



THE APPLICABILITY OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 TO NEIGHBORHOOD STABILIZATION PROGRAM FUNDING

Neighborhood Stabilization Program Fundingⁱ

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties.

NSP 1, a term that references the NSP funds authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008, provides grants to all states and selected local governments on a formula basis. **NSP 2**, refers to NSP funds authorized under the American Recovery and Reinvestment Act (the Recovery Act) of 2009, and provides grants to states, local governments, nonprofits and a consortium of nonprofit entities on a competitive basis. The Recovery Act also authorized HUD to establish **NSP-TA**, a \$50 million allocation made available to national and local technical assistance providers to support NSP grantees.

NSP is a component of the Community Development Block Grant (CDBG) program. The CDBG regulatory structure is the platform used to implement NSP and the HOME program provides a safe harbor for NSP affordability requirements. NSP funds are to be used for activities that include, but are not limited to:

- Establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchasing and rehabilitating homes and residential properties abandoned or foreclosed;
- Establishing land banks for foreclosed homes;
- Demolishing blighted structures; and
- Redeveloping demolished or vacant properties

NSP grantees can use their discretion to develop their own programs and funding priorities. However, at least 25 percent of their NSP funds shall be appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income.

Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the **normal expenditure** of certain HUD funds typically results in new jobs, contracts, and other economic opportunities; and when these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (**regardless of race and gender**), and the businesses that substantially employ them, shall receive priority consideration.

Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

Section 3 Applicability to NSP Funds

A grantee's combined investment in excess of **\$200,000** of NSP funding into projects arising in connection with **housing construction, demolition, rehabilitation, or other public construction** makes the requirements of Section 3 applicable to all individual properties that receive services with these funds –regardless of the actual amount that is spent on each individual unit/property.

Accordingly, the grantee shall ensure compliance with the statutory and regulatory requirements of Section 3 in its own operations, and those of covered contractors. These responsibilities include:

- 1) Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- 2) Complying with the specific responsibilities at 24 CFR Part 135.32; and
- 3) Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

If covered contractors receive awards that exceed **\$100,000** for the construction and rehabilitation activities listed above, responsibility for Section 3 compliance is shared with that firm (with the exception of the submission of the Section 3 Annual report (Form HUD 60002), which must be submitted by the direct recipient of covered funds).

If **no contractor receives an award exceeding \$100,000**, responsibility for complying with the requirements of Section 3 stays with the grantee. Specifically, the grantee shall be responsible for awarding 10 percent of the total dollar amount of all covered contracts to Section 3 business concerns. Each recipient shall fulfill the responsibilities described below to meet the requirements of Section 3.

Recipient Responsibilities Pursuant to Section 3 [24 CFR Part 135.32]

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities that are created during the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residentsⁱⁱ and business concernsⁱⁱⁱ about training and employment opportunities generated by Section 3 covered assistance;
2. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
3. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
4. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
6. Assisting and actively cooperating with the Department in obtaining the compliance of contractors and subcontractors;
7. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
8. Documenting actions taken to comply with Section 3; and
9. Submitting Section 3 annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

Section 3 Compliance and NSP Funding

As with all other covered programs, the Department makes determinations regarding Section 3 compliance based upon the following:

1. Meeting the minimum numerical goals set forth at 24 CFR Part 135.30
 - a. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
 - b. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns.
2. Recipients that fail to meet the numerical goals above **bear the burden of demonstrating why it was not possible.**
 - * Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will allow the Department to make a determination regarding compliance.

Section 3 Reporting Requirements

Each direct recipient of NSP funding is required to submit Section 3 summary data to the Economic Opportunity Division annually using form HUD-60002. This form can be submitted online at: www.hud.gov/section3.

Since NSP funding requires the submission of quarterly performance reports, grantees shall submit form HUD-60002 at the same time that the 4th quarter NSP report is submitted. The 60002 should reflect the cumulative employment, contracting, and training opportunities that were generated throughout the entire year.

Section 3 Guidance and Technical Assistance

The Economic Opportunity Division in HUD Headquarters is committed to providing guidance and technical assistance to ensure compliance with the statutory and regulatory requirements of Section 3. For additional information, please refer to the following:

- www.hud.gov/section3
- Section 3 Statute—12 U.S.C. 1701u
- Section 3 regulations—24 CFR Part 135
- www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/
- U.S. Department of Housing and Urban Development
Economic Opportunity Division
451 Seventh Street, SW Room 5235
Washington, DC 20410
202-708-3633 (this is not a toll free number)
- Email questions or comments to: section3@hud.gov

ⁱ Source: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

ⁱⁱ Section 3 residents are defined as: 1) residents of public housing; or 2) individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and meet the definition of a low- or very low-income person as defined by HUD).

ⁱⁱⁱ Section 3 business concerns are defined as one of the following: 1) businesses that are 51 percent or more owned by Section 3 residents; 2) businesses whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 residents or were Section 3 residents within 3 years of the date of first employment with the business concern; or 3) businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the two previous categories.