

**AMENDMENT NO. 1
CBE NO. 606019-21
CFDA # 14.239**

2021 AGREEMENT TO USE HOME INVESTMENT PARTNERSHIP PROGRAM ("HOME")

THIS AMENDMENT is made and entered into this ____ day of _____ 2022, by and between CLARK COUNTY, NEVADA (hereinafter referred to as "COUNTY"), and STATE OF NEVADA, HOUSING DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY (hereinafter referred to as "NHD").

WITNESSETH:

WHEREAS, the parties entered into an agreement under CBE Number 606019-21/CFDA # 14.239, entitled "2021 Agreement to Use Home Investment Partnership Program" dated December 7, 2021 (hereinafter referred to as AGREEMENT); and

WHEREAS, the parties desire to amend the AGREEMENT.

NOW, THEREFORE, the parties agree to amend the AGREEMENT as follows:

1. SECTION III, PARAGRAPH A, SUBPARAGRAPH 7

ORIGINALLY WRITTEN:

Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR Part 135.

REVISED TO READ:

Section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations of HUD with respect thereto, including 24 CFR Part 75. All published Section 3 policies, guidelines, and forms by NHD will be utilized and followed.

This Amendment No. 1 represents a no cost change.

This Amendment is entered into under and pursuant to the laws of the State of Nevada, and shall be interpreted and enforceable in accordance therewith.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby, this ____ day of _____, 2022.

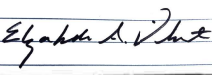
BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

COUNTY OF CLARK:

BY: _____
JAMES B. GIBSON, CHAIR
Clark County Commissioners

ATTEST:
BY: _____
LYNN MARIE GOYA
County Clerk

APPROVED AS TO FORM:
Steven Wolfson, District Attorney

BY: 
ELIZABETH A. VIBERT
Deputy District Attorney

On this ____ day of _____, 2022, before me, a Notary Public, personally appeared, James B. Gibson, who did say that she is the Chair of the Board of Clark County Commissioners named in the foregoing instrument and acknowledged that she executed the same.

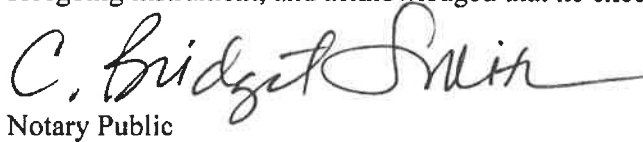
Notary Public

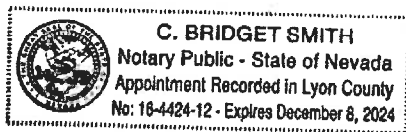
For: NEVADA HOUSING DIVISION


Steve Aichroth, Administrator

State of Nevada)
) ss
Carson City)

On this 15th day of April, 2022, before me, a Notary Public, personally appeared Steve Aichroth, who did say that he is the Administrator of the Nevada Housing Division, named in the foregoing instrument, and acknowledged that he executed the same.


Notary Public



Section 3 Guidelines

1. Overview

The Section 3 program requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968. The regulations pertaining to Section 3 were originally found under the Section 3 interim rule 24 CFR Part 135, but on September 29, 2020 HUD published a new final rule which can be found at 24 CFR Part 75. This information was published under HUD Notice CPD-21-07, which can be found on the HUD website. Links to this notice are included in the reference section of this manual.

Section 3 contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive government assistance for housing. Section 3 applies to training or employment arising in connection with HUD-funded housing rehabilitation, housing construction, or other public construction projects, and any contracting opportunities arising in connection with both public housing and other Section 3 projects. As Section 3 applies to any federal aid, recipients of HOME, HTF, ESG, and NSP funds should be aware of Section 3 guidelines and how it applies to projects funded by these grants.

2. Section 3 Threshold and Benchmarks

For a project to be defined as a Section 3 project, it must meet the funding threshold of exceeding \$200,000 or more committed in federal funds, or \$100,000 when the assistance is from HUD's Lead Hazard Control and Healthy Homes Program. These thresholds can be from any combination of federal funds, as long as the total amount of federal funding committed to a single project exceeds the threshold. Projects that receive funding from other non-federal sources such as state grants like AAHTF do not count those amounts towards calculating the threshold. Note that the total amount of funding given to a subgrantee does not count towards determining Section 3 applicability, the total amount given to a specific project from that funding is where the threshold is calculated.

An example is if a subgrantee is awarded \$500,000 in HOME funds. Of the \$500,000, the subgrantee funds five separate projects with \$100,000 committed to each. These projects would not trigger Section 3 requirements, unless any of them had additional federal funds committed (such as HTF) which would meet the threshold of exceeding \$200,000.

