

# City of Greeley Section 3 Plan and Guidebook

## Policies and Procedures



Including Compliance Plans and Implementing Forms for City Departments and Divisions, Subrecipients and Developers, Contractors, and Subcontractors for Section 3 contracts covered under the 1968 Housing and Urban Development Act – Section 3

### ➤ INTRODUCTION

This document is both a guide for and the City of Greeley's Policies and Procedures for implementing its Section 3 Plan. Included with the Plan and Guidebook are the Compliance Plans and Implementing Forms for

- City Departments/Divisions
- Subrecipients and Developers
- Contractors
- Subcontractors

**The City of Greeley reminds each City Department/Division, Subrecipient, Developer, Contractor, and Subcontractor involved in a Section 3 covered contract that it bears the responsibility to familiarize itself with the Section 3 Act, Section 3 Regulations, and this entire document and corresponding Plans and Forms prior to accepting Section 3 Covered Assistance from the City of Greeley.**

Staff from the Greeley Urban Renewal Authority will be available at pre-bid conferences to provide Section 3 technical assistance. Technical assistance will also be provided outside pre-bid conferences upon request.

Questions with regard to this document should be directed to:

Greeley Urban Renewal Authority (GURA) - 970.350.9380  
1100 10<sup>th</sup> Street, Suite 201, Greeley, CO 80631

### ➤ WHAT IS SECTION 3?

Section 3 is the common term used as reference to a federal law of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u) and its implementing federal regulations in 24 C.F.R. 135. (Herein, when discussing the law and regulations, they will be referred to as Section 3.)

Section 3 is to ensure that employment and economic opportunities generated by certain financing provided by the U.S. Department of Housing and Urban Development (HUD) are, to greatest extent feasible, directed to low- and very low-income persons [Section 3 resident), particularly those who are recipients of government assistance for housing, and to business concerns [Section 3 Business Concerns) that provide economic opportunities to low- and very low income persons.

Expenditure of HUD financing for a Section 3 covered project requires implementation of Section 3 through the City of Greeley's (City) Section 3 Policies and Procedures. Covered projects include:

- Housing rehabilitation
- Housing construction
- Other public construction (such as street installation, updates to building facades, community center construction)

The City is required to implement Section 3 as a recipient of a number of HUD grants, including:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership Program (HOME)
- Neighborhood Stabilization Program (NSP1 and NSP3)
- Energy Efficiency and Conservation Block Grant (EECBG)

City Departments/Divisions, Sub-recipients, Contractors, Subcontractors, and Developers are subject to Section 3 when they accept assistance (funding) from the City that involves an included federal grant.

## ➤ CITY OF GREELEY SECTION 3 PLAN

In any fiscal year (which is a calendar year for the City), the City receives more than \$200,000 in federal assistance that will be utilized on a Section 3 covered Project/Activity or Projects/Activities, the City shall ensure that it has Section 3 policies and procedures in place and that they are appropriately implemented for each covered project receiving funding.

As a part of the City, any Department/Division receiving assistance from a covered grant must comply with the City's Policies and Procedures for Section 3. Additionally, Subrecipients, Developers, Contractors and Subcontractors must comply with the City's Plan. A project/activity Memorandum of Understanding will be entered into between GURA and other City Departments/ Divisions which will include the City's Section 3 Compliance Plan and all implementing forms. Likewise, the Agreement between GURA and a Subrecipient or Developer will include the Section 3 Plan. The Department/Division or Subrecipient/Developer is then responsible for ensuring the Plan and implementing forms become a part of any contract, as appropriate.

Accepting a Section 3 covered contract means accepting equal measure of responsibility with the City in implementing Section 3 in Greeley. The Plan and implementing forms become a part of the contractual responsibilities of the entity receiving the contract.

Section 3 in the City of Greeley will apply to the following covered contracts, also referred to as a Section 3 contract.

- **Contracts of more than \$100,000** – Applies to City Departments/Divisions, subrecipients, Developers, Contractors, and Subcontractors. Bid documents and contracts must include the Compliance Plan form and all Implementing Forms, as well as the Section 3 Clause (instructions and forms follow). The entity receiving Section 3 covered funds is responsible for working with the GURA staff to ensure Section 3 is implemented according to the City's Policies and Procedures.
- **Contracts of \$50,000-\$100,000** – Section 3 will apply to subrecipients, developers, and general contractors only and in the same manner as noted above. (Subcontractors are exempt if receiving this level of funding.)

