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Jasper, Texas 75951

January 30, 2013

RECEIVED
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The Honorable Jeff Branick
County of Jefferson
P. O. Box 4025
Beaumont, TX 77704

RE: COUNTY OF JEFFERSON, TX SECTION 3 PLAN

Dear Judge Branick:

The Texas General Land Office (GLO) has recently revised its policy regarding Section 3 Compliance. As the County's designated Section 3 Coordinator it is my responsibility to ensure the County complies with the requirements of this program.

Compliance with Section 3 requires that priority for hiring and contracting be given to Section 3 Residents and Section 3 Business Concerns. These are defined as follows:

- **Section 3 Resident:** A low to moderate income person living in your county.
- **Section 3 Business Concern:** 1) A business that is 51% or more owned by low to moderate income persons; or 2) Whose permanent, full time employees include persons, at least 30% of whom are currently low to moderate income and living in your county.

For this reason the GLO requires that all recipients of Disaster Recovery Funding adopt a Section 3 Plan detailing the methods through which they intend reach their Section 3 Goals. Compliance may be demonstrated by meeting HUD's *minimum* numerical goals for providing training, employment, and contracting opportunities to Section 3 Residents or Section 3 Business Concerns. The *minimum* numerical goals are:

- Thirty percent (30%) of project new hires
- Ten percent (10%) of all awarded construction contracts

Failure to comply with these goals may lead to sanctions, suspension, and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate may be applied to the recipient or the contractor. (24 CFR §135.74)

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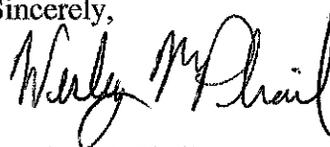
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With this in mind the firm of David J. Waxman, Inc. recommends that the County adopt the enclosed Section 3 Plan. This plan has been reviewed by the GLO and contains specific language requiring **mandatory compliance** with the program goals. This language may be found in the sections entitled, "**Preference for Section 3 Business Concerns**" & "**Contractor Requirements**". Please review these sections carefully as they will directly affect the bidding and award processes on all future Disaster Recovery Construction Contracts.

I will need a copy of the signature page forwarded to me via e-mail to wesley.mcphail@sbcglobal.net once the plan has been adopted.

If you have any questions concerning Section 3 Compliance please direct them to me. I may be reached by phone at (409) 384-3458 or at the above indicated e-mail address.

Sincerely,

A handwritten signature in black ink, appearing to read "Wesley McPhail". The signature is written in a cursive style with a large, stylized initial "W".

Wesley McPhail

Enclosure: 1

Cc: Labor Compliance Files

COUNTY OF JEFFERSON, TEXAS

Section 3 Plan

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as amended, requires that the County of Jefferson, Texas, ensure that training, employment and other economic opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low- income persons, particularly those who are recipients of governmental assistance for housing, and to businesses that provide economic opportunities for these persons.

County of Jefferson, Texas Responsibilities

The County will ensure that the contractors and subcontractors performing work on Section 3 funded activities are in compliance with the Section 3 requirements as well as meeting or exceeding the numerical goals as outlined in the HUD Act.

To fulfill this responsibility the County has appointed a Section 3 Coordinator whose responsibilities are compliance and monitoring of all Section 3 activities for CDBG Disaster Recovery Program funded projects.

The initial steps that must be taken by the Coordinator to ensure that the County and its contractors meet or exceed the designated numerical goals will be to complete the following requirements:

- Coordinate and/or conduct outreach opportunities to Section 3 businesses
- Conduct training for Department staff members semi-annually
- Notify contractors of Section 3 responsibilities
- Certify Section 3 businesses – contractor responsibility
- Certify Section 3 residents – contractor responsibility
- Document Section 3 compliance actions
- Participate in the pre-bid, pre-construction, bid opening and or construction meetings to ensure that Section 3 business concerns are addressed
- Ensure that the Section 3 clause is noted in all contracts with required goals*
- Prepare, create and/or submit required Section 3 Reports to the GLO

Further discussion of the list requirements are detailed throughout the Plan. The minimum numeric goals are:

- Thirty percent (30%) of total number of new hires as Section 3 Residents (i.e. 1 out of 3 new hires);
- Ten percent (10%) of all awarded construction contracts, awards to Section 3 Business Concerns;
- Three percent (3%) of all awarded non-construction contracts, awards to Section Business Concerns.

*All Section 3 covered bidders will be required to meet Section 3 requirements in order to have a compliant bid.

Types of economic opportunities available under Section 3:

- Jobs and employment opportunities
- Training and educational opportunities
- Contracts and business opportunities

Section 3 Residents

Types of recipients receiving economic opportunities under Section 3 that should be given priority in hiring for training and employment are those who are:

- Persons in public assisted housing including persons with disabilities
- Persons in the affected project neighborhood
- Participants in HUD Youth-build programs
- Where the Section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the Section 3 covered project is located.

A resident seeking Section 3 preference shall submit a Section 3 Resident Certification Form to the Section 3 Coordinator or the contractor or subcontractor to verify and approve the certification.

According to HUD, a Self-Certification is an acceptable means for establishing eligibility as a Section 3 Resident. However, recipients may utilize acceptable supporting documentation with the Section 3 Resident Certification Form to include:

- Proof of residency in a public housing development
- Evidence of participation in a HUD Youthbuild program operated in the metropolitan (or non-metropolitan county) where the Section 3 covered assistance is spent
- Copy of Section 8 voucher certificate or voucher
- Evidence of eligibility or participation in a federally-assisted program for low- and very- low- income persons
- Evidence that the individual resides in the Section 3 area and is a low or very-low income person, as defined in Section 3(b)(2) of the U.S. Housing Act of 1937

Section 3 Business Concern

All Section 3 covered contractors shall provide information to the County to determine if a business qualifies for Section 3 designation by performing a Section 3 Business Concern Certification.

