

# TRANSCRIPT

*SUBGRANTEE AGENCY TRAINING WEBCAST: SECTION 3 AND MWBE*  
PRESENTED BY: ARIEL BUSINESS GROUP

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## **OPENING**

**Thomas:** "Hello. Thank you for joining us. My name is Thomas Huggins, Principal and Senior Consultant of Ariel Business Group."

**Ben:** "And my name is Ben Stevenson, Senior Consultant with Ariel Business Group."

**Thomas:** "It is our distinct pleasure to welcome you to this Subgrantee Agency Training Webcast. This webcast is made available through the State of Florida Department of Community Affairs or "DCA", as a part of the Small Cities Program, the Community Development Block Grant, or as we call it, "CDBG" Disaster Recovery and Neighborhood Stabilization Programs or "NSP."

**Ben:** "This training will be presented in two segments. The first segment covers Section 3 regulations and requirements. In the second segment, we will cover compliance with the requirements of Minority and Women Business Enterprise regulations. In both segments, you will learn how to collect data and prepare required reports for Section 3 and MWBE."

**Thomas:** "The goal of this training is for all subgrantee agencies to become more familiar with the federal statutes, executive orders, regulations and required reports that apply to Section 3 and MWBE".

**Ben:** "At this time, please open or download the training workbook entitled "Subgrantee Agency Training Workbook: Section 3 and MWBE."

**Thomas and Ben:** "Let's get started."

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## **INTRODUCTION (Narrator)**

In this segment, we will outline and explain Section 3 reporting requirements for each agency that is a recipient of HUD funds from DCA, or in other words, a "subgrantee." We will outline important information related to the specific reporting requirements of DCA's

Small Cities, Community Development Block Grant (CDBG) , Disaster Recovery and Neighborhood Stabilization Programs or “NSP”.

The goal of this training webcast is to ensure that every subgrantee:

- Understands the Section 3 and MWBE programs and their requirements;
- Understands how to collect Section 3 and MWBE data;
- Is familiar with the relevant federal non-discrimination statutes, Executive Orders and regulations;
- Understands how to complete and submit a Section 3 and MWBE summary report to DCA.

After viewing this segment each subgrantee should have a more thorough understanding of the reporting requirements of DCA and become better equipped to provide detailed and accurate reports to DCA.

This segment is divided into five chapters. The chapters are:

Chapter 1 – An Overview of Section 3 History and Thresholds

Chapter 2 – An Overview of Section 3 Definitions and Terms

Chapter 3 – Responsibilities of Section 3 Sub-Grantees

Chapter 4 – Section 3 Reporting Requirements and review of HUD form 60002

Chapter 5 – Non-Compliance and Complaints

Let’s get started with Chapter One

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## **CHAPTER ONE – Overview of Section 3**

In this chapter, we will provide a history of the statutes that led to the creation of Section 3 and the regulations that were created to define the Section 3 program and its requirements. We will also discuss the DCA funded programs directly impacted by Section 3 and the threshold limits. Section 3 is a federal act that evolved from civil rights legislation during the 1960s.

The **Civil Rights Act of 1964** prohibited discrimination on the basis of race, color creed or national origin in programs and activities that receive federal assistance. The Civil Rights Act was created to provide opportunities for people of color in employment, training, housing, education, and other areas.

A by-product of this legislation was **Section 3 of the Housing and Urban Development Act of 1968** or Section 3 as it is commonly known today. Section 3 provides a preference for low, and very low income individuals and business owners located in Section 3 neighborhoods whose businesses include areas such as new employment, training and contracting opportunities.

In 1974, HUD created another piece of legislation that prohibits discrimination in programs that receive assistance under the CDBG program on the basis of race, color, national origin, sex or religion. This legislation was known as **Section 109 of Title I of the Housing and Community Development Act of 1974**.

24 CFR Part 135 defines the actual Section 3 regulations. We will briefly define the regulations here.

24 CFR Part 85 defines the procurement and contracting requirements for this legislation.

The formal definition of each of these pieces of legislation is provided in your subgrantee agency training workbook. You should read this information in order to become more familiar with it. For now, let's define Section 3. Section 3 is a provision of the HUD Act of 1968 that helps to stimulate local economic development, neighborhood economic improvement, and individual self-sufficiency.

