

LEVEL 100

By: Motivation, Incorporated

Instructor

J. Keith Swiney, President/CEO



SECTION 3 SUCCESSES

Tonya F. is a mother of 4 and was a HCV holder when she attended our Resident Section 3 Professional Property Management Leasing Consultant Training in August 2012. At that time, HUD paid almost her entire rent. Today she pays all of her near \$1,000 rent. Upon completing the intense week-long, triple certification course, she perfected her resume and began interviewing. Now one year later, she is growing in a career and has changed her life and the lives of her children.

The agency invested \$294 in Tonya that week, matched by a like in-kind donation from Mo-Inc. and the ROI to that community to date is over \$39,000 as she inspires others to do the same.

SECTION 3 CERTIFIED COORDINATOR TRAINING

This training is designed to certify that the trainee is fully equipped to execute the position of Section 3 Coordinator or Section 3 Compliance Professional in a public housing authority or municipal environment.

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TRAINING STATEMENT AND METHODOLOGY

This training is designed to thoroughly teach the attendee on Section 3 Based on a format of open questions and answers, the exact day the information may vary. The first day is designed to cover in detail the regulations of the 24 CFR Part 135 (Section 3 of the HUD Act of 1968 as amended) and how best to implement the regulation in a variety of HUD funded environments including Public and Indian Housing and Municipal Community Development Programs.

Please keep in mind that Motivation, Inc. is a Faith-Based, For-Profit, 22-year old minority owned corporation. Therefore, if during the training the instructor makes any biblical references it's merely a personal expression of faith and not intended to offend, recruit or otherwise call into question anyone's personal beliefs. As a product of public housing and low income communities, it's that faith that saw me through and saved me from becoming a statistic. Absent that, this training is not facilitated by me.

DAY ONE

- I. Detailed Training of the Regulation from The writing of the regulation & all the updates through today
- II. Implementation

DAYS TWO & THREE

The Certified Coordinator Level 100 Training is an in depth study into the "How To" functions of doing the job and best practices

- III. 2003 & 2013 OIG Reports on HUD Non-Compliance
- IV. HUD Section 3 FAQ
- V. Historical Cases
- VI. Section 3 Coordinator Position Description
- VII. Doing the Job with Coordination
- VIII. Maximizing Leverage Funds to Achieve Section 3 Successes into the Future
- IX. Monitoring and Reporting
- X. Certification Exam

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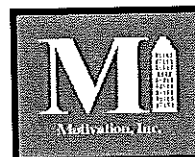
**Stakeholders Implementation:
Recipients, Residents & Advocates**



SECTION 3 COMPLIANCE & IMPLEMENTATION 2016

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**Experienced Section 3 Compliance
Services Since 1997**



←Our Firm:

- Has provided Technical Assistance Training to 37 State Public Housing and Community Development Agencies
- Represents PHA's, Indian Tribes, Cities, Counties States, Contractors, Developers and RAB's
- Has the only fully encompassed S3 web-based compliance management system nationally
- Is a DOL Approved Service Provider and Instructor

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Bibliography



1. 1998 CFR Title 24, Volume 1
2. Federal Register /Vol. 75, No. 60 /Tuesday, March 30, 2010 /Notices 15767
3. US Code 1701u. Economic opportunities for low- and very low-income persons
4. Federal Register: June 30, 1994 Part VI Department of Housing and Urban Development 24 CFR Part 135 and Subtitle A et al. Economic Opportunities for Low-and Very Low Income Persons; Interim and Final Rules

Where Did Section 3 Originate?



- ✱ In the Cabinet Room of the White House in 1966, President LBJ convened a private meeting in which the Civil Rights Act was written. Section 3 (24 CFR Part 135) of that Act was birthed at the same time by enhancing the current PIH regulations.



20 Messages & \$78 Billion in the 1969 FY Budget

Burden of Compliance



- The Department that compliance with section 3 is not without cost or burden to recipients and contractors, but that burden, in large part, is imposed by statute
- The statute requires recipients, their contractors, and subcontractors, to provide, to the greatest extent feasible, economic opportunities to low- and very low-income persons

Compliance 3% 5% of total project cost.

Overview



- * 1. Section 3 (S3) Residents are Low and Very Low Income persons that reside within the legal boundaries of a city or county respectively and have 80% or less of the AMI
- 2. Section 3 Business Concerns (S3BC) are legal businesses *owned by a S3 Resident (ROB) at 51% or greater, substantially employs S3 Residents at 30% or greater or sub-contracts 25% of their total award to another S3BC
- * 3. Section 3 requires Notice, Encouragement and Facilitation towards Training, Employment and Contracting Opportunities being offered to Section 3 Residents and Contractors to "the greatest extent feasible"

Legal Boundaries - WV Sets boundaries within the project.

ROB - resident owned business

run newspaper add.

Must have forms in bid documents

24 CFR Part 135.1 Purpose



§ (a) Section 3. The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, ...

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24 CFR Part 135.1 Cont'd



... particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.



The Latest Section 3 Assault



Newest HUD "Guidance" for all Housing Providers (April 3, 2016)

During his speech at the NLIHC National Conference in Washington, DC, Secretary Castro tied in Section 3 as a portal of employment opportunities for the target group.

Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions

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The Latest Section 3 Assault



- * ◦ As many as 100 million U.S. adults – or nearly one-third of the population – have a criminal record of some sort.

- Yet many formerly incarcerated individuals, as well as individuals who were convicted but not incarcerated, encounter significant barriers to securing housing, including public and other federally-subsidized housing, because of their criminal history. In some cases, even individuals who were arrested but not convicted face difficulty in securing housing based on their prior arrest.

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The Latest Section 3 Assault



- A housing provider violates the Fair Housing Act when the provider's policy or practice has an unjustified discriminatory effect, even when the provider had no intent to discriminate.
- Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification.

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The Latest Section 3 Assault



- Thus, where a policy or practice that restricts access to housing on the basis of criminal history has a disparate impact on individuals of a particular race, national origin, or other protected class, such policy or practice is unlawful under the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

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The Latest Section 3 Assault



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HUF FAQ Posted on the HUD.GOV Website #2



By to the —Greatest Extent Feasible||, the Department means the every effort must be made to comply with the regulatory requirements of Section 3. By this, the Department means *that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities.

Can not use statistical data to back up data.

** Contractors can hire ad temp*

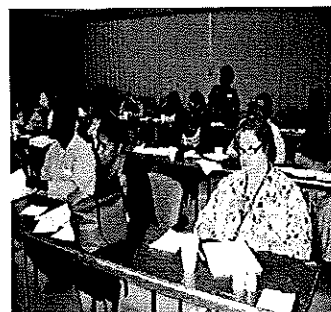
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Interim Rule Challenges!

Source: Interim Rule 6/30/1994



- * **Section 3 "Preference"**
requirements are triggered by
the need for new hires
 (whether individual employees or contractors or sub-contractors) for work on a project or activity assisted by HUD financial assistance covered by section 3.



if developer intends to remember for any work alone before it's already noncomplete
 - Everything has to Section 3
 good quality.
 - Make sure everything is Section 3.

State gets preference by based on preference

- Must give notice

* Use protected

Defining a HUD Funded Applicant



- Applicant means any entity which makes an Application for section 3 covered assistance, and includes, but is not limited to, [135.5] any
 1. State, Unit of Local Government
 2. Public Housing Agency
 3. Indian Housing Authority
 4. Indian Tribe
 5. Other Public Body
 6. Public Organization
 7. Private Nonprofit Organization

Defining a HUD Funded Applicant



8. Private Agency or Institution
9. Mortgagor
10. Developer
11. Limited Dividend Sponsor
12. Builder
13. Property Manager
14. Community Housing Development Organization (CHDO)
15. Resident Management Corporation
16. Resident Council
17. Cooperative Association

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FINAL RULE PREDICTION



Based on the OMB number expiration dates on the 60002 Summary Report and 958 Complaint Register, it's our belief that something is in the works to change or update the Part 135 Rule.



renewed without changes.

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What is "Preference"?



- * *Preference as it's indicated throughout the regulation is never actually defined but gives the impression that When all other factors remain equal when considering a person or contractor, certain "considerations" should be granted the Section 3 Person or Contractor to allow them an edge over non-Section 3 persons or contractors.*

This is my interpretation as HUD has not provided a clearer definition.

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HUD's Answer to Preference?



- * ☐ The section 3 preference in hiring for low- and very low-income persons, and in contracting for businesses owned by these persons was not created by the 1992 Act.
- ☐ Section 3, when originally enacted in 1968, provided for this preference.

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Targeting Opportunities



- * The 1992 Act amends section 3 to require that in providing preference to low- and very low-income persons, recipients, contractors, and subcontractors must first target for job opportunities to smaller groups within the broad category of low-income persons, such as public housing residents.

Always put up a notice at a low housing location.
Post at Housing email to Housing managers!

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Interim Rule Challenges!

Source: Interim Rule 6/30/1994, et. Certification of Purpose and Applicability of Section 3-Providing Preference When Economic Opportunities Are Generated



- * Section 3 does NOT require the creation of economic opportunities for low- and very low-income persons, or for anyone, simply for the sake of creating economic opportunities. Section 3 requires that when employment or contract opportunities are generated because a project or activity

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Interim Rule Challenges!

Source: Interim Rule 6/30/1994. For Clarification of Purpose and Applicability of Section 3—Providing Preference When Economic Opportunities Are Generated



undertaken by a recipient of HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts for work, the recipient must give preference in hiring to low- and very low-income persons..., and contracting to businesses owned by these persons or That substantially employ low- and very low-income persons.

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Interim Rule Challenges!

Source: Interim Rule 6/30/1994. For Clarification of Purpose and Applicability of Section 3—Providing Preference When Economic Opportunities Are Generated



- * When the need to employ additional personnel or to contract for work occurs (which is frequently the case when HUD financial assistance is expended), the recipient or contractor will be recruiting individuals, and soliciting contractors, for these economic opportunities.

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Interim Rule Challenges!

Source: Interim Rule 6/30/1991 IV: Definition of Purpose and Applicability of Section 3—Providing Preference When Economic Opportunities Are Generated



- * Section 3 requires that recipients not only include low- and very low-income persons in these recruitment and solicitation efforts, but that, in fact, **extra or greater**
- * **efforts be undertaken** to make these persons aware of the existence of the economic opportunities, Encourage their application for these opportunities, and Facilitate the employment of, or award of contracts to, these persons

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The Rule Simply Defined



Section 3 requires that when triggered, recipients, contractors and sub-contractors of certain financial assistance, to the greatest extent feasible, provide Training, Employment and Contracting opportunities to low-income residents/persons in connection with projects and activities in their neighborhoods

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The Rule Simply Defined



- * ☐ Section 3 covered contract means a contract or sub-contract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure
- ☐ "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract

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The Rule Simply Defined



- * ☐ Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance

*You touch it...
it's a project
Section 3
applies*

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How This Affects Public and Indian Housing Residents



- 960.255 - Self -Sufficiency Incentives Disallowance of increase in annual income

Definition: Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage ($\$8.25 \times 10 \times 50 = \$4,125$)

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How This Affects Public and Indian Housing Residents



960.255 - Self -Sufficiency Incentives Disallowance of increase in annual income

A family residing in public housing:

- (i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment
- (ii) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

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How This Affects Public and Indian Housing Residents



A family residing in public housing:

- iii. Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act

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How This Affects Public and Indian Housing Residents



960.255 - Self -Sufficiency Incentives Disallowance of increase in annual income Period; (As defined in 5.609 of this title)

Disallowance of Income

- 100% of new qualified Income the 1st 12 months
- 50% of new qualified Income the 2nd 12 months
- Maximum 48 month period for disallowance
- Does not apply for purposes of admission to the program

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How This Affects Disabled Residents



Self-sufficiency incentives for persons with disabilities—
Disallowance of increase in annual income. (24 C.F.R. § 5.617)

☐ A family residing in housing assisted under:

- HOME Investment Partnerships Program (24 CFR part 92)
- Housing Opportunities for Persons w/AIDS (24 CFR part 574)
- Supportive Housing Program (24 CFR part 583)
- Housing Choice Voucher Program (24 CFR part 982)

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How This Affects Disabled Residents



Self-sufficiency incentives for persons with disabilities—
Disallowance of increase in annual income.
(24 C.F.R. § 5.617)

Disallowance of Income

- 100% of new qualified Income
- 50% of new qualified Income
- Maximum 48 month period for disallowance
- Does not apply for purposes of admission to the program

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Open for Everyone



*

Gender and Race*

Neutral



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What This Means to You



There is no direct relationship of:

- Minority Owned Businesses
- Women Owned Businesses
- Disadvantaged (8a) Owned Businesses



*It **Does** give preference to American-Indian Owned Businesses and Enterprises in contracting

} automatically

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What Programs are Covered?



Section 3 applies to HUD funded expenditures from Public and Indian Housing assistance for:

- Development
- Operations
- Modernization

Employment Readiness Training– Florence, AL



What PIH Contracts are Affected by Section 3?



- All housing owned or managed by a PHA
- There are no dollar thresholds for Public and Indian Housing assistance
- Section 3 applies to all activities regardless of the dollar amount
- The requirements also apply to all contractors regardless of the dollar amount of the contract [§135.3(3)]

Funds Covered by Community Development



Any project whole or in part (Based on the applicable thresholds) funded using:

- Community Development Block Grants (CDBG)
- HOME Funds
- Homeless Assistance Funds



What Work is Covered by Community Development?



Section 3 applies to HUD funded Community Development Program funds provided to state and local governments for:

- Housing Rehabilitation
- Housing Construction
- Other Public Construction Projects



What Multi-Family (MF) Programs are Covered?



Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an **aggregate of 500 or more units** in any fiscal year, the managing partner or management agent **may** demonstrate compliance by committing to employ section 3 residents as:

- 30% of the aggregate number of new hires

MF Mortgagers must provide Preference to Section 3 Business Concerns during construction work [135.11(2)]

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Effect on H&CD Recipients



Housing and Community Development Assistance

(A) Recipient thresholds [135.3(3)(ii)]

The requirements of this part apply to Recipients of other housing and Community Development programs for which the amount of the assistance exceeds \$200,000.



*Must receive over 200,000 to comply with section 3
All together total funding*

Effect on H&CD Recipients



(B) Contractor and subcontractor thresholds [135.3(3)(ii)]

The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000. However, the Recipient MUST meet compliance on every dollar they spend or award despite the contract value.

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Effect on H&CD Recipients



A State or county which distributes funds for Section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in 135.30 regardless of the number of local governments receiving funds [135.32(f)]

Have employee sign a form that they were a Section 3 employee. Or have contractor sign a self certification stating the employee was Section 3.

Effect on H&CD Recipients



- * • The State or county must inform units of local government to whom funds are distributed of the requirements of Section 3
- Assist local governments and their contractors in meeting the requirements and monitor the performance of local governments with [135.32(f)]

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Full Project Encumbrance Despite Funding Sources



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- * • Applicability of section 3 to entire project or activity funded with section 3 assistance. [135.3(3)(C)(b)]

The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

Entire project
Section 3

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Coordination with Other Federal Agencies

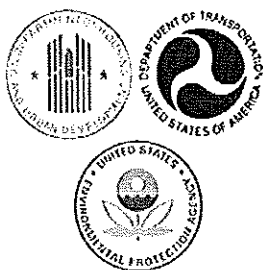


The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

Not later than 180 days after October 28, 1992, the Secretary Shall promulgate regulations to implement this section. [1701u(f)(g)]

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Other Federal Agencies to Comply with Section 3



HUD-DOT-EPA Interagency Partnership for Sustainable Communities

Press Release: HUD Secretary Donovan Announces \$100 Million in Grants Available as Part of New Sustainable Regional Planning Grant Program (06/10)

1. *Federal Highway Administration (DOT)*
2. *Environmental Protection Agency*
3. *Department of Commerce*

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What The Regulation Doesn't Fully Address



There are two major areas of concern when addressing Section 3 at ground level:

1. State and Local Procurement Laws
2. Labor (Union) Contracts

1. State and Local Procurement Laws

- * Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

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What The Regulation Doesn't Fully Address



2. Unions and Labor Contracts

The regulation requires Labor Unions to meet the regulation. See the Section 3 Clause 135.38(C) Apprenticeship programs are covered in the regulation and may be utilized but may not fully meet the requirements

§ 135.11 (2) (d) Other laws governing training, employment, and contracting

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Section 3 fully complies with Union

The 24 CFR 85.36 WINS!!!



* § 135.11(a) *Procurement standards for States and local governments*
(24 CFR 85.36)—(1) *General*

Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

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Who is a Section 3 Resident and How is Priority Provided?



Section 3 (TIER I) Residents are:

* Persons whose total household income is 80% or less of AMI in ANY HUD assisted housing, including:

- PIH & Housing Choice Voucher Holders
- Substance Abuse Rehabilitation Housing
- Domestic Violence Shelters
- Transitional Housing Facilities
- Homeless Shelters
- Veterans Housing



Any place HUD money appears Section 3 applies.

Who is a Section 3 Resident and How is Priority Provided?



Section 3 (TIER II) Residents are:

- Persons in the area where the HUD financial assistance is spent
- Including the metropolitan city or non-metropolitan county of the project
- Participants in Youthbuild programs

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What is a Section 3 Business Concern and Who Gets Priority in Contracting?



A business that:

- * 1. Is 51% or more owned and operated by Section 3 residents (ROB=Resident Owned Business);
- * 2. Employs Section 3 residents for at least 30% of its full-time, permanent staff (Commits to 30% Section 3 New Hires); or
- * 3. Provides evidence of a commitment to sub-contract to Section 3 business concerns or ROB, 25% or more of the dollar amount of the awarded contract.

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Safe Harbor Compliance



◀ In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements. [135.30]

- * • 10% of the total dollar amount of annual Building Trades Contracts to Section 3 Concerns *≥ 10% in one year*
- * • 3% of the total dollar amount of annual "Other" Contracts to Section 3 Concerns *- Need contractors to elect preference*
- * • Commits to 30% New Hires annually for projects [135.30(c) & (d) Page 697] *if there are no need for new hires. Document such.*

Compliance Goals for H&CD



State and Local governments must:

- Attempt to meet numerical goals
- At their own discretion establish a priority to recipients of government assistance with a;
- Preference to section 3 persons in the area of the project, Youthbuild, the homeless then other section 3 residents [135.34(1)(iv)]

Resident Self-Certification



A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference. [135.5]

First 5 employees of the Jurisdiction-wide (AHA) ROB "Residents Work, LLC", ROB president, resident services coordinator and President/CEO of Mo-Inc.



Resident Owned Businesses Reminder



A Resident Owned Business (ROB) is any legally formed business, meeting all the state and local requirements to engage in its declared type of business

- That ROB **must** be 51% or more owned and operated by Section 3 residents
- That resident can come from Tier I or Tier II
- There is no requirement that ROB employ any Section 3 persons

Contractor Self-Certification



Businesses shall self-certify as to their qualification for Section 3 "preference." If in doubt, supporting evidence may be requested .

