



# **Multifamily Section 3 Compliance Guide**

*October 2016*

## MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE



*Minnesota Housing does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.*

*Minnesota Housing is an equal opportunity employer.*

*This information will be made available in alternative format upon request.*

## Table of Contents

<b>Introduction.....</b>	<b>1</b>
<b>Chapter 1 .....</b>	<b>2</b>
1.01 <i>What is a Section 3 Assisted Project? .....</i>	2
1.02 <i>Who is a Recipient?.....</i>	2
1.03 <i>Recipient Responsibilities.....</i>	2
1.04 <i>Contractor/Subcontractor Responsibilities.....</i>	3
<b>Chapter 2 .....</b>	<b>4</b>
2.01 <i>What is a Section 3 Covered Contract?.....</i>	4
2.02 <i>Who Must Comply with Section 3?.....</i>	4
2.03 <i>What is a Section 3 Business Concern?.....</i>	4
2.04 <i>Who is a Section 3 Resident? .....</i>	4
<b>Chapter 3 .....</b>	<b>6</b>
3.01 <i>Numerical Goals.....</i>	6
3.02 <i>Employment, Training and Contracting Requirements .....</i>	6
<b>Chapter 4 .....</b>	<b>8</b>
4.01 <i>Monitoring .....</i>	8
4.02 <i>Section 3 Clause .....</i>	8
4.03 <i>Reporting Requirements .....</i>	8
4.04 <i>Enforcement.....</i>	8
<b>Chapter 5 – Fair Housing Policy .....</b>	<b>9</b>
<b>Chapter 6 – Fraud, Misuse of Funds, Conflict of Interest, Suspension, and Disclosure and Reporting .....</b>	<b>10</b>
6.01 <i>Fraud.....</i>	10
6.02 <i>Misuse of Funds .....</i>	10
6.03 <i>Conflict of Interest .....</i>	10
6.04 <i>Suspension .....</i>	11
6.05 <i>Disclosure and Reporting.....</i>	11
<b>Certification and Acknowledgement .....</b>	<b>12</b>
<b>Appendix A – Terms .....</b>	<b>A-1</b>
<b>Appendix B – Combined Guidance for Compliance.....</b>	<b>B-1</b>
<b>Appendix C – Combined Contractor Compliance Activity Report .....</b>	<b>C-1</b>
<b>Appendix D – Section 3 Applicability Chart .....</b>	<b>D-1</b>
<b>Appendix F – Section 3 Contractor/Subcontractor Compliance Plan.....</b>	<b>F-1</b>

**Appendix H – Section 3 Clause ..... H-1**  
**Appendix K – Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability ..... K-1**  
**Appendix L – Section 3 Eligibility for Preference..... L-1**  
**Section 3 Income Limits ..... M-1**  
**Appendix M – Section 3 Summary Report ..... M-1**



## **Introduction**

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968. The purpose of Section 3 “is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.” Section 3 regulations can be found at 24 CFR §135.

## Chapter 1

### 1.01 What is a Section 3 Assisted Project?

A Section 3 assisted Project is a Project where federal funds are provided for work arising in connection with housing construction, reconstruction, conversion or rehabilitation. This funding is provided through federal resources from the US Department of Housing and Urban Development's (HUD) Multifamily Housing and Community Development Programs. A Section 3 assisted Project does not include FHA insurance programs such as HUD Risk Share.

### 1.02 Who is a Recipient?

A Recipient is any entity who receives Section 3 covered assistance either directly from HUD or from another Recipient.

Examples of Recipients:

- Minnesota Housing
- Owners/developers who receive Section 3 covered assistance from Minnesota Housing and are contracting with others to conduct construction

Examples of who would not be a Recipient:

- Contractors are not Recipients.
- The ultimate beneficiary under a HUD program is not a Recipient. An example of an ultimate beneficiary would be a tenant living in an assisted property.