A Section 3 Business Concern is one that is:

- Ownership of fifty one percent (51%) or more by Section 3 Residents; or
- Employs at least thirty percent (30%) of employees who qualify as Section 3 Residents (or within 3 years of the date of first employment with the business concern were Section 3 Residents); or
- Commits to subcontract in excess of twenty five percent (25%) of the dollar award of all subcontracts to be awarded to business concerns that meet one of the first two qualifications above.

The County will include the “Contractor Certification of Section 3 Compliance Notice”, in all bid packets. Additionally, the County will incorporate the Section 3 Clause into all solicitations and any contracts or subcontracts in excess of \$100,000 (24 CFR Part 135.38)

Preference for Section 3 Business Concerns:

Preference shall be awarded to Section 3 Business Concerns according to the following system:

- Where the Section 3 Covered Contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified Section 3 Business Concern with the lowest bid. The award shall be made to the source with the lowest bid, but Section 3 goals shall be required for all bidders.

Contractor Requirements

In responding to Bids all contractors and subcontractors are required to comply with the County of Jefferson, Texas’ Section 3 Plan. The contractor and the County will review the Section 3 Plan procedures and applicable forms that the contractor will use to report progress toward Section 3 goals.

Direct employment of qualified candidates

All general contractors and/or sub-contractors shall ensure that thirty percent (30%) of new hires will be Section 3 residents. During the development of the contract, the contractor will negotiate with the County for the number of Section 3-qualified candidates to be employed. The contract will obligate the contractor to achieve no less than the numerical goal established during the negotiation. Additionally, the contractor and/or sub-contractor will provide employed Section 3 residents with applicable training and/or educational opportunities.

Guidelines for Direct Employment

- Contractors should provide job opportunities for skilled and unskilled workers.
- Contractors should maintain employment for candidates throughout the duration of a project (candidates will be employees of the contractor or subcontractor, not the County.)
- All contracts using PHA resident workers and low- and very low- income persons who live in the County where a HUD assisted project is located under Section 3 are subject to the Davis-Bacon Act Wage Rate and the current HUD Form 52158, Maintenance Wage Rate Determination.
- All Contractors and Subcontractors will be required to post all new hire opportunities with the local Workforce Solutions Center, WorkinTexas.com, and the County’s Section 3 Coordinator.

Compliance and Monitoring of Section 3

The Section 3 Coordinator will analyze and evaluate the contractor's compliance with requirements and obligations set forth in the contract. In the event that a review reveals a contractor has not complied with Section 3 requirements, the County will undertake efforts to help the contractor achieve compliance.

In the event the contractor encounters a problem with a Section 3 employee (employee walks off job or quits; termination; job performance; attendance; tardiness; drug or alcohol use), the contractor should fully document the situation and immediately provide the documentation to the County Section 3 Coordinator.

Ongoing failure or refusal to comply with the Section 3 Plan and contract may result in payment being withheld by the County until compliance is achieved or termination of the contract. Debarment or suspension of the contractor or limited denial of participation pursuant to 24 CFR Part 135 may result, when applicable.

Reports

The contractor and or sub-contractor shall submit monthly reports regarding the status of each Section 3 participant. An annual report will also be requested from each contractor and/or subcontractor in connection to the performance of each project. This Annual Report will document the efforts and success of all Section 3 participants and subcontractors working under the general contractor, in reaching the percentage goals for employment and business opportunities established in these polices.

Certified Payroll

The contractor and/or subcontractor shall submit weekly-certified payroll reports to the Section 3 Coordinator. This report shall be submitted weekly and clearly identify Section 3 Hires.

Failure to Meet Required Goals

The contractor will be given 30 days to achieve compliance otherwise thereafter payment from the County will stop. The contract may be terminated after 60 days.

Training and/or outreach efforts

The County will conduct the following trainings:

- Conduct training for Department staff members semi-annually.
- Conduct training for contractors at pre-bid conferences and pre-construction meeting.

Reporting Requirements

The County will document actions taken to comply with the employment, training, and contracting requirements of Section 3, the results of actions taken, and impediments encountered. Records will include job vacancies, solicitation of bids or proposals, selection materials and contracting documents (including scope of work and contract amount), in accordance with Federal and State procurement laws and regulations.

The County will submit to the GLO:

- Section 3 Monthly Progress Report
- Section 3 Annual Summary Report

Contractors will submit to the County:

- New Hire Section 3 Monthly Compliance Report
- Training and Educational Documentation

Filing Complaints

Complaints regarding the County's Section 3 Program must be submitted in writing to the Section 3 Coordinator. All complaints must include the complainant's name, address, telephone number, and a brief narrative detailing the complaint, including but not limited to, the date of the alleged violation and the date the alleged violation was discovered. Complaints shall be filed within 30 calendar days after the complainant becomes aware of any alleged violation.

The Section 3 Coordinator will investigate every complaint. All parties involved will have the opportunity to submit testimony and/or evidence as may be available and relevant to the complaint. The Section 3 Coordinator will issue a written determination within 30 days after the filing of the complaint.

Filing a complaint does not terminate a contractor's Section 3 requirements. Contractors remain accountable for fulfilling the agreed upon Section 3 requirements.

All complaints should be submitted to:

The applicant Section 3 Coordinator

Office hours are between 8:00 a.m. and 5:00 p.m. except on posted holidays.

County Representative Signature