

## **Section 3 Frequently Asked Questions**

### ***WHAT IS A SECTION 3 BUSINESS CONCERN?***

A Section 3 Business Concern is a business concern, as defined in this section—

1. That is fifty-one percent (51%) or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least thirty percent (30%) of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in items (1) or (2) above.

**Note:** A business concern seeking to qualify for Section 3 shall certify and submit evidence that the business meets one of the guidelines stated above. (Refer to Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability Form – Exhibit 1)

### ***WHO IS A SECTION 3 RESIDENT?***

For purposes of the RHA, a Section 3 resident is:

1. A public housing resident;
2. An individual who lives in the area where a HUD assisted project is located and whose income falls within the guidelines for low- or very low income.

### ***WHO DO I CONTACT REGARDING SECTION 3 REQUIREMENTS?***

Section 3 Coordinator, Procurement Dept.  
675 West Main St., Rochester, NY 14611  
585-697-3602, fax 585-697-6191  
[section3@rochesterhousing.org](mailto:section3@rochesterhousing.org)

### ***WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS CONCERN?***

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

A qualified business concern must meet, as all businesses must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause of the RHA contract - form HUD 5370 or 5370ez for Construction Contracts and 5370c1 for Non-Construction Contracts) .

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

### ***ORDER OF PROVIDING PREFERENCE EMPLOYMENT OF SECTION 3 RESIDENT***

When considering the employment of a Section 3 resident, the following order of priority is followed as outlined in 24 CFR 135.32:

1. **Category 1 – Section 3 Resident**  
Residents of the housing development or developments in which the contract shall be expended.
2. **Category 2 – Section 3 Resident**  
Residents of other housing developments managed by the RHA.
3. **Category 3 – Section 3 Resident**  
Participants in HUD Youthbuild program being carried out.
4. **Category 4 – Section 3 Resident**  
All other residents (including Section 8 recipients) of the City of Rochester, NY who meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).

In all cases, applicants must meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimums.



Section 3 Coordinator  
675 West Main St.  
Rochester, New York 14611  
Phone 585-697-3602  
Fax 585-697-6191

## SECTION 3 BUSINESS CONCERN CERTIFICATION APPLICATION

December 2013

Dear Business Owner:

This is your invitation to become certified as a Section 3 Business Concern. As part of our effort to promote contract, employment and training opportunities for all business in Rochester Region in compliance with federal Section 3 regulations, the Rochester Housing Authority (RHA) has created a simplified Section 3 certification application process. RHA is seeking to extend the benefits of and to promote compliance with Section 3 by (1) identifying Section 3 Business Concerns; (2) targeting Section 3 Business Concerns for RHA business opportunity events and education programs.

All applicants seeking this recognition must complete and submit the enclosed Section 3 Application Business Concern Application form. If your company is qualified because it is owned by one or more Section 3 residents, then complete form S3-A, "*Section 3 Business Concern – Resident Business Owner(s)*". If your company is qualified because 30% or more of its full-time permanent workforce are Section 3 Residents as defined in the application, then complete form S3-B, "*Section 3 Business Concern – 30%+ Workforce*". YOU NEED ONLY SUBMIT THE BUSINESS CONCERN APPLICATION (to include supporting documentation if required) WITH EITHER FORM S3-A OR S3-B TO BE ELIGIBLE FOR SECTION 3 CERTIFICATION.

Please answer all questions and sign the forms. Please then forward the forms via mail to:

Section 3 Coordinator  
Rochester Housing Authority  
495 Upper Falls Blvd.  
Rochester, New York 14605

If you have any questions or concerns, please feel free to contact RHA's Section 3 Coordinator at 585-697-3602.



## **ROCHESTER HOUSING AUTHORITY SECTION 3 BUSINESS CONCERN APPLICATION**

It is the purpose of the Rochester Housing Authority (RHA) to provide safe, sanitary, accessible, decent, and affordable housing to the Rochester, NY community. A vital role of RHA in providing affordable housing is to provide and promote economic opportunities to the RHA residents and other low and very-low income residents of the Rochester community.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (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 individuals, especially recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very-low income individuals. (Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended 12 U.S.C. 1701u).

Section 3 requirements apply to RHA and our contractors and subcontractors performing work in connection with projects and activities funded by public housing assistance covered by Section 3, regardless of the amount of the contract or subcontract. Section 3 covered contracts do not include contracts for the purchase of supplies and materials unless the contract includes the installation of the materials.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern qualifies as a Section 3-business concern. A Section 3 business must also be able to demonstrate its ability to complete the contract. The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36, 24 CFR 85.36b(8).