[135.36(b)]



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Employers Claiming the 30% Preference Reminder



Any contractor/vendor claiming preference by meeting the 30% current aggregate Section 3 employees or committing to 30% new hires (Tier I as first attempt):

- Must be prepared to provide proof of current for payroll low income employees
- Provide a strategy as to how they plan to identify Tier I new hires (As first attempt)
- In either case, the 30% must be maintained for the life of the covered assisted contract

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All Employment Counts



- ◀ Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low- and very low-income persons, including permanent employment and long-term jobs
- ◀ Recipients and contractors are encouraged to have Section 3 residents make up at least 30% of their permanent, full-time staff

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36 Month Look-back for Section 3 New Hire Status



- ◀ Section 3 business concern means a business concern, as defined in this section.....
- ◀ (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents

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Identifying Section 3 Residents



Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent by:

- Contacting resident organizations and local community development agencies
- Distributing flyers throughout the community
- Posting signs at the project sites
- Placing ads in local newspapers
- Calling Motivation, Inc. at 678.794.3066

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Commitment to Sub-Contract 25% of Total Award Reminder



Any contractor that commits to sub-contracting 25% of its total award to a ROB or 30% Employee Section 3 Concern must:

- Ensure that the ROB be 51% or more owned and operated by Section 3 residents
- Ensure that the 30% employer meets the rule
- Ensure that the percentage is accurate based on the full award

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Joint Venture Partnerships



Providing Other Economic Opportunities [135.40(2)]

◀ A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

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Joint Venture Partnership



JVP's Continued

◀ (i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

◀ (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

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Maintaining Good Records



◀ **24 CFR Part 135.92** – *Economic Opportunities For Low- and Very Low-Income & Appendix's Persons*

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of ..section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

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Related Regulations



◀ **24CFR 963.3** – *Subpart A Contracting with Resident Owned Businesses-Applicability*

The policies and procedures contained in this part apply to public housing developments that are owned by public housing agencies (PHAs) and that are covered by Annual Contributions Contracts (ACC) with the Department.

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Inclusion of Residents



- ◀ **24 CFR 964.11** – *Tenant Participation and Tenant Opportunities in Public Housing-Subpart A- HUD Policy on Tenant Participation*

HUD promotes resident participation and the active involvement of residents in all aspects of a HA's overall mission and operation.

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Supporting Regulations



- ◀ **24 CFR 964.140** – *Tenant Participation and Tenant Opportunities in Public Housing-Subpart B-Resident Training*. The categories in which training could occur include:
 - (1) Community organization and leadership
 - (2) Organizational development for RMC's and Resident Councils
 - (3) Public housing policies, programs, rights and responsibilities
 - (4) Business entrepreneurial training, planning and job skills

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Supporting Regulations



Chapter 15. Employment & Training Opportunities And Contracting With Residents, Resident-owned, Small, Minority, And Other Disadvantaged Businesses

15.1 General

HUD strongly supports a policy of providing training and employment opportunities to residents and contracting with residents and resident owned businesses, including RMC's, whenever possible.

* RMC=Resident Management Corporation

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Supporting Regulations



24 CFR 963.10 – Subpart B Contracting with Resident Owned Businesses-Eligible Resident-Owned Businesses

To be eligible for the alternative procurement process provided by this part...the business concern must be:

- (a) *Legally formed business*
- (b) *Resident-owned business as defined by this part*
- (c) *Responsible (Ability) to complete the contract; and*
- (d) *Limitation on alternative procurement contract awards of \$1,000,000 or less*

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Alternative Procurement Process



Subpart B Contracting with Resident Owned Businesses- Alternative Procurement Process Method of procurement.

In contracting with resident-owned businesses, the PHA shall follow the applicable method of procurement as set forth in 24 CFR 85.36(d), **with solicitation limited to resident-owned businesses.** Additionally, the PHA shall ensure that the method of procurement conforms to the procurement standards set forth in 24 CFR 85.36(b).

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Alternative Procurement Process



(b) *Contract awards.* Contracts awarded under this part shall be made only to resident-owned businesses that meet the requirements of Section 963.10, and that comply with such other requirements as may be required of a contractor under the particular procurement and the Department's regulations. An award shall not be made to the resident-owned business if the contract award exceeds the independent cost estimate required by 24 CFR 85.36(f), and the price normally paid for comparable supplies, services, or construction in the project area.

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Alternative Procurement Process



(c) *Contract Requirements.* Any contract entered into between a PHA and a resident-owned business under this part shall comply with the contract provisions of 24 CFR 85.36(i); the provisions of 24 CFR 85.36(h), 24 CFR 968.240(d) or 24 CFR 968.335(c)(1)

The records for such procurement shall include:

Governing bonding requirements
Independent cost estimate & Comparable price analysis
Basis for contractor selection, applicable to the particular procurement

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Critical Parts of the Regulations



- Notify Section 3 businesses of contracting opportunities funded by section 3-covered assistance. [135.32(a)]
- Notify all potential contractors for section 3-covered projects of the section 3 contracting requirements and include the required section 3 clause [135.38] in all section 3-covered contracts [135.32(b)]

76

Critical Parts of the Regulations



- * • Not award contracts to any contractor who has been found to have violated the section 3 requirements [135.32(d)]
- Take appropriate remedial action against contractors who fail to comply with the section 3 requirements (e.g., termination) [135.38]

77

Critical Parts of the Regulations



- * • Assist and "Actively" cooperate with HUD in obtaining contractor/subcontractor compliance with section 3 requirements [135.32(d)]
- Document actions (including results and impediments) taken to comply with section 3 requirements [135.32(e)]

78

Critical Parts of the Regulations



- * • Certify that the contractor did not circumvent the Section 3 employment opportunity requirements, if the contractor hired any persons not covered by Section 3 between the time the contractor was selected and the contract was executed. [135.38]

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Critical Parts of the Regulations



- * Past compliance with the section 3 certification and qualification requirements must also be considered. [135.36(c)]
- «You, as the recipient, must enquire of all contractors what the method of compliance was on previous HUD funded, covered assistance projects during procurement and certainly before award.

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Residents Filing Complaints



* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

1. Any section 3 resident on behalf of himself or herself,
2. A representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure

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Businesses Filing Complaints



3. A representative who is not a section 3 resident but who represents one or more section 3 residents;
4. Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure
5. An individual representative of section 3 business concerns.

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Filing and Processing Complaints



A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Regional Field Offices.

Must have Section 3 Clause

- A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

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Filing and Processing Complaints



✕ ◀ Each complaint must be in writing, signed by the complainant, and include:

- (i) The complainant's name and address;
- ◀ (ii) The name and address of the respondent;
- ◀ (iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

84

Filing and Processing Complaints



- * • Additional Data supporting a complaint **must** be received by HUD within 60 or it may be closed
- Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents

85

Filing and Processing Complaints



No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part.

- The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

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Filing and Processing Complaints



To see the new report please follow this link:

<http://portal.hud.gov/hudportal/documents/huddoc?id=958.pdf>

Complaint form 958 HUD website

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Compliance and Review Process



- * •A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided.

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Reporting and Record Keeping



1. - When state tells you to send reports - send them.

- If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier.

- Reporting Period is October 1st-September 30

- All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

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SPERS

Spans is
what HMD uses

Section 3 Summary Report		U.S. Department of Housing and Urban Development Office of the Assistant Secretary for Community Development		DHS Approval No. 2590-0048 (exp. 11/30/01)	
Economic Opportunity for Low- and Very Low-income Persons		SECTION 3			
Number and Name of Firms, Including Subcontractors		1. Firms' Economic Sector (NAICS Code)		2. Firms' Business Size	
1. Firms' Economic Sector (NAICS Code)		1. General Description		1. Firms' Business Size	
2. Firms' Business Size		2. General Description		2. Firms' Business Size	
3. Firms' Business Size		3. General Description		3. Firms' Business Size	
4. Firms' Business Size		4. General Description		4. Firms' Business Size	
5. Firms' Business Size		5. General Description		5. Firms' Business Size	
6. Firms' Business Size		6. General Description		6. Firms' Business Size	
7. Firms' Business Size		7. General Description		7. Firms' Business Size	
8. Firms' Business Size		8. General Description		8. Firms' Business Size	
9. Firms' Business Size		9. General Description		9. Firms' Business Size	
10. Firms' Business Size		10. General Description		10. Firms' Business Size	
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70. Firms' Business Size		70. General Description		70. Firms' Business Size	
71. Firms' Business Size		71. General Description			



total hours

* Only show what has been expended to date.

100% is the number needed for the total dollars spent.

30% (nonconstruction)

[illegible]

Getting it Done



IMPLEMENTATION

TIPS

Implementation Documentation



Solicitation Checklist

- * ☐ Mention Section 3 in legal ads for contracts
- * ☐ Section 3 Clause in ALL solicitations
 - ☐ Respective HUD forms 5370C or 5370-C1
 - ☐ All certification and action plan forms
 - ☐ Assurance of compliance form
 - ☐ Prior compliance form
 - ☐ Resident self-certification and affidavit

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Implementation-Document!



- * The key to avoiding noncompliance is a simple one, document and save everything including all:
 - Contacts
 - Flyers
 - Phone calls
 - Meetings
 - Training attendance sheets • Training hours
 - Resident training curricula
 - Employment records
 - Each contractors compliance when triggered

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Free Follow up



J. Keith Swiney

President/CEO

678.794.3066 (Cell)

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2003 OIG Report on HUD Non- Compliance

2003 OIG Report on HUD Compliance

Statistic:

A Recipient with 50 to 75 individual Contractors and/or Sub-contractors annually should have a fulltime S3 Coordinator and employ a system for monitoring compliance. Add one person per every additional 50 contracts.

Well, here you are. You're in the newest position created from a Congressional Act passed in 1968. So what happened to cause your position so many years later?

The History of Section 3 and Office of Economic Opportunities

In 1966, President Lyndon B. Johnson held a private meeting in the White House with a group of Americans concerned about human rights. From that meeting they produced an incredible piece of legislation; The Civil Rights Act of 1968. The Act includes:

The Fair Housing Act of 1968

Section 3 (The Office of Economic Opportunities)

In 2003 HUD was cited by the Office of Inspector General for not ensuring compliance is being achieved.

Issue Date: June 24, 2003

Audit Memorandum No.: 2003-KC-0001

Title: Survey of HUD's Administration of Section 3 of the HUD Act of 19

We have completed a survey of HUD's administration of Section 3 of the Housing and Urban Development Act of 1968. The objective was to determine if HUD is administering Section 3 in accordance with the HUD Act of 1968. We determined that HUD does not have adequate controls in place to ensure it is meeting the intended purpose of Section 3 of the Act. However, at the time of our review we found that HUD is in the process of taking action to address the control weaknesses. We found that the Office of Fair Housing and Equal Opportunity needs to develop and implement necessary controls to ensure the Section 3 program is functioning as intended by the HUD Act of 1968 as well as a timeframe to ensure controls are implemented expeditiously. At a minimum, these controls should include:

- ☒ Developing a system to track recipients
- ☒ A method to evaluate the recipient reporting system
- ☒ Developing a system to monitor recipients that ensures contracts contain the Section 3 clause, recipient reporting system is effective and Section 3 residents are informed of and given available job and training opportunities.

The Office of Fair Housing and Equal Opportunity agreed with the two recommendations we made and developed various controls and timeframes to have the controls implemented to correct the program control weaknesses.

Issue Date

June 24, 2003

Audit Case Number

SECTION 3 CERTIFIED COORDINATOR TRAINING

2003-KC-0001

To: Carolyn Peoples, Assistant Secretary for Fair Housing and Equal Opportunity, E
FROM: Roger E. Niesen, Regional Inspector General for Audit, 7AGA
SUBJECT: Survey of HUD's Administration of Section 3 of the HUD Act of 1968

INTRODUCTION

We have completed a survey of HUD's administration of Section 3 of the Housing and Urban Development Act of 1968. Our objective was to determine if HUD is administering Section 3 in accordance with the HUD Act of 1968. We determined that HUD does not have adequate controls in place to ensure it is meeting the intended purpose of Section 3 of the Act. However, HUD is in the process of taking action to address the control weaknesses. The Office of Fair Housing and Equal Opportunity recently expanded the Section 3 staff by 53 percent in fiscal year 2001 and an additional 32 percent in fiscal year 2002. This allowed them to conduct 25 monitoring reviews of housing authorities that received HOPE VI funding during fiscal year 2002, and to increase the planned number of monitoring and technical assistance reviews to 30 in fiscal year 2003. The implementation of additional planned actions to correct the control weaknesses should help ensure Section 3 is more effectively managed.

During our survey we conducted interviews with appropriate headquarters and field staff in both the Office of Fair Housing and Equal Opportunity and the Office of Public Housing. In addition, we reviewed the applicable Code of Federal Regulations, Office of Management and Budget Circular A-123 and the Section 3 portion of the HUD Act of 1968. We attempted to review HUD's guidance for the program, but found that it was outdated.

The survey period was October 1, 2001 through September 30, 2002. We provided a draft report to the Office of Fair Housing and Equal Opportunity on April 25, 2003. The Office provided their written comments on June 11, 2003. The comments were considered in developing this final report. We conducted the survey in accordance with Generally Accepted Government Auditing Standards.

In accordance with HUD Handbook 2000.06 REV-3, please provide us any correspondence or directives issued because of the audit.

Should you or your staff have any questions please contact me at (913) 551-5870.

SUMMARY

HUD does not have adequate controls in place to ensure Section 3 is meeting its purpose as intended by the HUD Act of 1968. We found that HUD has not implemented necessary controls for effective program oversight. Section 3 has not been an area of priority in the past because the recipients that receive HUD funding have the primary responsibility for compliance. The regulations governing Section 3 are also vague as to determining the extent economic opportunities are to be awarded to low-income individuals. As a result, HUD has no assurance that Section 3 is functioning as intended by the HUD Act of 1968.

The Office of Fair Housing and Equal Opportunity has initiated actions to identify and correct program control weaknesses. They have identified weaknesses in the Section 3 program and have begun developing corrective actions to be completed by December 31, 2004.

BACKGROUND

Congress established HUD's Section 3 program with the Housing and Urban Development Act of 1968. HUD's Office of Fair Housing and Equal Opportunity administers the program. The purpose of Section 3 is, to the greatest extent feasible, to provide jobs and economic opportunities to low-income and very-low income persons, particularly public housing residents. Section 3 also provides contracting opportunities for businesses that are owned by low-income people or that provide employment to low-income people.

For training and employment, four categories of low-income persons (called Section 3 residents) receive priority:

SECTION 3 CERTIFIED COORDINATOR TRAINING

- (1) Residents of public and assisted housing.
- (2) Those living near a HUD-assisted project.
- (3) Participants in Youthbuild programs.
- (4) Homeless persons.

For contracting, businesses owned by Section 3 residents, businesses that employ Section 3 residents full time, and subcontractors using such businesses receive priority.

With respect to HUD's public housing programs, Section 3 applies to funds spent for development, operations, and modernization. For HUD's other housing and community development programs, Section 3 applies to:

Housing rehabilitation (including lead-based paint hazard reduction).
Housing construction.
Other public construction projects.

Employment opportunities to be made available under Section 3 include administrative/management positions, services such as appliance repair, carpet installation, landscaping, manufacturing, carpentry, and various construction positions.

FINDING

HUD Does Not Have Adequate Controls Over Section 3

HUD does not have adequate controls in place to ensure Section 3 is meeting its intended purpose. We found that HUD has not implemented important Office of Management and Budget Circular A-123 controls that are necessary for effective program oversight. Although HUD considers Section 3 an important goal, Section 3 has not been a priority area of emphasis because the primary responsibility for compliance is centered on recipients that receive HUD funding and HUD does not have direct oversight. As a result, HUD has no assurance that Section 3 is functioning as intended by the HUD Act of 1968.

Office of Management and Budget Circular A-123, Management Accountability and Control, provides the specific requirements for developing and implementing appropriate cost-effective management controls for results-oriented management and for assessing the adequacy of controls in place. The Circular guidance requires agency managers to continuously monitor the effectiveness of management controls associated with their programs. Management has primary responsibility for monitoring and assessing controls, and should use other sources as a supplement to its own judgment. Among the sources of information to be utilized by management are program evaluations conducted on a regular basis. In addition, the agency managers are responsible for taking timely and effective action to correct deficiencies identified by the variety of assessment and monitoring tools available to management. Correcting deficiencies is an integral part of management accountability and must be considered a priority by an agency.

We found that HUD did not have adequate controls to oversee the Section 3 program. We determined the following key controls had not been effectively implemented:

Tracking of recipients.
Recipient reporting system.
Monitoring of recipients to include:
Review of recipient/contractor/subcontractor contracts to ensure they contained the required Section 3 clause.
Evaluation of the recipient reporting process.
Verification that the recipients are notifying Section 3 residents about training and employment opportunities.
Verification that the recipients recruited/hired Section 3 residents.

HUD does not have a system in place to track the recipients subject to Section 3 guidelines. HUD staff said that since HUD does not directly distribute funding, it would be very difficult to track the recipients subject to the

SECTION 3 CERTIFIED COORDINATOR TRAINING

Section 3 guidelines. However, tracking of recipients is a critical control that needs to be in place to determine program compliance. HUD needs to develop a system as part of the funding process to identify recipients subject to Section 3 requirements. Only after identifying all the recipients will HUD be able to develop and implement an effective monitoring plan to ensure that awarded contracts contain the required Section 3 clause, recipients accurately report information, and Section 3 residents are given the opportunity to be employed.

HUD has developed an on-line reporting system for recipients to file their annual reports as required by 24 CFR 135, but the recipients of Section 3 are not required to use the system. HUD's regulation 24 CFR 135.90 requires that each recipient who receives direct HUD financial assistance subject to Section 3 requirements shall submit an annual performance report. The mandatory use of the reporting system coupled with annual performance reports should be used as part of the control process that needs to be developed.

HUD's regulation, 24 Code of Federal Regulations Part 135.74, says that the Assistant Secretary shall periodically conduct Section 3 compliance reviews of selected recipients and contractors. However, currently, HUD does not have an effective system to accurately monitor the recipients subject to Section 3 guidelines. Prior to fiscal year 2002, no monitoring reviews were conducted of Section 3 recipients. The Office of Fair Housing and Equal Opportunity conducted 25 monitoring reviews in fiscal year 2002, but selected only housing authorities that received HOPE VI funding. HUD selected HOPE VI grants because they were large projects that could be easily identified using Public Housing Authority records.

Within the last six months, the Office of Fair Housing and Equal Opportunity has initiated several actions to identify and correct program control weaknesses, such as expand the Section 3 staff. They have identified weaknesses in the Section 3 program and have begun developing corrective actions. Examples of some of the corrective actions HUD plans to undertake are as follows:

- Expand the number of reviews in 2003.

- Develop comprehensive methodologies for compliance and monitoring reviews.

- Draft clearer governing documents.

- Develop a strategy work plan for tracking complaints.

- Develop a clear definition of "to the greatest extent feasible."

- Incorporate HUB Directors into the Section 3 planning and monitoring process.

- Revise the Section 3 regulation.

The Office of Fair Housing and Equal Opportunity has developed a schedule to have the corrective actions completed by December 31, 2004.

We believe the weaknesses in the program have occurred primarily because HUD does not directly distribute funding for Section 3 activities. While the funding comes from various departments within HUD, it is the activities undertaken with those funds that are subject to Section 3 guidelines. The primary responsibility for compliance is at the recipient level. In addition, the regulations governing Section 3 are vague as to determining the extent economic opportunities are to be awarded to low-income individuals.