### 1.03 Recipient Responsibilities

Minnesota Housing works with Recipients to achieve the requirements of Section 3, which include all of the following:

- Attempt to reach the numerical goals of 24 CFR §135.30
- Inform Recipients of Section 3 requirements
- Assist Recipients and their Contractors to meet Section 3 requirements and objectives
- Monitor the performance of Recipients with respect to the objectives and requirements of 24 CFR §135

All Recipients are responsible for the actions specified in 24 CFR §135.32. Recipients must:

- Comply with Section 3 in their operations and in the operations of their Contractors and Subcontractors
- Notify potential Contractors of the Section 3 requirements, and incorporate the Section 3 Clause in 24 CFR §135.38 in all solicitations and Contracts
- Obtain the compliance of Contractors and Subcontractors and not enter into Contracts when there is notice or knowledge that a Contractor has violated 25 CFR §135

- Implement procedures designed to notify Section 3 Residents about training and employment opportunities and Section 3 covered businesses about contracting opportunities generated by Section 3 covered assistance
- Facilitate the training and employment of Section 3 Residents and the award of Contracts to Section 3 Business Concerns by undertaking activities such as those described in the Appendix to 24 CFR §135 (also see Appendices I and J)
- Document steps taken to comply with 24 CFR §135, the results of actions taken and impediments
- Complete referenced appendices found in Combined Guidance for Compliance (Appendix B) that detail responsibilities for completion of each required form
- Recipients must provide this Multifamily Section 3 Compliance Guide and all appendices to prospective Contractors before bidding

Minnesota Housing will provide the Section 3 Guide packet at the time of Project launch. The packet includes Appendices A – M to assist the Owner/Developer in complying with Section 3 at the time the requirements are triggered. Please contact the program manager for more details.

#### **1.04 Contractor/Subcontractor Responsibilities**

The Contractor/Subcontractor is responsible for all of the following:

- If the Contractor/Subcontractor must hire new employees to complete the Project , or needs to subcontract portions of the work to another business, he/she is required to direct newly created employment and subcontracting opportunities to Section 3 Residents and Section 3 Business Concerns to try to reach the numerical goals specified below
- Include the Appendix H in all Section 3 covered Contracts
- Undertake and document efforts that offer training and employment opportunities to Section 3 Residents when hiring is required for the Project
- Undertake and document efforts to award Contracts to Section 3 Business Concerns
- Report to the Recipient hiring, contracting and training efforts and results
- Complete referenced appendices found in Appendix B that detail responsibilities for completion of each required form

## Chapter 2

### 2.01 What is a Section 3 Covered Contract?

A Section 3 covered contract is a contract or subcontract, including a professional service contract (architect, engineer, surveyor, etc.), awarded by a Recipient or Contractor for work generated by the expenditure of Section 3 covered assistance or for work in connection with a Section 3 covered Project. It does not include Contracts for the purchase of supplies and materials without installation.

### 2.02 Who Must Comply with Section 3?

The following must comply with Section 3:

- Recipients exceeding \$200,000 of Section 3 covered assistance; and
- Recipients' Contractors and Subcontractors with Contracts exceeding \$100,000 for housing construction, regardless of the source of funds to pay the contract. Refer to Section 3 Applicability Flow Chart (Appendix D)

For example, an Owner/Developer (Recipient) combines \$300,000 of HOME Program Funds/National Housing Trust Fund with \$120,000 of Project reserves for a total Project cost of \$420,000. Even though the Recipient chooses to pay the \$120,000 contract for heating system replacement with Project reserves, that heating Contractor is subject to Section 3.

### 2.03 What is a Section 3 Business Concern?

A Section 3 Business Concern is a business that can provide evidence they meet one of the following criteria:

- The business is at least 51 percent owned by Section 3 Residents
- At least 30 percent of the business's permanent full-time employees are Section 3 Residents or were Section 3 Residents within 3 years of their first employment with the company
- A commitment to subcontract more than 25 percent of the dollar award of all Subcontracts to business concerns that meet the first two bullets

To be designated as a Section 3 Business Concern, a self-certification must be completed on HUD's Section 3 [website](#). See Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability (Appendix K). Please retain all of the documentation showing that your business meets the requirements of a Section 3 Business Concern. When Minnesota Housing conducts monitoring on Section 3 requirements, the business might be asked to provide all of the necessary documentation to confirm the business's eligibility.