### Section 3 Employment and Contracting Goals

The City of Greeley sets overall Section 3 employment and contracting goals annually through the City's Annual Action Plan. The current Section 3 Goals are as follows:

- **Contracting:** The City will strive, to the greatest extent feasible, to contract with, and require contractors, developers, and subrecipients to contract with
  - A minimum of ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, construction, and other public construction with federal funds to Section 3 Business Concerns; and
  - A minimum of three percent (3%) of the total dollar amount of all other Section 3 **covered professional services contracts** to Section 3 Business Concerns.
  - The City does not provide a Section 3 or residence preference.
- **Employment:** The City will require contractors, subcontractors, developers, and subrecipients when contracted under a Section 3 project/activity to hire Section 3 residents, to the greatest extent feasible, as follows:
  - Thirty percent (30%) of the aggregate number (**new hires**) during the project/activity term. (Example: A construction contractor hires 10 new workers. Three of the new workers should be Section 3 eligible persons.)
  - **Note:** There is NO requirement that a contractor, subcontractor, or developer hire new employees if awarded a Section 3 contract. If the business concern's current work force is sufficient to complete the project (ALL employees, including office staff), there is no non-compliance with Section 3.
  - A Section 3 and/or neighborhood residency preference is encouraged, but is not required.

**NOTE:** Infusion of HUD funds (of \$1.00 or more) into a City project at any point in the project's duration triggers full applicability of the City's Section 3 Plan onto the entire project retroactively.

## ➤ SECTION 3 DEFINITIONS

### ...What is a Section 3 Resident?

To the greatest extent feasible, employment opportunities (new hires) within a Business Concern under contract with the City Department/Division, Subrecipient, Developer, Contractor, or Subcontractor on a Section 3 covered project during the contract period shall be directed to Section 3 resident(s). In Greeley, a Section 3 resident is a person meeting one of the qualifications below:

- ✓ Lives in public housing OR
- ✓ Lives in the City of Greeley and has household income at or below 80% of the Area Median Income (AMI). AMI limits are established annually by HUD and will be provided as part of the City's Compliance Plan.

Documentation must be provided to certify a person as a Section 3 resident (see certifying form for residents).

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

A business that:

- ✓ Is 51 percent or more owned by Section 3 residents; or
  - ✓ Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
  - ✓ Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.
- Note: If the Section 3 project is a labor-only contract and procurement is not required, the contractor is not in non-compliance of Section 3 by being unable to fulfill the "contracting with a Section 3 Business Concern" requirement.

### Income Maximums to Qualify as a Section 3 Resident (includes incomes from entire household)

#/persons in household	1	2	3	4	5	6	7	8
Greeley, CO MSA – FY 2014 <u>Low (80%) Income Limits</u>	35,300	40,350	45,400	50,400	54,450	58,500	62,500	66,550

### Section 3 Clause

*Section 3 clause* means the contract provisions set forth in §135.38 (which is the Section 3 Clause). It sets for in quick terms the requirements of Section 3. **All** bid documents, contracts, and subcontracts issued to a developer, contractor, subcontractor, and/or sub-recipient on a Section 3 Covered Project shall contain the Section 3 Clause. The Section 3 Clause is provided later in this document and can be copied and pasted into bid documents and contracts.

## ➤ PROCEDURES FOR IMPLEMENTING THE SECTION 3 PLAN

### 1. CITY OF GREELEY

City involvement will be at the following levels:

- **GURA** – Administrator of the CDBG, HOME, and NPS federal grants for the City. Administration includes formulation and implementation of the Section 3 Compliance Plan and corresponding reports and forms. GURA is also responsible for Section 3 reporting to the Federal government on an annual basis, coordinating with the Project Manager and/or Purchasing in collecting the data needed for the reports, and maintaining Section 3 reports and records. Other responsibilities include
  - Implementation of the Plan for Section 3 Subrecipients and Developers, such as Habitat for Humanity and non-profit agencies involved in a construction activity/project that does not go through the Purchasing Division of the City's Finance Department.
  - Implement the Section 3 Plan as part of any Memorandums of Understandings with other City Departments/Divisions receiving Federal funding administered for the City by GURA.
  - Coordination with Purchasing and the City Department/Division receiving funds requiring compliance with Section 3 during the contract term. Work with the Department/Division Project Manager and Purchasing to ensure the Section 3 Clause is a part of all bid documents and contracts for Section 3 contracts.
  - Provide a staff member familiar with Section 3 in attendance at the pre-bid conference for questions and, upon request, at bid award.
  - Coordinate with the Project Manager and Purchasing on the receipt of reports/forms required at project completion.
  - Coordinate with Purchasing and other City Departments/Divisions and/or implement the advertising of Section 3 projects/activities including posting potential employment opportunities at the Housing Authority for Section 3 residents.
- **Department/Division Receiving a Federal Award (i.e. CDBG funds)** – The Project Manager for the Department or Division receiving the Federal award should familiarize him/herself with the Section 3 Compliance Plan and the requirements for the contractor with whom they'll be working with as questions may be directed to them. Other responsibilities include
  - Utilize the Plan to Meet Goals for Hiring Section 3 Business Concerns and Residents to identify how bid opportunities for Section 3 Business Concerns and potential employment opportunities for Section 3 Residents will be advertised and/or posted. Include the completed form with the Compliance Plan.
  - Coordination with GURA and Purchasing during the pre-bid events, bid process, and subsequent contract award to ensure the Section 3 Plan and forms are included. Work with GURA and Purchasing to ensure the Section 3 Clause is a part of all bid documents and contracts for Section 3 contracts.
  - Notify GURA of pre-bid conference and contract award dates.
  - Coordinate with GURA and Purchasing on the receipt of reports/forms required at project completion.
  - To the greatest extent feasible, the City's Section 3 goals will be strived for. Whenever feasible, Section 3 contracts and/or professional services needed for Section 3 projects will be awarded to a certified Section 3 business or professional. The City does not, however, allow for bidding preferences.
- **Purchasing Division** – Purchasing will be notified by either GURA or the Project Manager that a pending project/activity requires compliance with Section 3. The Compliance Plan and corresponding forms will be provided to Purchasing by either GURA or by the Project Manager in the Department/Division receiving a Federal award of funds. Also, Purchasing will
  - Advertise for the project/activity bid opportunity per the City's policies and procedures.

- Make the Compliance Plan and implementing forms a part of the bid documents and subsequent contract. Work with the Department/Division Project Manager and GURA to ensure the Section 3 Clause is a part of all bid documents and contracts for Section 3 contracts.
- Set aside time during the pre-bid conference for discussion of Section 3 and resulting questions.
- Forward all questions regarding Section 3 to the GURA Manager.
- Allow no bids without a completed Section 3 Plan, DUNS number, and proof of sam.gov registration by verifying receipt of same during the bid opening.
- Coordinate with GURA and the Project Manager on the receipt of reports/forms required at project completion. Final payment should not be made until all required forms have been received.

**2. SUBRECIPIENTS AND DEVELOPERS** – Subrecipients and Developers receiving Section 3 covered funds shall be familiar with the Section 3 Compliance Plan and the requirements for a Subrecipient or Developer and Contractors and Subcontractors with whom they work. Questions on Section 3 should be forwarded to the GURA Manager. Other responsibilities include the following:

- For applicable projects/activities, GURA will provide the Section 3 Compliance Plan as part of the written Agreement. Subrecipients/Developers will certify they have read this document and are familiar enough with Section 3 to implement it when hiring contractors.
- Subrecipients and Developers are strongly encouraged to certify the Business Concern (if applicable) as a Section 3 Business Concern. (However, the City offers no bid preferences.) If the decision has been made to certify, Subrecipients and Developers should submit the necessary documents at the time of written Agreement execution ( preferred). Certification must occur prior to work actually starting.
- Subrecipients and Developers will strive, to the greatest extent feasible, to assist the City in meeting the stated Section 3 goals. Subrecipients and Developers may choose to offer a Section 3 preference within its hiring policies and procedures for Section 3 Business Concerns, Section 3 Residents, and/or Project/Activity neighborhood residents, but is not required to do so.
- Subrecipient/Developer is responsible for contacting GURA with any questions on how or when to implement the Section 3 Compliance Plan.
- Advertising for a project/activity covered under Section 3 utilizing the attached Section 3 ad and brochure, or something similar.
- Subrecipients/Developers shall contact GURA for the proper implementation forms prior to entering into a Section 3 contract. Work with GURA to ensure the Section 3 Clause is a part of all bid documents and contracts for Section 3 contracts.
- Subrecipient /Developer is responsible for providing GURA will all Section 3 documents and reports needed for the annual report to HUD and ensuring that contractors are providing the subrecipient/developer with the correct documentation needed.
- Section 3 records (such as certifying a business or resident) shall be kept by the Subrecipient for a minimum of five years after project completion.