Section 3 requires that recipients and subrecipients (or subgrantees like your agency) of HUD assistance, provide job training, employment and contracting opportunities for low or very low-income persons that reside in the neighborhood surrounding a HUD funded project. It is important to understand that Section 3 is race and gender neutral. That is, preferences are based upon income and location. In other words, it is designed to assist any low or very low-income person or business owner regardless of race. It also provides a priority for persons that live in the neighborhood surrounding the project.

Again, race is not a factor. Income and location are the major factors for determining Section 3 participation.

Most HUD programs provide funding for projects in low income neighborhoods and Section 3 ensures that employment opportunities are provided for the people and business owners that live in these neighborhoods. Subgrantees that enter into contracts with DCA will have a contractual obligation to comply with Section 3.

It is a starting place for economic recovery and self-sufficiency.

Now, let's discuss Section 3 and the HUD programs that directly impact you as a subgrantee, or in other words, a recipient of funds from the State of Florida DCA.

If your agency receives CDBG, Disaster Recovery, NSP or other funds from DCA, then Section 3 applies to you and DCA refers to your agency as a "subgrantee." Subgrantees that are public housing authorities may already be familiar with Section 3 requirements for programs such as HOPE VI, Capital Fund Program, Family Self-Sufficiency or "FSS" and Resident Opportunity and Self-Sufficiency or "ROSS (rah-os)" programs.

If your agency receives HUD funds through DCA for a project or activity that involves housing construction, rehabilitation, demolition or some other type of public construction, then Section 3 also applies to you and the project. Section 3 regulations apply to the portion of the funds used for specific activities. That is, it does not apply to your agency's administrative fees. But, Section 3 regulation does apply to the entire project or activities regardless of whether or not the project or activities are fully funded by DCA.

What are the **Section 3 funding thresholds**? Section 3 funding thresholds are the minimum dollar amounts that trigger Section 3 requirements. The requirements of Section 3 apply to a subgrantee's funding in the following manner:

All contactors (or subcontractors) receiving **contracts valued at \$100,000 or more** to complete projects involving housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

Please note, subgrantees of **NSP funds that invest \$200,000 or more** into projects or activities involving housing construction, rehabilitation, or other public constructions are also required to comply with the Section 3 regulation.

There are no threshold limits for Public Housing Authorities. That is, the requirements of Section 3 apply to all Public Housing Authorities regardless of the amount of assistance received from HUD or DCA. All contracts or subcontracts funded with Public and Indian Housing assistance, regardless of the dollar amount or type of contract, are subject to the requirements of Section 3.

This concludes Chapter One.

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## **CHAPTER TWO –Section 3 Grantee Agencies, Residents and Business Concerns**

In this chapter, we will define and provide an overview of Section 3 definitions and terms. Since your agency receives funds from DCA (and not directly from HUD), then your

agency is a “**subgrantee agency**” or “**subgrantee.**” The “**grantee agency**” or “**grantee**” is DCA because DCA receives an allocation of federal funds directly from HUD. DCA, acting as the grantee agency, distributes the federal funds to each subgrantee agency. For the remaining segments of this video, we will refer to a “subgrantee agency” as a “subgrantee.”

Now, let’s define some of the terms used in the Section 3 program. Your training workbook provides a written definition of the terms used in this segment as well as more details on the particular term. Let’s begin.

A **Section 3 Project** is defined as a project that involves the new construction or rehabilitation of affordable housing. Examples include housing and building construction, street repair, repair or installation of sewage line, updates to building facades, or lead paint abatement.

A **Section 3 Resident** is defined as a resident of Public or Indian Housing or individuals who reside in the neighborhood where the Section 3 project is located and individuals whose total household income is within the area’s median income limits for low- and very low-income households as defined by HUD.

A **Section 3 Business Concern** is defined as a business that is 51% or more owned by Section 3 residents; or a business where 30% or more of its permanent, full-time employees meet the definition of a Section 3 resident or are within three years of the date of their first employment with the company; or a business that provides evidence of a commitment to subcontract 25% or more of its subcontracts to Section 3 businesses.

What triggers Section 3 requirements?