### 2.04 Who is a Section 3 Resident?

A Section 3 resident is a resident of the metropolitan statistical area or non-metropolitan county in which the Section 3 covered assistance is expended who is either:

- A Public Housing Resident; or
- A Low- or Very Low-Income person

To determine if a resident meets the Section 3 definition, the resident must complete and submit to the employer the Section 3 Eligibility for Preference Resident Employment Opportunity Data form (Appendix L).

## Chapter 3

### 3.01 Numerical Goals

Recipients are evaluated according to how well they meet the following numerical goals (also known as Safe Harbor Standards) with respect to Section 3 covered Projects:

- At least 30 percent of aggregate New Hires of Recipients, Contractors and Subcontractors for the year are Section 3 Residents
- At least 10 percent of the total dollar amount of all Section 3 covered Contracts for building trade work is awarded to Section 3 Business Concerns
- At least 3 percent of the total dollar amount of all other Section 3 covered Contracts is awarded to Section 3 Business Concerns (e.g., architectural or accounting services required by a construction contract)

If the goals are not met, the Recipient and their Contractors are required to provide documentation on what procedures they followed to attempt to reach the goals. They will also be required to document what, if any, barriers impacted the failure to reach the goals.

### 3.02 Employment, Training and Contracting Requirements

Minnesota Housing, the Owner/Developer and the contractor commit to employ Section 3 Residents for 30 percent of the aggregate number of New Hires for each year over the duration of the Project. Priority must be given in the following order of preference to:

- Category 1 Residents: Residents of the housing development or developments for which the section 3 covered assistance is expended
- Category 2 Residents: Residents of other housing developments managed by the HA that is expending the section 3 covered housing
- Category 3 Residents: Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended
- Category 4 Residents: Other section 3 residents, (this includes low-income residents of the metropolitan area or non-metropolitan county who do not reside in the Service Area)

Minnesota Housing, the Owner/Developer and the Contractor commit to award Contracts arising in connection with a Project to Section 3 Business Concerns as follows:

- At least 10 percent of the total dollar amount of all contacts for building trade work; and
- At least three percent of the total dollar amount of all Contracts for any work other than building trade work (e.g., landscaping or professional services Contracts such as architectural, environmental or legal services)

Minnesota Housing, the Owner/Developer and the contractor must give priority consideration, where possible, to Section 3 Business Concerns in the following order of preference:

- Category 1 Businesses: Section 3 Business Concerns that provide economic opportunities for Section 3 Residents in the Service Area in which the Project is located

## MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE

- Category 2 Businesses: Applicants selected to carry out HUD Youthbuild Programs
- Category 3 Businesses: Other Section 3 Business Concerns

## **Chapter 4**

### **4.01 Monitoring**

The development team, which includes but is not limited to the Owner/Developer, Contractor and professional service Contractors, must allow Minnesota Housing and HUD and their representatives to inspect all records related to the Project.

### **4.02 Section 3 Clause**

All Section 3 covered Contracts must include the Section 3 Clause (Appendix H) in its bid package and Contracts.

### **4.03 Reporting Requirements**

Recipients are required to collect a Section 3 Summary Report form (Appendix M) from each Contractor and Subcontractor working on Section 3 covered Projects. The forms will cover the period from October 1 of each year (the beginning of the program year) to either the completion of the Project, or September 30 of the following year, whichever occurs first.

### **4.04 Enforcement**

Minnesota Housing reserves the right to withhold draw requests if compliance with Section 3 requirements is not met during underwriting and construction.

## Chapter 5 – Fair Housing Policy

It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, gender identity or sexual orientation.

Minnesota Housing's fair housing policy incorporates the requirements of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988, as well as the Minnesota Human Rights Act. Housing providers are expected to comply with the applicable statutes, regulations, and related policy guidance. Housing providers should ensure that admissions, occupancy, marketing and operating procedures comply with non-discrimination requirements.

