

# EQUAL OPPORTUNITY, FAIR HOUSING & SECTION 3

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## CHAPTER 6: EQUAL OPPORTUNITY, FAIR HOUSING & SECTION 3

The laws listed below apply to the Unit of General Government (UGLG)/Grantee *and* to all contractors, sub-contractors, and subrecipients.

### RELEVANT LAWS

Civil rights laws and related laws and regulations are designed to protect individuals from discrimination on the basis of race, national origin, religion, color, sex, age, disability, sexual orientation and familial status. The laws listed below apply to UGLGs/Grantees, contractors, sub-contractors, and subrecipients. The Department of Labor (DOL) provides employers, workers and others with clear and easy-to-access information and assistance on how to comply with Executive Order 11246.

Among the resources available are the following:

- Facts on Executive Order 11246 — Affirmative Action  
[https://www.dol.gov/ofccp/regs/compliance/ca\\_11246.htm](https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm);
- Federal Contract Compliance Manual (FCCM)  
<https://www.dol.gov/ofccp/regs/compliance/fccm/fccmanul.htm> ; and
- Federal Contractor Compliance Advisor  
<https://webapps.dol.gov/elaws/ofccp.htm>.

The following are **FEDERAL ACTS**:

### FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18) and disability.

### TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI provides that no person shall be excluded from participation, denied the benefits, or subjected to discrimination on the basis of race, color, familial status, or national origin under any program receiving federal financial assistance.

### SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

### SECTION 109 OF TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from the Department of Housing and Urban Development's (HUD) Community Development and Block Grant (CDBG) Program.

## **TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

## **ARCHITECTURAL BARRIERS ACT OF 1968**

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.

## **AGE DISCRIMINATION ACT OF 1975**

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

## **TITLE IX OF THE EDUCATION AMENDMENTS ACT OF 1972**

Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

The following are **PRESIDENTIAL EXECUTIVE ORDERS (EO)**:

### **EXECUTIVE ORDER 11063**

Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

### **EXECUTIVE ORDER 11246**

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex or national origin.

### **EXECUTIVE ORDER 12892**

Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The EO also establishes the President's Fair Housing Council, which is chaired by the Secretary of HUD.

### **EXECUTIVE ORDER 12898**

Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

### **EXECUTIVE ORDER 13166**

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally assisted and federally conducted programs and activities.

### **EXECUTIVE ORDER 13217**

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

To view an Executive Order in its entirety including any amendments go to:

<https://www.archives.gov/federal-register/codification/numeric-executive-orders.html>

## SECTION 3 REGULATIONS

Section 3(b)(2) of the Housing Act of 1937:

<https://www.hud.gov/sites/documents/USHOUSINGACT.PDF>

Section 3 of the Housing and Urban Development Act of 1968:

<https://www.govinfo.gov/content/pkg/USCODE-2011-title12/html/USCODE-2011-title12-chap13-sec1701u.htm>

24 CFR 135.38 (pre-11/30/2020):

<https://www.govinfo.gov/content/pkg/CFR-2012-title24-vol1/xml/CFR-2012-title24-vol1-sec135-38.xml>

24 CFR 75 (11/30/2020):

<https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>

Housing and Urban Development (HUD) Section 3 Website:

<https://www.hud.gov/section3>

## REQUIRED CONTRACT LANGUAGE

Every CDBG funded activity must be carried out in a manner which will not cause discriminatory affects and provides for equal opportunity in employment and contracting opportunities. The UGLG is responsible for advising contractors of their equal opportunity responsibilities and maintaining equal opportunity compliance files. The regulatory language summarizing these responsibilities must be in all contracts (as applicable). The UGLG should review these requirements with all prime contractors and sub-contractors at pre-construction meetings for construction projects. The equal opportunity and Section 3 provisions to be included in contract documents are attached to this chapter.

### IMPORTANT NOTE!

Instructions for provisions to include in procurement solicitations, bid packages and contracts are found in  
Chapter 3: *Procurement & Contracting* and  
Chapter 7: *Labor Standards* (for Construction)  
in the CDBG Implementation Handbook.

## COMPLIANCE AND RECORDKEEPING

### FAIR HOUSING

The UGLG must complete three (3) actions that affirmatively further fair housing as specified within the *Grant Agreement* for the CDBG project. Refer to the Attachments within the UGLG's *Grant Agreement* for the CDBG project for the fair housing actions required and associated due dates. If the fair housing actions are not completed by the due date in the *Grant Agreement Time Table*, the Division of Energy, Housing and Community Resources (DEHCR) may withhold grant payment disbursements until the actions are complete. **Progress is to be reported under the Fair Housing Actions section of the Semi-Annual Report form** (refer to Chapter 9: *Reporting* in the CDBG

*Implementation Handbook* for the reporting form), including listing the actions completed and attaching supporting documentation.

Examples of common fair housing actions and the associated documentation needed to demonstrate the actions were completed are in the following list. This list is not all-inclusive or intended to be all fair housing actions that may be completed by an UGLG for a CDBG project.

## **Fair Housing Action Documentation Examples:**

For a **proclamation**, the following should be submitted to DEHCR:

- a copy of the signed proclamation,
- a copy of the meeting minutes for the meeting in which the proclamation was made (the proclamation must be made/adopted in a public meeting of the governing body), and
- documentation of the public ‘sharing’ of the proclamation following the meeting of the governing body (it must be shared with the public in some way after it was made/adopted at meeting of the governing body so those who did not attend the meeting will see it. Examples may include a PDF copy of webpage where it is shared; a copy of a photo of the physical posting of the proclamation at one or more prominent locations in the community with the date(s) and location(s) of the posting shown on the photocopy (and/or the clerk’s signed certification or email certification certifying the date(s) and location(s) of the physical posting); a newspaper ad copy, etc. One or more ‘public sharing’ methods must be used.

For the **poster**, the following should be submitted to DEHCR:

- a copy of the poster (often times the photo of the poster posting is not clear enough for us to read the text), and
- a photo of the physical posting of the poster at one or more prominent locations within the community with the date(s) and location(s) of the posting(s) of the posting(s) shown on the photocopy OR a clerk’s signed certification or email certification certifying the date(s) and location(s) of the posting of the poster.

For a **letter to realtors, housing professionals financial institutions, etc.**, the following should be submitted to DEHCR:

- the copy of the signed letter, and
- a list of the entities and their email and/or mailing addresses where the letter was sent (e.g., persons’ names, company/organization names, company/organization mailing addresses and/or email addresses used to make contact and provide those persons the letter.

If the “**strengthening the fair housing law**” was updating the Fair Housing Ordinance, then the following should be submitted to DEHCR:

- a copy of the updated ordinance;
- a copy of the resolution to adopt the updated ordinance made by the governing body, if the action was completed by resolution; and
- a copy of the meeting minutes for the meeting in which the ordinance was approved/adopted.

## **SECOND CITIZEN PARTICIPATION PUBLIC HEARING**

The UGLG must hold two (2) Citizen Participation Public Hearings to obtain input from and provide information to the public on the CDBG project. The first public hearing must be held prior to application for CDBG funds. At least one other public hearing must be held during the project’s performance period as indicated in the *Grant Agreement*. The

public hearings must be advertised following the specifications in the UGLG's Citizen Participation Plan (CPP).

During the second public hearing, the UGLG must provide an update on the status and progress of the CDBG project, and allow for public input and feedback. The agenda topics for the public hearing are listed in the ***Citizen Participation Certification for Public Hearing #2 (Attachment 6-F)***. The *Certification* is provided for guidance for the agenda and **must** be completed and submitted to DEHCR with the hearing notice and minutes.

**Report on the completion status of the second public hearing on the 2<sup>nd</sup> Citizen Participation Public Hearing section of the Semi-Annual Report form** (refer to Chapter 9: *Reporting* in the *CDBG Implementation Handbook* for the reporting form), listing the hearing date and attaching the required supporting documentation.

Supporting documentation to be submitted with the UGLG's *Semi-Annual Report* when the second public hearing documentation is due (or the first *Semi-Annual Report* due after the hearing is completed) includes the following:

- A copy of the public hearing notice;
- A copy of the publisher's affidavit for the public hearing notice publication (or, if the UGLG's CPP specifies hearing notices will be physically posted at three prominent locations in the community, rather than being published in the local newspaper [*which is only allowed for certain UGLGs that do not have a local newspaper and have this method of notice specified in the CPP*], then the clerk's signed certification or email certification, certifying the date(s) and locations of the public hearing notice posting);
- A copy of the signed *Citizen Participation Certification for Public Hearing #2* (Attachment 6-F);
- A copy of the minutes from the public hearing; and
- A copy of the sign-in sheet for the public hearing, if the list of attendees is not already provided in the hearing minutes.

