs, Section 3 businesses or Section 3 residents.
 - (4) Impediments were encountered despite actions taken to meet Section 3 goals. The project owner or prime contractor may also indicate "Other Economic Opportunities" provided in an effort to comply with Section 3 requirements. "Other Economic Opportunities" are defined in the project owner's Section 3 Plan.
- c. Commitments to MBEs, WBEs, Section 3 businesses, and Section 3 residents made at the time of bidding must be maintained throughout the term of the contract, unless a change in commitment is preapproved by the Project Owner and the Agency.

4. Access to Information

The Project Owner may obtain documents and information from any prime bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain prime bidder or contractor responsibility. Failure to provide requested information may result in the prime bidder being declared not responsible.

5. MBE/WBE Certification

- a. Prime bidders will only be given credit for MBEs/WBEs that are certified as MBEs or WBEs by the Pennsylvania Department of General Services' Bureau of Contract Administration and Business Development or certified as Disadvantaged Business Enterprises (DBEs) by the Pennsylvania Department of Transportation (PennDOT).
- b. Under the State Act of December 21, 1984, No. 230, P.L. 210, 18 PA. C.S.A. § 4107.2 a person commits a felony of the third degree if, in the course of business, he/she engages in deception relating to MBE/WBE certification.

6. Section 3 Business Qualification

- a. Prime bidders will only be given credit for Section 3 businesses that meet the following definition of a Section 3 Business:
 - (1) The business is 51 percent or more owned by Section 3 residents; or
 - (2) The business' permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
 - (3) The business provides 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) of this definition of "Section 3 business concern."
- b. A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section 3 business. The willful falsification of a contractor's or subcontractor's Section 3 status may subject the contractor or subcontractor to civil or criminal prosecution (see Section 1001 Title 18 and Section 231 of Title 31 of the United States Code).
- c. A business seeking a contract or a subcontract shall submit evidence to the project owner, contractor or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

7. Section 3 Resident Qualification

- a. Prime bidders will only give credit for Section 3 new hires if the employees or trainees meet the following definition of a Section 3 Resident:
 - (1) a public housing resident or
 - (2) an individual who resides in the neighborhood, municipality, metropolitan area or nonmetropolitan county where the project is located and who is:
 - (a) a low-income person, defined as families (including single persons) whose incomes do not exceed 80 percent of the median income of the area, with adjustments for smaller and larger families, or
 - (b) a very-low income person, defined as families (including single persons) whose incomes do not exceed 50 percent of the median income of the area, with adjustments for smaller and larger families.
- b. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence that the person is eligible for the preference. The willful

falsification of an individual's Section 3 status may subject the individual to civil or criminal prosecution (see Section 1001 Title 18 and Section 231 of Title 31 of the United States Code).

- c. Nothing shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

D. Professional/Personal Services - Requests for Proposals (RFPs)

For contracts and subcontracts awarded for professional services under the RFP method, the project owner shall identify all evaluation factors (and their relative importance) to be used to rate proposals in the RFP. The Project Owner will assign weights for socially/economically restricted business (SERB) and Section 3 Business participation for each RFP. This weight will be included as one of the criteria for selection for each RFP.

The Section 3 evaluation factor shall address both the preference for Section 3 businesses and the acceptability of the strategy for meeting the greatest extent feasible requirement (Section 3 strategy), as disclosed in proposals submitted by all business concerns (Section 3 and non-Section 3 business concerns). The Section 3 evaluation factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

The component of this evaluation factor designed to address the preference for SERBs and Section 3 businesses must establish a preference for these businesses in order of category as discussed on pages 10-12 (e.g., Priority Ranking 1, Priority Ranking 2, etc.).

With respect to the second component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the contractor's Section 3 strategy to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable Section 3 strategy. The contract award shall be made to the responsible firm whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

MPLs are established for the project solely as a guide for determining its compliance with the project owner's MBE, WBE, and Section 3 Plan. The MPLs are as follows:

MBEs	5% of the total dollar amount of all contracts
WBEs	3% of the total dollar amount of all contracts
Section 3	10% of the total dollar amount of all contracts for building trades work, 3% of all non-building trade contracts and 30% of all new hires generated (at all job levels) as a result of the project.

The following items will be placed in all requests for proposals:

1. General Information for Proposers

- a. Commitment to Enhance SERBs, Section 3 Businesses, and Section 3 Residents .

The Project Owner strongly encourages the submission of proposals by Section 3 businesses and SERBs, and the employment of Section 3 residents for all new project-related employment and training positions.

To achieve the objective of enhancing Section 3 and SERB participation, the Project Owner has established Section 3 and SERB utilization as a selection criterion in the evaluation process.

The Project Owner will evaluate the aforementioned criteria and will assign a point value to be considered within the overall RFP total point tabulation.

Proposals submitted by individuals or businesses claiming Section 3 or SERB status, or proposals submitted by individuals reflecting joint venture and subcontracting opportunities with Section 3 businesses or SERBs, must include documentation verifying Section 3 and/or SERB status.

If the contract for the services related to this RFP exceeds \$100,000, the contractor shall meet Section 3 hiring and contracting MPLs to the greatest extent feasible, for all project-related subcontracting, employment, and training opportunities that arise as a result of the contract. These contractors shall cooperate with the project owner to ensure that appropriate efforts are taken to award subcontracts to Section 3 business concerns and to offer training and employment opportunities to Section 3 residents in accordance with the project owner's Plan.