When a project is considered a Section 3 project, it is subject to the following benchmarks:

- A. Twenty-five percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Section 3 workers.
- B. Five percent or more of the total number of labor hours worked by all workers on a Section 3 project must be done by Targeted Section 3 workers.

In addition, Section 3 projects must certify they are making efforts to prioritize contracting with Section 3 business concerns and are responsible for certifying that businesses meet the definition of a Section 3 business concern. The inclusion of Section 3 business concerns is a new definition introduced in the HUD Notice CPD-21-07.

3. Definitions

The new HUD Notice CPD-21-07 creates new definitions for Section 3 worker, Targeted Section 3 Worker, and Section 3 business concern. They are listed below.

A Section 3 worker is a worker who currently fits or, when hired within the past five years, fits at least one of the following categories:

- A. Is a low- or very low-income person that met HUD income limits for the previous or annualized calendar year.
- B. Is employed by a Section 3 business concern.
- C. Is a YouthBuild participant. YouthBuild is a community-based pre-apprenticeship program administered by the U.S. Department of Labor that provides job training and education opportunities for at-risk youth ages 16-24 who have previously dropped out the high school.

A Targeted Section 3 worker is a worker who meets the definition of a Section 3 worker, plus one of the following:

- A. A worker employed by a Section 3 business concern.
- B. A worker who currently fits or, when hired, fit at least one of the following categories, as documented within the past five years:
 - a. Living within the service area (defined below) or the neighborhood of the project.
 - b. A YouthBuild participant.

The service area or the neighborhood of the project is defined as “an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Finally, a Section 3 business concern is defined as a business that meets at least one of the following criteria, documented within the last six-month period:

- A. At least fifty-one percent is owned and controlled by low- or very low-income persons.
- B. Over seventy-five percent of the labor hours performed for the business over the previous 3-month period is performed by Section 3 workers.
- C. It is at least fifty-one percent is owned or controlled by current residents of public housing or Section 8-assisted housing.

4. Agreements, Qualitative Efforts, and Reporting

When a subgrantee agrees to receive funds from HUD through NHD, any project which qualifies as Section 3 will require the subgrantee to report on the above listed benchmarks. As such, subgrantees applying for HUD funding should be aware of all Section 3 requirements and take them into account when applying for funding and implementing a project. Agreements signed with NHD will have Section 3 language and requirements in them; subgrantees should read these sections carefully.

In addition, a series of forms are included in agreements which are used to report Section 3 benchmarks. Subgrantees should use these forms to better track and report Section 3 benchmarks to NHD. As part of draw requests to NHD, subgrantees should at a minimum include Exhibit 1 in their draw report to show they are utilizing Section 3 workers as required. If the subgrantee cannot demonstrate usage of Section 3 workers to meet benchmarks, then Exhibit 3 should be included in the draw request to show qualitative efforts are occurring to meet benchmarks. Definitions of what are qualitative efforts are listed below. Beyond Exhibits 1 and 3, Exhibit 2 should be included in reporting to NHD for the purposes to showing engagement with Section 3 businesses. Subgrantees should also make use of Exhibits 4, 5, and 6 to track

their efforts in meeting Section 3 compliance by project close. This information should be readily available to NHD and to HUD in the case of a monitoring visit. Failure to retain and produce Section 3 documentation when requested is a violation of federal regulations, and could result in sanctions imposed by NHD and HUD.

On an annual basis, Section 3 benchmarks are reported to HUD through IDIS. This reporting is part of the Consolidated Annual Performance and Evaluation Report (CAPER) report. NHD is required to enter Section 3 data before a HOME or HTF rehabilitation or new construction project from a subgrantee can be marked complete in IDIS. Previously, Section 3 data was reported annually through the Section 3 Performance Evaluation and Reporting System (SPEARS), but the new final rule decommissions this reporting system and makes all reporting required in IDIS effective July 1, 2021.

Grantees are required to report to NHD their Section 3 data and the benchmarks listed in the previous section are met. However, if a grantee *does not* meet the benchmarks but can provide evidence it has made qualitative efforts to meet them, then the grantee will be considered compliant.

The final rule at 24 CFR 75.25 provides a list of qualitative efforts that demonstrate what HUD considers acceptable to comply. When reporting Section 3 compliance in IDIS, when a grantee indicates that benchmarks are not met, then IDIS will display a checklist of acceptable activities. A grantee must select at least one of the options that best describe the qualitative efforts taken to meet benchmarks.