If the second public hearing is not completed by the due date listed in the *Time Table* in the UGLG's *Grant Agreement*, DEHCR may withhold grant payment disbursements until the hearing is completed and the required documentation is submitted.

### PROGRAM BENEFICIARIES

DEHCR is required to maintain records documenting the demographic information pertaining to CDBG project beneficiaries, which may include (but is not necessarily limited to): race, ethnicity, household size, and head of household status. The UGLG must submit this data with the community's CDBG application.

### MINORITY-OWNED BUSINESS ENTERPRISE & WOMAN-OWNED BUSINESS ENTERPRISE (MBE/WBE)

The UGLG must take affirmative steps to ensure minority-owned and woman-owned business enterprises (MBE/WBEs) have equal access to project bidding.

A Minority-owned Business Enterprise (MBE) is a business that is both owned and controlled by minorities. This means that there must be not less than 51% minority ownership of the business (a business in which more than 50% of the ownership or control is held by one or more minority individuals, and more than 50% of the net profit



or loss which accrues is to one or more minority individuals), and that the minority ownership must control the management and daily operations of the business.

A Woman-owned Business Enterprise (WBE) is a business that is both owned and controlled by women. This means that there must be not less than 51% women ownership of the business (a business in which more than 50% of the ownership or control is held by one or more female individuals, and more than 50% of the net profit or loss which accrues is to one or more female individuals), and that the women ownership must control the management and daily operations of the business.

**Submit MBE/WBE data on the reporting form specified in Chapter 9: *Reporting of the CDBG Implementation Handbook*** during the project performance period and with the *Project Completion Report* (refer to Chapter 10: *Project Completion* in the *CDBG Implementation Handbook* for completion requirements). Affirmative steps should include as many of the following actions as possible:

- Providing contractors with *MBE/WBE Web Resources* (Attachment 7-R in Chapter 7: *Labor Standards* in the *CDBG Implementation Handbook*) as a resource for identifying MBE/WBE firms to solicit for contracting opportunities;
- Ensuring that MBE/WBE are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBE/WBE;
- Establishing delivery schedules, which encourage participation by MBE/WBE;
- Using the services and assistance of the Small Business Administration, and resources provided by the Department of Administration Minority Business Enterprise Program (<https://doa.wi.gov/Pages/StateEmployees/ProgramDescription.aspx>); and
- Encouraging the prime contractor to take as many of the above listed affirmative steps as possible if sub-contractors are to be let.

## **ACCESSIBILITY DOCUMENTATION (IF APPLICABLE)**

For certain projects, UGLGs must comply with Section 504 of the Rehabilitation Act of 1973 and complete the *Accessibility Self-Evaluation Checklist* (Attachment 6-E).

Discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance is prohibited. This means that persons with disabilities **may not** be:

- Denied the opportunity to participate in a program, service, or activity;
- Required to accept a different kind or lesser program or service than what is provided to others; nor
- Required to participate in separate programs and services, even if separate programs and services exist.

## **SECTION 3**

Section 3 is a provision of Housing and Development Act of 1968 which helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. "To the greatest extent feasible," UGLGs must guide the employment and other economic opportunities associated with the CDBG project towards low- and very low-income persons (as determined annually by the U.S. Department of Housing and



Urban Development (HUD), and defined in Section 3(b)(2) of the Housing Act of 1937) and Section 3 Business concerns in the community. The low- and very low-income limits are typically established at 80% and 50% (respectively) of the area median individual income. Section 8 income limits are used to determine these eligibility criteria. The current HUD income limits for Wisconsin areas/counties are available at: <https://www.huduser.org/portal/datasets/il.html>.

Section 3 requirements are triggered when housing rehabilitation, housing construction, and other public construction projects are funded with HUD dollars. **Section 3 requirements and reporting applies to an entire CDBG project, regardless of whether the project or a project activity cost is fully or partially funded with CDBG.** All CDBG projects are subject to Section 3 requirements.

## IMPORTANT REMINDER!

The purpose of the Section 3 requirements are “to ensure 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 are recipients of government assistance for housing.”

*Section 3 of the Housing and Urban Development Act of 1968*

## SECTION 3 REQUIREMENTS FOR CDBG-FUNDED PROJECTS AWARDED PRIOR TO 11/30/2020 [24 CFR 135]

Section 3 requirements apply when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities arising in connection with the CDBG project. If a project is funded in whole or in part with CDBG funds, then the Section 3 requirements apply to the entire CDBG funded project or activity. Any employment resulting from the CDBG funding, including administration, management, clerical support, and construction, is subject to compliance with Section 3 regulations. If the expenditure of CDBG funding does not result in new employment, contracting, or training opportunities, then the Section 3 hiring and contracting requirements have not been triggered. Reporting by UGLGs/Grantees and contractors of hiring and contracting activities is still required to confirm compliance or to confirm Section 3 requirements did not apply.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 Residents or award contracts to Section 3 Business concerns other than what is needed to complete covered projects/activities.

### **Section 3 Goals [24 CFR 135]:**

UGLGs/Grantees and contractors and sub-contractors (and subrecipients) for CDBG projects must demonstrate best efforts in attempting to meet the Section 3 minimum numerical goals, which include the following:

- At least **30%** of all job training opportunities generated for the CDBG project are filled by Section 3 Residents; **and**
- At least **30%** of all employment opportunities generated for the CDBG project are filled by Section 3 Residents; **and**

- At least **10%** of the total dollar amount of all *construction contracts* and **3%** of the total dollar amount of all *non-construction* contracts generated for the CDBG project are awarded to Section 3 Businesses. [Note: When a prime contract with the UGLG/Grantee is funded in whole or in part with CDBG funds, the sub-contracts of the prime contractor are considered to also be funded in whole or in part with CDBG funds and therefore are subject to Section 3 requirements.]

## **Section 3 Definitions [24 CFR 135]:**

**A New Hire** is:

- An employee hired by the UGLG/Grantee, a contractor or a sub-contractor in a full-time position (as a permanent, temporary or seasonal employment opportunity) generated in connection with the CDBG project.

**A New Trainee** is:

- A worker that was hired as a participant in/for a CDBG employment and training project (per the terms of a CDBG Grant Agreement).

**A Section 3 Resident** is:

- A person who lives within the area in which the CDBG project is located (same county) with an annual family household income at the time of hire (for the year preceding the hire date) that is below the low-income (80%) threshold established by HUD. [Note: The low-income thresholds must be drawn from the [HUD Income Limits for the CDBG program](#) that are in effect on the date of hire (the HUD income limits are updated annually, typically in March or April).]

*A worker hired in a full-time position (which may be permanent, temporary or seasonal employment) to work on the CDBG project, who lives in the county in which the project occurs, with an annual family household income (for the year preceding the hire date) that is below the applicable HUD income threshold for their family size, is a Section 3 Resident.*

**A Section 3 Business concern** is a business that has:

- 51% or more of its ownership held by Section 3 Resident(s) (i.e., 51% or more of the ownership is held by one or more Section 3 Residents, *and* 51% or more of the net profit or loss which accrues is to one or more Section 3 Residents); or
- 30% or more of the full-time employees of the business currently being Section 3 Residents, *or* were Section 3 Residents within three (3) years of their date of first hire by the Section 3 Business (Employee Income Certifications are required to verify employees' Section 3 status); or
- provided in a commitment in writing to sub-contract more than 25% of the dollar amount awarded of all sub-contracts to Section 3 Business concerns.

## **Section 3 Responsibilities [24 CFR 135]:**

UGLGs/Grantees *and* contractors and sub-contractors (and sub-recipients) for CDBG projects are required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of CDBG funding and demonstrate best efforts in attempting to meet the Section 3 goals. This responsibility includes:

- Implementing procedures to notify Section 3 Residents and Section 3 Business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance, using methods that may include but are not limited to:

- Contacting resident organizations, local community development and employment agencies, and the local public housing authority;
- Distributing flyers;
- Posting signs;
- Placing ads in local newspapers and job centers; and
- Using online job forums.
- Notifying potential contractors working on Section 3 covered projects of their responsibilities;
- Incorporating the *Section 3 Requirements [24 CFR 135]* (Attachment 6-B(1)) language into all CDBG-funded solicitations and contracts;
- Facilitating the training and employment of Section 3 Residents and the award of contracts to Section 3 Business concerns;
- Assisting and actively cooperating with DEHCR in making contractors and sub-contractors comply;
- Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
- Documenting actions taken to comply with Section 3, including having all contractors (e.g., prime contractors and sub-contractors for construction, professional, and other services) report Section 3 data and “best efforts” taken to promote Section 3 contracting and hiring. Refer to Chapter 9: *Reporting* for Section 3 reporting forms and additional guidance.\* The UGLG must maintain copies of all contractors’ Section 3 reporting.
- Submitting Section 3 reporting documents semi-annually to DEHCR, as specified in Chapter 9: *Reporting* of the *CDBG Implementation Handbook*.\* Section 3 reporting documents submitted to DEHCR by the UGLG shall summarize all contracting and Section 3 activity for the project by the UGLG and all contractors.

