

SECTION 3 PLAN  
FOR  
THE CITY OF LONGMONT

MAY 13, 2022



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## Common Terminology & Definitions

The terminology and definitions contained within this Policy are adapted from 24 C.F.R. Part 75 in conjunction with other HUD requirements and best practices, and follow HUD guidance applicable to the “Housing and Community Development Assistance” portion of Section 3 requirements. For the purpose of the CDBG Program, the following selected terms and definitions apply in this policy:

**Applicant:** means 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, Indian housing authority, Indian tribe, 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 (CHDO), resident management corporation, resident council, or cooperative association.

**Business Concern:** means a business which is licensed under municipal law to engage in the type of business activity for which it was formed.

**Contractor:** means any entity entering into a contract with (1) a recipient to perform work in connection with the expenditure of work in connection with a Section 3 project; or (2) a Subrecipient for work in connection with a Section 3 project.

**Grantee:** means any entity that receives financial assistance or housing and community development assistance directly from HUD, that funds Section 3 projects including, but not limited to, any State, local government, instrumentality, public housing agency, or other public agency, public or private nonprofit organization.

**Greatest extent feasible:** means that more than normal efforts must be made to comply with the regulatory requirements of Section 3, meaning Subrecipients, and their contractors 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 the normal notification procedures for employment and contracting procedures by developing strategies that will specifically Target Section 3 Workers, and businesses for these types of economic opportunities.

**HUD:** means the United States Department of Housing and Urban Development.

**Housing and Community Development Assistance:** means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty. 24 C.F.R. Part 75 divides Section 3 activities into two (2) broad classes: 1) public housing financial assistance and 2) Section 3 Projects (which addresses Housing and Community Development financial assistance).

**Labor hours:** means the number of paid hours worked by persons on a Section 3 Project.

**Low-income Person:** as defined in the U.S. Housing Act of 1937, 42 U.S.C. § 1437a (b)(2), this term refers to a single person, in accordance with 42 U.S.C. § 1437a (b)(3), whose income does not exceed eighty percent (80%) of the median income for the area.

**Neighborhood area:** An identified geographic area of operation within the jurisdiction of the recipient. (1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

**New Hires:** means full-time employees for permanent, temporary, or seasonal employment opportunities. For reporting purpose, employees are considered new hires for a term of three (3) years.

**Section 3:** Refers to the Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701u. Section 3 helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low-or very-low income residents.

**Section 3 Business Concern:** Refers to a business concern meeting at least one (1) of the following criteria, documented within the last six (6)-month period: (i) It is at least fifty one percent (51%) owned and controlled by low- or very low-income persons. (ii) Over seventy-five percent (75%) of the labor hours performed for the business over the prior three (3)-month period are performed by Section 3 Workers; or (iii) It is a business at least fifty one percent (51%) owned and controlled by current residents who currently live in Section 8-assisted housing. The status of a Section 3 Business Concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

**Section 3 Clause:** means the contract provisions as required under 24 C.F.R. § 75.27. Please refer to Appendix A.

**Section 3 Covered Activity:** means any activity that is funded by Section 3 Covered Housing and Community Development Assistance.

**Section 8-assisted housing:** means housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

**Service area or the neighborhood of the project:** means an area within one (1) mile of the Section 3 project or, if fewer than 5,000 people live within one (1) mile of a Section 3 project, an area within a circle centered around the Section 3 project that is sufficient to encompass a population of 5,000 people, according to the most recent U.S. Census.

**Subcontractor:** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with a Section 3 project.

**Section 3 Business Concern Self-Certification Form:** Refers to the form used to document that a business meets the definition of a Section 3 Business.

**Section 3 Worker Self-Certification Form:** Refers to the form used to document that an individual is a Section 3 Worker or Section 3 Targeted Worker.

**Section 3 Project:** means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.

**Section 3 Worker:** means any worker who currently fits or when hired within the past five (5) years fit at least one of the following, as documented: (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD. (ii) The worker is employed by a Section 3 Business Concern. (iii) The worker is a YouthBuild participant. The status of a Section 3 Worker shall not be negatively affected by a prior arrest or conviction. Nothing herein shall be construed to require the employment of someone who meets this definition of a Section 3 Worker; however, Section 3 Workers are not exempt from meeting the qualifications of the position to be filled.

**Targeted Section 3 Worker:** For Housing and Community Development financial assistance, a Targeted Section 3 Worker is defined as: (i) A worker employed by a Section 3 Business Concern; or (ii) A worker who currently fits or when hired fit at least one (1) of the following, as documented within the past five (5) years: a. Living within the Service Area or the Neighborhood of the Project, as defined herein; or b. A YouthBuild participant.

**Very Low-income Person:** as defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. §1437a(b)(2)), this term means a single person whose income does not exceed fifty percent (50%) of the median for the area. As per 83 FR 5844, for the purposes of CDBG-DR funding, HUD authorizes grantees to determine that an individual is eligible to be considered a Section 3 Worker if the annual wages or salary of the person are at, or under, the HUD-established income limit for a one-person family for the jurisdiction.

**YouthBuild Program:** means programs that receive assistance through the U.S. Department of Labor under the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. § 3226, and that provide at-risk youth with training and educational opportunities in construction and other industries.

## 1. General Policy Statement

It is the policy of the City of Longmont to require its contractors 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 Longmont implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for qualified low- and very low-income persons residents of Longmont:

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of Longmont residents and other eligible persons and business by the City of Longmont contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The City of Longmont shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to Longmont residents prior to acting on any proposed contract award.

## 2. Section 3 Requirements

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

## 3. Applicability

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include housing and community development financial assistance for single or multiple recipients, HOME, Housing Trust Funds or any other federal funds.