The requirements of Section 3 are triggered when the normal completion of construction and rehabilitation of a project creates the need for **new** employment, contracting, or training opportunities. In other words, if a project funded by your agency creates an opportunity for any of these three opportunities then your agency is required to comply with the requirements of Section 3 legislation.

How can a subgrantee comply with the Section 3 legislation? By offering employment and training opportunities to low income persons or contracting opportunities to low income business owners.

Examples include jobs or trades such as appraisers, carpentry, general contractor, and clerical positions. We only list a few of the most common examples in this webcast and

your training workbook. Each subgrantee should be familiar with the specific opportunities in your area or region.

How can a subgrantee find the people and businesses necessary to comply with Section 3 legislation? Compliance is achieved by recruiting or conducting outreach to people that meet the definition of a Section 3 resident or business that meets the criteria of a Section 3 business concern.

What is a **Section 3 new hire**? Basically, if a subgrantee, its contractor, or a sub-contractor creates a new position for work associated with the DCA funded project, then the individual in that new position is defined as a new hire.

What is a **Section 3 service area**? A Section 3 service area may be defined as the area or neighborhood surrounding the DCA funded project and any other neighborhood that employs Section 3 workers or utilizes Section 3 business concerns. As you can see after reading the slide, I have stated the definition in layman's terms.

What are the **minimum recommended numerical goals** for compliance with the Section 3 regulation? DCA strongly encourages all subgrantees to meet the following minimum numerical goals:

- a. 30 percent of the aggregate number of new hires are Section 3 residents;
- b. 10 percent of all covered construction contracts are awarded to Section 3 business concerns; and
- c. 3 percent of all covered non- construction contracts are awarded to Section 3 business concerns.

Please note: these minimum numerical goals apply to the project regardless of whether the project is fully or partially funded by DCA. All **subgrantees** must attempt to reach the minimum goals set forth in their agreement with DCA.

To ensure compliance with Section 3 regulation by contractors and sub-contractors, subgrantees are encouraged to include language regarding the minimum Section 3 numerical goals in all contracts between the subgrantee and contractor as well as in contracts between the contractor and subcontractor. Basically, the contract language should require or state a commitment by the contractor to comply with Section 3 and achieve minimum goals for economic opportunity. A copy of the mandatory language for all contracts that are covered by Section 3 is provided in Appendix C of your training workbook.

All of the definitions we discussed in this chapter are provided in your subgrantee agency training workbook. Your workbook contains additional definitions however; we have highlighted some of the most important ones in this training webcast to help you get started with Section 3 compliance.

This concludes Chapter Two.

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### **CHAPTER THREE – Responsibilities of Section 3 Subgrantee Agencies**

In this chapter, we will discuss some specific responsibilities of a Section 3 subgrantee in order to ensure compliance with Section 3 regulation. We will review ways for each subgrantee to notify and recruit Section 3 residents and business concerns and the types of training, new employment and contracting opportunities that are required for Section 3 compliance. Lastly, we will also discuss ways for subgrantees to collect data needed for required reports.

Let's review subgrantee responsibilities

Each subgrantee should confirm or verify that each Section 3 employee and business seeking the Section 3 designation meets the HUD definition.

Who receives priority under Section 3?

When a subgrantee or public housing authority starts a DCA or HUD funded project, the agency is required to notify contractors, Section 3 residents and business concerns as well as the general public about the employment and contracting opportunities that will be available through the project. Your training workbook outlines this requirement in more detail. We are only highlighting a few of the requirements in this webcast.

There are several ways for a subgrantee to notify residents, the general public and businesses about Section 3 opportunities. First, you may start by providing information about the opportunities to local agencies such as the local Urban League, Work Force Development Agency; neighborhood non-profit organizations and other community-based entities that work with low income people and local business owners.

Next, subgrantees may pass out or post flyers in the neighborhood surrounding the project as well as in other public locations such as employment agencies, churches, or neighborhood service centers.

Finally, subgrantees may post ads about Section 3 opportunities and projects in local newspapers. Subgrantees are especially encouraged to use minority and neighborhood newspapers for these purposes (in addition to the major newspapers).

A list of additional examples of outreach and recruitment efforts is provided in Appendix A of the subgrantee agency training workbook.

Once a subgrantee has accomplished the task of recruiting Section 3 employees and offering contract opportunities to Section 3 business owners, there are certain steps that can be taken to document and ensure compliance.