**\*Section 3 reporting and employee income certification documents are available in Chapter 9: *Reporting* in the *CDBG Implementation Handbook* and fillable versions of forms are under the “Chapter Attachments/Fillable Forms” section of the *CDBG Implementation Handbook* website at:**

<https://doa.wi.gov/Pages/LocalGovtsGrants/CDBGImplementationHandbook.aspx>

### **Section 3 Compliance Guidance & Best Practices Summary [24 CFR 135]:**

Section 3 guidance and best practices for UGLG/Grantee and contractor (and subrecipient) compliance are summarized below.

#### ***Contracting:***

- Include *Section 3 Requirements [24 CFR 135]* (Attachment 6-B(1)) language in ALL contracts for construction and non-construction activities.
- Provide all prime contractors with the required *Section 3 Requirements [24 CFR 135]* (Attachment 6-B(1)) language to include in all sub-contracts (including 1<sup>st</sup> Tier, 2<sup>nd</sup> Tier, 3<sup>rd</sup> Tier, etc.).
- Separate the CDBG project into smaller components for contracting purposes so that smaller companies/firms, which may be more likely to qualify as Section 3 Businesses, are more likely to be eligible to bid.

- Require prime contractors to identify a plan for outreach efforts to companies/firms that may qualify as Section 3 Businesses [such as *some* Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE) and Disadvantage Business Enterprise (DBE) firms] for sub-contracting.

### *Contractor Communications and Outreach:*

- Discuss the *Section 3 Requirements [24 CFR 135]* (Attachment 6-B(1)) in the pre-construction conference/meeting.
- Before construction begins or when new contractors (prime contractors and sub-contractors for construction, professional, and other services, etc.) begin on the CDBG project, send a reminder to the contractors that they **must post any new full-time job openings for positions that will be working on the CDBG project at the local Wisconsin Job Center and the local Public Housing Authority.**
- Recommend to contractors to post new full-time job openings where low- and moderate-income (LMI) persons are more likely to learn of the contracting and/or job opportunities, including but not limited to:
  - Local newspaper(s) or local job posting website(s) in LMI communities (in addition to the local public housing authority and job center, as required);
  - Government/municipal building(s) in LMI communities;
  - Community colleges and technical colleges/universities;
  - Trade organization publications/websites that have MBE/WBE/DBE membership and/or outreach; and
  - Community organization locations and/or publications/websites that serve LMI persons.

### *Data Collection and Reporting:*

- Provide all contractors with income certification forms (a separate form with the HUD income limits for each county in which the employees live) and instruct contractors to have all new full-time hires (hired in connection with the CDBG project) complete the form (for the county in which the employee lives). *Contractors should inform new hires that the company is working on a federally-funded CDBG project and income information is collected on new hires who will or may be working on the project as part of the program.*

### **Refer to Chapter 9: Reporting of the CDBG Implementation Handbook for Section 3 reporting and income certification forms.**

- Collect Section 3 data from all contractors with the weekly payrolls and provide guidance and income certification forms to contractors for obtaining the information from employees. Contractors must report Section 3 data for each semi-annual reporting period, from the date the contractor starts work on the CDBG project through the date the contractor completes work on the CDBG project. *UGLGs/Grantees and prime contractors should obtain remaining/final Section 3 documentation and data from contractors at the time when the contractor is completing work on the project and submitting the final weekly payroll records, rather than waiting until the March/September semi-annual reporting due dates when reporting is due to DEHCR; and may*

*withhold the final payment to contractors until all Section 3 documentation and data are received from the contractor.*

## SECTION 3 REQUIREMENTS FOR CDBG-FUNDED PROJECTS AWARDED ON OR AFTER 11/30/2020 [24 CFR 75]

The new HUD Section 3 Final Rule (issued November 30, 2020) seeks to improve the effectiveness of providing economic opportunities to low-income individuals by:

- Promoting sustained employment and career development,
- Focusing reporting on key outcome metrics,
- Aligning reporting with standard business practices,
- Providing additional program-specific oversight, and
- Clarifying obligations for CDBG-funding recipients.

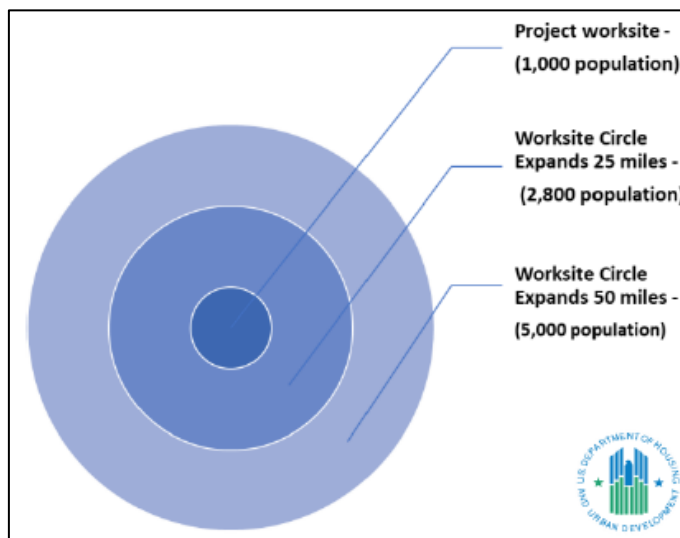
Grantees awarded on or after November 30, 2020 and the prime contractors and subcontractors working on their CDBG/HUD funded project are subject to the Section 3 requirements listed in this section *if* the Grantee was awarded more than \$200,000 in CDBG/HUD grant funds (in total from all funding sources) for the project *and* the project includes construction (including building/structural rehabilitation) and/or demolition in the scope of work for the project. Projects that are awarded \$200,000 or less in CDBG/HUD funding (in total from all funding sources) or include only planning, public services, or financial assistance (e.g., economic development loans) activities, with no construction and no demolition activities, are not subject to these Section 3 requirements and reporting.

### **Section 3 Benchmarks [24 CFR 75]:**

The HUD Section 3 Final Rule (24 CFR 75) establishes “**safe harbor**” benchmarks that are quantitative benchmarks and prioritized qualitative efforts that funding recipients must complete to assist low- and very low-income persons with employment and training opportunities:

- 25% or more of **ALL** labor hours worked must be worked by Section 3 Workers;
- AND**
- 5% or more of **ALL** labor hours worked must be worked by Targeted Section 3 Workers.

If the “**safe harbor**” benchmarks are not met over the course of the project, then evidence of completing qualitative efforts to assist low- and very low-income persons with employment and training opportunities must be reported to DEHCR. Supporting documentation of these completed efforts must also be maintained in the UGLG’s CDBG project file, to be made available upon request for monitoring purposes.



## **Section 3 Definitions [24 CFR 75]:**

A **Section 3 Worker** is an employee who currently fits, or when hired fit (and was hired within the past five (5) years of the project award), at least one (1) of the following categories:

- A worker employed by a **Section 3 Business concern**; OR
- A low- or very low-income resident (i.e., local person living within the Section 3 service area as defined in 24 CFR 75.5. The worker's annualized individual income for the year prior to hire (if hired within five (5) years of starting work on the CDBG project), or for the year prior to starting work on the CDBG project (if hired more than five (5) years before starting work on the CDBG project) must be at or below the low-income (80%) threshold established by HUD for a Family of 1 for the county in which the worker lives. [Note: The low-income threshold must be drawn from the [HUD Income Limits for the CDBG program](#) that are in effect on the date of the worker's hire (if hired within five (5) years of starting work on the CDBG project) or in effect on the date the worker started work on the CDBG project (if hired more than five (5) years before starting work on the CDBG project. The HUD income limits are updated annually, typically in March or April).] OR
- A YouthBuild participant.