Section 3 requirements do not apply to: 1) Material Supply Contracts – 75.3(b), 2) Indian and Tribal Preferences – 75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 – 75.3(d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

## 4. Section 3 Coordinator

The City of Longmont's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the City and its subrecipients, contractors and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to the City of Longmont's Section 3 Coordinator with questions regarding Section 3 compliance.

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## 5. Section 3 Employment, Contracting & Training Goals

### A. Safe Harbor Compliance

The City of Longmont will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of efforts for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below. After completion of the project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

### B. Safe Harbor Benchmarks

The City of Longmont has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined in (24 CFR Part 75.19 for housing and community development financial assistance). The safe harbor benchmark goals are as follows:

1. Twenty-five (25) percent or more of the total number of labor hours worked by all workers on the Section 3 project are Section 3 workers;

$$\text{Section 3 Labor Hours/Total labor Hours} = 25\%$$

AND

2. Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21

$$\text{Targeted Section 3 Labor hours/Total Labor Hours} = 5\%$$

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, the City of Longmont will review and update the Section 3 Plan every year, as needed.

It is the responsibility of the contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the

benchmarks were not feasible. All contractors submitting bids or proposals to the City of Longmont are required to certify that they will comply with the requirements of Section 3.

## 6. Certification of prioritization of effort for employment, training, and Contracting

### A. Employment and Training

Under the City of Longmont's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

Provide employment and training opportunities to Section 3 workers within the metropolitan area (or Nonmetropolitan County) in which the project is located in the priority order listed below:

1. Section 3 workers residing within the service area of the neighborhood of the project, and
2. Participants in YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

### B. Contracting

Under the City of Longmont's Section 3 Program, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order of priority:

1. Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which assistance is located in the following order of priority (where feasible):
  - a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project: and
  - b) YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

## 7. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from the City of Longmont or its contractors/subcontractors for training, employment, or contracting opportunities generated by Housing and Community Development financial assistance). To qualify as a Section 3 worker, Targeted Section 3 worker or a Section 3 business concern, each must self-certify that they meet the applicable criteria. (Appendix A)

### A. Section 3 Workers and targeted Section 3 Worker certification.

A Section 3 Worker seeking certification shall submit self-certification documentation to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Target Section 3 Worker as defined in 24 CFR Part 75. For the purposes of Section 3 Worker eligibility, the City of Longmont will use



individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at;

<https://www.huduser.org/portal/datasets/il.html>

Persons seeking the Section 3 Worker preference shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) Employed by a Section 3 business concern; or
- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years;
  - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5:  
or
  - b) YouthBuild participant.

Section 3 Workers and Targeted Section 3 Workers who are seeking preference in training and employment must submit the Section 3 Worker and Targeted Section 3 Worker Certification form (Appendix B)

#### B. Section 3 Business Concern Certification

The City of Longmont, may encourage contractors and subcontractors to make best efforts to award contract and subcontracts to Section 3 Business concerns.

Businesses that believe they meet the Section 3 Business requirements may self-register in the HUD Business registry, at <http://www.hud.gov/Sec3Biz> . Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- 1) At least 51 percent of the business is owned and controlled by ow- or very low-income persons;  
or
- 2) At least 51 percent of the business is owned and controlled by residents who currently live in Section 8-assisted housing; or
- 3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to the City of Longmont, contractors or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification Form. (Appendix A)

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If the City of Longmont previously approved the business concern to be a Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 12 months. Establishing a 12 month certification of eligibility period allows the City of Longmont the ability to assess contractor performance to ensure the business is striving to meet the require goals.

## 8. Assisting Contractors with Achieving Section 3 Goals.

In an effort to assist contractors with meeting or exceeding the Section 3 goals, the City of Longmont will do the following:

- 1) Share Section 3 Plan with contractors and subcontractors and explain policies and procedures
- 2) Require contractors wishing to submit a bid/offer/proposal to attend pre-bid meeting
- 3) Require contractor to sign the Section 3 Plan at pre-construction conference.
- 4) Review Section 3 benchmarks and prioritization of effort with contractors and subcontractors to ensure that the goals are understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 workers and Targeted Section 3 workers (per the prioritization of effort outlined in Section #3) before any other person, when hiring additional employees is needed to complete proposed work to be performed with CDBG/HOME funds.
- 5) At the time of bid, require the contractor to present a list, of the number of total labor hours, Section 3 Worker labor hours, and Targeted Section 3 Worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, to include job descriptions and wage rates.
- 6) Inform contractors about the HUD Section 3 Opportunity Portal <https://hudapps.hud.gov/OpportunityPortal/>
- 7) Require contractors to notify Section 3 Coordinator of their interests regarding employment of Section 3 workers prior to hiring.
- 8) Encourage local business to register on the HUD Business Registry and direct contractors to the HUD Section 3 Business Registry <https://www.hud.gov/section3businessregistry>
- 9) Require contractors to submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award

## 9. Section 3 Outreach

### A. Outreach Efforts for Employment and Training

When training opportunities are available, contractors and subcontractors may, to the greatest extent feasible:

- 1) Notify the Section 3 Coordinator when training opportunities are available
- 2) Provide information/handouts about Section 3 training opportunities to potential Section 3 Workers and Targeted Section 3 Workers.

### B. Outreach Efforts for Contracting

When contracting opportunities arise in connection with the CDBG/HOME programs, the City of Longmont will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

- 1) Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
- 2) Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming

contracting opportunities. The Section 3 Coordinator will participate in these meetings to explain and answer questions related to Section 3 policy.

3) Providing written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.

4) Coordinating with the prime contractor to publicize contracting opportunities for small businesses.