In part, the Fair Housing Act and the Minnesota Human Rights Act make it unlawful, because of protected class status, to:

- Discriminate in the selection/acceptance of applicants in the rental of housing units;
- Discriminate in terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- Engage in any conduct relating to the provision of housing that otherwise make unavailable or denies the rental of a dwelling unit;
- Make, print or publish (or cause to make, print or publish) notices, statements or advertisements that indicate preferences or limitations based on protected class status;
- Represent a dwelling is not available when it is in fact available;
- Deny access to, or membership or participation in, associations or other services organizations or facilities relating to the business of renting a dwelling or discriminate in the terms or conditions of membership or participation; or
- Engage in harassment or quid pro quo negotiations related to the rental of a dwelling unit.

Minnesota Housing has a commitment to affirmatively further fair housing for individuals with disabilities by promoting the accessibility requirements set out in the Fair Housing Act, which establish design and construction mandates for covered multifamily dwellings and requires housing providers to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Applicants will be required to submit an Affirmative Fair Housing Marketing Plan at the time of application, to update the plan regularly and to use affirmative fair housing marketing practices in soliciting renters, determining eligibility and concluding all transactions.

As a condition of funding through Minnesota Housing, housing providers are not permitted to refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident has a Housing Choice Voucher or other form of tenant-based rental assistance.

## **Chapter 6 – Fraud, Misuse of Funds, Conflict of Interest, Suspension, and Disclosure and Reporting**

### **6.01 Fraud**

Fraud is any intentionally deceptive action made for personal gain or to damage another.

Any person or entity (including its employees and affiliates) that enters into an agreement with Minnesota Housing and witnesses, discovers evidence of, receives a report from another source, or has other reasonable basis to suspect that fraud or embezzlement has occurred must immediately make a report through one of the ways described in section 6.05.

### **6.02 Misuse of Funds**

A loan or grant agreement is a legal contract between Minnesota Housing and the borrower or grantee. The borrower or grantee promises to use the funds to engage in certain activities or procure certain goods or services while Minnesota Housing agrees to provide funds to the borrower or grantee to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the borrower or grantee must use Minnesota Housing funds as agreed, and the borrower or grantee must maintain appropriate documentation to prove that funds were used for the intended purpose(s).

A misuse of funds shall be deemed to have occurred when: (1) Minnesota Housing funds are not used as agreed by a borrower or grantee; or (2) A borrower or grantee cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the loan or grant agreement.

Any borrower or grantee (including its employees and affiliates) of Minnesota Housing funds that discovers evidence, receives a report from another source, or has other reasonable basis to suspect that a misuse of funds has occurred must immediately make a report through one of the ways described in section 6.05.

### **6.03 Conflict of Interest**

A conflict of interest, actual, potential, or perceived, occurs when a person has an actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A potential or perceived conflict of interest exists even if no unethical, improper or illegal act results from it.

An individual conflict of interest is any situation in which one's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a friend, relative, acquaintance or business or organization with which they are involved.

Organizational conflicts of interest occur when:

- A contracting party is unable or potentially unable to render impartial assistance or advice to Minnesota Housing due to competing duties or loyalties
- A contracting party's objectivity in carrying out the award is or might be otherwise impaired due to competing duties or loyalties

- A contracting party has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors

Once made aware of a conflict of interest, Minnesota Housing will make a determination before disbursing any further funds or processing an award. Determinations could include:

- Revising the contracting party’s responsibilities to mitigate the conflict
- Allowing the contracting party to create firewalls that mitigate the conflict
- Asking the contracting party to submit an organizational conflict of interest mitigation plan
- Terminating the contracting party’s participation

Any person or entity (including its employees and affiliates) that enters into an agreement with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all actual, perceived or potential conflicts of interest through one of the ways described in section 6.05.

A contracting party should review its contract agreement and request for proposals (RFP) material, if applicable, for further requirements.

#### **6.04 Suspension**

By entering into any agreement with Minnesota Housing, a contracting party represents that the contracting party (including its employees or affiliates that will have direct control over the subject of the agreement) has not been suspended from doing business with Minnesota Housing. Refer to Minnesota Housing’s website for a list of [suspended individuals and organizations](#).