A **Targeted Section 3 Worker** is an employee who:

- Is employed by a **Section 3 Business concern**; OR
- Currently fits (or when hired fit) at least one (1) of the following categories as documented within the past five (5) years:
  - Lives/lived within the Section 3 service area or the neighborhood of the project (as defined in 24 CFR 75.5); OR
  - Is a YouthBuild participant.

A **Section 3 Business concern** is a business that fits at least one (1) of the following categories:

- 51% or more owned by low- or very low-income persons; OR
- 75% or more of the labor hours are performed by low- or very low-income persons; OR
- 51% or more owned by current residents of public housing or Section 8-assisted housing.

The Section 3 **Service Area** (as defined in 24 CFR 75.5) is:

- An area within one (1) mile of the Section 3 project's location (i.e., street address), OR
- An area within a circle centered around the Section 3 project site that encompasses 5,000 people [if less than 5,000 people live within a one (1) mile radius of the Section 3 project site].

Any employment opportunities resulting from these expenditures (excluding positions that require an advanced degree or certification), including administration, management, clerical support, and construction, is subject to compliance with Section 3 benchmarks. While not subject to the Section 3 Final Rule benchmarks, work hours requiring an advanced degree or professional certification that are completed by Section 3 or



Targeted Section 3 Workers can be used to calculate the numerator for the 25/5 benchmarks (listed above) without having to be included in the denominator, which can greatly increase the likelihood of meeting the 25/5 benchmarks.

Businesses can (and are strongly encouraged) to recruit and/or promote Section 3 Workers that live in public housing developments and in the neighborhoods where the HUD assistance is being spent. Methods of informing residents and current employees about available training and job opportunities (or otherwise promoting employment participation by low- and very low-income individuals) may include but are not limited to:

- Contacting resident organizations, local community development and employment agencies, and the local public housing authority to generate job applicants;
- Distributing flyers, posting signs, and/or placing ads in local newspapers, at local job centers, the local public housing authority, and in online job forums;
- Providing direct, on-the-job training (including apprenticeships);
- Providing indirect training such as arranging for, contracting for, or paying tuition for, off-site training;
- Making outreach efforts to identify and secure bids from Section 3 Business concerns;
- Offering technical assistance to help Section 3 Business concerns understand and bid on contracts;
- Offering technical assistance to help Section 3 Workers to compete for jobs (including resume writing assistance, coaching, interview preparation, searching for job opportunities, connecting individuals with job placement services, locating child care, completing school/training program applications, obtaining financial literacy training/coaching, providing computer/technology use training, connecting individuals with supportive services, and holding job fairs, etc.);
- Dividing contracts into smaller jobs to facilitate participation by Section 3 Business concerns; and
- Providing bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business concerns.

## **Section 3 Responsibilities [24 CFR 75]:**

UGLGs/Grantees and contractors and sub-contractors (and sub-recipients) for the CDBG project are required to comply with the requirements of Section 3 for employment, training, or contracting opportunities resulting from the expenditure of CDBG funding. This responsibility includes:

- Implementing procedures to notify Section 3 Residents and Section 3 Business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
- Notifying potential contractors working on Section 3 covered projects of their responsibilities;
  - Incorporating the *Section 3 Requirements [24 CFR 75]* (Attachment 6-B(2)) into all solicitations and contracts funded in whole or in part with CDBG funds;
  - Facilitating the training, employment, and retention/promotion of Section 3 Residents and the award of contracts to Section 3 Business concerns;



- Assisting and actively cooperating with DEHCR in making contractors and sub-contractors comply;
- Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
- Documenting actions taken to comply with Section 3, including having all contractors track and report employee hours worked, and retain supporting documentation of outreach/promotion best efforts made;
- Maintaining copies of all contractors' Section 3 data reported in the CDBG project file; and
- Submitting Section 3 reporting documents semi-annually to DEHCR, as specified in Chapter 9: *Reporting* in the *CDBG Implementation Handbook*.<sup>\*</sup> Section 3 reporting documents submitted to DEHCR by the UGLG shall summarize all contracting and Section 3 activity for the project by the UGLG and all contractors.

**\*Section 3 reporting and employee income certification documents are available in Chapter 9: *Reporting* in the *CDBG Implementation Handbook* and fillable versions of forms are under the "Chapter Attachments/Fillable Forms" section of the *CDBG Implementation Handbook* website at:**

<https://doa.wi.gov/Pages/LocalGovtsGrants/CDBGImplementationHandbook.aspx>

### **Labor Hours Reporting Guidance:**

CDBG Grantee *and* contractors and sub-contractors for the CDBG project must report worker labor hours (excluding those from positions requiring an advanced degree or professional certification)<sup>\*</sup> as follows:

- the total number of labor hours worked;
- the total number of labor hours worked by Section 3 Workers; and
- the total number of labor hours worked by Targeted Section 3 Workers.

The Section 3 documents and forms for data collection and reporting are specified in Chapter 9: *Reporting* in the *CDBG Implementation Handbook*.

Section 3 Workers' and Targeted Section 3 Workers' labor hours may be counted for 5 years from when their status as a Section 3 Worker or Targeted Section 3 Worker is established (i.e., 5 years from their hire date). The labor hours reported shall include the total number of labor hours worked on the financially assisted project by workers employed by the CDBG Grantee, *and* employed by their contractors and sub-contractors, during the reporting period specified by HUD and the State CDBG Program.

The labor hours reported may be based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting. [Note: Construction contractors required to maintain certified payroll records to meet federal labor standards requirements shall report actual work hours as reported on the certified payroll records.]

*\*Reporting of hours worked by employees in positions that require an advanced degree or professional certification is not required, but these may be reported to demonstrate Section 3 "best efforts." For professional services contracts, if the contract covers both work completed by employees in positions requiring an advanced degree or professional certification, and other work, then the labor hours for the other work under the contract that are not from*

*employees in positions requiring an advanced degree or professional certification must still be reported.*

## **Section 3 Compliance Guidance & Best Practices Summary [24 CFR 75]:**

Section 3 guidance and best practices for UGLG/Grantee and contractor compliance are summarized as follows:

### ***Contracting:***

- Include Section 3 quantitative “**safe harbor**” benchmarks and prioritized qualitative outreach/promotion best efforts (Attachment 6-B(2): *Section 3 Contract Requirements [24 CFR 75]*) in ALL contracts for construction projects.
- Provide all prime contractors with the *Section 3 Contract Requirements [24 CFR 75]* (Attachment 6-B(2)) to include in all sub-contracts (including 1<sup>st</sup> Tier, 2<sup>nd</sup> Tier, 3<sup>rd</sup> Tier, etc.).
- Separate the CDBG project into smaller components for contracting purposes so that smaller companies/firms, which may be more likely to qualify as Section 3 Business concerns, are more likely to be eligible to bid.
- Require prime contractors to identify a plan for outreach/promotion efforts to existing Section 3 Workers and companies/firms that may qualify as Section 3 Business concerns [such as *some* Minority-Owned Business Enterprise (MBE), Woman-Owned Business Enterprise (WBE) and Disadvantage Business Enterprise (DBE) firms] for sub-contracting.

### ***Contractor Communications and Outreach:***

- Discuss Section 3 “**safe harbor**” benchmarks and prioritized outreach/promotion efforts (Attachment 6-B(2): *Section 3 Contract Requirements [24 CFR 75]*) in the pre-construction conference/meeting.
- Before construction begins or when new contractors (prime contractors, sub-contractors, etc.) begin on the CDBG project, send a reminder to the contractors to determine all employees’ Section 3 Worker status and Targeted Section 3 Worker status. These determinations can assist in helping determine which employees would most benefit from working on the HUD-funded project.
- Promote utilization of and provide support to local residents, Section 3 Workers and Section 3 Business concerns. The examples of “best efforts” that are listed on the Section 3 data reporting forms for CDBG projects (*for Grantees awarded on or after 11/30/2020*) include:
  - Providing support to Section 3 Workers and Section 3 Business concerns through the CDBG project, including Outreach efforts to generate job applicants who are Public Housing Targeted Workers.
  - 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 assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching, etc.).
- 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.
- Providing or connecting residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- Holding one or more job fairs.
- Providing or connecting residents with supportive services that can provide direct services or referrals.
- Providing or connecting residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- Assisting residents with finding child care.
- Assisting residents to apply for (or attend) community college or a four (4) year educational institution.
- Assisting residents to apply for (or attend) vocational/technical training.
- Assisting residents to obtain financial literacy training and/or coaching.
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business concerns.
- Providing or connecting residents with training on computer use or online technologies.