The checklist displayed in IDIS for qualitative efforts includes the following options:

- A. Outreach efforts to generate job applicants who are Public Housing Targeted Workers.
- B. Outreach efforts to generation job applicants who are Other Funding Targets Workers.
- C. Direct, on-the-job training (including apprenticeships).
- D. Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.
- E. Technical training such as arranging for, contracting for, or paying tuition for, off-site training.
- F. Outreach efforts to identify and secure bids from Section 3 business concerns.
- G. Technical assistance to help Section 3 business concerns.
- H. Technical assistance to help Section 3 business concerns understand and bid on contracts.
- I. Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- J. Provided or connected residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- K. Held one or more job fairs.
- L. Provided or connected residents with supporting services that can provide direct services or referrals.
- M. Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fee, transportation.
- N. Assisted residents with finding childcare.
- O. Assisted residents to apply for/or attend community college or a four-year educational institution.
- P. Assisted residents to apply for or attend vocational/technical training.
- Q. Assisted residents to obtain financial literacy training and/or coaching.
- R. Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- S. Provided or connected residents with training on computer use and online technologies.
- T. Other. Specify.

If Other is selected by the grantee, IDIS provides a text box to enter a description of what efforts were taken that was not included in the list of qualitative efforts provided. Examples of qualitative efforts not included in the checklist are:

- A. Providing technical assistant to help Section 3 workers compete for jobs (e.g., resume assistance, coaching, etc.).
- B. Promoting the use of a business registry designed to create opportunities for disadvantaged and small businesses.
- C. Outreach, engagement, or referrals with the state one-stop system, as designed in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

Grantees must keep documentation of these qualitative efforts for review in the case of a HUD monitoring visit on a project-level basis. All documentation must be maintained for five years following project completion. Examples of documentation might include:

- A. Copies of direct mail solicitations.
- B. Email and internet outreach efforts.
- C. Formal advertisements.
- D. Flyers or brochures about meetings.
- E. Sign-in lists from job fairs and other public meetings.
- F. Agenda and/or meeting notes from meetings with contractors.

Exhibit 1: Section 3 Worker Hours Reporting

Subgrantee Name: _____ Project Name: _____

Subgrantee Address: _____

Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers, and (b) 5% of total labor hours worked by Targeted Section 3 workers.

Reporting Period (Begin): _____ Reporting Period (End): _____

[illegible]

Signature: _____ **Date Signed:** _____

Title: _____ **Telephone No.:** _____

Exhibit 2: Section 3 Business Concern Certification Form

Business: _____

Project Title: _____

The undersigned, as a duly authorized representative of the business entity identified above and on the signatory line below, hereby certifies that such business entity qualifies as a Section 3 Business Concern as defined under 24 CFR 75 based upon the following:

- ☐ At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
- ☐ At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- ☐ Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers
- ☐ I have certified my business on HUD's business registry at:
<https://hudapps.hud.gov/OpportunityPortal/>

I affirm that the above statements are true, complete and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to Clark County may have contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Name of Firm: _____

Business Address: _____

Email Address: _____

Signature: _____ Date Signed: _____

Title: _____ Telephone No.: _____

FOR ADMINISTRATIVE USE ONLY

Is the business a Section 3 business concern based upon their certification? Yes/No: _____

Certifying Agency: _____

Certification Date: _____

Employers must retain this form in their Section 3 compliance folder for 5-years

Exhibit 3: Qualitative Efforts Taken by Subgrantee

In the absence of meeting HUD's Section 3 benchmarks, the Contractor will be required to report on all efforts and provide an explanation why such efforts were not feasible. The following are examples of qualitative efforts that the above identified contractor intends to employ while attempting to meet the HUD Section 3 compliance benchmarks. Please check all that apply and describe any "other" efforts you intend to employ:

- ☐ Outreach efforts to generate job applicants who are Other Funding Targeted Workers.
- ☐ Direct, on-the job training (including apprenticeships).
- ☐ Indirect training such as arranging for, contracting for, or paying tuition for off-site training.
- ☐ Technical training such as arranging for, contracting for, or paying tuition for off-site training.
- ☐ Outreach efforts to identify and secure bids from Section 3 business concerns.
- ☐ Technical assistance to help Section 3 business concerns understand and bid on contracts.
- ☐ Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- ☐ Provide or connect residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- ☐ Hold one or more job fairs.
- ☐ Provide or connect residents with supportive services that can provide direct services or referrals.
- ☐ Provide or connect residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- ☐ Assist residents with finding childcare.
- ☐ Assist residents to apply for/or attend community college or a four-year educational institution.
- ☐ Assist residents to apply for or attend vocational/technical training.
- ☐ Assist residents to obtain financial literacy training and/or coaching.
- ☐ Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- ☐ Provide or connect residents with training on computer use or online technologies.
- ☐ Other. Specify:

Signature: _____ Date Signed: _____

Title: _____ Telephone No.: _____

Exhibit 4: Section 3 Worker (Self-Certification)

The purpose of HUD's Section 3 program is to provide employment, training, and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. **Your response is voluntary, confidential, and has no effect on your employment.**

A Section 3 worker seeking certification shall self-certify they are a Section 3 worker or "Targeted" Section 3 worker as defined in 24 CFR Part 75.

Instructions: Complete this form to confirm your Section 3 or "Targeted" Section 3 worker status and submit to the recipient contractor or subcontractor.

Project: _____

Current Employer: _____ **Section 3: Yes** ____ **No** ____

I certify that I qualify as a **Section 3 Worker** based on the following:

- | | |
|--|--------------------|
| 1. Low or very low-income resident (see table below) | Yes _____ No _____ |
| 2. Employed by a Section 3 business concern | Yes _____ No _____ |
| 3. A YouthBuild participant | Yes _____ No _____ |

For the qualifying year _____, my annual gross income was \$ _____

Worker's Income must be at or below the Guidelines Listed below at:

<https://www.huduser.gov/portal/datasets/il.html#2021>

I certify that I qualify as a **"Targeted" Section 3 Worker** based on the following criteria:

☐ Employed by a Section 3 Business Concern, or

Currently meets, or when hired met, at least one of the following categories as documented within the past 5-years:

☐ Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5 (See "Service Area" Definition Below)

☐ A YouthBuild participant

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

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief.
I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Signature: _____ Date Signed: _____

Employee Name: _____ Date Hired: _____

Address of Residence: _____

PRINT ALL INFORMATION (Street No.) (Street)

(County) (State) (Zip)

FOR ADMINISTRATIVE USE ONLY

Is the employee a Section 3 worker based on their self-certification?

☐ Yes

☐ No

Is the employee a Targeted Section 3 worker based on their self-certification?

☐ Yes

☐ No

Was this an applicant who was hired as a result of the Section 3 project?

☐ Yes

☐ No

If Yes, what is the name of the company? _____

What is the date of hire? _____

Certified By _____:

Certification Date: _____

Employers must retain this form in their Section 3 compliance folder for 5-years

Exhibit 5: Section 3 Qualitative Efforts Undertaken at End of Project

If at the end of the project, reporting indicates the Section 3 benchmarks have not been met, the subgrantee must report on activities pursued in the absence of not meeting Section 3 benchmarks. In the absence of not meeting Section 3 benchmarks, the subgrantee made efforts (check all that apply) and provided an explanation in the space below documenting why such efforts were not feasible:

- ☐ Outreach efforts to generate job applicants who are Other Funding Targeted Workers.
- ☐ Direct, on-the job training (including apprenticeships).
- ☐ Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.
- ☐ Technical training such as arranging for, contracting for, or paying tuition for, off-site training.
- ☐ Outreach efforts to identify and secure bids from Section 3 business concerns.
- ☐ Technical assistance to help Section 3 business concerns understand and bid on contracts.
- ☐ Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- ☐ Provided or connected residents with assistance in seeking employment, including drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- ☐ Held one or more job fairs.
- ☐ Provided or connected residents with supportive services that can provide direct services or referrals.
- ☐ Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- ☐ Assisted residents with finding childcare.
- ☐ Assisted residents to apply for/or attend community college or a four-year educational institution.
- ☐ Assisted residents to apply for or attend vocational/technical training.
- ☐ Assisted residents to obtain financial literacy training and/or coaching.
- ☐ Bonding assistance, guaranties, or other efforts to support bids from Section 3 business concerns.
- ☐ Provided or connected residents with training on computer use or online technologies.
- ☐ Other. Specify:

Provide explanation that, despite the above qualitative efforts, it was not feasible to meet the Section 3 benchmarks (24CFR75.25b):

Name of Firm: _____

Business Address: _____

Signature: _____ Date Signed: _____

Title: _____ Telephone No.: _____

Exhibit 6: Section 3 Hours at Project Close

Subrecipient Name: _____ Project Name: _____

Subrecipient Address: _____

Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers, and (b) 5% of total labor hours worked by Targeted Section 3 workers.

Project Start Date: _____ Project Close: _____

[illegible]

Signature: _____ **Date Signed:** _____

Title: _____ Telephone No.: _____