- (1) SERBs are businesses whose economic growth and development have been restricted based on social and economic bias. Such businesses are:
 - (a) Commonwealth certified minority and women owned businesses, or
 - (b) Certain restricted businesses whose development has been impeded because their primary or headquarter facility is physically located in an area designated by the Commonwealth as being in an enterprise zone.
 - (c) Businesses will not be considered socially/economically restricted if one of the conditions listed below exists:
 - The business has gross revenue exceeding four million dollars annually; or
 - The concentration of any industry is such that 50 percent of the market is controlled by the same type of SERB, MBE, WBE, or businesses located within areas designated as enterprise zones by the Commonwealth of Pennsylvania.

Proposers not considered to be SERBs seeking to identify such businesses for joint venture and subcontracting opportunities are encouraged to contact:

Department of General Services
Bureau of Contract Administration and Business Development
502 North Office Building, Harrisburg, PA 17125
Phone: (717) 787-7380 or 1(800) 822-2903
Fax: (717) 787-7052

- (2) Section 3 Business Concern means a business concern:
 - (a) that is 51 percent or more owned by Section 3 residents; or
 - (b) whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
 - (c) that provides 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 (a) or (b) of this definition of "Section 3 business concern."

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section 3 business. The willful

falsification of a contractor's or subcontractor's Section 3 status may subject the contractor or subcontractor to civil or criminal prosecution (see Section 1001 Title 18 and Section 231 of Title 31 of the United States Code).

A business seeking a contract or a subcontract shall submit evidence to the project owner, contractor or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

(3) Section 3 Resident is:

- (a) a public housing resident or
- (b) an individual who resides in the project or the neighborhood, municipality, metropolitan area or nonmetropolitan county where the project is located and who is:
 - (1) a low-income person, defined as families (including single persons) whose incomes do not exceed 80 percent of the median income of the area, with adjustments for smaller and larger families, or
 - (2) a very-low income person, defined as families (including single persons) whose incomes do not exceed 50 percent of the median income of the area, with adjustments for smaller and larger families.
- b. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence that the person is eligible for the preference. The willful falsification of an individual's Section 3 status may subject the individual to civil or criminal prosecution (see Section 1001 Title 18 and Section 231 of Title 31 of the United States Code).
- c. Nothing shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

2. Information Required from Contractors

Section 3 businesses and SERBs are encouraged to participate as prime proposers.

SERBs qualifying as an MBE/WBE must provide their Commonwealth certification number. SERBs qualifying as a result of being located in a Commonwealth-designated enterprise zone must provide proof of this status.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section 3 business. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence that the person is eligible for the preference. The willful falsification of an individual's or business' Section 3 status may subject the individual or business to civil or criminal prosecution (see Section 1001 Title 18 and Section 231 of Title 31 of the United States Code).

Proposers not considered Section 3 businesses or SERBs must describe, in narrative form, their company's approach to enhance Section 3 and SERB utilization on a professional level in the implementation of this proposal. These proposers shall also submit the Section 3 Work Force Needs Table (Exhibit 2) and the MBE/WBE/Section 3 Contact/Solicitation and Commitment Statement form (Exhibit 3) for this purpose.

Proposals shall include the SERB and Section 3 values in the Cost and Price Analysis section of the proposal. The applicable items shown in the Cost and Price Analysis section should also be used to

prepare and detail the proposed SERB and Section 3 commitment values. The selected contractor's SERB and/or Section 3 commitments will be included as a contractual obligation when a contract is executed.

3. Criteria for Selection

a. SERB Participation

Emphasis here is placed on:

Priority Rank 1 Proposals submitted by Commonwealth approved SERBs.

Priority Rank 2 Commitments by proposers not considered to be SERBs that significantly utilize approved SERBs in joint ventures.

Priority Rank 3 Commitments by proposers not considered to be SERBs that aggressively pursue the utilization of approved SERBs in subcontracting opportunities.

Each proposal will be rated for its approach to enhancing the utilization of SERBS. The optional approach used will be evaluated with priority 1 receiving the greatest value and the succeeding options receiving a value in accordance with the above listed priority ranking.

b. Section 3 Employment and Training Preferences

Project Owner, and its contractors and subcontractors with project-related contracts exceeding \$100,000, shall give preference to Section 3 residents in training and employment, to the greatest extent feasible, in the following order of priority:

Priority Rank 1 Section 3 residents residing in the proposed project (if occupied), neighborhood, municipality, and county where the project is located (collectively, referred to as category 1 residents);

Priority Rank 2 Participants in HUD Youthbuild programs (category 2 residents),

Priority Rank 3 Where the project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 10 1301 et seq.), homeless persons residing in the neighborhood, municipality, and county where the project is located shall be given the highest priority;

Priority Rank 4 Other Section 3 residents,

Priority Rank 5 At Project Owner's discretion, recipients of certificates or vouchers under the Section 8 housing assistance program, within the neighborhood, municipality, and county where the project is located.

Nothing shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

c. Section 3 Contracting Opportunities Preferences

The project owner, and prime contractors (its contractors and subcontracts with project-related contracts exceeding \$100,000) shall direct their efforts to provide contracting opportunities to Section 3 business concerns, to the greatest extent feasible, in the following order of priority:

- Priority Rank 1 Section 3 business concerns that provide economic opportunities for Section 3 residents of the proposed project (if occupied), the project neighborhood, municipality or county where the Section 3 covered project is located (category 1 businesses);
- Priority Rank 2 Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
- Priority Rank 3 Other Section 3 businesses.

A Section 3 business concern seeking a contract or a subcontract shall submit evidence, sufficient to demonstrate to the satisfaction of the party awarding the contract, that the business is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. The potential contractor's record in complying with Section 3 requirements must be considered as part of this determination.