Subgrantees can ensure compliance with Section 3 regulation through thorough collection and proper documentation of important data. Subgrantees should document data collected from contractors and subcontractors through the use of Section 3 forms or reports. There is a full set of sample forms provided in the appendix of your training workbook. It is recommended that subgrantees require all contractors and subcontractors working on a DCA funded project to complete these forms also. This is the data that will be used to complete the required subgrantee reports.

Your training workbook provides sample forms and instructions for completing each form. We will now conduct a brief review of these forms.

### **Contracting Compliance Monthly Report Form**

A copy of the Contracting Compliance Monthly Report Form is provided in **Appendix G** of your training workbook. This form is used to track and document the activities of contractors and subcontractors on a monthly basis.

Let's look at the key information that is collected on this form. This form tracks the total dollar amount of the contract between your agency and a contractor. It also tracks the dollar amount of the contracts between the contractor and its subcontractors, MWBEs and Section 3 business concerns. It tracks the dollar amount of the contracts on a monthly and summary basis.

This form captures relevant backup and other important information for the Section 3 Summary Compliance Report form.

### **Section 3 Man-Hour Report**

A copy of the Section 3 Man-Hour report is provided in **Appendix D** of your training workbook. This form is used to track the individual hours worked by a Section 3 employee. Subgrantees should collect this form on a monthly basis since it provides

required supporting documentation for the required report each subgrantee submits to DCA.

### **MWBE - Section 3 Summary Compliance Report**

A copy of the MWBE – Section 3 Summary Compliance Report Form is provided in **Appendix H** of your training workbook. This form is used to track the general contractor's compliance with offering contracting opportunities to Section 3 and MWBE businesses. This form documents each of the general contractor's sub-contracts issued for the Section 3 project. This information becomes required data if your agency is ever audited by DCA.

Some additional forms provided in your training manual are the sample Payroll report and the Contactor's Monthly report. The **sample Payroll Report** is used to track the number of hours worked by each employee. All contractors should be familiar with the Pay Roll report because it is a standard form issued by the U.S. Department of Labor. A copy of this form is provided in **Appendix J** of your training workbook.

The **Contractor's Monthly Report** provides a format for the contractor to produce a monthly update on project activities. A copy of this report is provided in **Appendix I** of your training workbook. Should your agency decide to require written updates from the contractor, then you may find the this monthly report useful. This report can be used to provide updates on project achievements, planned activities and concerns or problems encountered by the contractor.

### **HUD Form 60002**

Our last form is the most important form for your agency, **HUD form 60002**. This form summarizes all of the required data for compliance with Section 3 and MWBE requirements. This is the form that all subgrantees are required to submit to DCA.

The other forms should be kept at your office and used as supporting documentation for HUD form 60002. Again, the other forms are very useful should your agency get audited. We discuss completion of HUD form 60002 in detail in our next segment.

This concludes Chapter Three.

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## **CHAPTER FOUR – Section 3 Reporting Requirements**

In the previous chapter, we learned about the various forms and reports that should be used by subgrantees to collect data that documents or verifies a subgrantee's compliance with Section 3 and MWBE legislation.

In this chapter, you will learn what to do with all of that data you have collected. The collected data will be transferred into "HUD Form 60002." This is the form that all subgrantees are required to submit to DCA as evidence of compliance with the two programs.

HUD Form 60002 is used to confirm or verify a subgrantee compliance with the Section 3 legislation requirements. The form summarizes all of the data regarding compliance that has been collected by your agency.

HUD form 60002 is used to report: the total amount of money expended to Section 3 and MWBE businesses; the number of jobs or employment opportunities provided by the project; the number of new jobs created; and other related data.

Now, let's complete the form. I will walk you through the form block by block.

### **HUD Field Office**

Enter Florida Department of Community Affairs

#### **Block 1 – Recipient**

Enter the name and address of your agency.

#### **Block 2 – Federal Identification**

Enter your DCA Contract number. For example, enter: *10DB4Z-12-00-22-006*

#### **Block 3 – Dollar Amount of Award**

Enter the dollar amount, rounded to the nearest dollar, of grant.

#### **Block 4&5 – Contact Person/Phone**

Enter the name and telephone number of the contact person for your agency.

