

RESOLUTION NO. 19-811-12-REVISION 1

A RESOLUTION TO REVISE THE SECTION 3 PLAN TO COMPLY WITH 24 CFR, PART 135 OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 3

WHEREAS, City of John Day (“City”) has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, The United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.1701u) (Section 3) to further the goal of ensuring that federal Funds benefit the residents of projects funded wholly or in part by those funds; and

WHEREAS, Part 135 of Section 3 is to establish the standards and procedures to be followed to Ensure that the objectives of Section3 are met; and

WHEREAS, City has developed a Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and

WHEREAS, The Section 3 Plan has been reviewed by the City Manager as senior staff member and his comments were incorporated into the Plan;

NOW, THEREFORE, City resolves as follows:

1. Findings. The above-stated findings contained in this Resolution No. 19-811-12-Revision 1 (this “Resolution”) are hereby adopted.

2. Adoption. City adopts and implements this revised Section 3 Plan to ensure compliance with federal law and designates City Manager as the Section 3 Coordinator for City.

3. Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Council to cure editorial and/or clerical errors. This Resolution will be in full force and effect from and after its approval and adoption.

PASSED BY THE COMMON COUNCIL AND SIGNED ON THIS 23rd DAY OF JULY, 2019.

SIGNED:

ATTEST:

Ron Lundbom, Mayor

Nicholas Green, City Manager

CITY OF JOHN DAY SECTION 3 PLAN

General Policy Statement

It is the policy of the City of John Day to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The City of John Day implements this policy in accordance with City established contracting rules and policies as well as the awarding of contracts to contractors, vendors, professional service providers/consultants and suppliers, to create employment and business opportunities for residents of the City of John Day and other qualified low- and very low-income persons.

The policy will ensure that in good faith the City of John Day will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 residents and other eligible persons and Section 3 business concerns working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The City of John Day shall examine and consider a contractor's, professional service provider/consultant or vendor's potential for success by providing employment and business opportunities to Section 3 residents and business concerns prior to acting on any proposed contract award.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the City of John Day to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (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.

Section 3 Contracting Policy and Procedure

Section 3 residents must meet the minimum qualifications of the position to be filled and a Section 3 business concern must have the ability to and capability to perform successfully under the terms and conditions of the proposed contract.

Eligible Projects

All projects and activities involving housing construction, demolition, rehabilitation, or other public construction, such as roads, sewers, community centers, et cetera, completed with HUD Community Planning and Development funding are subject to the requirements of Section 3.

Good Faith Effort

At a minimum, some of the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The City of John Day and each contractor, subcontractor, professional services provider, vendor or supplier seeking to establish a good faith effort as required should complete some of these efforts.

City Responsibility

City options to fulfil a Good Faith Efforts include, but are not limited to:

1. Advertising contracting opportunities via newspaper, mailings, and posting notices about the work to be contracted and where to obtain additional information.
2. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
3. Assisting and actively cooperating with Oregon Business Development Department (OBDD) in ensuring contractors and subcontractors comply with Section 3;
4. Providing written notice of contracting opportunities to all known Section 3 business concerns within Grant County. The written notice will be provided with sufficient time to enable business concerns the opportunity to respond to the bid invitation.
5. Including a statement to encourage eligible Section 3 businesses to apply in all solicitations;
6. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment;
7. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories);
8. Adopting and implementing a Section 3 plan prior to the first draw of non-construction funds
9. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90;
10. Sending notices (if any) for employment opportunities or vacancies to Work Source Oregon;
11. Documenting actions taken to comply with Section 3 and submitting necessary documentation to OBDD;
12. If notified of non-compliance, correcting non-compliance within allowable time period.

Any construction contractor, professional services provider, vendor or supplier must 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 obligation under 24 CFR Part 135.

Section 3 Coordinator

The City's designated Section 3 Coordinator is the City Manager.

Contractor Responsibility to Meet Section 3 Requirements

The City will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

The options for the Contractor to fulfil a Good Faith Effort include, but are not limited to:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent feasible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. Sending employment notices to Work Source Oregon – First Source Hiring Agreement to comply with the Section 3 requirements;
5. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
6. Submitting Compliance Reports as required.
7. Signing Section 3 Federal Contract Clauses, as dictated by OBDD requirements.
8. If notified of non-compliance, correcting non-compliance within allowable time period.