### *Data Collection and Reporting:*

- Provide all construction contractors with income certification forms (a separate form with the HUD income limits/thresholds for each county in which employees live) to determine Section 3 Worker and Targeted Section 3 Worker statuses. Instruct contractors to have all current employees complete the form (for the county in which the employee lives). *Contractors should inform existing and new employees that the company is working on a federally-funded CDBG project and income information is collected on all workers that will or potentially will work on the CDBG project are to complete the form.*
- Have contractors and sub-contractors complete the income certification forms to determine Section 3 Business statuses.

### **Refer to Chapter 9: Reporting of the CDBG Implementation Handbook for Section 3 reporting and income certification forms.**

- Collect Section 3 data from all contractors with the weekly payrolls and provide guidance and income certification forms to contractors for obtaining the information from employees. Contractors must report Section 3 data for each semi-annual reporting period, from the date the contractor starts work on the CDBG project through the date the contractor completes work on the CDBG project. *If a contractor is finishing work on the CDBG project in months prior to the March and September semi-annual Section 3 data reporting due dates, DEHCR strongly recommends collecting any remaining Section 3 documentation and data from the contractor at the time of their final work week/payroll rather than waiting until the March/September reporting due dates to DEHCR. It may be more challenging to collect the documentation and data when the contractor has completed work on the project*

*several months earlier. In addition, UGLGs and prime contractors should ensure that their contractors/subcontractors have complied with all Section 3 requirements prior to issuing the final payment for their work on the CDBG project.*

## ATTACHMENTS

Attachments for this chapter are listed below.

ATTACHMENT 6-A:	EQUAL OPPORTUNITY CLAUSE (EO 11246)
ATTACHMENT 6-B(1):	SECTION 3 CONTRACT LANGUAGE REQUIREMENTS [24 CFR 135]
ATTACHMENT 6-B(2):	SECTION 3 CONTRACT LANGUAGE REQUIREMENTS [24 CFR 75]
ATTACHMENT 6-C:	AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)
ATTACHMENT 6-D:	FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CLAUSES CONSTRUCTION CONTRACT SPECIFICATIONS (EO 11246)
ATTACHMENT 6-E:	ACCESSIBILITY SELF-EVALUATION CHECKLIST
ATTACHMENT 6-F:	CITIZEN PARTICIPATION CERTIFICATION FOR PUBLIC HEARING #2

## **ATTACHMENT 6-A: EQUAL OPPORTUNITY CLAUSE (EO 11246) (FOR CONTRACTORS)**

During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
3. The contractor shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous place available to employees and applicants for employment.
4. The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Energy, Housing and Community Resources and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and others.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor shall include the provisions of paragraphs 1 through 7 in every sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-contractor or vendor. The contractor will take such action with respect to any sub-contract or purchase order as DEHCR may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by DEHCR, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
8. The UGLG further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided that if the UGLG participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

9. The UGLG agrees that it will assist and cooperate actively with DEHCR and the Secretary of Labor in obtaining the compliance of contractors and sub-contractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
10. The UGLG further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and sub-contractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the UGLG agrees that if it fails or refuses to take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance has been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.



## ATTACHMENT 6-B(1): SECTION 3 CONTRACT REQUIREMENTS [24 CFR 135]

(24 CFR 135 is applicable to HUD-funded projects awarded **prior** to November 30, 2020)

**Insertion in all contracts and sub-contracts funded with Community Development Block Grant (CDBG) dollars\*\*:**

1. **Section 3 of the Housing and Urban Development Act of 1968:** The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. **Contractor Certification of Compliance:** The parties to this contract agree to comply with HUD's regulations in [24 CFR 135](#), which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the [24 CFR 135](#) regulations.
3. **Contract Language Requirement:** The contractor agrees to include this *Section 3 Contract Requirements* clause in every sub-contract subject to compliance with regulations in [24 CFR 135](#), and agrees to take appropriate action, as provided in an applicable provision of the sub-contractor in this *Section 3 Contract Requirements* clause, upon a finding that the sub-contractor is in violation of the regulations in [24 CFR 135](#). The contractor will not sub-contract with any sub-contractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in [24 CFR 135](#).
4. **Advertising New Employment Opportunities:** The contractor agrees to advertise all job openings for new full-time permanent positions (for permanent, temporary or seasonal full-time jobs) generated from the HUD-assisted project by posting them with the local job center and local public housing authority (nearest to the project location).
5. **Notifying Labor Organizations/Representatives:** The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this *Section 3 Contract Requirements* clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship, and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
6. **Hiring For CDBG Project Prior to Contract Being Executed:** The contractor certifies that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of [24 CFR 135](#) require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under [24 CFR 135](#).
7. **Section 3 Definitions:** Definitions of Section 3 terms per [24 CFR 135](#) are as follows:  
New Hire: An employee hired by the CDBG Grantee, contractor, or sub-contractor in a full-time position (for permanent, temporary or seasonal employment) generated in connection with the CDBG project.  
New Trainee: A new hire that was hired as a participant in/for a CDBG employment and training project (per the terms of a CDBG Grant Agreement).  
Section 3 Resident: A person who lives within the area (same county) in which the CDBG project is located, with an annual family household income at the time of hire that is at or below the low-income (80%) threshold established by HUD. [Note: The low-income thresholds must be drawn from the [HUD Income Limits for the CDBG program](#) that are in effect on the date of hire. The HUD income limits are updated annually, typically in March or April.] *A worker newly hired in a full-time position (which may be permanent, temporary or seasonal employment) to work on the CDBG project, lives in the county in which the project occurs, and has an annual family household income (for the year preceding the hire date) that is at or below the applicable HUD low-income (80%) threshold for their family size, is a Section 3 Resident.*  
Section 3 Business Concern: A business that fits one or more of the following categories: (1) 51% or more of its ownership is held by Section 3 Resident(s) (i.e., 51% or more of the ownership is held by one or more Section 3 Residents, and 51% or more of the net profit or loss which accrues is to one or more Section 3 Residents); or (2) 30% or more of the full-time employees of the business include persons that are currently Section 3 Residents, or were Section 3 Residents within three (3) years of their date of first hire by the Section 3 Business (*Employee Income Certifications* are required to verify employees' Section 3 status); or (3) provides in writing a commitment to sub-contract more than 25% of the dollar amount awarded of all sub-contracts to Section 3 Business concerns.
8. **Section 3 Goals:** CDBG Grantees and contractors and sub-contractors for the CDBG project shall demonstrate best efforts in attempting to meet the Section 3 minimum numerical goals, which include the following: (1) At least 30% of all job training opportunities generated for the CDBG project are to be filled by Section 3 Residents; and (2) At least 30% of all employment opportunities generated for the CDBG project are to be filled by Section 3 Residents; and (3) At least 10% of the total dollar amount of all *construction contracts* and 3% of the total dollar amount of all *non-construction contracts* generated for the CDBG project are to be awarded to Section 3 Businesses. [Note: When a prime contract with the UGLG/Grantee is funded in whole or in part with CDBG funds, the sub-contracts of the prime contractor are considered to also be funded in whole or in part with CDBG funds and therefore are subject to Section 3 requirements.].

9. **Demonstrating Best Efforts:** The CDBG Grantee *and* contractors and sub-contractors for the CDBG project shall demonstrate best efforts in attempting to meet the Section 3 goals for new employment, training, and contracting opportunities resulting from the expenditure of CDBG funding, which may include but are not limited to the following:
- (1) Including the required Section 3 requirements language in all contracts and subcontracts;
  - (2) Including the Section 3 goals/requirements in contract solicitations;
  - (3) Refrain from contracting with contractors in violation of Section 3 regulations;
  - (4) Providing contractors and subcontractors with the appropriate *Employee Income Self Certification Forms* to determine the Section 3 status of new hires and contractors working on the CDBG project.
  - (5) Posting new full-time jobs (for work on the CDBG project) at the local Job Center and Public Housing Authority, as required;
  - (6) Informing the local labor organization(s) of the Section 3 goals, as required;
  - (7) Posting new jobs (for work on the CDBG project) in the local newspaper(s) and/or local job posting website(s) in low- and moderate-income (LMI) communities;
  - (8) Posting new jobs (for worker on the CDBG project) at local governmental/municipal buildings in LMI communities;
  - (9) Posting new jobs (for work on the CDBG project) and/or making outreach efforts to contacts at local community colleges and technical colleges/universities to promote local hiring;
  - (10) Posting new contracting opportunities (for the CDBG project) with, and/or making outreach efforts to contacts of local trade organizations that have MBE/WBE/DBE membership and/or outreach; and
  - (11) Posting new job and contracting opportunities (for the CDBG project) with community organizations' publications/websites that serve LMI persons.
10. **Recordkeeping & Reporting:** CDBG Grantees *and* contractors and sub-contractors for the CDBG project shall maintain all records demonstrating compliance with [24 CFR 135](#), including contracting documents, new hiring information and new hire income certifications (for Section 3 Worker status determinations) for the CDBG project, *and* provide data and reporting documents as requested and required by the State CDBG Program and/or HUD. Grantee and contractor records may be monitored for compliance the State CDBG Program and/or HUD.
11. **Non-Compliance:** Non-compliance with HUD's regulations in [24 CFR 135](#) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
12. **Indian Housing Assistance Project Specifications:** With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii) preference in the award of contracts and sub-contracts shall be given to Indian organizations and Indian-Owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**\*\* This language is required to be included in contracts and sub-contracts for the HUD funded project that are funded in whole or in part with the federal dollars. It is strongly recommended to be included in ALL contracts and sub-contracts for the HUD funded project, regardless of the funding source, to help avoid issues with compliance and reporting later in the project cycle if the funding source changes.**