For Contractors that enter into contracts with the RHA, but do not qualify as Section 3 business concern, must agree to comply with certain general conditions of the RHA Section 3 Policy and 24 CFR part 135 (refer to Section 3 Clause). All contractors and subcontractors, including Section 3 businesses, must comply with these general conditions. Included in these conditions is the requirement that each contractor and subcontractor submit with each pay request a report of Section 3 compliance (refer to Section 3 Compliance Report). Failure to comply with these general conditions may lead to sanctions which can include termination of the contract for default and suspension or debarment from future HUD-assisted contracts (refer to Sanctions for Contractor's Noncompliance).

Please direct any questions you may have regarding the RHA Section 3 Program and any Business concerns seeking to file for Section 3 preference shall contact:

Section 3 Coordinator  
675 West Main St., Rochester, NY 14611  
585-697-3602 fax 585-697-6191  
[section3@rochesterhousing.org](mailto:section3@rochesterhousing.org)



### Evidence of Section 3 Business Concern Certification

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

### Section 3 Business Certification Process

The RHA has its own program of self certification for business concerns seeking recognition as a Section 3 Business concern as defined in the Section 3 Program.

The RHA Resident Services department is charged with administering the Authority's Section 3 certification program. Any business concern seeking Section 3 preferences in the awarding of contracts or purchase agreements shall complete appropriate certification forms for preference under the Section 3 program.

A business concern may apply for certification as a Section 3 business concern either prior to bidding or at the time of submission of bids for the RHA. However, Section 3 preference cannot be given until Section 3 status is verified. **Any business concern that submits certification for preference after receipt of bid will not be considered eligible for Section 3 preference in the evaluation of the specific bid award.** Businesses seeking Section 3 preferences must attach an RHA Section 3 Certification Form and required attachments to their bid submission, otherwise, the bid will not receive the Section 3 preference.

**NOTE:** Before a bid is awarded and if requested a Section 3 business shall submit sufficient evidence to the satisfaction of the RHA the contract that the Section 3 business is responsive and has the ability to perform successfully under the terms and conditions of the contract.

### Certification Procedure Overview

- ☐ Contact RHA and request Section 3 Certification Packet
- ☐ Complete certification form and supply required documentation to RHA – (see form)
- ☐ Work with RHA in verifying Section 3 eligibility
- ☐ Receive certificate of Section 3 business status from RHA within thirty (30) days of receipt of eligibility verifications
- ☐ Submit certificate of Section 3 business status with bid packet
- ☐ Cooperate with RHA in meeting compliance requirements
- ☐ Notify RHA of any changes that could affect future certifications
- ☐ Certification will be reviewed on an annual basis



**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3  
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Type of Business: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

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

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

**For Business entity as applicable:**

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

**For Business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:**

- ☐ List of subcontracted Section 3 business(es) and subcontract amount
- ☐ Sign affidavit committing to contract 25% of the total dollar amount awarded to a qualified Section 3 business

Information regarding bid prices or subcontract amounts shall only be submitted in the bid package. Contractors requesting a Section 3 preference prior to bid opening must exclude all job specific pricing information in the Section 3 Certification Request. Contractors that fail to meet this requirement may be determined to be non-responsive and their bid may be rejected.

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

- |   |   |
|---|---|
| <input type="checkbox"/> List of all current full-time employees                        | <input type="checkbox"/> List of employees claiming Section 3 status                                  |
| <input type="checkbox"/> PHA Residential lease less than 3 years from day of employment | <input type="checkbox"/> Other evidence of Section 3 status less than 3 years from date of employment |

**For all Businesses - Evidence of ability to perform successfully under the terms and conditions of the proposed contract:**

- |  |  |
|--|--|
| <input type="checkbox"/> Current financial statement   | <input type="checkbox"/> Statement of ability to comply with public policy |
| <input type="checkbox"/> List of owned equipment   | <input type="checkbox"/> Copy of the RHA Vendor/Contractor Application     |
| <input type="checkbox"/> List of all contracts awarded under the alternative procurement method as stated in 24 CFR Part 963 |  |

Company Signature

Notary Public

\_\_\_\_\_  
Authorizing Name

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

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

\_\_\_\_\_  
My commission expires on



### SECTION 3 BUSINESS CONCERN FORM A Resident Business Owner(s)

Name of Owner: \_\_\_\_\_

Home Address: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Percentage of Ownership: \_\_\_\_\_%

Check the appropriate box for your family size and income:

Check Box	# of Persons in Household	Gross Household Income Max.	
		Very Low (50%)	Low (80%)
<input type="checkbox"/>	1 Person	\$23,350	\$37,250
<input type="checkbox"/>	2 Persons	\$26,650	\$42,650
<input type="checkbox"/>	3 Persons	\$30,000	\$48,000
<input type="checkbox"/>	4 Persons	\$33,300	\$53,300
<input type="checkbox"/>	5 Persons	\$36,000	\$57,600
<input type="checkbox"/>	6 Persons	\$38,650	\$61,850
<input type="checkbox"/>	7 Persons	\$41,300	\$66,100
<input type="checkbox"/>	8 Persons	\$44,000	\$70,400

Source: Rochester, NY MSA as of FY2013 per HUD website

I certify that I am a resident of Monroe County. My Total Household Income last year was less than the amount shown above for my family size.