#### **6.05 Disclosure and Reporting**

Activities required to be reported under this chapter may be made in any of the following ways:

- Minnesota Housing’s Chief Risk Officer
- Any member of Minnesota Housing’s [Senior Leadership Team](#)
- The Minnesota Housing hotline reporting service vendor, EthicsPoint, by calling toll-free 866.886.1274 to speak with a live operator or by visiting the EthicsPoint reporting [webpage](#)

## Certification and Acknowledgement

\_\_\_\_\_ as the \_\_\_\_\_ of  
(name) (title)

\_\_\_\_\_, here by acknowledge that I  
(company)

have been supplied with a copy of and have read Minnesota Housing’s Multifamily Section 3 Compliance Guide, including Appendix and fully understand and acknowledge, on behalf of

\_\_\_\_\_ the obligation to strictly comply  
(company)

with the requirements set forth therein.

I certify that the information provided in this Certification is true, correct and accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Appendix A – Terms

<b>Contractor</b>	A Contractor awarded a contract for work arising in connection with the Project.
<b>Contracts</b>	A contract for work arising in connection with a Project that is for an amount more than \$100,000.
<b>Employment opportunities generated by Section 3 covered assistance</b>	<p>All employment opportunities generated by the expenditure of Section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in 24 CFR §135.3(a)(1)).</p> <p>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 24 CFR §135.3(a)(2)), including management and administrative jobs connected with the Section 3 covered 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.</p>
<b>HOME Program Funds/National Housing Trust Fund</b>	Funds awarded under HUD’s programs or other assistance covered by Section 3 (such as Community Development Block Grant funds).
<b>HUD</b>	The United States Department of Housing and Urban Development
<b>Low-Income Resident</b>	Families (including single persons) whose incomes do not exceed 80 per centum 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.
<b>Minnesota Housing</b>	The Minnesota Housing Finance Agency
<b>New Hires</b>	All full-time employees for permanent, temporary or seasonal employment opportunities hired after Project selection by Minnesota Housing.
<b>Project</b>	An acquisition, new construction or rehabilitation Project receiving more than \$200,000 in Section 3 covered assistance.
<b>Public Housing Resident</b>	Any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease, as defined in 24 CFR §963.5.
<b>Recipient</b>	Any entity that receives Section 3 covered assistance directly from HUD or from another Recipient (e.g., PHA, unit of state or local government, property owner, developer).
<b>Safe Harbor Standards</b>	A Recipient that meets the minimum numerical goals set forth in §135.30 will be considered to have complied with the Section 3 preference requirements.
<b>Section 3</b>	Section 3 of the Housing and Urban Development Act of 1968, as amended
<b>Section 3 Business Concern</b>	A business entity that is formed in accordance with Minnesota state law, and licensed under Minnesota state, county, or municipal law, to engage in the type

MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE

	of business activity for which it was formed. This may include nonprofit organizations. It must meet one of the following criteria: (i) the business is 51 percent or more owned by Section 3 Residents; or (ii) the business's 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 the first employment with the business were Section 3 Residents; or (iii) the business may provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all Subcontracts to be awarded to businesses that meet the qualifications set for the above.
<b>Section 3 Resident</b>	A Section 3 Resident is: 1. A Public Housing resident; or 2. An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance, and who is a Low-Income Resident, or a Very-Low Income Resident.
<b>Service Area</b>	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. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.
<b>“To the Greatest Extent Feasible”</b>	Every effort must be made to comply with the regulatory requirements of Section 3. By this, the Department means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities.
<b>Very Low-Income Resident</b>	Families (including single persons) whose incomes 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.
<b>Youthbuild Programs</b>	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.

## Appendix B – Combined Guidance for Compliance

\*Capitalized terms are defined in Appendix B of the Multifamily Section 3 Compliance Guide

Appendix and Name	Who Receives Documents from Minnesota Housing	When Minnesota Housing Gives Documents to Owner/Developer/General Contractor	Who and When are Document(s) Returned to Minnesota Housing
<p><b>Appendix B</b> Combined Guidance for Compliance</p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• General Contractor</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• Contractors</li> <li>• A copy of the Section 3 Compliance Guide and all appendices must be included in all bid packages</li> </ul>
<p><b>Appendix C</b> Combined Contractor Compliance Activity Report</p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• Contractors</li> <li>• Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Contractors</li> <li>• Management and administrative jobs*</li> <li>• A copy of the Section 3 Compliance Guide and all appendices must be included in all bid packages</li> <li>• Return the signed original with the bid packages</li> <li>• Update and return at Project completion or September 30, whichever occurs first. Final draw funds will not be released without this document</li> </ul>

MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE

Appendix and Name	Who Receives Documents from Minnesota Housing	When Minnesota Housing Gives Documents to Owner/Developer/ General Contractor	Who and When are Document(s) Returned to Minnesota Housing
<b>Appendix D</b> Section 3 Applicability Flow Chart	<ul style="list-style-type: none"> <li>Owner/Developer</li> </ul>	<ul style="list-style-type: none"> <li>Part of the MF-Section 3 Compliance Guide</li> <li>Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>Owner keeps for reference</li> <li>A copy of the Section 3 Compliance Guide and all appendices must be included in all bid packages</li> </ul>
<b>Appendix E</b> <a href="#">Section 3 Compliance Checklist</a> <a href="#">Owner/Developer</a> (Recipient)	<ul style="list-style-type: none"> <li>Owner/Developer</li> </ul>	<ul style="list-style-type: none"> <li>Part of the MF-Section 3 Compliance Guide</li> <li>Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>Include in bid package</li> <li>Include in all Contracts</li> <li>Returns the signed original with the bid packages</li> </ul>
<b>Appendix F</b> Section 3 Contractor/Sub-Contractor Compliance Plan	<ul style="list-style-type: none"> <li>Owner/Developer</li> <li>General Contractor Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>Part of the MF-Section 3 Compliance Guide</li> <li>Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>Include in all bid packages</li> <li>Contractors Management and administrative jobs*</li> <li>Return the signed original with the bid packages</li> </ul>
<b>Appendix G</b> <a href="#">Section 3 Contractor/ Subcontractor Compliance Checklist</a>	<ul style="list-style-type: none"> <li>Owner/Developer</li> <li>General Contractor Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>Part of the MF-Section 3 Compliance Guide</li> <li>Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>Contractors Management and administrative jobs*</li> <li>Return the signed original with the bid packages</li> </ul>
<b>Appendix H</b> Section 3 Clause	<ul style="list-style-type: none"> <li>Owner/Developer</li> <li>General Contractor Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>Part of the MF-Section 3 Compliance Guide</li> <li>Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>Include in all bid packages and Contracts and Subcontracts over \$100,000</li> </ul>

MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE

Appendix and Name	Who Receives Documents from Minnesota Housing	When Minnesota Housing Gives Documents to Owner/Developer/ General Contractor	Who and When are Document(s) Returned to Minnesota Housing
<p><b>Appendix I</b>  <a href="#">Section 3 Training and Employment Options</a></p> <p>This form explains the requirements from 24 CFR §135 – and provides examples of efforts to offer training and employment opportunities to Section 3 Residents</p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• General Contractor Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Include in all bid packages</li> <li>• Contractors Management and administrative jobs*</li> <li>• Return the signed original with the bid packages</li> </ul>
<p><b>Appendix J</b>  <a href="#">Section 3 Contracts and Procurement</a></p> <p>This form is to articulate the requirements from 24 CFR §135 – Examples of Efforts to award Contracts to Section 3 Business Concerns; and Examples of Procurement Procedures that provide preference for Section 3 Business Concerns</p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• General Contractor Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Include in all bid packages</li> <li>• Contractors Management and administrative jobs*</li> <li>• Retain - must have available during an audit</li> </ul>
<p><b>Appendix K</b>            Section 3 Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability</p>	<ul style="list-style-type: none"> <li>• General Contractors Management and administrative jobs*</li> </ul>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Include in all bid packages</li> <li>• Contractors</li> <li>• Register on HUD's <a href="#">website</a> when requesting preference</li> </ul>