#### **Block 6 – Reporting Period**

Enter the DCA reporting date.

#### **Block 7 – Date Report Submitted**

Enter the appropriate date.

#### **Block 8 – Program Code**

Enter program code: #8 for **CDBG State Administered** as listed at the bottom of page 1 of 2.

**Block 9 – Program Name**

Enter the name of the HUD program corresponding with the “Program Code” in number 8.

**Part I – Employment and Training Opportunities**

**Column A**

List the specific jobs or positions created by the project

**Column B**

Enter the number of new hires for each job or position listed in Column A

**Column C**

Enter the number of Section 3 new hires for each job or position listed in Column A

**Column D**

Enter the percentage of all the staff hours of new Section 3 hires provided by the project

**Column E**

Enter the percentage of the total staff hours worked for all Section 3 employees and trainees provided by the project.

**Column F**

Enter the number of Section 3 residents that were trained in connection with the project

**Please Note:** In completing this section of the form, you will need to account for all contracts; both, Construction and Non-Construction.

**Block 1: Construction Contracts**

**Item A**

Enter the total dollar amount of all contracts awarded on the project

**Item B**

Enter the total dollar amount of all contracts awarded to Section 3 business concerns on the project

**Item C**

Enter the percentage of total dollar amount of all contracts awarded to Section 3 business concerns on the project

**Item D**

Enter the number of Section 3 business concerns receiving a contract

**Block 2: Non-Construction Contracts**

**Item A**

Enter the total dollar amount of all contracts awarded on the project

**Item B**

Enter the total dollar amount of all contracts awarded to Section 3 business concerns on the project

**Item C**

Enter the percentage of total dollar amount of all contracts awarded to Section 3 business concerns on the project

**Item D**

Enter the number of Section 3 business concerns receiving a contract

**Part III – Summary of Efforts**

This section is self-explanatory. In this section, provide a summary of the efforts taken by your agency to comply with the requirements of the Section 3 legislation.

Each subgrantee is required to submit this form to DCA once a year on July 31st. The e-mail address for submitting the report is [cdbg@dca.state.fl.us](mailto:cdbg@dca.state.fl.us).

This concludes Chapter Four.

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**CHAPTER FIVE – Non-Compliance and Complaints**

Let's talk about what happens if a subgrantee does not comply with the requirements of Section 3. All **subgrantees** must attempt to reach the minimum goals set forth in the agreement with DCA.

Subgrantees that fail to meet the numerical goals of the Section 3 program bear the burden of demonstrating why it was not possible. Such justifications shall describe the efforts that were taken, barriers encountered, and other relevant information that will allow DCA to make a determination regarding compliance.

Subgrantees run the risk of being barred from receiving funds from DCA if your agency or a contractor or any of the sub-contractors do not comply with the requirements of Section 3.

Complaints about non-compliance may be filed by any member of the general public. They may file the complaint with the local HUD office. Any person or entity that thinks a subgrantee is not complying with the Section 3 regulation may report the alleged violation or non-compliance to HUD.

Please be advised DCA takes non-compliance with Section 3 regulation very seriously. Subgrantees found non-compliant with the Section 3 may be granted a "cure period" or additional time to achieve compliance. If a subgrantee fails to achieve compliance within this time period, then your agency may lose its current funding and become ineligible for future funding. All complaints against a subgrantee will be reviewed by DCA on an

individual or case-by-case basis. So, please do not risk losing the funding for your agency.

This concludes Chapter Five.

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### **Conclusion**

This concludes our segment on compliance with Section 3 legislation. You have learned how each subgrantee may comply and assist DCA to comply with the requirements of Section 3. In the next segment, you will learn about the Minority and Women Business Enterprise program, its legislation and important instructions for completing and submitting the required MWBE report.

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## **Minority and Women Business Enterprises: A Historical Overview:**

Welcome to the Minority and Women Business Enterprise section of this training. Before we delve into the specifics of this topic, let's take a look at it from a historical perspective.

From a historical standpoint, what's important to know is that the federal government took its first survey of minority owned businesses in 1969. Ten years later, the Office of Minority Business Enterprise officially became the Minority Business Development Agency (MBDA). Since that time, several presidents have made enhancements to the MBDA program so that access to contract opportunities and technical assistance would be available to minority owned businesses.