*If the business is owned by more than one Section 3 resident, each should submit a separate Resident Business Owner Verification Form. List each owner below:*

I certify that the Section 3 residents listed below own at least 51% of the business.

Name	Position	Percentage of Ownership

I certify that the information provided is true and accurate.

PRINT NAME:	DATE:
Signature	



### SECTION 3 BUSINESS CONCERN – 30%+ WORKFORCE FORM B

A business can be certified as a Section 3 Business Concern if at least 30% of its permanent, full-time employees are Section 3 residents, or were Section 3 residents within three years of the date of first employment with the business. For your firm to be eligible UNDER THIS CRITERIA, you must provide the following information for all permanent Full Time employees.

Copy this form if necessary.

<b><u>LIST ALL EMPLOYEES</u></b> <b>NAME &amp; ADDRESS</b>	<b>DATE HIRED</b> (MM/DD/YYYY)	<b>CHECK IF SECTION 3 RESIDENT</b>	<b>JOB TITLE/TRADE</b>
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Total Number of Employees:			
Number of Section 3 Residents:			
% of Total Workforce:			





*I certify that the above statements are true, complete, and correct to the best of my knowledge and belief.*

Print Name:

Title:

Company Name:

Date:

Signature: \_\_\_\_\_



## Section 3 Business Concern Affidavit

The undersigned being duly sworn, on oath, represents, warrants, certifies, deposes and says, under penalty of law, as follows:

### I. BASIC INFORMATION

The following information is true and correct:

1. Name of Company: \_\_\_\_\_
2. Company Address: \_\_\_\_\_
3. Type of Business (corporation, partnership, sole proprietorship, joint venture):  
\_\_\_\_\_
4. Project Name/Contract Number: \_\_\_\_\_

### II. TYPE OF SECTION 3 BUSINESS CONCERN

For purposes of this section, please refer to the attached instructions for the meanings of the terms "Section 3 Business Concern" and Section 3 Business Concern with Category-Preference" and "HUD Youthbuild Program". (Please circle your answer.)

1. Is the Company a Section 3 Business Concern?      YES      NO

If "yes", please go to question #2. If "no", please go directly to question #3.

2. Is the company a Section 3 Business Concern-With Category Preference?

YES      NO      What Category? \_\_\_\_\_

3. Has the Company been selected to carry out any HUD Youthbuild Program? YES      NO

Continued on Page 2

### III. VERIFICATION

The company hereby agrees to provide, upon request, documents verifying the information provided on this form.

Under penalty of perjury, I certify that I am the \_\_\_\_\_ (Title) of the Company, that I am authorized by the Company to execute this affidavit on its behalf, that I have personal knowledge of the certifications made in this affidavit and that the same are true.

Name (Signature) \_\_\_\_\_

Name (Printed) \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## **Training Plan Worksheet**

*(If applicable)*

1. Will there be any training opportunities on this project?

*(Please circle your answers)*

Yes

No

2. If the response to question #1 was “yes”, please provide the Rochester Housing Authority with the following information:

A. Areas of anticipated training in connection with this project (please list):

B. Number of expected training hours available by training area category (please list):

C. Type of Training Available:

D. Opportunities available by Training Area to Section 3 Residents:

Please respond with either a “yes” or “no” to indicate whether training will be available for low and very low-income individuals (Section 3 Residents) by training area category.

E. Comments:

### Section 3 Resident Affidavit Worksheet

Are any of your employees listed as Section 3 residents on your certified payroll? \_\_\_\_ Yes \_\_\_\_ No

If yes, each Section 3 Resident on your payroll should complete the following affidavit.

1. My current address is (street address, city, state and zip):

\_\_\_\_\_

2. ☐ I am      ☐ I am not      a resident of public housing.
3. The total number of individuals in my family (all family members currently living in my household, including myself) is \_\_\_\_.
4. Last year, the annual income from all sources for my family was \$\_\_\_\_\_.
5. I understand that the information above may require verification. I agree to provide documents verifying this information and authorize my employer to release information required by the housing authority to verify my status as a "Section 3 Resident".

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name (First & Last)

## Existing Employee Certification

1. Contract Number: \_\_\_\_\_
2. Contractor/Developer: \_\_\_\_\_
3. Date: \_\_\_\_\_

<u>Employee Name &amp; Address</u>	<u>Last 4 digit of SS #</u>	<u>Job Classification</u>