We commend HUD for its attempts to improve its administration of the Section 3 program. If implemented, HUD's planned improvements will certainly improve this program. Therefore, HUD should now work on finalizing and implementing a plan that will identify all of the recipients that are subject to Section 3 requirements, require accurate and complete reporting by the recipients, and ensure an effective method of monitoring of the recipients. The plan should include a specific timetable for implementation.

AUDITEE COMMENTS

A summary of HUD's comments on our draft report follow. Appendix A, page 8, contains the complete text of the comments.

SECTION 3 CERTIFIED COORDINATOR TRAINING

In fiscal year 2001 the Office of Fair Housing and Equal Opportunity expanded the Section 3 staff by 53 percent, and an additional 32 percent in fiscal year 2002 to enable staff to conduct monitoring reviews of housing authorities. In fiscal year 2003, Section 3 staff not only increased monitoring and technical assistance reviews from 25 to 30, but exceeded this amount by 6 additional reviews to date [June 11, 2003].

Most recently, the Section 3 staff has developed a strategic plan to enhance the efficiency and effectiveness of the program. The goals of the strategic plan are to:

- Evaluate existing policies and procedures;
- Update education and outreach materials;
- Increase collaboration with other major HUD program areas.

Also under this strategic plan, Section 3 staff has affected actions to execute Memoranda of Agreement with other federal agencies (e.g. Department of Labor, Department of Health and Human Services, etc.) and Memoranda of Understanding for training, outreach, and education with faith-based and community-based organizations, advocacy groups, and other community stakeholders. The plan seeks also to increase awareness among residents of the Section 3 program. Increased awareness will likely result in a rise in the number of Section 3 grievances filed.

The Office of Fair Housing and Equal Opportunity also provided a specific list of corrective actions to be completed by December 31, 2004 to address the finding in the report pertaining to:

- Tracking of recipients

- Recipient reporting system

- Monitoring of recipients to include:

- Review of recipient/contractor/subcontractor contracts to ensure they contained the required Section 3 clause

- Recruiting/hiring of Section 3 residents.

OIG EVALUATION OF AUDITEE COMMENTS

We commend the Office of Fair Housing and Equal Opportunity for the great strides it has taken towards developing and implementing controls over the Section 3 program. If the controls described by the Office of Fair Housing and Equal Opportunity are fully implemented, they should strengthen the Section 3 program and correct program control weaknesses.

The Office of Fair Housing and Equal Opportunity provided their planned actions and dates for corrective action with their comments. Therefore, we have input December 31, 2004 as the planned completion date for Recommendation 1A and have closed Recommendation 1B in the Department's Audit Resolution and Corrective Action Tracking System.

RECOMMENDATIONS

We recommend the Assistant Secretary for Fair Housing and Equal Opportunity:

1A. Develop and implement necessary controls to ensure the Section 3 program is functioning as intended by the HUD Act of 1968. At a minimum, these controls should include:

- Developing a system to track recipients

- A method to evaluate the recipient reporting system

- Developing a system to monitor recipients that ensures contracts contain the Section 3 clause, recipient reporting system is effective and Section 3 residents are informed of and given available job and training opportunities.

1B. Develop a timeline to ensure controls are implemented expeditiously.

MANAGEMENT CONTROLS

SECTION 3 CERTIFIED COORDINATOR TRAINING

Management controls include the plan of organization, methods, and procedures adopted by management to ensure that its goals are met. Management controls include the processes for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We determined that the following management controls were significant to our audit objective:

- Controls over the monitoring process.
- Controls over recipient contracts.
- Controls over recipient reporting.
- Controls over recipient hiring.
- Controls over recipient tracking.

It is a significant weakness if management controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet an organization's objectives.

Based on our survey, as presented in the finding, we believe the following issues represent significant weaknesses in HUD's control environment:

- HUD does not have a system in place to accurately monitor the recipients subject to Section 3 guidelines.
- HUD does not have a system in place to track the recipients subject to Section 3 guidelines.
- HUD does not have controls over the review of awarded contracts for the required Section 3 clause.
- HUD does not have controls over the recipients reporting process.
- HUD does not have controls over the recruiting and hiring of Section 3 residents.

FOLLOW-UP ON PRIOR AUDITS

This is the first OIG review of Section 3 of the Housing and Urban Development Act of 1968.

Appendix A

Auditee Comments

Congress established the Section 3 program with the passage of the Housing and Urban Development Act of 1968. Since its enactment, Section 3 has been a statutory basis for providing to low- and very low-income residents, economic opportunities generated from projects receiving HUD financial assistance. The Housing and Community Development Act of 1992 (1992 Act) significantly revised Section 3 but did not alter the objective. The 1992 Act instead strengthened the Section 3 mandate by clarifying the types of HUD financial assistance, activities and recipients subject to the requirements of section 3, identified the specific individuals and businesses that are the intended beneficiaries, and established the order of priority in which these individuals and businesses should be recruited and solicited.

On October 8, 1993 (58 FR 52534), HUD published a proposed rule to incorporate the comprehensive changes required to make part 135 consistent with the changes made by the 1992 Act. On June 30, 1994, an interim rule (59 FR 33866) was published. This rule reduced and simplified the provisions of the October 8, 1993 proposed rule.

Since that time, outside of the cursory nods given to the Section 3 proposed final rule, Section 3 has not occupied a position of great priority; the recipients themselves have been deemed to be responsible for monitoring their own compliance.

In Fiscal Year (FY) 2001, however, the Office of Fair Housing and Equal Opportunity expanded the Section 3 staff by 53 percent to enable staff to conduct monitoring reviews of housing authorities, adding in FY 2002 an additional 32 percent. In FY 2003, Section 3 staff not only accommodated the increase from 25 planned monitoring and technical assistance reviews the previous fiscal year, but also exceeded the management plan goals of 30 by 6 additional

SECTION 3 CERTIFIED COORDINATOR TRAINING

reviews to date. These are a few of the actions that have been implemented to begin correcting the weaknesses in effectively managing the Section 3 program.

Most recently, Section 3 staff has developed a strategic plan designed to enhance the efficiency and effectiveness of the program. The goals of the strategic plan are to

- Evaluate existing policies and procedures;
- Update education and outreach materials;
- Increase collaboration with other major HUD program areas.

Also under this strategic plan, Section 3 staff has affected actions to execute Memoranda of Agreement with other federal agencies (e.g. Department of Labor, Department of Health and Human Services, etc.) and Memoranda of Understanding for training, outreach, and education with faith-based and community-based organizations, advocacy groups, and other community stakeholders. The plan seeks also to increase awareness among residents of the Section 3 program. Increased awareness will likely result in a rise in the number of Section 3 grievances filed.

Following is a specific list of corrective actions planned (or in place) to address the findings of this audit:

HUD does not have a system in place to accurately monitor the recipients subject to Section 3 guidelines.
Organize task forces of staff members from Section 3 and other major HUD program areas to develop and implement a successful policy for monitoring HUD recipients subject to Section 3 guidelines.

By When: September 30, 2003

Incorporate HUB Directors into the planning of Section 3 monitoring reviews.

By When: Ongoing

Update procedural Handbook 8023.1 dated July 1992.

By When: September 30, 2003 – Begin clearance process

HUD does not have a system in place to track the recipients subject to Section 3 guidelines.

Develop with HUD Program staff an internal system for tracking all non-exempt HUD funding assistance and their corresponding recipients.

By When: December 31, 2004

Develop an on-line Summary Reporting Form for recipients to report Section 3 hiring activities.

By When: September 30, 2004

HUD does not have controls over the review of awarded contracts for the required Section 3 clause.

Work with HUD program staff to establish a pre-award review process, which would assess the potential recipients' Section 3 compliance capability and/or history.

By When: December 31, 2004

HUD does not have controls over the recipients' reporting process.

Develop an online system for tracking the receipt (or lack) of all HUD recipients' HUD Form 60002.

By When: September 30, 2004

HUD does not have controls over the recruiting and hiring of Section 3 residents.

Revise the Section 3 regulation to clear definition of "to the greatest extent feasible."

By When: September 30, 2004

Increase the number of technical assistance and monitoring reviews in FY 2003.

SECTION 3 CERTIFIED COORDINATOR TRAINING

By When: Completed

Develop a strategy work plan for tracking complaints.

By When: September 30, 2004

Develop and conduct marketing and outreach campaigns to inform Section 3 residents of recruitment and hiring opportunities available through HUD-assisted projects.

By When: September 30, 2004

-End of OIG Report-

2013 OIG Report on HUD Non- Compliance

**OFFICE OF AUDIT
REGION 7
KANSAS CITY, KS**



U.S. Department of Housing and Urban Development

Section 3 for Public Housing Authorities

2013-KC-0002

JUNE 26, 2013



U.S. Department of Housing and Urban Development

Section 3 for Public Housing Authorities



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

Issue Date: June 26, 2013

Audit Report Number: 2013-KC-0002

TO: Sara Pratt, Deputy Assistant Secretary for Enforcement and Programs, ED
Lindsey Reames, Deputy Assistant Secretary for Field Operations, PQ

FROM: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

SUBJECT: HUD Did Not Enforce the Reporting Requirements of Section 3 of the Housing and Urban Development Act of 1968 for Public Housing Authorities

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's oversight of Section 3 of the Housing and Urban Development Act of 1968 for public housing authorities.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8L, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5870.



June 26, 2013

HUD Did Not Enforce the Reporting Requirements of Section 3 of the Housing and Urban Development Act of 1968 for Public Housing Authorities

Highlights

Audit Report 2013-KC-0002

What We Audited and Why

We reviewed the U.S. Department of Housing and Urban Development's (HUD) oversight of Section 3 of the Housing and Urban Development Act of 1968 due to concerns over HUD's ensuring economic opportunities for low- and very low-income persons. Our audit objective was to determine whether HUD enforced the requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients.

What We Found

HUD did not enforce the reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients. Specifically, HUD failed to collect Section 3 summary reports from all housing authorities by the required deadline and verify their accuracy. In addition, it did not sanction housing authorities that failed to submit the required reporting information. As a result, 1,650 nonsubmitting housing authorities may have falsely certified compliance. In addition, they did not provide HUD and the general public with adequate employment and contracting information.

What We Recommend

We recommend that HUD (1) implement the new HUD-60002 submission and tracking system, (2) design a method to follow up on missing and inaccurate information in HUD-60002 submissions, (3) publish final regulations, and (4) require housing authorities to support \$26 million in payments. We also recommend that HUD (1) establish policies and procedures that implement a system of escalating administrative measures, including progressive remedies and sanctions, to be applied against housing authorities that do not submit a HUD-60002 and (2) establish a methodology to incorporate Section 3 compliance in risk assessments.

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BACKGROUND AND OBJECTIVE

The U.S. Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO) administers Federal laws and establishes national policies to ensure that all Americans have equal access to the housing of their choice. In addition, it interprets policy, processes complaints, performs compliance reviews, and offers technical assistance to local housing authorities and community development agencies regarding Section 3 of the Housing and Urban Development Act of 1968.

Section 3 is HUD's policy for providing preference to low- and very low-income residents and the businesses that employ them. Section 3 residents live in the community where applicable HUD funds are spent. Section 3 businesses substantially employ these residents for new employment, training, and contracting opportunities created from the use of covered HUD funds. All public housing funds administered by the Office of Public and Indian Housing (PIH) are subject to Section 3 while certain programs administered by the Office of Community Planning and Development, Multifamily Housing and the Office of Healthy Homes and Lead Hazard control are subject to these requirements within certain limits.

Each recipient (and its contractors, subcontractors, or subrecipients) is required to comply with the requirements of Section 3 to the greatest extent feasible. These requirements include attempting to ensure that a minimum of 30 percent of all new jobs created go to Section 3 residents, 10 percent of all construction contracts are awarded to Section 3 businesses, and 3 percent of all non-construction contracts are awarded to Section 3 businesses. In addition, recipients are required to document their efforts to comply with these thresholds if they fail to meet them and annually submit a summary report to HUD on their Section 3 compliance.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act, which included a \$4 billion appropriation in Public Housing Capital Fund grants to public housing agencies. The first and most important goal of the Recovery Act was to preserve and create jobs and promote economic recovery. Since Recovery Act funding was specifically intended to create jobs and other economic opportunities for those most impacted by the recession, compliance with the requirements of Section 3 was critical. In addition, in fiscal years 2011 and 2012, HUD awarded \$2.04 billion and \$1.875 billion, respectively, in Public Housing Capital Fund grants. These grant funds are available for capital and management activities, including the development, financing, and modernization of public housing projects. These programs are administered by PIH.

FHEO enters into voluntary compliance agreements (VCA) when it concludes that recipients violate Section 3 requirements. These VCA's list all the actions that they must take to come into compliance. FHEO field offices conduct compliance or complaint reviews that lead to the implementation of VCA's.

Our audit objective was to determine if HUD enforced the requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients.

RESULTS OF AUDIT

Finding 1: HUD Did Not Enforce the Reporting Requirements of the Section 3 Program

HUD did not enforce the reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients. FHEO lacked a collection system able to identify missing and inaccurate reports, and it did not have procedures to follow up on submissions and refer to PIH any noncompliant housing authorities. As a result, 1,650 of 3,102 public housing agencies failed to submit their Section 3 annual summary reports and potentially falsely certified compliance with Section 3. In addition, they did not provide HUD and the general public with adequate employment and contracting information.

Requirements Not Enforced

HUD did not enforce the reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients. In addition, it did not sanction housing authorities that failed to submit the required reporting information.

HUD-60002 Form Collection

FHEO failed to collect the required Section 3 Annual Summary Reports (form HUD-60002) from all housing authorities by the deadline. It did not fully track housing authorities that had not submitted their reports by the deadline. As of October 23, 2012, HUD had not collected HUD-60002 forms for 2011 from 1,650 of 3,102 (53 percent) housing authorities and had not followed-up with them.

Each housing authority is responsible for submitting form HUD-60002 in accordance with 24 CFR (Code of Federal Regulations) 135.90, which requires housing authorities to submit this form to HUD by January 10 of each year. The requirements of Section 3 apply to all housing authorities regardless of size or the number of units, except those that administer only Section 8 (see appendix C).

HUD-60002 Form Verification

FHEO did not verify the accuracy of the forms or follow up on clearly noncompliant information. For example,

- Thirty-six HUD-60002 submissions reported more Section 3 jobs created than the total number of jobs created.
- One housing authority reported 26 total new hires and no Section 3 new hires.
- Another reported 11 total new hires and no Section 3 new hires.

- Another reported that it awarded more than \$170 million in total construction contracts and \$257 million in non-construction contracts, none of which went to Section 3 business concerns. Since the goal for construction contracts is 10 percent and 3 percent for non-construction contracts, it should have awarded at least \$24.71 million in contracts to Section 3 businesses.
- Another reported that it awarded more than \$12.2 million in total construction contracts, none of which went to Section 3 business concerns. It should have awarded at least \$1.22 million in construction contracts to Section 3 businesses.
- Two reported that they each awarded about \$1.5 million in total nonconstruction contracts, none of which went to Section 3 business concerns. Each should have awarded at least \$45,000 in non-construction contracts to Section 3 businesses.

In all these cases, the housing authorities did not provide on their summary reports any justifications for failing to meet minimum Section 3 thresholds. In total, four of the housing authorities awarded more than \$442 million in contracts of which at least \$26 million should have been awarded to Section 3 businesses.

Lack of Sanctions for Noncompliance

HUD did not sanction housing authorities that failed to submit the required reporting information. These housing authorities' HUD assessment scores, troubled status, or availability of funding was unaffected by their failure to submit their HUD-60002 reports. They continued to conduct business as usual in spite of their failure to comply with Section 3. PIH has not sanctioned any public housing authority for Section 3 noncompliance as this is not an area they normally enforce. Section 3 is typically viewed as the domain of FHEO.

Lack of Appropriate Reporting System and Procedures

FHEO lacked a collection system able to identify missing and inaccurate reports, and it did not have procedures to follow up on submissions and refer to PIH any noncompliant housing authorities.

HUD-60002 Collection System

FHEO lacked an electronic collection system able to identify missing and inaccurate HUD-60002 forms. The system used by FHEO during the audit period had several weaknesses:

- It allowed housing authorities to submit reports that did not indicate efforts to meet the minimum requirements.
- It allowed housing authorities to report logically impossible data such as Section 3 jobs created that were larger than total jobs created.

- It allowed data entry errors in the housing authority name, location, grant number, and grant amount fields.
- It did not allow housing authorities to view their previous HUD-60002 submissions.
- It did not produce immediate reports that let FHEO management know which housing authorities had not submitted their reports.
- It did not notify delinquent housing authorities that they had not submitted their reports.

To determine which housing authorities had submitted HUD-60002 forms, FHEO staff had to download the raw data from the system and then manually determine which ones had submitted and which ones had not yet submitted their reports. FHEO developed a new system, which will address many of the weaknesses in the current system. The system is expected to go live in June 2013. FHEO plans an additional future system enhancement, which will more completely address the weaknesses in the current system.

Lack of Procedures

FHEO had not established procedures to follow up on missing or inaccurate information in HUD-60002 submissions or to refer housing authorities to PIH when they fail to make the required submissions or corrections. After conducting on-site compliance reviews or complaint investigations, FHEO negotiates VCAs with housing authorities to resolve the findings. Outside this practice, FHEO lacks procedures for broader follow up and referral. PIH would have to administer monetary sanctions since it administers the capital fund program. In addition, the sanctions available to FHEO, based on interim regulations, only included debarments, suspensions, and limited denials of participation, which were not very effective against housing authorities. These interim regulations have been in place since 1994.

FHEO had developed new draft regulations to establish greater sanctions for noncompliance, including recapturing, ineligibility for, and withholding funding to strengthen the overall effectiveness of Section 3. However, FHEO has been unable to get departmental clearance for the proposed new regulations due to disagreements with HUD's Office of Community Planning and Development on the interpretation of the regulations.

False Certification and Inadequate Information

For 2011, 1,650 housing authorities could be falsely certifying compliance. In addition, they did not provide HUD and the general public with adequate employment and contracting information.

The housing authorities that did not submit their Section 3 annual reports potentially submitted false Certifications of Compliance (form HUD-50077) with

their annual plans. With this form, housing authorities certify that they will comply with all of the requirements of Section 3 as well as many other program requirements for the upcoming year. When housing authorities have not been complying with the Section 3 reporting requirement for prior report periods, they may not comply with the requirements going forward. Additionally, on the form, housing authorities certify that they are in compliance with all applicable Federal statutory and regulatory requirements. Housing authorities submit the form HUD-50077 with their annual plans in order to receive their annual funding. These certifications carry a warning that HUD will prosecute false claims and statements and convictions may result in criminal or civil penalties or both.

In addition, these housing authorities did not provide HUD and the general public with adequate information. HUD needed that information to determine whether Section 3 effectively generated opportunities for economically disadvantaged people and businesses. In addition, the housing authorities deprived the public of information that the Section 3 regulation entitled it to receive.