## ATTACHMENT 6-B(2): SECTION 3 CONTRACT REQUIREMENTS [24 CFR 75]

(24 CFR 75 is applicable to HUD-funded projects awarded **ON or AFTER** to November 30, 2020)

**Insertion in all contracts and sub-contracts funded with Community Development Block Grant (CDBG) dollars when the CDBG Award to the Grantee is greater than \$200,000 and the CDBG Project includes Construction and/or Demolition Activities\*\*:**

1. **Section 3 of the Housing and Urban Development Act of 1968:** The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. **Contractor Certification of Compliance:** The parties to this contract agree to comply with HUD's regulations in [24 CFR 75](#), which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the [24 CFR 75](#) regulations.
3. **Contract Language Requirement:** The contractor agrees to include this *Section 3 Contract Requirements* clause in every sub-contract subject to compliance with regulations in [24 CFR 75](#), and agrees to take appropriate action, as provided in an applicable provision of the sub-contractor in this *Section 3 Contract Requirements* clause, upon a finding that the sub-contractor is in violation of the regulations in [24 CFR 75](#). The contractor will not sub-contract with any sub-contractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in [24 CFR 75](#).
4. **Contracting Requirements:** To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the CDBG Grantee *and* contractors and sub-contractors for the CDBG project shall ensure contracts and sub-contracts for work awarded in connection with the project are awarded to business concerns that provide economic opportunities to Section 3 Workers; and where feasible in the following order of priority: (1) Section 3 Business concerns that provide economic opportunities to Section 3 Workers residing within the metropolitan area (or nonmetropolitan county) in which the HUD funded assistance is provided/in which the HUD funded/CDBG project is occurring; and (2) YouthBuild programs.
5. **Employment and Training Requirements:** To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the CDBG Grantee *and* contractors and sub-contractors for the CDBG project shall ensure employment and training opportunities generated in connection with the project are filled by Section 3 Workers; and where feasible, in the following order of priority: (1) low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the CDBG assistance is expended (i.e., in which the CDBG project is occurring); and (2) participants in YouthBuild programs.
6. **Section 3 Definitions [24 CFR 75]:** Definitions for Section 3 terms per [24 CFR 75](#) are as follows:  
Section 3 Worker: An employee who currently fits (if hired more than five (5) years before starting work on the CDBG project), or fit at the time of hire (if hired within five (5) years of starting work on the CDBG project), at least one (1) of the following categories: (1) is employed by a Section 3 Business concern; or (2) is a low- or very low-income resident (i.e., a local person living within the Section 3 service area as defined in 24 CFR 75.5, with an *individual* annualized income at the time of hire (if hired within five (5) years of starting work on the CDBG project), or currently as of date of starting work on the project (if hired more than five (5) years before starting work on the CDBG project) that was/is at or below the low-income (80%) threshold established by HUD for a Family of 1 for the county in which the person lives) [Note: The HUD income threshold must be from the [HUD Income Limits for the CDBG program](#) that are in effect at the time of hire (if hired within five (5) years of starting work on the CDBG project), or currently in effect as of the date the worker started work on the CDBG project (if hired more than five (5) years prior to starting work on the CDBG project). The HUD Income Limits are updated annually, typically in March or April.]; or (3) is a YouthBuild participant.  
Targeted Section 3 Worker: An employee who is employed by a Section 3 Business concern; or who currently fits (or when hired fit) at least one (1) of the following categories as documented within the past five (5) years: (1) lives/lived within the Section 3 service area or the neighborhood of the CDBG project as defined in 24 CFR 75.5; or (2) is a YouthBuild participant.  
Section 3 Business concern: A business that fits at least one (1) of the following categories: (1) 51% or more owned by low- or very low-income persons; or (2) 75% or more of the labor hours are performed by low- or very low-income persons; or (3) 51% or more owned by current residents of public housing or Section 8-assisted housing.  
Section 3 Service Area: An area within one (1) mile of the CDBG project's location (i.e., street address); or an area within a circle centered around the CDBG project site that encompasses 5,000 people [if less than 5,000 people live within a one (1) mile radius of the CDBG project site].
7. **Reporting Labor Hours:** CDBG Grantee *and* contractors and sub-contractors for the CDBG project shall report all worker (see exception on next page)\* labor hours on the project as follows: (1) the total number of labor hours worked; (2) the total number of labor hours worked by Section 3 Workers; and (3) the total number of labor hours worked by Targeted Section 3 Workers. The labor hours reported shall include the total number of labor hours worked on the financially assisted project by workers employed by the CDBG Grantee, *and* employed by their contractors and sub-contractors, during the reporting period specified by HUD and the State CDBG Program. The labor hours reported may be based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's

existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting. [Note: Construction contractors required to maintain certified payroll records to meet federal labor standards requirements shall report actual work hours as reported on the certified payroll records.]

*\*Exception for positions that require an advanced degree or professional certification: Reporting of hours for positions requiring an advanced degree or professional certification is not required, but the hours may be reported to demonstrate Section 3 "best efforts". The CDBG Grantee, contractors and sub-contractors may report the labor hours by Section 3 Workers and Targeted Section 3 Workers without including labor hours from employees in positions requiring an advanced degree or professional certification in the total number of labor hours worked, but if the contract covers both work requiring an advanced degree or professional certification and other work, the labor hours for the other work under the contract that are not from employees in positions requiring an advanced degree or professional certification must still be reported.*

8. **Section 3 Benchmarks:** The HUD Section 3 Final Rule (24 CFR 75) establishes "safe harbor" benchmarks that are quantitative benchmarks and prioritized qualitative efforts that funding recipients must complete to assist low- and very low-income persons with employment and training opportunities: (1) 25% or more of all labor hours worked must be worked by Section 3 Workers; and (2) 5% or more of all labor hours worked must be worked by Targeted Section 3 Workers. If the "safe harbor" benchmarks are not met over the course of the project, then the CDBG Grantee and contractors and sub-contractors for the CDBG project shall provide evidence of completing qualitative efforts to assist low- and very low-income persons with employment and training opportunities. Supporting documentation of these completed efforts must also be maintained in the CDBG Grantee's and contractors' CDBG project files, to be made available upon request for monitoring purposes.
9. **Demonstrating Best Efforts:** When the Section 3 benchmarks are not met, the CDBG Grantee and contractors and sub-contractors for the CDBG project shall demonstrate and report qualitative efforts made in an attempt to meet the benchmarks, which may include but are not limited to the following:
  - (1) Engage in outreach efforts to generate job applicants who are Targeted Section 3 Workers.
  - (2) Provide training or apprenticeship opportunities.
  - (3) Provide technical assistance to help Section 3 Workers compete for jobs (e.g., resume assistance, coaching).
  - (4) Provide or connect Section 3 Workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
  - (5) Hold one or more job fairs.
  - (6) Provide or refer Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
  - (7) Provide assistance to Section 3 Workers to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
  - (8) Assist Section 3 Workers to obtain financial literacy training and/or coaching.
  - (9) Engage in outreach efforts to identify and secure bids from Section 3 Business concerns.
  - (10) Provide technical assistance to help Section 3 Business concerns understand and bid on contracts.
  - (11) Divide contracts into smaller jobs to facilitate participation by Section 3 Business concerns.
  - (12) Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business concerns.
  - (13) Promote use of business registries designed to create opportunities for disadvantaged and small businesses.
  - (14) Conduct outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.
10. **Recordkeeping & Reporting:** The CDBG Grantee and contractors and sub-contractors for the CDBG project shall maintain all records demonstrating compliance with [24 CFR 75](#), including contracting information and documents, worker income certifications (for Section 3 Worker status determinations), and worker labor hours on CDBG project; and provide data and reporting documents as requested and required by the State CDBG Program and/or HUD. Grantee and contractor records may be monitored for compliance by the State CDBG Program and/or HUD.
11. **Non-Compliance:** Non-compliance with HUD's regulations in [24 CFR 75](#) may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
12. **Indian Housing Assistance Project Specifications:** With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians; and (ii) preference in the award of contracts and sub-contracts shall be given to Indian organizations and Indian-Owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