MINNESOTA HOUSING – MULTIFAMILY SECTION 3 COMPLIANCE GUIDE

Appendix and Name	Who Receives Documents from Minnesota Housing	When Minnesota Housing Gives Documents to Owner/Developer/General Contractor	Who and When are Document(s) Returned to Minnesota Housing
<p><b>Appendix L</b> Section 3 Eligibility for Preference Resident Employment Opportunity Data</p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• General Contractor</li> </ul> <p>Management and administrative jobs*</p>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Include in bid package</li> <li>• Contractors</li> <li>• Return with Project closeout packet</li> </ul>
<p><b>Appendix M</b> <a href="#">Section 3 Summary Report (HUD 60002)</a></p>	<ul style="list-style-type: none"> <li>• Owner/Developer</li> <li>• General Contractor</li> </ul> <p>Management and administrative jobs*</p>	<ul style="list-style-type: none"> <li>• Part of the MF-Section 3 Compliance Guide</li> <li>• Provided at the time of selection</li> </ul>	<ul style="list-style-type: none"> <li>• Include in bid package</li> <li>• Owner,</li> <li>• Contractors</li> <li>• Management and administrative jobs*</li> <li>• Return at Project completion or October 7, whichever occurs first. Final draw funds will not be released without this document</li> </ul>

\*Definitions per 24 CFR §135 can be found in Appendix A.

## Appendix C – Combined Contractor Compliance Activity Report

SAMPLE REPORT PICTURED – [The Contractor Compliance Activity Report](#) is available electronically on the Minnesota Housing website.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N												
1	 <span style="float: right; font-weight: bold; font-size: 1.2em;">Contractor Compliance Activity Report</span>																									
2	<p style="color: red; font-weight: bold;">** COMPLIANCE ERRORS **</p> <p>The project is out of compliance with the goal(s) listed below. For any goal that remains out of compliance, submit documentation on how you attempted to reach that goal. <b>CLICK ON AN ERROR MSG</b> to see the details of that goal in the spreadsheet below.</p>																									
3																										
4														Development Number:												
5														Development Name:												
6														Development Address:												
7														Development County Area:												
8	Total Construction Contract Amount:																									
9	Project is Federally Funded? <input type="checkbox"/> Yes																									
10																										
11	Complete For All Contractors						Minority Business Enterprise / Women Business Enterprise (MBE/WBE) Information			Complete for Section 3																
12										*NOTE: if not federally funded this section does not apply																
13	Contractor Name & Address	Type of Business / Trade	General or Sub (G/S)	\$ Amt. Of Bid	Contract Awarded (Yes/ No)	Date of Contract If Awarded	WBE (Yes/ No)	MBE (Yes/No)	MBE Ethnic Code	Section 3 Business (Yes or No)	Section 3 Contract (Yes or No)	# of Pos. Currently Filled)	# of New Positions to be filled for this contract	# of L.I.P.A.R.												
14																										
15	Total(s) Where Applicable		Total Bid Amt:		\$0.00																					
16	<b>COMPLIANCE TOTALS:</b>		Total Awarded Bid Amt:		\$0.00		WBE Contract Award Amount: \$0.00		WBE Percentage: 0.00%																	
17							MBE Contract Award Amount: \$0.00		MBE Percentage: 0.00%																	
18																										
19																										
20																										
21	<span style="color: red; font-weight: bold;">(Click on CONTRACTOR NAME / ADDRESS to change info)</span>																									
22																										
23																										
24																										

ADD CONTRACTOR
ADD TRADE - MHFA ONLY



## Appendix D – Section 3 Applicability Chart

Recipient	If funds awarded are > \$200,000
Developer	Section 3 is triggered and the Recipient must ensure Contractors (and Subcontractors) meet Section 3 requirements.
City	
Contractor	If Contracts are > \$100,000
Contractor/Subcontractor	Section 3 is triggered and Contractors must ensure that Subcontractors are following Section 3 guidelines.
<b>NOTE:</b> Section 3 requirements do not apply to ultimate beneficiaries, therefore homebuyers and homeowners are not affected, although they should be encouraged to employ Section 3 Business Concerns.	