Conclusion

HUD did not enforce the reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients. It must remedy this situation to ensure that these housing authorities meet Section 3 requirements for their future capital funds. FHEO must have a better system and procedures for tracking, following up on, and referring Section 3 reporting deficiencies. In addition, PIH could develop more effective sanctions that impact housing authorities' scoring and funding. For example, if HUD stops accepting annual certifications from housing authorities that have not submitted their HUD-60002 reports, it will encourage them to submit their forms so they can receive their annual funding.

Recommendations

We recommend that the Deputy Assistant Secretary, Enforcement and Programs, Office of Fair Housing and Equal Opportunity,

- 1A. Implement the new HUD-60002 submission and tracking system that has been in development as well as the planned system enhancement.
- 1B. Establish procedures to follow up on missing and inaccurate information in HUD-60002 submissions.
- 1C. Establish procedures regarding when to refer to PIH any housing authorities that fail to make the required submissions or corrections.

1D. Resolve issues with the Office of Community Planning and Development and complete the process to publish final regulations for 24 CFR Part 135.

- * 1E. Require the six housing authorities included in this finding that reported Section 3 noncompliance to provide justification or support that they met the goals. If they cannot show compliance, enter into a voluntary compliance agreement to bring their Section 3 programs into compliance, or refer them to PIH for repayment of the \$26 million that should have been used for Section 3.

We recommend that the Deputy Assistant Secretary, Field Operations, Office of Public and Indian Housing,

- 1F. Establish policies and procedures that implement a system of escalating administrative measures, including progressive remedies and sanctions, to be applied against housing authorities that do not submit a HUD-60002 when noncompliance is reported to PIH by FHEO.
- 1G. Establish a methodology to incorporate Section 3 compliance (based on reporting compliance data from FHEO) in risk assessments for housing authorities that receive capital fund grants.

SCOPE AND METHODOLOGY

To accomplish our objective, we

- Reviewed relevant laws, regulations, and HUD guidance,
- Interviewed HUD staff, and
- Reviewed HUD-60002 submissions.

In addition, we reviewed Section 3 compliance review letters of finding issued, complaints processed, and voluntary compliance agreements executed by HUD in 2011 and 2012. We also observed a compliance review in January 2013.

We obtained from FHEO a download of 4,967 records of HUD-60002 submissions. We then sorted by construction contracts, non-construction contracts and jobs created to identify PHAs that had 1) the largest total dollar amount of construction contracts awarded and the lowest amount of Section 3 construction contracts; 2) the largest total dollar amount of non-construction contracts awarded and the lowest amount of Section 3 non-construction contracts; 3) the highest amount of total jobs created and the lowest number of Section 3 hires. We selected two PHAs from each category by sorting and taking the top two that did not list their efforts towards meeting the requirements. We only considered entities that received PIH funding. We then reviewed all the submissions from those PHAs.

Section 3 rules also apply to community planning development entities such as cities and municipalities. We did not review these entities because it was outside the scope of the audit.

We relied in part on data maintained by HUD's Section 3 Summary Report System. We determined that the computer-processed data were sufficiently reliable for our purpose.

We performed our audit between October 2012 and March 2013 at HUD's office in Washington, DC, as well as at the Orlando Housing Authority at 390 North Bumby Avenue, Orlando, FL. Our audit generally covered the period January 1, 2011, through October 31, 2012.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls to ensure that all public housing authorities submit form HUD-60002 for Recovery Act Public Housing Capital Fund activities to HUD by January 10 of every year.
- Controls to ensure that all public housing authorities properly and accurately report Section 3 Recovery Act Public Housing Capital Fund activities to HUD.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- HUD lacked a collection system able to identify missing and inaccurate Section 3 reports and it did not have procedures to follow up on submissions and refer to PIH housing authorities that were not properly reporting.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1E	\$26,025,191

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

ASSISTANT SECRETARY FOR
FAIR HOUSING AND EQUAL OPPORTUNITY

MEMORANDUM FOR: Ronald J. Hosking, Regional Inspector General for Audit,
7AGA
FROM: Bryan Greene, Acting Assistant Secretary for Fair Housing
and Equal Opportunity, E
SUBJECT: Response to Discussion Draft Audit Report — Section 3 for
Public Housing Authorities

This memorandum responds to your May 6, 2013, communication seeking comments from the Office of Fair Housing and Equal Opportunity (FHEO) on the Office of Inspector General's (OIG) Discussion Draft Audit Report concerning the review of FHEO's oversight of Section 3 of the Housing and Urban Development Act of 1968 (Section 3) for Recovery Act Public Housing Capital Fund recipients. FHEO appreciates the opportunity to provide comments.

The OIG's Discussion Draft Audit Report concludes that HUD:

1. Did not enforce the reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund Recipients;
2. Lacked a collection system able to identify missing and inaccurate reports;
3. Did not have procedures to follow up on submissions and refer to PIH any noncompliant housing authorities; and
4. Failed to ensure that Public Housing Authorities did not make false certifications or provide HUD and the general public with inadequate employment and contracting information.

FHEO's comments on each of the OIG's findings are provided below.

ENFORCEMENT OF REPORTING REQUIREMENTS OF THE SECTION 3 PROGRAM FOR RECOVERY ACT PUBLIC HOUSING CAPITAL FUND RECIPIENTS:

In recent years FHEO has made significant progress with enforcing Section 3 reporting requirements for all covered recipients of HUD funding. Specifically, in 2006 only 4% of all recipients were complying with the Section 3 reporting requirements. By building strong collaborations with Headquarters and Field staff in the offices of Public and Indian Housing (PIH); Community Development and Planning (CPD); and, Field Policy and Management (FPM), FHEO successfully increased overall reporting rates to approximately 86% in 2010.

Ref to OIG Evaluation

Auditee Comments

As noted in the OIG's Discussion Draft Audit Report, when the investigation commenced on October 12, 2012, only 53% of Recovery Act Public Housing Capital Fund recipients had submitted Section 3 reports to HUD. However, on November 15, 2012, FHEO issued a memo that had been pending release to PIH, CPD, and FPM requesting them to contact grantees regarding delinquent 2010 and 2011 Section 3 reports. As a result, more than 82% of all covered recipients submitted Section 3 annual reports to HUD for the 2011 reporting period, 72% of which are recipients of Recovery Act Capital Funds. Notwithstanding, the timely submission of reports continues to be one of the biggest challenges impacting Section 3 enforcement.

To satisfy OIG's concerns, FHEO will implement OIG's recommendation to establish procedures to refer to PIH any housing authorities that fail to make the required Section 3 annual report submissions or corrections.¹

Also, the Deputy Secretary recently mandated that the Section 3 revised final rule be fast-tracked within the Department for expedited publication.²

LACK OF COLLECTION SYSTEM TO IDENTIFY MISSING AND INACCURATE REPORTS

In recent years FHEO devoted a significant amount of time to providing technical assistance and outreach to PHAs to enable them to submit their Section 3 reports to HUD. Now that reporting rates are increasing, FHEO recently began analyzing the data that is being submitted in Section 3 reports and making appropriate policy decisions.

One of FHEO's main conclusions is that the current Section 3 reporting system does not have the capacity to track missing reports or to prevent recipients from submitting inaccurate data. Unfortunately, the current Section 3 reporting system was built in the 1990's and operates on outdated software which caused FHEO staff to carry out manual tracking processes that were inefficient and ineffective. Further, the system lacks quality control features to prevent recipients or hackers from submitting erroneous and inaccurate information that compromises the overall integrity of all of the data collected.

In FY 2012, FHEO developed a new Section 3 reporting system that addresses these issues and significantly improves the management and oversight of covered recipients. The new Section 3 reporting system is automatically populated with data from existing HUD systems to reduce recipient burden and eliminate user errors. For instance, this system uploads real-time data from HUD's Line of Credit Control System (LOCCS) showing the actual dollar amount of HUD funds that covered recipients have drawn down during each fiscal year. The new Section 3 reporting system also prevents recipients from entering invalid outcome data and will enable FHEO to immediately identify noncompliant recipients so appropriate actions can be taken.

¹ See recommendation #IC in OIG Discussion Draft Report.

² See recommendation #ID in OIG Discussion Draft Report.

Ref to OIG Evaluation

Auditee Comments

Comment 1

This new Section 3 reporting system is currently pending release upon approval by the Office of the Chief Information Officer (OCIO). FHEO believes that this system will implement the recommendation set forth in the OIG's Discussion Draft Audit Report.³

Anticipated Completion Dates:

- New Section 3 reporting system operational: June 21, 2013
- Training for PHAs and other covered grantees: July-September 2013
- Section 3 reports submitted by recipients of Recovery Act Capital Funds for the 2013 reporting period: January 10, 2014

FAILURE TO HAVE PROCEDURES TO FOLLOW UP ON SUBMISSIONS AND REFER TO PIH ANY NONCOMPLIANT HOUSING AUTHORITIES

Comment 2

While FHEO has not followed up with PHAs regarding their Section 3 reports or referred any Recovery Act Public Housing Capital Fund recipients to PIH to be penalized for their failure to comply with the Section 3 reporting requirements in recent years, our office shares the OIG's concern that the lack of penalties for failing to submit timely Section 3 reports gives PHAs the false impression that there are no consequences for noncompliance. Unfortunately, FHEO is often at a disadvantage for enforcing Section 3 requirements upon PHAs because our office does not provide funds to these entities and does not have the direct authority to impose penalties upon them.

In the coming weeks FHEO will be implementing OIG's recommendation to develop procedures to follow up on missing and inaccurate information submitted by PHAs on faint HUD-60002.⁴ Since developing appropriate procedures will require management decisions, FHEO is unable to provide an anticipated completion date at this time.

Additionally, as previously mentioned, FHEO is currently implementing the Deputy Secretary's directive to take steps to expeditiously enter a revised Section 3 final regulation into departmental clearance. The revised Section 3 final regulation will also include any subsequent management decisions that are directly related to the findings of the OIG's Discussion Draft Audit Report.

FAILURE TO ENSURE THAT PUBLIC HOUSING AUTHORITIES DID NOT MAKE FALSE CERTIFICATIONS OR PROVIDE HUD AND THE GENERAL PUBLIC WITH INADEQUATE EMPLOYMENT AND CONTRACTING INFORMATION

Generally, FHEO agrees with the OIG's finding and supports any efforts that will ensure that PHAs do not make false certifications to HUD or that will ultimately improve our ability to provide adequate information about Section 3 covered employment and contracting opportunities.

³ See recommendation #1A in OIG Discussion Draft Report.

⁴ See recommendation #1C in OIG Discussion Draft Report.

Ref to OIG Evaluation

Auditee Comments

Comment 3

To satisfy OIG's concerns, FHEO will work with PIH to implement OIG's recommendation to require the six PHAs identified in the Discussion Draft Audit Report that reported Section 3 noncompliance to HUD to provide justification or evidence demonstrating that they met the minimum numerical goals⁵. If these PHAs are not able to show compliance, FHEO will take steps to enter into voluntary compliance agreements (VCAs) to address our concerns.

With respect to OIG's recommendation to refer to PIH any of the six noncompliant PHAs that do not enter into VCAs with HUD to resolve outstanding areas of noncompliance to PIH for appropriate action, FHEO will have to coordinate with appropriate persons in PIH to make management decisions. At this time, FHEO is waiting to receive contact information from the OIG to implement this recommendation. Therefore, FHEO is not able to provide an anticipated timeframe for carrying out this portion of OIG's recommendation. However, FHEO can provide the following anticipated actions and completion dates:

- Contact the six PHAs referenced in the OIG report to request either a justification for their failure to comply with the Section 3 requirements or evidence demonstrating their compliance: June 14, 2013
- PHA responses due to FHEO: June 28, 2013
- Assess responses and supporting materials received: July 1-26, 2013
- Notify PHAs about outstanding areas of noncompliance: August 16, 2013
- FHEO Field office staff will coordinate with PHAs to enter into VCAs to address areas of noncompliance: September 30, 2013

CONCLUSION:

FHEO should have monitored timely reporting requirements of the Section 3 program for Recovery Act Public Housing Capital Fund recipients. As indicated in our response, FHEO shares the concerns identified by the OIG and has been taking proactive steps to address them since FY 2010. Notwithstanding, FHEO believes that implementing the recommendations set forth in the OIG's Discussion Draft Audit Report will ultimately strengthen the overall effectiveness of Section 3.

FHEO will keep the OIG apprised of our progress as we work to implement your recommendations. If you have any questions or need any additional information, please contact Charles Montgomery, FHEO Audit Liaison Officer, at (202) 402-6916, or Staci Gilliam, Director, Economic Opportunity Division, at (202) 402-3468.

Ref to OIG Evaluation

Auditee Comments



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

MEMORANDUM FOR: Ronald J. Hosking, Regional Inspector General for Audit, 7AGA

FROM: Lindsey S. Reames, Acting Deputy Assistant Secretary for Field Operations, PQ

SUBJECT: Audit of Section 3 in the Public Housing Capital Fund

This memorandum is in response to the draft audit report provided by the Office of the Inspector General ("OIG") containing the findings of its audit of public housing agency ("PHA") compliance with Section 3 requirements in the administration of the Public Housing Capital Fund American Recovery and Reinvestment Act grants. The Office of Field Operations appreciates the opportunity to provide its opinion before the issuance of a final audit report and has prepared these comments in conjunction with the program office, the Office of Public Housing Investments, which administers the Capital Fund. Based on the facts, as relayed in the draft audit report and in discussions with OIG staff, PIH suggests the following changes be made before the issuance of the final audit report.

As discussed with OIG staff, PIH suggests alternative recommendations. PIH and OIG agreed that combining 1F and the former 1G resulted in a workable outcome that realized program oversight objectives within the purview of PIH's authority. Upon further analysis, PIH suggests that the former 1H (now 1G) also be incorporated into this recommendation. As discussed, the new 1F would require PIH commit to developing a set of policies and procedures that would involve an escalating series of actions designed to bring PHAs into compliance with the Section 3 reporting requirement. PIH suggests: "Establish policies and procedures that implement a system of escalating administrative measures to be applied against housing authorities that do not submit a HUD-60002 when noncompliance is reported to PIH by Fair Housing and Equal Opportunity."

Based on a comment made previously, OIG agreed that Section 3 compliance would be a useful factor in the risk assessment tool PIH is currently developing and refining. PIH is committed to developing its risk assessment tool with an aim to identifying potential management weaknesses before an incident of noncompliance. PIH hopes that the risk assessment Section 3 indicator would serve as an alert that will prevent the need for any programmatic remedies or sanctions, with the goal of providing technical assistance to avoid the failure to report. PIH suggests: "After the testing and implementation of FHEOs tool is completed and upon receipt of reporting compliance data from FHEO, establish a methodology to incorporate Section 3 compliance in risk assessments for PHAs that receive capital fund grants."

Ref to OIG Evaluation**Auditee Comments****Comment 4**

PIH requests additional changes to the audit report be made consistent with the new recommendations. Specifically, PIH requests that references to the Department's not penalizing PHAs for noncompliance be revised to reflect that PIH's role is to engage the PHAs in order to improve compliance. As discussed, it's not clear what penalties PIH could impose for a failure to submit the form. PIH suggests references to penalizing PHAs be changed to "take administrative measures." Consistent with that recommendation, PIH recommends that "administer monetary sanctions" on page six be amended to "provide technical assistance and encourage compliance through programmatic measures."

Comment 5**Comment 6**

Finally, PIH suggests the paragraph on the top of page seven be revised to reflect the shared view of PIH and OIG that an historical failure to report on Section 3 is a good prospective risk indicator. PIH believes that the form HUD-50077 certification of future compliance may provide the appropriate prompt for PIH to engage historically noncompliant PHAs, but it is the risk assessment that will lead to PIH action. PIH suggests that references to potentially false certifications be omitted and the focus of the paragraph centered on the identification of PHAs at heightened risk of noncompliance. Accordingly, PIH also suggests the final sentence of the conclusion paragraph be struck.

PIH appreciates OIG's engaging it to design recommendations that will further the Department's objectives. PIH suggests the recommendations be revised as follows.

- 1F. Establish policies and procedures that implement a system of escalating administrative measures to be applied against housing authorities that do not submit a HUD-60002 when noncompliance is reported to PIH by Fair Housing and Equal Opportunity.
- 1G (old 1H). After testing and implementation of FHEOs tool is completed and upon receipt of reporting compliance data from FHEO, establish a methodology to incorporate Section 3 compliance in risk assessments for PHAs that receive capital fund grants.

Comment 7

Again, PIH believes the new language for 1F and 1G could feasibly be incorporated into one recommendation because the risk assessment and early intervention would be just one component of the larger strategy for enhancing compliance.

For further information, please contact Scott Shewcraft, Office of Public Housing Investments, at (202)402-6421 or scott.a.shewcraft@hud.gov.

OIG Evaluation of Auditee Comments

- Comment 1** FHEO must ensure that it implements not just phase 1 of its new Section 3 reporting system but also phase 2 that will grant each user a unique ID and password as well as other system enhancements to address the issues identified in the audit report.
- Comment 2** FHEO and PIH must fully implement all recommendations in this report to ensure PHAs do not have the false impression that there are no consequences for noncompliance.
- Comment 3** We have now provided the contact information for the appropriate person in PIH to make management decisions.
- Comment 4** We believe that sanctions for noncompliance are required to ensure adherence. We've changed the term from penalty to sanction in order to ensure consistency throughout the body of the report.
- Comment 5** As discussed with PIH earlier, we believe that it can hold up funding PHAs by challenging their annual HUD-50077 submission if they have failed to submit their Section 3 form. Item 22 on HUD-50077 states that the PHA certifies that it is in compliance with all applicable Federal statutory and regulatory requirements. Failure to submit the HUD-60002 form is classified as non-compliance with Section 3 regulations. Therefore we conclude that there are penalties that can be imposed for failure to submit the HUD-60002 form.
- Comment 6** We believe that references to potentially false certifications should not be omitted from the report because PHAs are certifying to current compliance with item 22 (comment 5) and future compliance with item 11 of HUD-50077.
- Comment 7** We combined recommendations 1F and the former 1G into the current 1F. However, we believe that recommendations 1F and 1G need to be separate because we are recommending that PIH take two separate actions.

Appendix C

CRITERIA

24 CFR 135.3 – Applicability

- (a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (Section 3 covered assistance): (1) *Public and Indian housing assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:
- (i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);
 - (ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and
 - (iii) Modernization assistance provided pursuant to section 14 of the 1937 Act.
- (3) Thresholds—(i) No thresholds for Section 3 covered public and Indian housing assistance. The requirements of this part apply to Section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by Section 3, regardless of the amount of the contract or subcontract.

24 CFR 135.30 - Numerical goals for meeting the greatest extent feasible requirement

- (a) General.
- (1) Recipients and covered contractors may demonstrate compliance with the “greatest extent feasible” requirement of Section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns.
 - (2) The goals established in this section apply to the entire amount of Section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.
 - (3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns.
 - (4) The numerical goals established in this section represent minimum numerical targets.

- (b) Training and employment. The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all job levels. (1) Numerical goals for Section 3 covered public and Indian housing programs. Recipients of Section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ Section 3 residents as:
- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;
 - (ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996;
 - (iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.
- (c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all Section 3 covered projects and Section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to Section 3 business concerns:
- (1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
 - (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts.
- (d) Safe harbor and compliance determinations. (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the Section 3 preference requirements. (2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with Section 3 and the requirements of this part.

