

SECTION 3 DEFINITIONS

Applicant – Any entity which makes an application for Section 3 covered assistance and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.

Assistant Secretary – the Assistant Secretary for Fair Housing and Equal Opportunity.

Business Concern – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

CDBG-R – Community Development Block Grant-Recovery. These funds are awarded to units of local government in non-entitlement areas to stimulate the economy through measures that modernize the nation's infrastructure, improve energy efficiency, and expand educational opportunities and access to health care. In order to be consistent with the State's priority of focusing on water and sewer needs, implementation will emphasize stimulating the economy through measures that modernize the nation's infrastructure and improve energy efficiency wherever possible, and create short and long-term job opportunities.

Commercially useful function – A Section 3 business concern responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the Section 3 business concern must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a Section 3 business concern is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the Section 3 business concern credit claimed for its performance of the work and other relevant factors. A Section 3 business concern does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of Section 3 participation. In determining whether a Section 3 business concern is such an extra participant, the Section 3 Recipient must examine similar transactions, particularly those in which Section 3 business concerns do not participate.

Community Housing Development Organization (CHDO) – A private nonprofit, community-based service organization that has obtained staff with the capacity to develop affordable housing for the community it serves. See 24 CFR 92.2 for complete definition.

Complaint – An allegation of noncompliance with 24 CFR 135 made in the form described in 24 CFR 135.786(d).

Complainant – The party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in 24 CFR 135.

Contractor - any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance or for work in connection with a Section 3 covered project.

DRI – Disaster Recovery Initiative. This is an allocation of grant funds for CDBG disaster recovery grants for the purpose of assisting in the recovery in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters.

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. 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.

Good faith effort – Efforts to achieve a Section 3 goal or other requirement of this article, which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

HOME Investment Partnerships Program - HUD program enacted under the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 et seq. In general, under the HOME Investment Partnerships Program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families.

Housing Authority (HA) – Public Housing Agency or Indian Housing Authority.

Housing Development – low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild Programs – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

Job Category Definitions –

- **Craft Workers (skilled):** Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists,

pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, handpainters, coaters, bakers, decorating occupations, and kindred workers.

- **Laborers (unskilled):** Workers in manual occupations which generally require no special training who perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, groundskeepers and gardeners, farmworkers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.
- **Managers:** Occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yardmasters, ship captains, mates and other officers, farm operators and managers, and kindred workers.
- **Office & Clerical:** Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, collectors (bills and accounts), messengers and office helpers, office machine operators (including computer), shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.
- **Operatives (semiskilled):** Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and stitchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured articles), photographic process workers, truck and tractor drivers, knitting, looping, taping and weaving machine operators, welders and flame cutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, hand packers and packagers, and kindred workers.
- **Professionals:** Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dieticians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, surveyors and kindred workers.
- **Sales:** Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.
- **Service Workers:** Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses' aides, and orderlies), barbers, charworkers and cleaners, cooks, counter and fountain workers, elevator keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

- **Technicians:** Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

JTPA – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

Low-income person – families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

Metropolitan Area – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood: a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

New Hires – full-time employees for permanent, temporary or seasonal employment opportunities.

Noncompliance With Section 3 – Failure by a Recipient or Contractor to comply with the requirements of 24 CFR 135.

Nonmetropolitan county: Any county outside of a metropolitan area.

NSP – Neighborhood Stabilization Program. Grants provided to communities hardest hit by foreclosures and delinquencies to purchase, rehabilitate, or redevelop homes and stabilize neighborhoods.

Recipient – any entity which receives Section 3 covered assistance directly from HUD or from another Recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Respondent – The Recipient or Contractor against which a complaint of noncompliance has been filed.

SCBG – Small Cities Block Grant. Grants are awarded to units of local government that carry out community development activities, with the priority of focusing on water and sewer needs, in non-entitlement areas of West Virginia.

Section 3 – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 Business Concern – 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 above.

Section 3 Clause The contract provisions set forth at 24 CFR 135.38.

Section 3 Covered Activity --Any activity that is funded by Section 3 covered assistance.

Section 3 Covered Assistance -

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement), construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Covered Contract – a contract or subcontract (including a professional service contract) awarded by a Recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 covered contracts do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

Section 3 Covered Projects – Projects in which the combined amount of covered funding exceeding \$200,000 is invested into activities involving housing construction, demolition, rehabilitation, or other public construction, i.e., roads, sewers, community centers, etc. Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance. Section 3 applies to the combined investment of more than \$200,000 into multiple single-family housing rehabilitation projects during a program year.

Section 3 Resident – a public housing resident or an individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income does not exceed the local HUD income limits set forth for low- or very low-income households.

Section 8 Assistance -- Assistance provided under Section 8 of the 1937 Act (42 USC 1437f) pursuant to 24 CFR part 882, subpart G.

Service Area – the geographical area in which the persons benefitting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Subrecipient –A public agency or nonprofit organization selected by the participating jurisdiction to administer all or a portion of the participating jurisdiction's HOME program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The participating jurisdiction's selection of a subrecipient is not subject to the procurement procedures and requirements.

Very low-income person – families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.