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## **Chapter One - Executive Order 12432:**

President Reagan, signed Executive order 12432 in 1983 and this order gave the U.S. Department of Commerce and the U.S. Small Business Administration broad authority to oversee the establishment, preservation, and strengthening of federal minority business enterprise programs.

It is important to remember the overall goals of this Executive Order.

The goals were; to increase contract opportunities available to minority and women-owned businesses, to increase government agency accountability and to increase the usage of MWBE development plans in federal program.

## **Responsibilities of Federal Agencies**

Let's talk more specifically now about the responsibilities of federal agencies. Under the Executive Order 12432, federal agencies became responsible for developing and implementing Minority Business Development Plans. These plans were required to better equip federal agencies with providing direct assistance to minority and women business enterprises in the areas of procurement and management and technical assistance. The goal of the development plans is to encourage greater minority business subcontracting by federal prime contractors.

States and local governments and recipients of federal grants and cooperative agreements should achieve reasonable minority and women business enterprise participation in contracts. The development plans provide the necessary guidance and encourage utilization of minority and women business enterprises.

Note: These development plans flow through to the grant recipient and apply to subgrantees.

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## **CHAPTER Two – Regulation 24 CFR Part 85.36**

Regulation 24 CFR Part 85.36 also relates to procurement and purchasing of goods and services. This regulation applies to state, local, and federally recognized Indian Tribal governments that have been awarded grants and cooperative agreements. This regulation contains important definitions and it also highlights important procurement standards and methods. Regulation 24 CFR Part 85.36 also explains guidelines pertaining to contract cost, agency reviews, bonding requirements and applicable contract terms and provisions.

Let's look at an important definition. For purposes of this training, DCA is identified as the fund recipient or "grantee" for the State of Florida and must comply with Regulation 24 CFR Part 85.36 in its procurement of goods and services and contract clauses. Other grantees and subgrantees are required to follow these standards, methods, and contract administration requirements as well.

### **Procurement Standards**

It's important to note that all grantees and subgrantees should adhere to procurement standards which conform to applicable federal laws as well as state and local laws and regulations. Grantees and subgrantees are responsible for ensuring contractors adhere to contract requirements and terms.

Procurement standards also highlight important standards of conduct. There must be no conflicts of interest.

For example, standards of conduct exist which govern performance of employees, officers or agents and also provide for penalties or sanctions where permitted by state or local laws or regulations.

I will now highlight several important aspects that relate to maintaining proper procurement procedures.

### **Procurement Procedures**

Procurement procedures ensure that proposed procurements are reviewed to avoid the purchase of unnecessary or duplicate items. Additionally, some procurements are consolidated or broken out, if the procedure will result in a more economical purchase.

### **Intergovernmental Agreements, Surplus Property**

Keep in mind that grantees and subgrantees are encouraged to enter into state or local intergovernmental agreements and, grantees and subgrantees should also consider accessing federal excess and surplus property to reduce project costs in place of purchasing new equipment.

### **Value Engineering Clauses**

It's important to know that many construction projects may require grantees and subgrantees to scrutinize each *essential* contract item or task; this cost reduction process is called value engineering.

### **Awards**

When the time comes to announce the contract awardee, grantees and subgrantees must be certain and confident that the awardee selected has integrity, a strong record of successful past performance, is responsible and possesses financial and technical resources to execute the contract tasks successfully.

### **Recordkeeping**

Grantees and subgrantees must ensure detailed and accurate records are kept. Details that should be documented include; the rationale for the method of procurement, contractor selection or rejection, and the basis for the contract price. All of this information captures a more complete history of the procurement process from start to finish

There are several types of contracts that can be incorporated in procurement procedures, however, only use time and material type contracts after a determination is made that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Documentation and accurate records in this case will ensure the grantee or subgrantee use sound judgment in making their determination.

### **Contractual and Administrative Issues**

Grantees and subgrantees should be aware of issues that may arise and have procedures in place to resolve them. Examples of contractual or administrative issues may include: source evaluation, protests, disputes, claims, or violations of local, state, or federal laws

When laws are broken, the grantee or subgrantee must contact the authorities who have jurisdiction.

When protests occur, grantees or subgrantees should follow their written protest procedures and accurately disclose required information to the awarding agency or other entity when required or if a review of the protest is necessary.