24 CFR 135.32 – Responsibilities of the Recipient

Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

- (a) Implementing procedures designed to notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance;
- (b) Notifying potential contractors for Section 3 covered projects of the requirements of this part, and incorporating the Section 3 clause set forth in § 135.38 in all solicitations and contracts.
- (c) Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of Section 3 residents and contract award to Section 3 business concerns that exceed those specified in § 135.30;
- (d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.
- (e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

24 CFR 135.90 – Reporting

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of Section 3. Where the program providing the Section 3 covered assistance requires submission of an annual performance report, the section3 report will be submitted with that annual performance report. If the program providing the Section 3 covered assistance does not require an annual performance report, the Section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public.

HUD Section 3 Guidance for Recipients of Public and Indian Housing Assistance

Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was received by the housing authority during the specified reporting period.
- The total number of new employees that were hired by the housing authority or its contractors, subcontractors, and subrecipients.
- The number of new employees that were hired by the housing authority or its contractors, subcontractors, and subrecipients, that met the definition of a Section 3 resident.
- The total number of Section 3 residents that participated in training opportunities that were made available by the housing authority, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with HUD funding received by the housing authority.
- The dollar amount of the housing authority's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the housing authority, covered contractors, subcontractors, subrecipients, or others to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

FHEO considers housing authorities to be in compliance with Section 3 if they meet the minimum numerical goals listed at 24 CFR Part 135.30iii:

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

HUD Section 3

Frequently

Asked

Questions

Frequently Asked Questions (FAQs)

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GENERAL QUESTIONS

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

2. What does —To the Greatest Extent Feasible Mean?

By to the —Greatest Extent Feasible , the Department means the every effort must be made to comply with the regulatory requirements of Section 3. By this, the Department means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities.

3. What does the term —Section 3 resident mean?

A —section 3 resident is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended.

4. What does the term Section 3 Business Concern mean?

Section 3 business concerns are businesses that can provide evidence that they meet one of the following criteria:

- a) 51 percent or more owned by Section 3 residents; or

- b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire*; or

- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications above.

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*Example: Alysha was an unemployed Section 3 resident that was first hired by ABC Company on January 1, 2011. She received a raise of \$2,500 in March 2012, thereby boosting her household income above the local low income level. ABC Company may continue to count Alysha as one of their Section 3 employees until December 31, 2013 (i.e. within three years of the date of first hire).

5. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment, training, and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: http://portal.hud.gov/portal/page/portal/HUD/program_offices/sdb.

6. How are —low-income and very low-income determined?

Low- and very-low-household income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or the number of people residing in one house. HUD income limits may be obtained from: <http://www.huduser.org/portal/datasets/il.html>

7. What are —metropolitan areas and —non-metropolitan counties?

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. A non-metropolitan county means any county outside of a metropolitan area.

A current list of MSAs can be found at: <http://www.census.gov/population/www/metroareas/metrodef.html>

8. What is a —new hire ?

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of Section 3 covered financial assistance.

9. Can laid-off workers that are —re-hired as a result of a HUD-funded project considered new hires?

Yes. Any employee that was not on the payroll of a recipient, developer, or contractor on the day that Section 3 covered assistance was provided can be counted towards the Section 3 minimum numerical goal for employment.

10. What is a Section 3 covered project?

A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

11. Who is considered a recipient of Section 3 funding?

A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient (i.e., a PHA; unit of State or local government; property owner; developer; etc). It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 resident.

12. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?

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Public Housing Authorities (PHAs) regardless of size or number of units are required to comply with Section 3. One exception is PHAs that only receive or administer tenant-based Housing Choice (Section 8) Vouchers and do not utilize any of the financial assistance described above. Although they are exempt, compliance with Section 3 is encouraged.

Section 3 also applies to recipients of more than \$200,000 from housing and community development programs.

The following are a list of examples of such funds:

Community Development Block Grant (CDBG)

HOME Investment Partnership

Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)

Economic Development Initiative (EDI)/Brownfield Economic Development Initiative Grants

Housing Opportunities for Persons with AIDS (HOPWA)

Homeless Assistance Grants (ESG)

University Partnership Grants

Economic Stimulus Funds (including CDBG-R and CFP Supplemental)

202/811 Grants

Lead Hazard Control Grants

*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact the Economic Opportunity Division at section3@hud.gov to determine applicability to a particular project/activity.

13. Can a non-profit organization be considered a —business concern for the purposes of Section 3?

Yes. A non-profit organization can be a legitimate business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR Part 135.5 in order to receive Section 3 preference.

14. What is a Service Area?

The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

APPLICABILITY

15. What is Section 3 covered assistance?

Section 3 covered assistance includes:

Public and Indian Housing Operating Subsidy; Capital Funds; or Modernization assistance; and Housing and community development assistance expended for housing rehabilitation, housing construction, or other public construction.

16. What are funding thresholds and how do they apply to Section 3 covered financial assistance?

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for public and Indian housing (PIH) programs. The requirements of Section 3 apply to all PIH programs regardless of the amount of assistance received from HUD.

The Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction.

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For example, a city receives \$600,000 for CDBG, \$150,000 in HOME Funding, and \$75,000 in NSP funding. This represents a total of \$825,000 in housing and community development assistance. As such, any construction or rehabilitation activities funded by the city using those funds is covered by Section 3.

17. Do the requirements of Section 3 apply to grantees on a —per project basis?

No. Any agency that receives covered assistance that exceeds \$200,000 is required to comply with the requirements of Section 3 whenever any projects involving housing construction, rehabilitation, or other public construction are administered, regardless of the actual dollar amount of covered assistance that is invested into the individual project/activity.

18. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3.

19. What dollar threshold amounts apply to contractors/subcontractors?

All contracts (or subcontracts) funded with Public and Indian Housing assistance, regardless of dollar amount or type of contract, is subject to the requirements of Section 3.

With respect to recipients of Housing and/or Community Development funding, all contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3. 6

20. What responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?

If the contractor/subcontractor has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The same numerical goals apply to contractors and subcontractors (i.e., 30 percent of new hires, 10 percent of construction contracts, and 3 percent of non-construction contracts). In addition, the contractor/subcontractor must notify the recipient agency about their efforts to comply with Section 3 and submit any required documentation.

21. Do the Section 3 requirements apply to material only contracts?

No. Section 3 does not apply to material only contracts or those that do not require any labor. For example, a contract for office or janitorial supplies would not be covered by Section 3. In this example, Section 3 would be encouraged but not required. However, a contract to replace windows that includes the removal of existing windows and the installation of new windows would be covered.

22. Are maintenance projects covered by Section 3?

Yes, but only for PIH funded programs administered by Public Housing Authorities.

23. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?

Yes, reduction and abatement of lead-based paint hazards does constitute housing rehabilitation and is covered by Section 3.

24. Are demolition projects covered by the requirements of Section 3?

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Yes. Recipients of Section 3 covered assistance should make efforts to award a minimum of ten percent of the total dollar amount of all demolition contracts to Section 3 businesses.

25. Are professional service contracts covered under Section 3?

Yes, the term —Section 3 covered contract includes professional service contracts provided that the work to be performed is generated by the expenditure of Section 3 covered Public and Indian housing assistance, or for work arising in connection with projects involving housing rehabilitation, housing construction, or other public construction.

26. Does Section 3 apply to new hiring by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD allocation to hire additional staff person(s) to perform work related to housing construction, rehabilitation, or other public construction, then the position(s) is covered by Section 3. However, if the local municipality uses a civil servant applicant process to hire new employees, compliance with the requirements of Section 3 may not be feasible.

27. Does Section 3 apply to new hiring by a Public Housing Authority?

Yes. Section 3 applies to all Public and Indian Housing capital, operating or development funds; therefore, new hiring done by the PHA (regardless of the position) is covered by Section 3.

28. For community development and other housing assistance, do the thresholds apply to the total amount of HUD assistance received or the amount of funds invested into Section 3 covered projects/activities?

The threshold applies to the total amount of HUD assistance received. Example: the City of Mountain View, receives \$210,000 through the State CDBG program. The funds will be used as follows:

- a. Housing rehabilitation- \$180,000;
- b. micro-enterprise revolving loan fund- \$20,000; and
- c. Fair housing counseling- \$10,000.

City of Mountain View is subject to Section 3 requirements because they received over \$200,000 in housing and community development funds. However, only the funds expended for Section 3 covered activities must comply with the requirements of Section 3. Therefore, the expenditure of the \$180,000 is covered by Section 3. The remaining \$30,000 that was used for fair housing counseling and a revolving loan fund is not covered by Section 3.

29. Are contracts cumulative for reaching the Section 3 threshold?

No. Contracts for Section 3 covered projects are not cumulative. The requirements of Section 3 apply to each individual contract that meets the thresholds.

For example, if a recipient agency awards 3 housing rehabilitation contracts (at \$36,000; \$50,000; and \$20,000 for a cumulative total of \$106,000) to one contractor for three different projects within a twelve month period, the contractor is not required to comply with the requirements of Section 3 because none of his contracts met the \$100,000 threshold. Accordingly, the responsibility for meeting the requirements of Section 3 would remain with the recipient agency that awarded the contracts.

CONSISTENCY WITH OTHER LAWS

30. Does Section 3 apply to other State/local laws?

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Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with local laws and regulations. Accordingly, recipients of Section 3 covered assistance are required to develop strategies for meeting both the regulatory requirements at 24 CFR Part 135 and any other applicable statutes or regulations.

31. What is the relationship between Section 3 and Davis Bacon requirements?

Compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work.

32. What is the relationship between Section 3 and Minority Business Enterprises (MBEs)?

‘Minority business enterprise’ (MBE) means a business enterprise that is owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Section 3 preferences are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs, and other socially and economically disadvantaged businesses. Additional information about the MBE program can be obtained by calling the HUD Office of Small and Disadvantaged Business Utilization at 202-708-1428. 9

RECIPIENT RESPONSIBILITIES

33. What are the responsibilities of recipient agencies under Section 3?

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR § 135.32. These responsibilities include but may not be necessarily limited to the following.

Designing and implementing procedures to comply with the requirements of Section 3 in order to comply with Section 3: Recipient agencies must take an **active role** in ensuring Section 3 compliance. The first step is designing or planning and implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3.

Facilitating the training and employment of Section 3 residents: The recipient agency must act as a facilitator, connecting Section 3 residents to training and employment opportunities.

Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity building training.

Ensuring Contractor and Subcontractor Awareness of Section 3 Goals and Responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.

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Ensuring Compliance and Meeting Numerical Goals: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; Penalizing non-compliance; Providing incentives for good performance; and Refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.

Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3: Recipient agencies must submit a Section 3 Annual Summary Report (Form HUD-60002) for all covered funding to the Office of Fair Housing and Equal Opportunity. Section 3 reports shall be submitted electronically online at: www.hud.gov/section3.

34. What are good strategies for targeting Section 3 residents and businesses?

In order to target Section 3 residents and businesses, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3 coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities to be instrumental for reaching the employment and contracting goals. It is recommended that recipient agencies establish procedures to certify Section 3 residents and Section 3 business concerns and incorporate some form of preference for employment and contracting opportunities. Thereafter, they should maintain a list of eligible residents and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 Regulations at 24 CFR Part 135.32 for a listing of responsibilities and the Appendix to the Section 3 regulations for additional examples of effective strategies.

35. Are funds provided to recipients so that they can comply with the requirements of Section 3?

No. Since Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities, there is no need for the Department to provide funds to meet the recipient responsibilities set forth in the regulation.

36. Does Section 3 require recipient agencies to create new (or unnecessary) training, employment, and contracting opportunities?

Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that *when* employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses that are owned by these persons or that substantially employ them.

37. Are Section 3 residents or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program, there are no guarantees. Residents and businesses must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

Section 3 requirements provide preference to Section 3 residents and business concerns, but not a guarantee.

38. Are recipients, developers, and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?

Recipients, developers, and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities. Employment

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goals are based on 'new hires,' which are defined as full-time employees for permanent, temporary or seasonal employment opportunities.

Recipients, developers, and contractors are encouraged to provide long-term employment.

39. When might a recipient agency be exempt from the requirements of Section 3?

Typically, the Department does not grant any exemptions or waivers related to Section 3.

* 40. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

No. Recipients are not required to request noncompliant contractors make payments into a fund.

Providing employment, training, and subcontracting opportunities to Section 3 residents and businesses must be the primary goal of developers/contractors. However, such a fund can be used in very specific instances as a penalty for noncompliance.

SECTION 3 PREFERENCE

41. How can a prospective Section 3 resident or business certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer that they are seeking employment or contracting opportunities from (i.e., the PHA, city, or local government). They should identify themselves as a Section 3 resident or business and provide whatever documentation that the recipient agency requires under their certification procedures.

42. Who is responsible for certifying that residents and businesses meet the regulatory definitions under Section 3?

The regulation allows recipient agencies to use their discretion for developing specific procedures to meet the requirements of Section 3. This includes establishing their own standards/processes for verifying eligibility of Section 3 residents and businesses (or not). Each recipient is also free to accept or reject the standards/process used by other recipients or pay for the services of a third party vendor to determine eligibility. While HUD does not endorse the services of private, third party vendors, recipient agencies may employ such services at their discretion.

43. What are examples of acceptable evidence to determine eligibility as a Section 3 resident?

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Sample certification documents can be found on the Section 3 website. Acceptable documentation includes, but is not limited to the following:

Proof of residency in a public housing development;

Evidence of participation in a HUD Youth build program operated in the metropolitan area (or non-metropolitan county) where the Section 3 covered assistance is spent;

Evidence that the individual resides in the Section 3 area and is a low or very low-income person, as determined by local HUD income limits;

44. What are examples of acceptable evidence for determining eligibility as a Section 3 business?

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. Sample certification documents can be found on the Section 3 website. The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

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51 percent or more owned by Section 3 residents; or

Has permanent, full time employees at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or

Has a commitment to sub-contract in excess of 25 percent of the total dollar award of all sub-contracts to be awarded to such businesses described above.

45. Are all public and Indian housing residents considered Section 3 residents regardless of their income?

Yes. Public and Indian housing residents need only show proof of residency in public housing within the metropolitan area (or non-metropolitan county). Other residents of the Section 3 area may need to show proof of residency in the metropolitan area (or non-metropolitan county) and meet the HUD income requirements. 13

46. Can recipient agencies allow residents or businesses to —self-certify that they meet the Section 3 eligibility requirements?

As previously mentioned, the regulation allows recipient agencies to use their own discretion to develop specific procedures for meeting the requirements of Section 3. Many recipient agencies choose to allow prospective Section 3 residents or businesses to self-certify their eligibility. The Department recommends that any self-certification should include a statement of penalty for falsifying information.

47. Are Section 3 business concerns only certified to receive preference in the community in which they are located?

No. While certification is locality specific, recipient agencies can count a Section 3 business that is located outside of its immediate jurisdiction towards their efforts to meet the minimum numerical goals. However, recipient agencies should not provide preference to a Section 3 that is not located in their jurisdiction if a local Section 3 business has also submitted a qualified bid for a contract and can complete the work to be done. Refer to the order of priority preference for Section 3 contract opportunities at 24 CFR Part 135.36.

48. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal Procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

49. Can contracting with MBE/WBE businesses count towards Section 3 contracting goals?

Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria set forth in the regulation can they be counted towards the minimum goals for Section 3 contracting opportunities.

50. Does a business have to be incorporated to be considered a Section 3 eligible business?

A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration. 14

ECONOMIC OPPORTUNITIES/NUMERICAL GOALS

51. How can residents and businesses locate recipient agencies that are required to comply with Section 3 in their area?

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To find local recipients agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: www.hud.gov/localoffices

52. How can I find Section 3 businesses in my area?

Contact local recipient agencies to find Section 3 business concerns in your area.

53. What types of new employment opportunities are covered by Section 3?

For public and Indian housing (PIH) programs, all employment opportunities generated by the expenditure of operating, capital, and modernization assistance, including management and administrative jobs, technical, professional, construction and maintenance jobs, at all levels.

For housing and community development programs, all employment opportunities arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards); housing construction; or other public construction, including management and administrative jobs, technical, professional, building trades and non-construction jobs, at all levels.

54. Are recipient agencies required to meet the Section 3 goals, or are they optional?

The Section 3 numerical goals are minimum targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make best efforts to the greatest extent feasible, to achieve the annual numerical goals for employment and contracting. If an agency fails to fully meet the Section 3 numerical goals, they must adequately document the efforts taken to meet the numerical goals (see Question #2 for a discussion of —to the greatest extent feasible).

55. What are the Section 3 minimum numerical goals?

The minimum numerical goal for employment is thirty (30) percent of the aggregate number of new hires shall be Section 3 residents, annually- i.e., 3 out of 10 new employees needed to complete a Section 3 covered project/activity shall be Section 3 residents.

The minimum goals for contracting are:

- Ten (10) percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing or building trades work arising in connection with housing rehabilitation, housing construction and other public construction, shall be awarded to Section 3 businesses; and
- Three (3) percent of the total dollar amount of all non-construction Section 3 covered contracts shall be awarded to Section 3 businesses

56. What is considered a Section 3 covered —non-construction project?

Section 3 covered non-construction projects include maintenance contracts, including lawn care, re-painting, routine maintenance, HVAC servicing, and professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc.).

57. What is considered "other" public construction?

Other public construction includes infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, installing conduits for utility services, etc.

SECTION 3 CERTIFIED COORDINATOR TRAINING

58. Are the numerical goals the same as set-asides and quotas?

No. A set-aside guarantees that a specific portion of funds will be provided to a protected class. Section 3 goals are minimum numerical targets that a recipient of HUD Section 3 covered financial assistance must try to reach to attain compliance with Section 3.

59. What is the meaning of the —safe harbor determination?

When a recipient agency or contractor meets the numerical goals, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

60. What should recipient agencies or contractors do if they fail to meet the minimum numerical goals set forth in the regulation?

Recipient agencies and their contractors must adequately document all efforts taken to comply with the requirements of Section 3, and explain why despite their efforts —to the greatest extent feasible ; the minimum numerical goals were not met.

The Department will take each agency's explanation into consideration when making compliance determinations.

RECORDKEEPING AND REPORTING

61. What are the recordkeeping requirements of Section 3 recipient agencies?

Documentation of actions taken to comply with the employment, training and contracting requirements of Section 3, the results of actions taken and impediments encountered. Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with Federal or State procurement laws and regulations. The documentation should demonstrate efforts taken towards the achievement of the Section 3 numerical goals.

62. Who is required to submit Section 3 reports?

Each direct recipient of Section 3 covered HUD financial assistance shall submit an annual report for the purpose of determining the effectiveness of Section 3. Section 3 summary reports, form HUD 60002, are required even if the recipient agency did not undertake any activities that triggered the requirements. Subrecipients, developers, and contractors should not submit Section 3 annual reports directly to the Department.

63. Where should Section 3 summary reports (Form HUD 60002) be submitted?

The Department has developed an online reporting system to allow grantees to submit Section 3 reports (form HUD 60002) directly to FHEO. Reports should be submitted online at: www.hud.gov/section3 from the Section 3 website.