**3. CONTRACTORS** –Contractors awarded a Section 3 contract (contracts of \$50,000 or more) shall strive to the greatest extent feasible to hire Section 3 business concerns as subcontractors and to hire Section 3 residents when new hires are needed during the project/activity in accordance with the City’s Section 3 Plan above. (Business concerns have the option of providing a preference to Section 3 residents and or Project/Activity neighborhood preferences within their hiring policies and procedures, but are not required to do so.)

While there is no monetary preference for Business Concerns, nor does it guarantee award of a contract, it is the City’s task – and thus the task of Business Concerns accepting a Section 3 contract – to make best efforts to reach the City’s contracting and hiring goals stated above. Business Concerns that intend to submit bids on Section 3 covered projects are **strongly encouraged** to certify as a Section 3 Business Concern, if applicable, and provide the necessary documents

with the bid (preferred). If certifying and unable to provide GURA with the documents at time of bid, those documents must be received within five business days of bid award and prior to any work actually starting.

Additionally, if subcontractors receive funds under a Section 3 contract, the Contractor must encourage the business to certify and provide the forms necessary to certify the Subcontractor (as applicable). The necessary document and forms are available from GURA.

- Contractors shall provide forms necessary for GURA to certify the Contractor's Section 3 status, if applicable, preferably with the bid documents, but no later than five days after bid award and prior to contract execution. Requests for certifications with all documents will be processed by GURA within five business days of receipt. (See certification forms.)
- Contractors shall submit the Section 3 Compliance Plan form and required Implementing Forms with bid.
- Contractors shall submit in a timely manner the forms required after project completion. Final payment will be withheld until all forms have been received.
- If a Contractor plans to award a Subcontractor a contract of more than \$100,000, Contractor will contact either the Project Manager for the City or GURA staff for Section 3 Plan to be included with the Subcontractor's contract.
- How the availability of a Section 3 subcontract opportunity and/or a notice of potential employment opportunities posting will be made known to Section 3 Business Concerns and Residents shall be noted on the Plan to Meet Goals for Hiring Section 3 Businesses and Residents form and then followed. Documentation of advertisements, brochure postings, etc. shall be submitted to GURA at project completion.
- Section 3 records, including business concerns' and residents' certification forms and documentation, will be retained for five years by the Contractor/Subcontractor. At the City, GURA, or HUD's request those records will be made available for review.
- The Contractor/Subcontractor will cooperate fully with the City and/or GURA in providing any documentation needed for the City to adequately report to HUD on Section 3.

**4. SUBCONTRACTORS** –Subcontractors awarded a Section 3 contract (contracts of more than \$100,000) shall strive to the greatest extent feasible to hire Section 3 residents when new hires are needed during the project/activity in accordance with the City's Section 3 Plan above. (Business Concerns have the option of providing a preference to Section 3 residents and/or Project/Activity neighborhood residents within their hiring policies and procedures, but are not required to do so.)

While there is no monetary preference for Business Concerns, nor does it guarantee award of a contract, it is the City's task – and thus the task of Business Concerns accepting a Section 3 contract – to make best efforts to reach the City's contracting goals stated above. Business Concerns that intend to submit bids on Section 3 covered projects are **strongly encouraged** to certify as a Section 3 Business Concern, if applicable, and provide the necessary documents with the bid (preferred). If certifying and unable to provide GURA with the documents at time of bid, those documents must be received within five business days of bid award and prior to any work actually starting.

- Subcontractors shall provide forms necessary for GURA to certify the Subcontractor's Section 3 status, if applicable, preferably with the bid to the Contractor, but no later than five days after receiving work from the Contractor on a Section 3 Project/Activity and prior to work actually starting. Requests for Business Concerns certifications with all documents will be processed by GURA within five business days of receipt. (See certification forms.)
- Subcontractors shall submit the Section 3 Compliance Plan form and required Implementing Forms with their bid to the Contractor on the Section 3 Project/Activity. It is then the responsibility of the Contractor to relay the documents to GURA.
- Subcontractors shall submit in a timely manner any forms required after project completion. The Contractor will not receive final payment until all forms are received, which may affect payment to Subcontractors.

- Section 3 records, including Business Concerns' and Residents' certification forms and documentation, will be retained for five years by the Subcontractor. At the City, GURA, or HUD's request those records will be made available for review.
- The Subcontractor will cooperate fully with the City and/or GURA in providing any documentation needed for the City to adequately report to HUD on Section 3.

**COMPLIANCE PLAN AND IMPLEMENTING FORMS, SECTION 3 CLAUSE, AND SAMPLE SECTION 3 AD/BROCURE FOLLOW.**