Recipient	If funds awarded are > \$200,000
Developer	Section 3 is triggered and the Recipient must ensure Contractors (and Subcontractors) meet Section 3 requirements.
Contractor	If Contracts are > \$100,000
Contractor/Subcontractor	Section 3 is triggered and Contractors must ensure that Subcontractors are following Section 3 guidelines.
<b>NOTE:</b> Section 3 requirements do not apply to “ultimate beneficiaries,” therefore homebuyers and homeowners are not affected, although they should be encouraged to employ Section 3 Business Concerns.	
Section 3 applies to all federal funds received. If your Project is receiving funds from multiple sources, consult your other funding sources requiring Section 3 adherence.	

**\*Capitalized terms are defined in Appendix B of the Multifamily Section 3 Compliance Guide**



## Appendix F – Section 3 Contractor/Subcontractor Compliance Plan

- A. The undersigned Contractor/Subcontractor for the \_\_\_\_\_ Project hereby agrees to implement, at a minimum, the following steps directed at increasing the utilization of Section 3 Residents and Section 3 Business Concerns in accordance with 24 CFR subpart A §135.1.
- B. To attempt to recruit Section 3 Residents from within the Service Area residents through local advertising media, signs placed at the proposed site for the Project and community organizations and public or private institutions operating within or serving the Service Area.
- C. To seek assistance, where necessary, in implementing a Section 3 compliance plan.
- D. To maintain a list of all Section 3 Residents who have made application for employment either on their own or on referral from any source, and to employ such persons if otherwise eligible and if a vacancy exists.
- E. To maintain and provide the information requested on Section 3 Summary Report (HUD 60002) (Appendix M) related to employment and training records of Section 3 Residents.
- F. To include this Section 3 compliance plan in all bid documents, and to require all bidders to submit a Section 3 compliance plan including utilization goals and the specific steps planned to accomplish those goals.
- G. In the case of a general Contractor, to ensure that all Section 3 Business Concerns within the Project area are notified of pending sub-contractual opportunities.
- H. To require all Subcontractors to complete a Contractor Compliance form (Appendix F) before awarding any Contracts.
- I. To maintain records, including copies of correspondence, memoranda, etc., which document all steps taken to recruit Section 3 Residents and Section 3 Contractors from within the Service Area.
- J. To provide the information requested on the combined Contractor Compliance Activity Report (Appendix C) related to Contractors and Subcontractors notified and selected and the number of women and minority employees, the number of vacant positions and the positions filled with lower income Section 3 Residents.

As officers and representatives of

\_\_\_\_\_  
Name of Contractor/Subcontractor

We, the undersigned, have read and fully agree to this Section 3 Compliance Plan, and become a party to the full implementation of this program.

\_\_\_\_\_  
Print Name Title Date

\_\_\_\_\_  
Signature Title Date

By: \_\_\_\_\_

Its: \_\_\_\_\_

**\*Capitalized terms are defined in Appendix B of the Multifamily Section 3 Compliance Guide**



## Appendix H – Section 3 Clause

All Section 3 covered Contracts must include the following 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 §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 obligation or other impediment that would prevent them from complying with 24 CFR §135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth a minimum number and job titles subject to hire, the 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 §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 §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 §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 §135 require employment opportunities be directed, were not filled to circumvent the Contractor's obligations under 24 CFR §135.
- F. Noncompliance with HUD's regulations in 24 CFR §135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted Contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of Contracts and Subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

I certify that the information provided in this Certification is true, correct and accurate.

---

Print Name	Title	Date
------------	-------	------

---

Signature	Title	Date
-----------	-------	------

**\*Capitalized terms are defined in Appendix B of the Multifamily Section 3 Compliance Guide**



## **Appendix K – Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability**

To certify your business as a Section 3 Business Concern, please log on to HUD’s Section 3 [website](#) and complete your self-certification. Please retain all of the documentation demonstrating that your business meets the requirements of a Section 3 Business Concern. When Minnesota Housing conducts monitoring on Section 3 requirements, the business may be asked to provide all of the necessary documentation to confirm the business’s eligibility.

**\*Capitalized terms are defined in Appendix B of the Multifamily Section 3 Compliance Guide**







## **Section 3 Income Limits**

[Section 3 Income limits form](#) can be found on the Minnesota Housing website at mnhousing.gov.

## **Appendix M – Section 3 Summary Report**

[The Section 3 Summary Report](#) can be found on the Minnesota Housing website at mnhousing.gov.