64. After an agency submits its Section 3 report online, should a hard copy of the form also be submitted to HUD by fax, email, or mail?

No. Since the Department has an online reporting system, it is not necessary for agencies to submit hard copies (or paper copies) of reports to FHEO. The Department is making an effort to go —paperless and wants to reduce paper submissions of Section 3 reports.

However, it is recommended that grantees retain a copy of their completed Section 3 reports on file and optionally submit them as an attachment to their annual performance report if applicable (CAPERS report for CDBG, HOME and ESG Programs).

SECTION 3 CERTIFIED COORDINATOR TRAINING

65. Are contractors or developers required to submit Section 3 reports directly to HUD?

No. Contractors and/or developers should not submit Section 3 reports to HUD. Only direct recipients (agencies) are required to submit Section 3 reports to HUD. Contractors should maintain adequate documentation to demonstrate compliance 17 with Section 3 and forward information to the direct recipient (i.e., the agency that awarded them a covered contract) as directed or upon request.

66. Should recipient agencies establish a reporting system for their contractors and subcontractors?

Yes, reports compiled by contractors and subcontractors will assist the recipient agency in gathering the necessary data for submission to HUD.

67. When are Section 3 annual reports (Form HUD 60002) due?

Depending on the source of funding, annual reports should be submitted at one of three times:

- 1) At the time the recipient submits an annual performance report;
 - 2) By January 10 of each year if no program annual performance report is required; or
 - 3) Within ten (10) days of project completion, whichever is earlier.
- PHAs should submit form HUD60002 by January 10th.
 - Grantees Awarded funding for Section 202/811 should submit form HUD 60002 by January 10th.
 - Grantees Awarded funding for CDBG, HOME and/or ESG should submit form HUD 60002 at the same time they submit the CAPER report.
 - Grantees Awarded funding for lead abatement activities should submit form HUD 60002 with their annual reports no later than September 30th.

68. Where can I find instructions for completing form HUD 60002?

Instructions for completing form HUD 60002 can be found on the Section 3 website at www.hud.gov/section3. Additional technical assistance for completing form HUD 60002 can be obtained by submitting an email request to: section3@hud.gov.

69. How can a recipient agency request a copy, make corrections, or delete its own Section 3 annual report?

The recipient agency should submit an email request to section3@hud.gov. Requests should contain the agency's name along with the year, grant number, and dollar amount of the report in question.

70. How can I obtain copies of 60002 reports for another local recipient agency?

Copies of 60002 reports for local recipient agencies for which you are not affiliated with can be obtained by completing and submitting a Freedom of Information Act (FOIA) request at: <http://www.hud.gov/offices/ogc/foia/foiarequests.cfm>.

71. Are agencies required to submit Form HUD 2516 to demonstrate compliance with Section 3?

No. Agencies are not required to submit Form HUD 2516 to demonstrate compliance with Section 3. In addition, while Form HUD 2516 does capture some Section 3 data, it is not sufficient to demonstrate overall compliance to the Department. The only form that should be submitted for Section 3 reporting requirements is form HUD 60002.

SECTION 3 CERTIFIED COORDINATOR TRAINING

SECTION 3 COMPLAINTS

72. Who can file a complaint that alleges non-compliance with the requirements of Section 3?

Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training, or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

73. Where should Section 3 complaints be submitted?

Effective November 2007, Section 3 complaints must be filed at the appropriate FHEO Regional Office where the violation occurred. Please visit www.hud.gov/offices/fheo to obtain the address and telephone number for FHEO regional offices.

74. Where can I find form HUD 958?

Copies of the Section 3 complaint form (HUD 958), filing instructions and mailing addresses may be obtained at: www.hud.gov/section3.

75. Is there a time limit for filing a Section 3 complaint?

Yes. Section 3 complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

76. What happens during an investigation?

Once a timely complaint has been filed with the appropriate Regional Office, the Department will determine if the complaint has jurisdiction or is covered by Section 3 regulations. An investigator will be assigned the case and will notify the respondent about the complaint. The respondent has the option of resolving the complaint or contesting it. If the respondent contests or denies the allegations of noncompliance contained in the complaint, the investigator will proceed to gather facts or evidence from both parties. Thereafter, the investigator will prepare a letter of findings and either make a determination of noncompliance or dismiss the complaint.

77. What happens if HUD determines a recipient is in noncompliance?

Pursuant to 24 CFR 135.76, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the Section 3 covered assistance is provided.

78. Can complainants appeal the initial decision made in a Section 3 complaint?

A complainant can submit a written appeal to the Assistant Secretary for Fair Housing and Equal Opportunity in Washington, DC within 15 days after the Regional Office makes its determination. Requests should be sent to:
U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, SW
Room 5100
Washington, DC 20410

SECTION 3 CERTIFIED COORDINATOR TRAINING

79. Where else can I file complaints alleging denied employment and contracting opportunities?

If you are denied employment and/or contracting opportunities, you *may* have standing to bring a complaint at HUD under Title VI of the Civil Rights Act and/or Section 109 of the Housing and Community Development Act of 1974.

You may also be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about your rights, please contact EEOC at: www.EEOC.gov.

Historical Cases Where Recipients were in Non- Compliance



U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT
Midwest Regional Office, Region V
Ralph H. Metcalfe Federal Building
77 West Jackson Boulevard - Room 2101
Chicago, Illinois 60604-3507

Office of Fair Housing and Equal Opportunity

FYI

August 25, 2009

Honorable Chris Coleman
Mayor of Saint Paul
390 City Hall
15 West Fourth Street
Saint Paul, MN 55102

Dear Mayor Coleman:

SUBJECT: Section 3 Monitoring and Limited Compliance Review
City of Saint Paul and the Housing and Redevelopment Authority (HRA)
Determination of Non-Compliance

The U.S. Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity, has completed a limited on-site compliance review of the city of Saint Paul and the Saint Paul Housing and Redevelopment Authority (HRA)¹ pursuant to Section 3 of the Housing and Urban Development Act of 1968². The purpose of the review was to determine whether, and to what extent, the city of Saint Paul and the HRA were administering HUD-funded programs in compliance with the requirements of Section 3 as specified in 24 CFR § 135. The review was limited to Section 3 contracting requirements and therefore the findings contained herein do not address the city's compliance with the Section 3 training and employment requirements.

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low-income persons. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of community development assistance. Most HUD programs require the grantee to sign a certification stating that it will comply with the requirements of Section 3.

Background:

The city of Saint Paul is a Community Development Block Grant (CDBG) entitlement

¹ The Saint Paul Housing and Redevelopment Authority is a legally distinct public entity which undertakes housing, commercial and business development activities on behalf of the City of Saint Paul. The Saint Paul City Council serves as the HRA Board of Commissioners.

² 12 USC 1701a.

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community and a HOME program participating jurisdiction. As such it is a recipient of HUD financial assistance. Certain projects carried out by the city utilizing HUD funds constitute "Section 3 covered assistance" as defined in 24 CFR 135.3.³ Between 2006 and 2008, the city received HUD funds in the following amounts:

2006 ⁴	CDBG \$8,211,748	HOME \$2,291,390
2007 ⁵	CDBG \$8,225,675	HOME \$2,277,962
2008 ⁶	CDBG \$7,941,344	HOME \$2,202,555

On June 23, 2008, Fredrick Newell filed a complaint alleging that the Saint Paul HRA failed or refused to comply with the requirements of Section 3. On June 24, 2008, Mr. Newell filed a second complaint alleging that the city of Saint Paul failed or refused to comply with the requirements of Section 3. Given the functional relationship between the HRA and the city of Saint Paul, the two complaints were consolidated for the purposes of investigation.

During the course of the investigation, HUD staff discovered that the city of Saint Paul had not submitted annual reports (HUD Form 60002) of Section 3 activity as required by 24 CFR 135.90⁷ for the last several years. In light of Saint Paul's failure to submit the annual reports as required, HUD determined to incorporate the investigation of Mr. Newell's complaints into a general review of the city of Saint Paul's compliance with the contracting provisions of Section 3.⁸

During the week of May 19, 2009, the following staff conducted a limited review of the city's compliance with Section 3, focusing on contracting opportunities and obligations: Jaime Pedraza, Erika Finkler and Lerdine Darden of the HUD Minneapolis Field Office, and Rafiq Munir of HUD's Section 3 Headquarters office. Data and documents were examined in advance of the on-site review. Key staff were interviewed and selected construction project files were reviewed on-site. Peter McCall, Assistant City Attorney, was present during the entrance and exit meetings and at all staff interviews.

In addition, materials produced pursuant to a federal lawsuit⁹ filed by Mr. Newell against the city of Saint Paul were also reviewed. In his lawsuit, Mr. Newell alleged the city failed to comply with Section 3 in numerous ways including (1) failure to award a sufficient percentage of contracts to Section 3 business concerns; (2) failure to exercise

³Section 3 applies to the following HUD assistance...community development assistance that is used for the following projects (i) housing rehabilitation (ii) housing construction and (iii) other public construction.

⁴ See <http://www.hud.gov/offices/cpd/about/budget/budget06>

⁵ See <http://www.hud.gov/offices/cpd/about/budget/budget07>

⁶ See <http://www.hud.gov/offices/cpd/about/budget/budget08>

⁷ Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with and with such information as the Assistant Secretary may request, for the purposes of determining the effectiveness of Section 3.

⁸ See 24 CFR 135.74 (f).

⁹ Nails Construction Company et al v. The City of Saint Paul 2007 WL 423187 (D.Minn.)

oversight over contractors hired with Section 3 funds to assure that the contractors provide training, employment, and contracting opportunities to Section 3 persons and business concerns; (3) failure to meet Section 3's reporting requirements; (4) failure to seek out and identify Section 3 business concerns about contracting opportunities; and, (5) failure to file form HUD-60002. These are essentially the same allegations contained in Mr. Newell's HUD complaint. The lawsuit was ultimately dismissed on summary judgment because the court determined that Section 3 does not provide a right of private action.

Interviews:

HUD staff conducted interviews to determine the extent of knowledge city staff had of Section 3. From these interviews it was apparent that the staff had no working knowledge of Section 3 and was generally unaware of the city's programmatic obligations thereto. It appeared that city staff were confusing Section 3 responsibilities with Saint Paul's efforts to increase participation by minority and women-owned businesses in city contracts. Project managers and grants administrators in the city's Department of Planning and Economic Development (PED) testified that potential contractors are not notified of their Section 3 obligations nor do bid solicitations or contracts reference or incorporate the required "Section 3 clause."¹⁰ Further, they stated that an explanation of Section 3 requirements is not included in pre-bid or pre-construction conferences. Although such conferences are routine and project managers review various contract compliance issues during the conferences, they acknowledged that Section 3 is not one of the matters regularly discussed. Mr. McCall stated that his office works with PED staff to develop contracts using CDBG and HOME funds but that he has never advised that the Section 3 clause be incorporated into said contracts.

HUD requires CDBG entitlement communities to submit an annual report to determine the effectiveness of Section 3. The annual report is to be electronically submitted on Form 60002 with or at the same time the entitlement community submits its Consolidated Annual Performance and Evaluation Report (CAPER). City staff stated that they were unaware of this requirement and that, to their knowledge, the city has never submitted a Section 3 report to HUD.

Ronald Ross, PED Grants Administrator, stated that the city does submit the required Contract and Subcontract Activity Report to HUD annually.¹¹ This report is submitted pursuant to Executive Order 2516 which requires that all federal agencies develop Minority Business Development Plans. Form 2516 is designed to provide HUD with sufficient information to evaluate a grantee's performance towards meeting its Minority Business Enterprise (MBE) goals. While Form 2516 does include a field for reporting on Section 3 contract activity, filing Form 2516 does not obviate the recipient's obligation

¹⁰ 24 CFR 135.32 Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors and sub-contractors. This responsibility includes...notifying potential contractors for Section 3 covered projects of the requirements of this part, and incorporating the Section 3 clause ... in all solicitations and contracts.

¹¹ HUD Form 2516 Contract and Subcontract Activity

to file Form 60002.

Form 2516 was not designed to fully capture a recipient's Section 3 contracting activities. However, even if it were, the city's method of data collection would have rendered its efforts in this regard as insufficient. This is demonstrated by a review of the Forms 2516 submitted by the city for 2005, 2006 and 2007. In project reports for each of the three years, there are numerous instances where a contractor is identified as Section 3 business in one report but not in another. When asked about this discrepancy, Mr. Ross stated that when filling out Form 2516 he relies exclusively upon information provided to him by the city's various sub-recipients. He said that upon receipt of said information he enters it onto a Form 2516 which he then transmits to HUD annually. Consequently in those instances where a sub-recipient working on a project asserts that a given contractor is a Section 3 business and another sub-recipient working on a different project does not so certify, the city simply forwards the contradictory information to HUD. Further, as Mr. Ross acknowledged, the city does not have a procedure in place for certifying Section 3 businesses. Therefore there is no mechanism by which the city could have independently evaluated a sub-recipient's assertion concerning a business's Section 3 status.

File review:

Based on information gathered before the on-site review, five community development projects were selected for review¹². The projects were selected because, per the recipient, they met the Section 3 funding threshold¹³. HUD staff reviewed the contract files maintained by the PED and the Human Rights and Equal Economic Opportunity Department. The reviewers were examining the files for documentation of compliance with Section 3. None of the contracts examined contained the required "Section 3 clause."¹⁴ Further, neither the project bid solicitations nor the official minutes of pre-bid and pre-construction conferences contained any reference to Section 3

The HOME Repayment Loan Agreements for the Winnipeg Apartments, Booth Brown Manor and for the Delancey/Selby Stone Apartments did contain a paragraph on Section 3, but it incorrectly stated that participation in the city's Vendor Outreach Program and Affirmative Action Program are required elements of Section 3 compliance. Nor did these documents include or reference the required Section 3 clause but rather recommended that sub-grantees utilize businesses located in, or owned by people living within, the seven county metropolitan area.

The Request for Qualifications for the Delancey/Selby Stone Apartments renovation

¹² The projects selected were Booth Brown Manor, Commerce Apartments, Delancey/Selby Stone Apartments, City House and Rico-Winnipeg Apartments.

¹³ 24 CFR 135.3(a)(3)(ii)(B) The requirements of this part apply to contractors and subcontractors performing work on Section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

¹⁴ 24 CFR 135.38. All Section 3 covered contracts are required to contain a specific clause that details a contractor's Section 3 responsibilities.

project did state that Section 3 requirements apply. However, the Acknowledgment of Receipt of Compliance Documents for this project did not identify any subsequent compliance with Section 3.

Testimony or Other Evidence:

HUD staff reviewed materials developed pursuant to Mr. Newell's federal civil suit against the city of Saint Paul. This material is generally consistent with the information developed during the on-site compliance review. Robert Hammer, Director of Finance and Administrative Services for the city of Saint Paul, provided a sworn affidavit filed with the United States District Court in which he stated that the city of Saint Paul had never instituted, nor had in place at the time, a Section 3 certification and tracking program. Further, Mr. Hammer affirmed that the city had never submitted a Form 60002 to HUD nor was he familiar with a requirement to do so.¹⁵

Findings and Conclusions:

The city of Saint Paul (including the Saint Paul HRA) is not in compliance with the requirements of the Section 3. It cannot document compliance with the "greatest extent feasible" requirement of Section 3 by demonstrating that its contracting activities meet the numerical goals as set forth in the regulation.¹⁶ Nor has it implemented any of the specific activities defined by the regulation as recipient responsibilities. There are no procedures in place to: 1) notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business opportunities;¹⁷ 2) notify potential contractors about the Section 3 requirements and ensure their compliance and their subcontractors' compliance with Section 3 requirements;¹⁸ 3) incorporate the Section 3 clause¹⁹ in all solicitations and contracts;²⁰ 4) facilitate the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;²¹ or 5) document the actions taken to comply with the Section 3 requirements, the results of the actions and impediments, if any.²² Furthermore, the recipient has not submitted the Form 60002 annually as required by the regulations.

¹⁵Second Affidavit of Robert Hammer dated October 3, 2006.

¹⁶ See 24 CFR § 135.30

¹⁷ See 24 CFR § 135.32(a)

¹⁸ See 24 CFR § 135.32(b)

¹⁹ See 24 CFR § 135.38

²⁰ See 24 CFR § 135.32(b)

²¹ See 24 CFR § 135.32(c)

²² See 24 CFR § 135.32(e)

The city asserts that notwithstanding its inability to document compliance with the "greatest extent feasible" requirement, to implement any of its defined program responsibilities, or to file Form 60002 annually, it administers its community development programs in compliance with Section 3 requirements. The city offers in support of this assertion the fact that HUD's Office of Community Planning and Development (CPD) reviews its community development activities annually to determine compliance with applicable laws and regulations and that the city routinely receives high rating from CPD. However, Section 3 compliance is not an element of a CPD annual review. Although HUD may periodically conduct Section 3 compliance reviews of selected recipients, it relies primarily on a recipient's self-certification in this regard. Absent reason to believe to the contrary, HUD accepts a recipient's self-certification as sufficient evidence that the recipient is carrying out its community development activities in compliance with Section 3. The Section 3 self-certification of compliance is included in every application for new or continued HUD funding.

Given this finding of noncompliance, the Assistant Secretary for Fair Housing and Equal Opportunity will take informal steps to bring this matter to a voluntary and just resolution in accordance with 24 CFR 135.76(f)(2).²³ Where attempts to informally resolve this issue fail, the Assistant Secretary will impose a resolution. Any resolution imposed by the Assistant Secretary will be in accordance with the regulations governing the particular HUD program(s) in question and may result in the imposition of program sanctions if appropriate. Please be advised that you have the right to appeal this decision with fifteen (15) days of the receipt of this notification by requesting a reconsideration of this action. Any request for reconsideration should specify the reasons why this decision should be reconsidered. Your request should be mailed directly to the Assistant Secretary for Fair Housing and Equal Opportunity at:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, SW
Suite 5100 Washington, D.C. 20410

If an appeal is not submitted during the indicated time above, you will be contacted by a staff person to begin the voluntary resolution process. If you have any questions

²³ Generally findings of noncompliance identified by way of a compliance review are resolved pursuant to 24 CFR 135.74 (c). However, since the compliance review resulted from an individual complaint, the Assistant Secretary has determined to resolve the matter in the manner detailed above.

regarding any aspect of this review, please contact Ms. Jaime Pedraza at 612-370-3000 ext 2130. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara M. Knox", with a stylized flourish at the end.

Barbara M. Knox, Director
Office Fair Housing & Equal Opportunity
Region V

cc: Cecile Bedor, PED
Robert Hammer, Administrative Team Leader
Fredrick Newell
Dexter Sidney, Field Office Director
Michele Smith, CPD Director
Jaime D. Pedraza, FHEO Director



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000
March 30, 2005

ASSISTANT SECRETARY FOR
FAIR HOUSING AND EQUAL OPPORTUNITY

Ms. Melanie S. Fallon
Director of Community Development
City of Long Beach
Department of Community Development
333 West Ocean Boulevard
Long Beach, CA 90802

SUBJECT: Section 3 Complaint: Determination of Non-compliance
Carmelitos Tenants Association, et al. v. City of Long Beach, et al.
Case #09-98007-002-720

Dear Ms. Fallon:

The Office of Fair Housing and Equal Opportunity, Economic Opportunity Division has reviewed your proposed restitution for non-compliance as cited in the subject Section 3 complaint filed by the Carmelitos Tenants Association. We appreciate your planned efforts to comply with the imposed resolution as outlined in our correspondence dated April 26, 2004. We determined that the following elements were addressed by the City of Long Beach:

- submission of a restitution plan in clear and convincing detail specifying how Section 3 employment and contracting opportunities will be restored over the next three years;
- an agreement to submit written reports on the specific progress of Section 3 restitution implementation on a quarterly basis; and
- an acknowledgement that HUD may conduct on-site monitoring to review compliance over the next five years.