Contractor's Requirements in Employing Section 3 Residents

After a contract is awarded, the CONTRACTOR will provide the following to the CITY'S Section 3 Coordinator:

1. Names (if any) of Section 3 business concerns to be utilized;
2. Estimate of the number of employees to be utilized for contract;

3. Projected number of available positions, including job descriptions and wage rates (construction wages must be consistent with Davis-Bacon Act or Oregon BOLI rates, whichever is higher); and
4. Efforts per section “Contractor Responsibility to Meet Section 3 Requirements,” or other methods, that will be utilized to seek Section 3 participants.

The City of John Day and their covered contractors, subcontractors, professional service providers/consultants or subrecipients) will in good faith comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of HUD funding.

Section 3 Contract Clause

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included in Exhibit 1.

Section 3 Program Resident/Participant Certification Procedure

Section 3 Residents are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

To be added to the City’s Section 3 list, residents that qualify should fill out the form in Exhibit 2 – “Resident Employment Opportunity Data Eligibility for Preference Certification Form.”

Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the City of John Day shall complete the *Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability* form, which can be obtained from the Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program. The certification form is Exhibit 2 to this plan.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of the City of John Day prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, the certification can be submitted along with the bid.

Internal Section 3 Complaint Procedure

To resolve complaints generated due to non-compliance through an internal process, the City of John Day encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
2. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The Section 3 Coordinator will provide written documentation detailing the findings of the investigation of the complaint. The City Manager will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the City of John Day a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity
United States Department of Housing and Urban Development
451 Seventh Street,
SW Washington, DC
20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

Enforcement

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

During the post award or pre-bid conference, the objective shall be to impact critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail: (Non-construction contracts do not require Davis-Bacon)

Davis-Bacon
Minority and Women Owned Business Participation
Resident Hiring Professional

Each representative will define specific functional requirements and require the contractor to

certify its understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, resident hiring and Minority and Women Owned Business participation.

Monitoring and Enforcement Authority and Responsibility

The function of monitoring and enforcing resident hiring will be carried out by the City of John Day Section 3 Coordinator, including all field activities.

SECTION 3 CLAUSE

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

A. 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.

B. The parties to this 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.

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

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

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

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

G. Contractor shall complete THE REQUIRED Section 3 report form 60002 and submit it to the

City with the final construction pay estimate for the project.

**The City of John Day
RESIDENT EMPLOYMENT OPPORTUNITY DATA
ELIGIBILITY FOR PREFERENCE CERTIFICATION FORM**

Eligibility for Preference

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

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of the City of _____ and certify that I meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: _____

I have attached the following documentation as evidence of my status:

- a. Copy of lease demonstrating proof of residency in a public housing development
- b. Copy of receipt of public assistance such as a Section 8 certificate or voucher
- c. Copy of evidence of participation in a public assistance program such as Youthbuild, JTPA, Job Corps etc.
- d. Income tax records
- e. Other

Signature: _____

Print Name: _____ Date: _____

SECTION 3 INCOME LIMITS

FY 2019 Income Limits Summary

Selecting any of the buttons labeled "Explanation" will display detailed calculation steps for each of the various parameters.

FY 2019 Income Limit Area	Median Family Income Explanation	FY 2019 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Grant County, OR	\$54,500	Very Low (50%) Income Limits (\$) Explanation	20,150	23,000	25,900	28,750	31,050	33,350	35,650	37,950
		Extremely Low Income Limits (\$)* Explanation	12,490	16,910	21,330	25,750	30,170	33,350*	35,650*	37,950*
		Low (80%) Income Limits (\$) Explanation	32,200	36,800	41,400	46,000	49,700	53,400	57,050	60,750

* The FY 2014 Consolidated Appropriations Act changed the definition of extremely low-income to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit or the poverty guideline as [established by the Department of Health and Human Services \(HHS\)](#), provided that this amount is not greater than the Section 8 50% very low-income limit. Consequently, the extremely low income limits may equal the very low (50%) income limits.

Figure 1 - 2019 HUD Income Limits for Grant County

Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability

Name of Business _____

Address of Business _____

Type of Business:	Corporation	Partnership
	Sole	Joint
	Proprietorship	Venture

Attached is the following documentation as evidence of status:

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

- | | |
|---|---|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation in public assistance program | |
| <input type="checkbox"/> Other evidence | |

___ For business entity as applicable:

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

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

Section 3 business:

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

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

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

___ Evidence of ability to perform successfully under the terms and conditions of the

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

(Corporate Seal)

Authorizing Name and Signature

Attested by: _____