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\*\* This language is **required** to be included in contracts and sub-contracts for a HUD funded project that are funded in whole or in part with the federal dollars, and the CDBG/HUD Funded Award to the Grantee is greater than \$200,000 and awarded 11/30/2020 or later, and the CDBG/HUD Funded Project includes construction (including building/structural rehabilitation) and/or demolition activities. CDBG projects awarded on or after 11/30/2020, for which the CDBG/HUD funded Award is less than \$200,000 and/or for which Planning, Public Services, or Financial Assistance (e.g., loans for economic development) are the only activities, with no construction and no demolition in the project scope of work, are not subject to these Section 3 requirements and reporting. Insertion of this Section 3 Clause is **strongly recommended** to be included in ALL contracts and sub-contracts for a HUD funded project that is subject to Section 3 requirements, regardless of the funding source for the specific contract, to help avoid issues with compliance and reporting later in the project cycle if the funding source changes. All subcontractors of a prime contractor that is funded in whole or in part with CDBG/HUD funding are subject to the same Section 3 requirements as the prime contractor.



**ATTACHMENT 6-C: AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)****Division of Energy, Housing and Community Resources**Affirmative Action Requirements (EO 11246)**AFFIRMATIVE ACTION REQUIREMENTS (EO 11246)***(Applicable to construction contracts/sub-contracts exceeding \$10,000)*

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Women = 6.9 percent (this goal applies nationwide)

Goals for minority participation = \_\_\_\_\_ (this goal applies county-wide)  
(Insert goals – see next page)

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. The contractor is also subject to the goals for both its federal and nonfederal construction.

3. The contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.
4. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction sub-contract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the sub-contractor; employer identification number; estimated dollar amount of the sub-contract; estimated starting and completion dates of the sub-contract; and the geographical area in which the contract is to be performed.

As used in this notice, and in the contract resulting from this solicitation, the "covered area" is a description of the geographical areas where the contract is to be performed indicating the state, county and city, if any.

**Division of Energy, Housing and Community Resources****Affirmative Action Requirements (EO 11246)****GOALS FOR WOMEN AND MINORITY UTILIZATION IN CONSTRUCTION**

These goals apply to all federally assisted construction contracts and sub-contracts in excess of \$10,000 (EO 11246). All hours of work (federal and non-federal) in each trade, regardless of the location of work, are subject to these goals.

Directions: Use the applicable county percentage below to fill in the "Goals for minority participation" on the previous page.

A. Goals for Women—6.9 percent (this goal applies nationwide).

B. Minority Goals—percentage listed for each county:

Adams	1.7	Iowa	1.7	Polk	2.2
Ashland	1.2	Iron	1.2	Portage	.6
Barron	.6	Jackson	.6	Price	.6
Bayfield	1.2	Jefferson	7.0	Racine	8.4
Brown	1.3	Juneau	.6	Richland	1.7
Buffalo	.6	Kenosha	3.0	Rock	3.1
Burnett	2.2	Kewaunee	1.0	Rusk	.6
Calumet	.9	La Crosse	.8	St. Croix	2.9
Chippewa	.5	Lafayette	.5	Sauk	1.7
Clark	.6	Langlade	.6	Sawyer	.6
Columbia	1.7	Lincoln	.6	Shawano	1.0
Crawford	.5	Manitowoc	1.0	Sheboygan	7.0
Dane	2.2	Marathon	.6	Taylor	.6
Dodge	7.0	Marinette	1.0	Trempealeau	.6
Door	1.0	Marquette	1.7	Vernon	.6
Douglas	1.0	Menomonie	1.0	Vilas	.6
Dunn	.6	Milwaukee	8.0	Walworth	7.0
Eau Claire	.5	Monroe	.6	Washburn	.6
Florence	1.0	Oconto	1.0	Washington	8.0
Fond du Lac	1.0	Oneida	.6	Waukesha	8.0
Forest	1.0	Outagamie	.9	Waupaca	1.0
Grant	.5	Ozaukee	8.0	Waushara	1.0
Green	1.7	Pepin	.6	Winnebago	.9
Green Lake	1.0	Pierce	2.2	Wood	.6

TEMPLATE

## **ATTACHMENT 6-D: FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CLAUSES CONSTRUCTION CONTRACT SPECIFICATIONS (EO 11246)**

(Applicable to construction contracts/sub-contracts exceeding \$10,000)

1. As used in these specifications: (41 CFR 60-4.3)
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
  - c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race);
    - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any sub-contractor at any tier, sub-contracts a portion of the work involving any construction trade, it shall physically include in each sub-contract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or sub-contractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or sub-contractors toward a goal in an approved Plan does not excuse any covered contractor's or sub-contractor's failure to take good faith effort to achieve the Plan goals and timetables.

The contractor shall implement the specific affirmative action standards provided in paragraphs 7(a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered areas. Covered construction contractors performing contracts in geographical areas, where they do not have a federal or federally assisted construction contract, shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of



Federal Contract Compliance Programs office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

4. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women, shall excuse the contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
5. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
6. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a) Ensure and maintain a working environment, free of harassment, intimidation, and coercion at all sites, and in all facilities where the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority and female individuals working at such sites or in such facilities.
  - b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c) Maintain a current file of the names, addresses, and telephone numbers of each minority and female applicant and minority or female referral from a union, a recruitment source or community organization and what, if any, action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union, or if referred, not employed by the contractor, this shall be documented in the file with the reason along with whatever additional actions the contractor may have taken.
  - d) Provide immediate written notification to the Director when the union contractor has a collective bargaining agreement which has/has not referred a minority person or woman, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
  - e) Develop training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7(b) above.
  - f) Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the

policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
  - h) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification and discussing the contractor's EEO policy with other contractors and sub-contractors with whom the contractor does, or anticipates, doing business.
  - i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one-month prior to the date of the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
  - k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
  - l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m) Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
  - n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o) Document and maintain a record of all solicitations of offers for sub-contractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
7. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations [7 (a) through (p)]. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7(a) through (p). of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on

the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documents that demonstrate the effectiveness of actions taken on behalf of the contractor. The obligations shall not be a defense for the contractor's noncompliance.

8. A single goal for minorities and a separate single goal for women must be established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goal for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
9. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
10. The contractor shall not enter into any sub-contract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
11. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing sub-contracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Officer of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
12. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR60-4.8.

The contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
13. Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**ATTACHMENT 6-E: ACCESSIBILITY SELF-EVALUATION CHECKLIST (TEMPLATE)**

**Division of Energy, Housing and Community Resources**  
Accessibility Self-Evaluation Checklist

**ACCESSIBILITY SELF-EVALUATION CHECKLIST**

**Section 504 of the Rehabilitation Act of 1973**

\_\_\_\_\_

DO NOT complete this form if the project plans were approved by the Department of Safety and Professional Services (DSPS). If approved, send a copy of the approval letter to the assigned Project Representative in the Division of Energy, Housing and Community Resources – Bureau of Community Development.

\_\_\_\_\_

Date: \_\_\_\_\_  
 Grant Agreement No.: \_\_\_\_\_  
 City/Village/Town/County: \_\_\_\_\_  
 County: \_\_\_\_\_

Project Name: \_\_\_\_\_  
 Project Location: \_\_\_\_\_  
 Chief Elected Official: \_\_\_\_\_  
 Project Administrator: \_\_\_\_\_

Check Yes, No, or Not Applicable (N/A) to each question. If the answer is no, explain in the corrective action/comment(s) section following each element. It is important to know exact measures/conditions of inaccessible elements and if there are any plans to correct such elements. Additional pages may be used as needed.

	<b>Section 504</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Corrective Action/ Comments</b>
1	Has the UGLG completed a written Section 504 self-evaluation?				
2	Did the UGLG solicit input from persons with disabilities or organizations that represent person(s) with disabilities?				
3	Are reasonable accommodations made upon request by person(s) with disabilities?				
4	Are reasonable modifications made upon request by person(s) with disabilities?				
5	Does the UGLG have written grievance procedures?				