Full and open competition should be maintained and Grantees and subgrantees should be careful NOT to engage in the following as they may inhibit competition:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Requiring unnecessary experience or excessive bonding
- Noncompetitive pricing practices
- Noncompetitive awards to consultants already on retainer contracts
- Organizational conflicts of interest
- Specifying only a brand name product
- Any arbitrary action in the procurement process

It is important that grantees and subgrantees have written selection procedures for procurement transactions.

### **Methods of Procurement**

Small Purchases are one type of procurement and these are relatively simple and informal. Price or rate quotations should be secured from various sources. This method should be used for services, supplies or property that do not cost more than \$100,000, however, use local procurement guidelines when applicable.

Sealed Bids are another type of procurement method and these are typically formal advertised bids that are publicly solicited. A firm-fixed-price contract is awarded to the successful low-priced bidder. For construction contracts, sealed bids are the preferred method. These bids have specific requirements therefore it will be important to study the requirements as outline in the workbook and supplemental training materials.

Competitive Proposals is a method conducted when more than one source submits an offer and when either a fixed-price or cost reimbursement contract is awarded. This method requires a specific bid evaluation process and after final tabulations, all bids must be publicly opened at a specified time and place. This method should be used when conditions aren't appropriate for the sealed bid method.

Noncompetitive Proposals is procurement through solicitation of a proposal from only one source or after solicitation from a number of sources, competition is determined inadequate. This method is used when all other methods are infeasible and when very

specific conditions exist. Noncompetitive proposals have very specific requirements therefore it will be important to study the requirements as outline in the workbook and supplemental training materials.

Irrespective of the type of method used, diligent cost analysis and submitting procurements to the award agency for pre-award review are necessary. Cost or price analysis must be performed when adequate price competition is lacking and especially in contract modifications. Cost analysis must also be performed when the offeror is required to submit the elements of estimated cost under professional, consulting, and architectural engineering services contracts.

Note: In cases where there is no price competition and a cost analysis has been performed, grantees and subgrantees will negotiate profit as a separate element of the price. Calculating profit requires very specific requirements therefore it will be important to review this process as outlined in the workbook and supplemental training materials.

### **Contracting with MWBEs**

Minority and women-owned businesses should be utilized whenever feasible and possible therefore grantees and subgrantees must take affirmative steps to ensure this happens. Affirmative steps that can be taken include but are not limited to: placing qualified MWBEs on solicitation lists, assuring MWBEs are solicited whenever they are potential sources, and dividing total requirements into smaller tasks when economically feasible.

### **Bonding Requirements**

Let's talk briefly about bonding requirements. For construction or facility improvement contracts, the awarding agency may accept the bonding policy and the requirements of the grantee or subgrantee to ensure the awarding agency's interest is adequately protected. If this determination has not been made, bid guarantees equal to five percent of the bid price must be requested from each bidder. A performance bond of 100% of the contract price may also be executed. This type of bond is needed to secure fulfillment of all of the contractor's obligations. A payment bond of 100% of the contract price may also be required. This type of bond assures payment as required by law of all persons supplying labor and material for the work performed under the contract.

This concludes Chapter Two.



### **Chapter Three - Community Development Block Grant or CDBG Procurement**

Procurement of subgrantees is regulated by Florida Administrative Code section 9B-43. This law addresses the Florida Small Cities Community Development Block Grant (CDBG) Program and outlines specific guidelines for subgrantees when procuring commodities for professional services.

Subgrantees must also comply with procurement guidelines and procedures addressed by 287.055 Florida Statute called the Consultants Competitive Negotiation Act.

For example, some CDBG procurements may require public notice in local newspapers and specific guidelines and procedures should be followed for postings and as well for the length of time for receipt of proposals or bids.

Additionally, the Department of Community Affairs (DCA) must provide written approval prior to a grantee awarding any contract exceeding \$25,000 that was procured as a result of inadequate competition, a sole source, or a non-competitive procurement. Recordkeeping and other guidelines are outlined for contracts below \$25,000 and if prior written approval is not obtained, the DCA has no obligation to fund the contract.

Special guidelines are outlined in the subgrantee workbook that pertain to contracting with the same entities for more than one service and combining services from separate procurements.