*Accessibility Self-Evaluation Checklist* Page 1 Revised: August 31, 2018

## Division of Energy, Housing and Community Resources

### Accessibility Self-Evaluation Checklist

	Accessible Route Questions	Yes	No	N/A	Corrective Action/ Comments
1	Is there at least one accessible route that connects all parts of the facility?				
2	Is there a minimum of 36" clear width (path) except at doors?				
3	Is there at least a 60" x 60" passing space every 200'?				
4	Is the surface non-slip, firm and stable?				
5	Slope does not exceed 1:20 degrees?				
6	Are routes not interrupted by 1/2" degrees or more changes in level or steps?				
7	Are grates set in the direction of the route no more than 1/2" wide?				
8	Route is clear of any benches, water fountains, etc. with leading edges at or below 27" that reduce the width of route space less than 36"?				
9	At least one accessible route from transportation stops, parking, street and/or sidewalks?				
10	Curb ramps (a – g):				
	(a) Located whenever accessible route crosses a curb and where cars do not park?				
	(b) Slope does not exceed 1:12 degrees?				
	(c) At least 36" wide, excluding flared sides?				
	(d) Surface, firm, stable and non-slip?				
	(e) If no hand/guard rails, flared sides with slope of flare no more than 1:10 degrees?				
	(f) If at intersection, located within and to one side of marked crossings?				
	(g) Flush, smooth transition with street level?				

	Accessible Entrances and Interior Doors Questions	Yes	No	N/A	Corrective Action/ Comments
1	At least one principle entrance is located on an accessible route?				
2	Accessible doors are standard single or double-leaf hinged doors, not revolving doors/turnstiles?				
3	If the door width when open 90 degrees, is the clear opening at least 32" measured between the face of the door and the door stop on the latch side (if double doors are used, one must comply)?				
4	Is the door hardware no higher than 48" and push/pull type or lever operated?				



**Division of Energy, Housing and Community Resources****Accessibility Self-Evaluation Checklist**

5	Is the maximum opening force 8.5 lbs. on exterior hinged doors: 5 lbs. on interior hinged/sliding/folding doors?				
6	Are all thresholds no higher than ½" with beveled edge, and a slope no greater than 1:2?				
7	Is there a maximum of 48" between sets of open doors?				
8	If exterior sliding door: thresholds or bottom track maximum height ¾": hardware exposed and usable on both sides?				
9	Sweep period of door closing is 3 seconds or more?				

	Accessible Parking Questions	Yes	No	N/A	Corrective Action/Comments
1	Are reserved space(s) located closest to accessible entrance, on accessible route?				
2	Is the space(s) at least 96" wide?				
3	Access aisle next to space at least 60"				
4	Slope of space/access aisle no more than 1:50?				
5	Accessibility symbol on space: mounted at a height not obscured by a vehicle?				
6	Surface: non-slip, firm and stable?				

	Accessible Ramp Questions	Yes	No	N/A	Corrective Action/Comments
1	Slope is as small as possible and no more than 1:12?				
2	Cross slope (perpendicular to direction of travel) is no more than 1:50?				
3	Surface is non-slip, firm and stable?				
4	Walls, railings, or curbs at least 2" high to prevent slipping off ramp?				
5	Level landing is as wide as ramp and at least 60" long at top and bottom of ramp and each turn of ramp?				
6	Ramp is at least 36" wide and rises no more than 30"?				
7	Handrails (a – g):				
	(a) Provided on both sides?				
	(b) Diameter of gripping surface 1 ¼" to 1 ½"?				
	(c) If on/next to wall, wall and handrail are 1 ½" and wall surfaces smooth?				

## Division of Energy, Housing and Community Resources

### Accessibility Self-Evaluation Checklist

	(d) If ramp rise is more than 6" and length is more than 72", are there handrails between 30-34" high and do they extend 1' beyond top and bottom of ramp?				
	(e) Ends and edges rounded smoothly?				
	(f) Solidly anchored and with fittings that do not rotate?				
	(g) Parallel with slope of ground surface?				

	Accessible Restroom Questions	Yes	No	N/A	Corrective Action/Comments
1	If there are restrooms, at least one is provided on an accessible route?				
2	Entrance door has at least 32" clear opening; lever handle or push/pull type hardware; identified by accessibility symbol?				
3	Unobstructed space to allow for wheelchair?				
4	Toilet stall doors at least 32" wide?				
5	In stalls, 59" x 60" floor space for floor-mounted toilet or 56" x 60" for wall hung toilet?				
6	In stalls, front partition (and at least one side of partition) provides toe clearance of at least 9" above the floor (if depth of the stall is greater than 60", then more toe clearance is needed)?				
7	Grab bars are 33-36" high; located on back and side of stall; 1 1/4" to 1 1/2" diameter; 1 1/2" from wall; support 250 pounds?				
8	Toilet is 17"-19" high and located maximum 18" from center of toilet to closet wall?				
9	Toilet paper dispenser at least 19" above floor?				
10	Sinks: height maximum 34"; drain and hot water pipes insulated; minimum 29" clearance below apron of sink; clear floor space 30" x 48" in front of sink?				
11	Faucets: controls mounted no more than 44" above ground; hand-operated or automatic but do not require tight gripping, pinching, or twisting of wrist?				
12	Where there are mirrors, are they at least 40" above floor?				
13	Towel dispenser and disposal unit, operable part at least 40" above floor?				



## Division of Energy, Housing and Community Resources

### Accessibility Self-Evaluation Checklist

Recipients of federal funds under the Community Development Block Grant (CDBG) Program must comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) and its implementing regulations (28 CFR Parts 35, 36), and the Architectural Barriers Act (ABA) and its implementing regulation (24 CFR Parts 40, 41) in connection with recipients' non-housing programs.

#### Available Web Site Resources:

- <https://www.access-board.gov/> (Uniform Federal Accessible Standards) for compliance with Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968.
- <http://wilawlibrary.gov/topics/disability.php> for compliance with the State of Wisconsin Disability Law and Accessibility Guidelines.
- [https://www.ada.gov/2010\\_regs/htm](https://www.ada.gov/2010_regs/htm) Americans with Disabilities Act of 1990 Title II and Title III.

For further questions, contact a DEHCR Project Representative.

TEMPLATE

## ATTACHMENT 6-F: CITIZEN PARTICIPATION CERTIFICATION FOR PUBLIC HEARING #2 (TEMPLATE)

### Division of Energy, Housing and Community Resources

Community Development Block Grant – Citizen Participation Certification (Public Hearing #2)

## CITIZEN PARTICIPATION CERTIFICATION for Public Hearing #2

I, \_\_\_\_\_, for the \_\_\_\_\_ of \_\_\_\_\_, hereby  
(Typed Name) (City, Town, Village, or County) (Grantee / UGLG / Community Name)  
certify that the following checked topics were discussed at the Community Development Block Grant  
(CDBG) Citizen Participation Public Hearing held at \_\_\_\_\_ on \_\_\_\_\_ :  
(Time: 00:00 am/pm) (Date: Month, Day, Year)

Items Discussed at the Public Hearing	Agenda Items / Topics Covered
<input type="checkbox"/>	1. An update on the status of the Community Development Block Grant (CDBG) project was provided, including an overview of project activities completed to date, and activities remaining to be completed. <i>[Required]</i>
<input type="checkbox"/>	2. An update on the status of residential and/or business displacement and relocation assistance activities required as a result of the CDBG project was provided. <i>[Required if displacement occurred as part of the CDBG project]</i>
<input type="checkbox"/>	3. Housing needs identified in the community were discussed. <i>[Required if the UGLG did not cover this in Citizen Participation Public Hearing #1 prior to the UGLG's CDBG Application Submission]</i>
<input type="checkbox"/>	4. The public attending this meeting were offered an opportunity to provide input and feedback on the CDBG project activities. <i>[Required]</i>
<input type="checkbox"/>	5.  Add Additional Topic If Applicable
<input type="checkbox"/>	6.  Add Additional Topic If Applicable

Signature of UGLG Official or Public Hearing Facilitator

Title

Date Signed

UGLG/Organization Name for Signatory Person Above

**\*\* This Certification (verifying the topics described above were discussed) may be provided to DEHCR with the minutes from Public Hearing #2, along with the hearing notice documents, which must be submitted as part of the UGLG's Semi-Annual Report after the public hearing has been held. \*\***

v2020.10.01

**ADDITIONAL NOTES:** (optional)