All requests for proposals or (rfps) for professional services shall provide that proposals are submitted for one or more of the services, that qualifications and proposals shall be separately slated for each service and lastly, the evaluation of the proposals shall be separate for each service. Proposals for services must also identify the CDBG subgrant number to which it is applicable.

This concludes Chapter Three.

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## **Chapter Four – State of Florida Minority and Women Business Enterprise Program**

Let's talk about assistance for subgrantees and potential contractors when seeking Minority and Women owned firms

The State of Florida Minority and Women Business Enterprise (MWBE) Program is managed by the Office of Supplier Diversity or (OSD), and is available to subgrantees when confirming legitimate MWBEs. It is important that each subgrantee verify the MWBE certification status prior to award of potential contracts. It is advisable that subgrantees seek out and utilize businesses certified by (OSD or any other governmental agency. To assist in this process, local and state certification officers can help identify and certify business enterprises by conducting eligibility reviews.

The OSD maintains a directory of certified businesses online. If a MWBE is not certified, subgrantees should request a copy of the firm's proof of certification.

A brief review of MWBE eligibility requirements will be reviewed. First, MWBEs should be registered in "My Florida Market Place." These businesses are small independently owned and operated companies with a net worth of not more than \$5 million and employs 200 or fewer full-time permanent employees or, is a certified business recognized by the federal government. MWBEs are fifty-one percent owned, managed and controlled by African-American, Hispanic American, Asian-American, Native American, American Woman or Service-Disabled Veteran with a (minimum 10% disability), who are citizens of the United States and permanent residents of Florida. These businesses must be engaged in commercial transactions and must operate in Florida.

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## **Chapter Five - Completing HUD Form 2516**

As we discussed, state statutes and federal guidelines provides guidance on subgrantee reporting requirements. HUD Form 2516 is a required form that captures important data. Data collected can be requested directly from developers, sponsors, builders, agencies, or project owners for reporting contract and subcontract activities of \$10,000 or more. This form should be completed twice a year. It's due on October 15<sup>th</sup> for the period beginning April 1<sup>st</sup> ending September 30<sup>th</sup> and is due on April 15<sup>th</sup> for the period beginning October 1<sup>st</sup> ending March 31<sup>st</sup>.

This important form allows subgrantees to include information collected from HUD Form 60002 another required form.

To become familiar with HUD Form 2516, let's walk through each section of the form.

This report has been modified to capture Section 3 contract data in columns 7g and 7i. Subgrantees using this form to report Section 3 contract data must also use Part I of HUD form -60002 to report employment and training opportunities data.

Follow along with me as I review the instructions for Community Development Programs who are required to complete this form. Note: Separate instructions for completing this form are included with the form for Multifamily Housing Programs and Public Housing Agencies.

**1. Grantee:** Enter the name of the unit of government submitting this report.

**3. Contact Person:** Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.

**7a. Grant Number:** Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: *10DB4Z-12-00-22-006*. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

**7b. Amount of Contract/Subcontract:** Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number is provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

**7c. Type of Trade:** Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number is provided in 7f., the type of trade code would be for the subcontractor only and not for the prime contractor.

The "other" category includes supply, professional services and all other activities except construction and education/training activities.

**7d. Business Racial/Ethnic/Gender Code:** Enter the numeric code which indicates the racial/ethnic/gender character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic/gender category, enter the code which seems most appropriate. If the subcontractor ID number is provided, the code would apply to the subcontractor and not to the prime contractor.

**7e. Woman Owned Business:** Enter Yes or No.

**7f. Contractor Identification (ID) Number:** Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.

**7g. Section 3 Contractor:** Enter Yes or No.

**7h. Subcontractor Identification (ID) Number:** Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

**7i. Section 3 Contractor:** Enter Yes or No.

**7j. Contractor/Subcontractor Name and Address:** Enter this information for each firm receiving contract/subcontract activity only one time on each report for each firm.



## **Conclusion**

Now that we've reviewed key aspects of MWBE Development, it will be important for subgrantees to solidify understanding of these concepts by reviewing the subgrantee workbook. As indicated previously, the workbook highlights important regulations, procedures and guidelines for subgrantee compliance with utilization of MWBEs.

We hope you have benefited from this training webcast and are more knowledgeable about these very important topics.