Specifically, the City has agreed to provide no less than 3,000 hours of work to low-income residents of Long Beach. Upon receipt of this correspondence, please submit the initial list of identified projects by the Public Works Department. The implementation of a pre-apprentice construction training initiative to train and graduate a minimum of 50 low-income participants coupled with the City's willingness to provide up to \$1,500 for each participant referred into Union Building Trade apprenticeship programs for the purchase of tools, uniforms and other necessities should help ensure the support necessary for transition to self-sufficiency.

The proposed restitution plan also notes that the City has calculated contracting opportunities in the amount of \$3.2 million to be restored to Long Beach Section 3 businesses. To address this gap, the City has agreed to utilize an outreach and communication plan. In addition, you intend to implement a small business incentive program that will provide a 10 percent reimbursement (\$320,000) to contractors that award contracts to qualified Section 3 businesses.

Subsequent to our review of your proposed restitution plan, we reviewed and concurred with the two comments submitted by the Legal Aid Foundation of Los Angeles Attorneys at Law (see attached). Therefore, include the following changes where noted and resubmit your proposed restitution plan for approval within 30 days after receipt of this notice:

1. Delete "for three years or" under item number 3 of the section entitled Business Opportunities on the 6th line of page 4; and
2. Replace "for participants of the City's Section 8 assisted housing program" in item 2 b. on page 3 with "for all Long Beach residents of government assisted housing, including Carmelitos public housing residents".

Given the ambitious nature of your restitution plan, follow up will be critical. Please direct your quarterly reports to the attention of:

Rafiq Munir, Acting Director
Economic Opportunity Division
Office of Fair Housing and Economic Opportunity
U.S. Department of Housing and Urban Development
451 7th Street, S.W., Room 5234
Washington, DC 20410

We look forward to working with you over the next three years to ensure the success of your restitution plan for the benefit of Long Beach residents. If you have any questions or concerns, please contact Mr. Rafiq Munir, Acting Director, Economic Opportunity Division at 202-708-3633, extension 5860.

Sincerely,

Carolyn Peoples
Assistant Secretary for Fair Housing
and Equal Opportunity

Enclosure

cc: David Acevedo, 9DEP
Dennis Rockway

Internal HUD Distribution:						
Identification Lines:						
Correspondence Code	Originator	Concurrence	Concurrence	Concurrence	Concurrence	Concurrence
Name	R. Munir	A. Jacobs	J. Gant	D. Dickens	F. May	B. Shavers
Date	3-8-05					

Official Record Copy

U.S. Department of Housing and Urban Development
Previous edition is obsolete.

form HUD-713.1 (02/03)

Sample

Section 3

Position

Description

Characteristics of
SECTION 3 CERTIFIED COORDINATOR TRAINING

- 1.) Resident / Social Service Appeal
- 2.) Must be detail oriented
- 3.) Have to understand multiple levels/language of construction.

This position description was developed based on the most comprehensive list of duties being performed by Section 3 Coordinators nationally and our estimate of what is required to meet the regulation.

DATE: _____

REVISED DATE: _____

POSITION TITLE: Section 3 Compliance Coordinator or Compliance Manager

REPORTS TO: Executive Director/City Manager

POSITION SUMMARY: This is highly responsible administrative position involving a diversity of duties, including extensive program analysis, data and information collection, compliance monitoring, preparation of reports, compliance oversight responsibilities and other duties that may involve training. Position works with PHA's internal departments, contractors, vendors, residents, the public, HUD, DOL, municipal partners and developers.

ESSENTIAL FUNCTIONS:

1. Conducts extensive analysis of contractor payroll data for HUD regulatory compliance, identifying non-compliance issues and notifying all stakeholders related to that contractor.
2. Prepares statistical analyses and reports as requested or required to confirm PHA's Section 3 compliance.
3. Collects data and information in all areas of the contractor's operations and manages and maintains those records with great integrity.
4. Researches and prepares reports on contract compliance.
5. Inputs and maintains computerized data bases and other computerized programs for use in assignments.
6. Develops a daily working system to allow for maximum attention to detail and contractor interaction as necessary to receive, input and manage all compliance data.
7. Oversees all PHA contract compliance and communicates with all company personnel to achieve maximum productivity and compliance at all times.
8. Does compliance monitoring and/or internal/external auditing to review payroll data and operations to evaluate them and to insure their integrity and accuracy in compliance with the HUD regulations.
9. Reviews reports of contractors to advise the PHA staff and the contractors and clients of status within two hours of any non-compliance issues.
10. Conducts investigations of issues of non-compliance as identified or as assigned.
11. Manages multiple, diverse activities concurrently.

SECTION 3 CERTIFIED COORDINATOR TRAINING

12. Prepares documents such as Annual Reports, including writing, editing and formatting as required.
13. Must be able to maintain strict confidence of all company related data and payroll records of contractors. No hard (paper) copies of data will be maintained after it is imputed in the data base. All paper materials must be shredded immediately.
14. Ensures every PHA solicitation includes compliant Section 3 notification language.
15. Regulate Section 3 compliance with contractors, subcontractors, Section 3 business concerns, resident owned businesses and Section 3 residents.
16. Ensure all potential and current contractors are aware of PHA's Section 3 plan and its hiring practices.
17. Create and maintain a Section 3 business concerns and resident owned businesses database to include prior, similar experience and Section 3 compliance history.
18. Provide a list of qualified Section 3 residents to contractors, subcontractors, Section 3 business concerns and resident-owned businesses.
19. Coordinate and monitor a Section 3 reporting system.
20. Conduct Section 3 trainings with contractors, subcontractors, Section 3 business concerns and resident-owned businesses.
21. Review weekly payroll submittals and certified payroll for compliance as required.
22. Facilitate the complaint procedure for Section 3 residents and business concerns, and contractors.
23. Monitor and assist with Section 3 efforts throughout PHA.
24. Post and update Section 3 information on the PHA website.
25. Advertise solicitations on the website and local newspapers.
26. Document Section 3 hiring within PHA.
27. Develop and implement a procedure to notify Section 3 residents about upcoming training and employment opportunities.
28. Monitor the Section 3 resident hiring process.
29. Maintain a database of qualified Section 3 residents actively seeking employment.
30. Coordinate the development of a Youthbuild program.
31. Promote Section 3 among public housing residents, housing choice voucher participants and other PHA affiliates.
32. Post employment and training opportunities throughout the public housing properties and communicate it to the ROSS and FSS participants.

SECTION 3 CERTIFIED COORDINATOR TRAINING

RELATED DUTIES AND FUNCTIONS:

1. Represents PHA at meetings or with contractors and resident organizations as assigned.
2. Works closely and cooperatively with PHA staff and contractors to facilitate planning, program operations, etc. to enhance compliance.
3. Undertakes special assignments as directed.
4. Assists others within the company including training as assigned.
5. Performs other work as assigned.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES:

1. Ability to think analytically, organize work day and flow and concisely communicate with professionalism and respect.
2. Considerable knowledge of computer applications and ability to use computer and software knowledge to operate and maintain computerized data bases, records.
3. Ability to exercise mature judgment.
4. Ability to effectively communicate with other staff, public entities, agencies, contractors and others in a professional manner.
5. Ability to analyze documents, compare to regulations, prepare reports, calculate statistics, as well as to make detailed, sound recommendations.
6. Ability to work with limited supervision, meets deadlines, establish own work time lines, and keep projects on schedule.
7. Ability to train and facilitate training to various groups including residents.

EDUCATION AND EXPERIENCE

1. Graduation from an accredited high school or GED program. Some college or university degree course work in area(s) related to job requirements, such as public administration or business administration a plus.
2. A minimum of 2 years of experience in analyzing information, evaluating programs, writing reports, etc.
3. Experience in position similar to this will be advantageous.
4. Experience working with low income people in any type of a social services or employment relations position.
5. Professional training or presentations background.

Doing The Job with Coordination

SECTION 3 CERTIFIED COORDINATOR TRAINING

Regulation: 135.1

(b) Part 135. The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

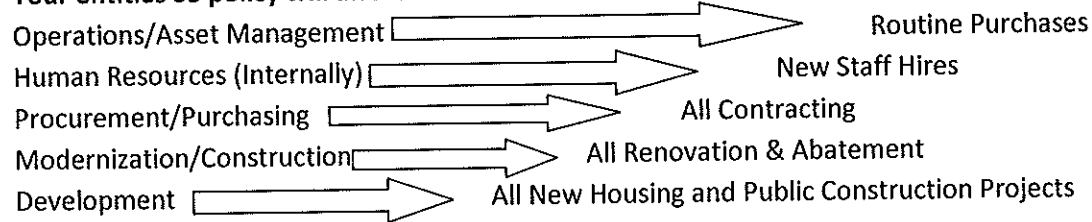
The S3 Coordinator is the nucleus of the compliance in any organization. The ease by which you will do your job is based on gaining your colleague's:

☒ Trust

☒ Respect

☒ Cooperation

Your entities S3 policy will affect:



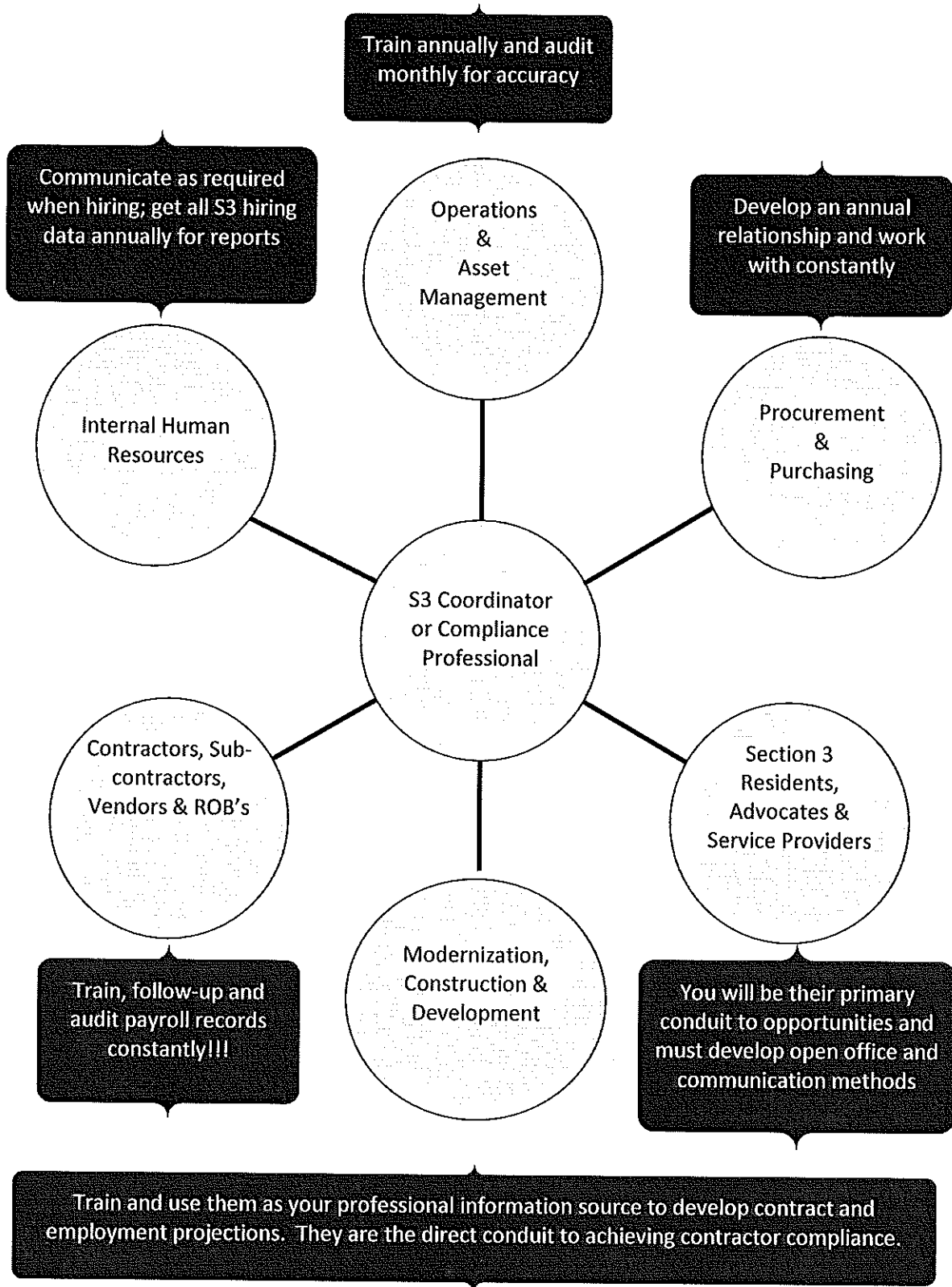
S3 Covered Funds include:

Public &
Indian Housing

Operations
Modernization
Development

 Community
Development
Programs

Community Development Block Grant (CDBG)
HOME Investment Partnership
Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
Economic Development Initiative (EDI)/Brownfield Economic
Development Initiative Grants
Housing Opportunities for Persons with AIDS (HOPWA)
Homeless Assistance Grants (ESG)
University Partnership Grants
Economic Stimulus Funds (including CDBG-R and CFP Supplemental)
202/811 Grants
Lead Hazard Control Grants



SECTION 3 CERTIFIED COORDINATOR TRAINING

Regulation: Applicants 135.5

Applicant means any entity which makes an application for section 3 covered assistance and includes, but is not limited to... any

- State, Unit of Local Government
- Public Housing Agency
- Indian Housing Authority
- Indian Tribe
- Other Public Body
- Public Organization
- Private Nonprofit Organization
- Private Agency or Institution
- Mortgagor
- Developer
- Limited Dividend Sponsor
- Builder
- Property Manager
- Community Housing Development Organization (CHDO)
- Resident Management Corporation
- Resident Council
- Cooperative Association

The most important part of the regulation:

Section 3 **“Preference”** requirements are **triggered** by the need for new hires (whether individual employees or contractors or sub-contractors) for work on a project or activity assisted by HUD financial assistance covered by section 3.



SECTION 3 CERTIFIED COORDINATOR TRAINING

Defining the NEED and TRIGGERING ACTIONS of Section 3:

When the Recipient receives HUD funds and determines it has to contract services to complete the work generated by those funds the regulation is first triggered

When a prime contractor/GC is preparing to bid work from the Recipient and has a need to sub-contract because of that contract, the regulation is triggered and opportunities must be conveyed and Preference considered as part of the bid process

Once a sub-contractor has been selected based on the compliance efforts of a prime/GC, the sub will also trigger the regulation if they need to sub below themselves or hire personnel because of the contract and must comply before contracting

All hiring, contracting and sub-contracting must meet the efforts before bids are even submitted in most cases. Therefore, compliance starts with the bid documents

Therefore, you should have a clear and concise compliance document package that is included in all solicitations if public housing such as Operations, Modernization & Development funds including small purchases.

* For community development, it must be included in all contracts over \$100,000 if using funds like CDBG, HOME and Homeless.

SECTION 3 CERTIFIED COORDINATOR TRAINING

Defining Efforts:

When the Recipient receives HUD funds; a contractor or sub-contractor is hired using those funds and the need is triggered, certain efforts must be made to comply

Extra or greater Notification efforts must be made to low and very low income persons of the opportunity

The recipient, contractor and sub-contractor must Encourage those persons to apply for the opportunity

The Recipient, contractor and sub-contractor must Facilitate those persons to connect to the opportunity

There are some great ways of meeting notification requirements today such as e-mail, text, social media, flyers, newsletter, annual contracting updates, radio and TV PSA's.

Encouragement can include activities such as skills and preparedness training, apprenticeships in the recipient's offices, application and resume workshops, child-care partnerships among working families and training stipends.

Facilitation can be job fairs, hiring halls, pre-bid Section 3 meetings, one-on-one interview sessions and on-the-job training trials as part of the contract.

SECTION 3 CERTIFIED COORDINATOR TRAINING

Exercise: What would you do?

Scenario #1

The recipient has published a large contract opportunity with an Internal Cost Estimate (ICE) of \$10,000,000. The lowest qualified bidder (G/C) bids \$9,400,000 and will have 20 subs on the project. For their compliance, the G/C states on the Section 3 Action Plan submitted with their bid that they will provide OSHA 10 training for 50 residents at a cost of \$1,400. Is this a reasonable form and amount of compliance to the greatest extent feasible?

Notes:

Scenario #2

A non-performing developer bids and receives a \$4,000,000 NSP award for and plans to hand the construction contract to its closely held but separate entity. They will bid out all sub-contracts but not the larger G/C contract. Is this okay under the regulation?

Notes:

Scenario #3

A sub-contractor receives an award of \$500,000 on a city project and has to hire two new folks. He laid off one person over a year ago and wants to bring him back to help on the project. The sub has had other work but never called back the old employee until now. His logic is that he would rather have an old employee that knows something than to hire a Section 3 person from the project area. He hired back the old person after he was awarded the contract. Is this a violation of the regulation?

Notes:

What else did you observe about these scenarios?



SECTION 3 CERTIFIED COORDINATOR TRAINING

ANNUAL CALENDAR OF SECTION 3 ACTIVITIES

January Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	February Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	March Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____
April Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	May Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	June Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____
July Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	August Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	September Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____
October Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	November Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____	December Contract Title(s): _____ _____ _____ S3 Contractors ____ S3 Residents Employed ____

Annual Projections Contract Values-Building Trades \$ _____ Other \$ _____
Projected S3 Contract Values-Building Trades \$ _____ (____ %) Other \$ _____ (____ %)
Projected total new hires for all contracts and in-house _____
Projected S3 new hires _____ (____ %) Year-to-Date Actual New Hire

Actual:
_____%
_____%
_____%

SECTION 3 CERTIFIED COORDINATOR TRAINING

REGULATION

The 1992 Act amends Section 3 to require that in providing preference to low- and very low-income persons, recipients, contractors, and subcontractors must first target for job opportunities to smaller groups within the broad category of low-income persons, such as public housing residents.

HUD Section 3 Website FAQ #33:

What are the responsibilities of recipient agencies under Section 3?

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR § 135.32. These responsibilities include but may not be necessarily limited to the following.

Designing and implementing procedures to comply with the requirements of Section 3 in order to comply with Section 3: Recipient agencies must take an *active role* in ensuring Section 3 compliance. The first step is designing or planning and implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3.

Facilitating the training and employment of Section 3 residents: The recipient agency must act as a facilitator, connecting Section 3 residents to training and employment opportunities.

Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity building training.

Ensuring Contractor and Subcontractor Awareness of Section 3 Goals and Responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.

Ensuring Compliance and Meeting Numerical Goals: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; Penalizing non-compliance; Providing incentives for good performance; and Refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.

Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3: Recipient agencies must submit a Section 3 Annual Summary Report (Form HUD-60002) for all covered funding to the Office of Fair Housing and Equal Opportunity.



Example of Linkage of Opportunities to Section 3 Persons and Contractors

Recipient/Contractor Opportunity	Notification/Linkage Method	Frequency and Duration
Routine Purchases	Facilitate contracting workshops, explain the S3, M/W/DBE certification process and develop a potential bidders/labor notification list	Quarterly
New Staff Hires	Facilitate employment workshops, explain the S3 certification process and offer information on minimum employment criteria like background screenings, educational requirements, etc.	Semi-annually
All Contracting	Facilitate contracting workshops, explain the S3, M/W/DBE certification process and develop a potential bidders/labor notification list	Annually despite the existence of firm contracts. This allows contractors to meet and develop joint venturing opportunities. It also allows time to build capital, insurance and bonding capacity. Provide a list of planned projects with estimated release dates.
All Renovation & Abatement	Facilitate contracting workshops, explain the S3, M/W/DBE & professional license and certification process and develop a potential bidders/labor notification list	Annually despite the existence of firm contracts. This allows contractors to meet and develop joint venturing opportunities. It also allows time to build capital, insurance and bonding capacity. Provide a list of planned projects with estimated release dates.
New Housing Development & Public Construction Projects	Facilitate contracting workshops, explain the S3, M/W/DBE & professional license and certification process and develop a potential bidders/labor notification list	Annually despite the existence of firm contracts. This allows contractors to meet and develop joint venturing opportunities. It also allows time to build capital, insurance and bonding capacity. Provide a list of planned projects with estimated release dates.

These recommendations can apply to general contractors that routinely do covered funds contracting and need a mechanism to demonstrate efforts to meet the regulation. All activities should be documented and the information retained electronically and in hard copy.

SECTION 3 CERTIFIED COORDINATOR TRAINING

Certifying Contractors and Residents

Despite HUD's comments below from the recently posted FAQ on their website, it is our opinion that contractor certification is done most accurately at time of bid or proposal response. If a contractor elects any Preference, it's relative to the terms and conditions of that contract only.

Example:

If Jake's Plumbing bids a contract and elects to meet the 30% employee rule for contract #123 with Wildlife Housing Authority and his projected work force is 3 persons, only one person must meet the Section 3 resident rule as a low-income person for the company to meet preference requirements.

However, if Jake's Plumbing bids contract #456 with the City of Wildlife and his projected workforce is 10 people, Jake would not automatically meet the 30% rule and his Section 3 certification at the housing authority has no bearing on the City contract.

Jake's Plumbing would need to certify at the time of bid of the City contract as to which of the Preference categories their company best fits. If the company wants to certify to meeting the 30% rule, he now has the burden of demonstrating his payroll has three Section 3 persons meeting the rule.

Therefore, we recommend you always conduct and require the Section 3 Preference election at time of each bid/proposal and provide the award based on your entities S3 policy and procurement guidelines.

Note: MI does not supporter floating, retained or nationwide Section 3 certifications. Even HUD's response (See below) makes clear that the priority of a non-local certification is after all local consideration has been provided.

HUD Section 3 Website FAQ #47:

47. Are Section 3 business concerns only certified to receive preference in the community in which they are located?

No. While certification is locality specific, recipient agencies can count a Section 3 business that is located outside of its immediate jurisdiction towards their efforts to meet the minimum numerical goals. However, recipient agencies should not provide preference to a Section 3 that is not located in their jurisdiction if a local Section 3 business has also submitted a qualified bid for a contract and can complete the work to be done. Refer to the order of priority preference for Section 3 contract opportunities at 24 CFR Part 135.36.

HUD Section 3 Website FAQ #45:

45. Are all public and Indian housing residents considered Section 3 residents regardless of their income?

Yes. Public and Indian housing residents need only show proof of residency in public housing within the metropolitan area (or non-metropolitan county). Other residents of the Section 3 area may need to show proof of residency in the metropolitan area (or non-metropolitan county) and meet the HUD income requirements.



PROCESS ORGANIZATION FOR PROPER CERTIFICATION

CERTIFICATION TOOL OR PROCESS	WHO DOES WHAT	WHEN
Section 3 Policy	Staff or contractor development and board/council/commission approval required	Should be in place and current immediately. Everything is driven by the policy
Section 3 Procedures Hiring, Procurement, Contracting, Monitoring & Management and Reporting	These need to be developed in simple step-by-step measures with clarity for cure and termination	Should be in place and current immediately. Everything in the policy is by the policy
Contractor Certification	The form should be developed as part of the procedures	Complete by contractor at time of bid response
Resident Certification for In-house Employment	The form should be developed as part of the procedures	This should be available with the employment application and completed by the applicant if desired
Resident Certification for Contractor's hiring and ROB's	The form should be developed as part of the procedures	This form should be provided to all persons desiring Preference in employment and training or as verification they meet the ROB status
Resident Assessment for Database	The Resident Services staff may assist in the skills and education survey to build a searchable database	The database should be searchable with printouts of qualified residents for specific work

Maximizing Leveraged Funds to Achieve Successes into the Future

SECTION 3 CERTIFIED COORDINATOR TRAINING

VIII. How do you Maximize Section 3 Successes into the future? Finance them!

\$8,000,000 Contract Estimated Value					
3.0% Required Section 3 Other Economic Opportunities Percentage					
\$240,000 Estimated total value of Section 3 Activities required for the EPC					
Motivation, Inc./ICI Costs to Provide Somewhere Housing Authority Section 3 Compliance Services as Required for their Energy Performance Contract					
Resident Professional Development Objectives	Cost of Service	Weekly Cost P/Person	Hourly Cost P/Person	Number of Services	Service Total for Each Training
Employment Readiness Professional Development	\$15,000	\$150	\$3.75	2	\$30,000
# of Participants in one week class	100				
Data Entry Basic Computer and Microsoft Office Skills Training	\$31,000	\$1,550	\$38.75	1	\$31,000
# of Participants in one week class (They keep their laptop and printer)	20				
Local Participation Programs and Scholarships to Technical School or College	\$18,000	\$1,800	\$45.00	1	\$18,000
# of Participants	10				
Property Management Leasing Consultant Training	\$ 19,000	\$ 190	\$ 4.75	1	\$ 19,000
# of Participants in one week class	100				
Hands-on Trade Training (This can be for any type of work unrelated to the EPC)	\$15,000	\$ 2,500	\$62.50	1	\$15,000
# of Participants in one month class (The number of participants can increase based on the actual hourly rate)	6				\$ -

SECTION 3 CERTIFIED COORDINATOR TRAINING

Section 3 Resident Hourly Rate (This is changed for HUD/Prevailing Wage)	\$47.50				\$45,600
Contractor/Professional-Trainer Hourly Rate	\$50				\$48,000
Business Development Training-ROB's (*Included 3-Year Technical Assistance)	\$15,000	\$750	\$18.75	1	\$15,000
# of Participants in one week class	20				
Start up Cost Grants	\$15,000				
Targeted Business Development Graduate for New Start-up (Capital) grant or revolving loan				1	\$15,000
Sub-Total Results for Training and Business Development					\$236,600
Recruiting Efforts to Provide Notice, Encouragement and Facilitation (Transportation Assistance via gift cards where applicable)	\$3,400				\$3,400
Section 3 Compliance Management Software (MIS3) License for SHA (3-Years)	\$1,800			1	Included
Total Training/ROB's Development and Compliance Software					\$240,000
			Goal is	3%	\$240,000
ANTICIPATED RESULTS FROM THE EPC SECTION 3 PROTOCOL					
Total number of Residents estimated to be positively affected by this Contracts Section 3 Efforts	356				
Total number of New Resident Owned Businesses Developed with 3-Years of T/A	1				
* ROB T/A Includes 12 Quarterly On-site Visits and Unlimited Electronic Support					
Total amount of ROB start-up capital provided	\$15,000				

SECTION 3 CERTIFIED COORDINATOR TRAINING

Total number of Resident Training Hours *(Not including the 3-year T/A for ROB's)* 15,760

There are NO unrelated expenses to SHA during the contract and T/A life.

SHA staff aren't required to do anything relative to these Section 3 activities.

Via the MIS3 Compliance Software, SHA staff will be able to view and print reports and lists on demand from anywhere in the world.

Via MIS3 Compliance Software SHA can manage its Section 3, Davis Bacon and Minority Compliance and Reporting via the web.

All costs for all services listed are embedded in the total contract and the SHA has final approval of the full protocol and services.

The 3% is derived from the SHA Policy for Other Economic Opportunities values.

Notes

SECTION 3 CERTIFIED COORDINATOR TRAINING

Capital Fund Program - Five Year Action Plan

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Expires 4/30/2011

Capital Fund Program Five-Year Action Plan						
Part II: Supporting Pages—Physical Needs Work Statement(s)						
Activities for	Activities for Year 2			Activities for Year 3		
Year 1	FFY 2012			FFY 2013		
	Development No. / Name /	Quantity	Estimated Cost	Development No. / Name /	Quantity	Estimated Cost
FFY: 2011	General Description of Major			General Description of Major		
	CAL - XX Authority Wide			CAL - XX Authority Wide		
	Roofing Replacement	TBD	2,500,000	Roofing Replacement	TBD	2,500,000
	Site Improvements and		300,000	Site Improvements and		300,000
	Repairs			Repairs		
	CAL - XX Authority Wide	TBD	1,500,000	CAL - XX Authority Wide	TBD	1,500,000
	Major Repairs and			Major Repairs and		
	Replacement			Replacement		
	CAL - XX Authority Wide	TBD	750,000	CAL - XX Authority Wide	TBD	750,000
	504/VCA Alterations			504/VCA Alterations		
	CAL - XX Authority Wide	TBD	800,000	CAL - XX Authority Wide	TBD	800,000
	Health and Safety			Health and Safety		
	Alterations			Alterations		
	CAL - XX Authority Wide	TBD	500,000	CAL - XX Authority Wide	TBD	500,000
	Dwelling Unit Fire Repairs			Dwelling Unit Fire Repairs		
	CAL - XX Authority Wide	TBD	800,000	CAL - XX Authority Wide	TBD	800,000
	Lead and Asbestos			Lead and Asbestos		
	Abatement			Abatement		
	Subtotal of Estimated Cost		7,150,000	Subtotal of Estimated Cost		7,150,000

form HUD-50075.2 (4/2008)

SECTION 3 CERTIFIED COORDINATOR TRAINING

Calculating Contracting and Employment to align training activities to the Contracts

Project	\$-Value	Projected Contracts	Contract Duration	Annual Contracts	Projected Employees	Employment Duration	#/% of S3 Employees	Compliance Management Account Payment
A & E Fund	\$400,000	2	1 year	1/Arch.	4	one year	0/0%	\$20,000
Lead Asbestos and Painting	\$2,000,000	1	6 months	No	12	6 months	6/50%	\$100,000
504/VCA Alterations	\$2,000,000							
Authority wide Roof Replacement	\$2,500,000							
Fire Unit Repair	\$1,000,000							
Window Replacement	\$1,650,000							
Totals	\$9,550,000							

To complete the calculation follow this process to determine the best **CONTRACTING** numbers:

What does your policy state for mandatory Section 3 involvement per contract or contract value?

If declared, follow the policy.

If silent on the matter, discuss the planned or potential procurement with the contracting department for direction on what they are going to be seeking or plan to seek. Keep in mind, procurement decisions can change along with budgets so your projects are just that, not fact.

Determine how much work can be isolated to Section 3 Preference companies only.

Determine if this is a contract that ROB's can compete for in an Alternative procurement process (24 CFR 963-Contracting with Resident Owned Businesses).

Ask the contracting professionals soliciting the work how many contracts they anticipate issuing under that procurement.

- How many prime contracts
- How many anticipated sub-contracts
- Are there any straight labor contracts

Ask the contracting professionals soliciting the work what the expected crews for each contractor will look like by number:

- Licensed workers
- Skilled Workers
- Laborers

SECTION 3 CERTIFIED COORDINATOR TRAINING

Determine what the insurance and bonding requirements will be for each of the types of contracts in #6.

Next focus on S3 Contracts – Specifically request S3 Isolation if possible on any or all types of contracts listed in #6.

Keep in mind large contracts with multiple locations (Even if like work is being performed) generally opens the door for multiple prime and sub-contractors. Therefore, your opportunities to achieve real S3 successes increases.

Information check:

- Has your agency/company trained your contractors on S3?
- How many contractors have elected Preference in the past 12 months?
- How many ROB's does your agency have certified or know of locally?
- Has your agency/company provided training or plan to provide training to start ROB's?
- Has your agency/company facilitated any Prime – Sub-contractor meeting events?
- What mechanism is in place to allow contractors to self-certify?
- Are you providing a S3 briefing at the pre-bids, pre-construction and routine contractor meetings?
- What monitoring is in place to track new sub-contractors coming onto a project without being S3 trained?

Each of these questions will help you define success in meeting S3 compliance and safe harbor. Remembering that the objective is to meet or exceed the 10% "Building Trades" and 3% "Other" dollar values annually. Don't focus on single contract numbers but look at the global contracting universe for each contract year.

SECTION 3 CERTIFIED COORDINATOR TRAINING

Regulation:

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low- and very low-income persons, including permanent employment and long-term jobs.

To complete the calculation follow this process to determine the best Employment numbers:

Ask the contracting professionals issuing the contract for the work to extrapolate from the potential contractor values from #'s 6 and 7 above, to estimate actual crew sizes for the entire project. These numbers shouldn't be hard for them to estimate because they would have done some rough numbers as part of the required Independent Cost Estimate (ICE) required by the 24 CFR 85.36 procurement guidelines.

Using the labor categories from #7 above estimate the number of positions you have S3 residents prepared to fill.

Ensure a process that allows for S3 residents to train for the specific skills or licenses required to qualify them for the anticipated work in advance.

Draw from your list of training graduates as a first tier pool of ready applicants.

- Information check:
- Has your agency/company trained your residents on S3?
- How many residents have elected ROB Preference in the past 12 months?
- How many residents does your agency have certified or know of locally?
- Has your agency/company provided training or plan to provide employment related or skills training to residents?
- Has your agency/company facilitated any Resident to Prime or Sub-contractor application or hiring events?
- What mechanism is in place to allow residents to self-certify?
- Are you providing a S3 briefing at the pre-bids, pre-construction and routine contractor meetings promoting resident employment based on the regulation?
- What monitoring is in place to track new hires coming onto a project without S3 residents being encouraged to apply for the position(s)?

MONITORING AND REPORTING ALL SECTION 3 ACTIONS & IMPEDIMENTS

SECTION 3 CERTIFIED COORDINATOR TRAINING

HUD SECTION 3 WEBSITE FAQ #61:

61. What are the recordkeeping requirements of Section 3 on recipient agencies?

Documentation of actions taken to comply with the employment, training and contracting requirements of Section 3, the results of actions taken and impediments encountered. Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with Federal or State procurement laws and regulations. The documentation should demonstrate efforts taken towards the achievement of the Section 3 numerical goals.

Tracking All Activities

Section 3 compliance is all about the efforts and not specific results. In many cases, you will extend tremendous efforts but come up short on results. The regulation only requires you attempt to meet the numerical goal and that you be able to verify, through documentation what efforts were made.

Tracking Systems

Hard Copy	Electronic Version
Policy/ Procedures	YES
Blank Contractor & Resident Certification Forms	YES
Advertisements for opportunities	YES
Flyers announcing opportunities	YES
Web Postings of opportunities	YES
Attendance Sheets from all S3 meetings	YES
Copies of solicitation materials for contracts	YES
All contractor-completed certification forms	YES
All resident completed certification forms	YES
All notices to contractors for non-compliance	YES
All in-house documentation on applicants/hires	YES
Contact list from contractors on who sought opportunities	YES
Pictures and videos of S3 events with dated files	YES
Everything else that demonstrates efforts were made	YES
End of Year 60002 Reports	YES

MIS3 - Section 3 Compliance Management System

Customizable...

----- Add a New Agency

Agency Name:	The Spelman Agency	*
Address 1:	100 Spelman Lane	*
Address 2:		
City:	Atlanta	*
State:	Georgia	*
Zip:	30314	90210 or 90210-1234
Federal ID:	12-1234567	*: 99-9999999 or 999-99-9999
Compliance Manager:	Joe Smith (S)	*
Directory Control:	* Agency Directory List Has Not Been Entered	
Active:	Active	*

Submit Cancel

Compliance Thresholds

Hours Worked:	30.00	*
New Hires:	30.00	*
New Hires Hours:	30.00	*
Residents Trained:	0	*
Total Amt Contract:	10.00	*
Total Amt Trades:	10.00	*
Total Amt Other:	3.00	*

Set the compliance thresholds to match the HUD numerical goals and those specific to your agency's Section 3 Policy.

----- Add a New Contract Award

Program:	Capital Funds/Other Housing Programs (192)	*
Contractor:	The New Contractor (99)	*
Amount:		
Trade Category:		
Other Agency:		
Community:	Paul Beach (43)	*
Other Contractor:	The New Contractor (99)	*

----- Trade Categories - * Minimum 1 Required

<input type="checkbox"/> Professionals	<input type="checkbox"/> Technicians	<input type="checkbox"/> Office/Clerical	<input type="checkbox"/> Masonry	<input type="checkbox"/> Plumbing
<input type="checkbox"/> Electrical	<input type="checkbox"/> Carpenter/Framer	<input type="checkbox"/> Cabinet/Fab Installation	<input type="checkbox"/> Siding/Outlet	<input type="checkbox"/> HVAC
<input type="checkbox"/> Insulation	<input type="checkbox"/> Drywall Hanger	<input type="checkbox"/> Drywall Finisher	<input type="checkbox"/> Heavy Equipment Operator	<input type="checkbox"/> Steel/Iron Worker
<input type="checkbox"/> Interior Painting	<input type="checkbox"/> Exterior Painting	<input type="checkbox"/> Roofing	<input type="checkbox"/> Door and Trim	<input type="checkbox"/> Finish Plumbing
<input type="checkbox"/> Finish Electrical	<input type="checkbox"/> Finish HVAC	<input type="checkbox"/> Floor Tie Installation/Demo	<input type="checkbox"/> Carpet Installation/Demo	<input type="checkbox"/> Drop Ceiling Installation
<input type="checkbox"/> Sewer	<input type="checkbox"/> Bridge	<input type="checkbox"/> Water Systems	<input type="checkbox"/> Other Infrastructure	<input type="checkbox"/> Residential Renovations
<input type="checkbox"/> Employment Readiness/PO	<input type="checkbox"/> Small Business Development	<input type="checkbox"/> Data Entry/Computer Skills	<input type="checkbox"/> Constr Trades (Classroom)	<input type="checkbox"/> Constr Trades (OJT)
<input type="checkbox"/> Constr Trades Apprenticeship	<input type="checkbox"/> Compliance Fund - Trade	<input type="checkbox"/> Compliance Fund - Other		

Contractor Percentages In Display

Hours Worked:	Yes	*
New Hires:	Yes	*
New Hires Hours:	Yes	*
Residents Trained:	Yes	*
Total Amt Contract:	Yes	*
Total Amt Trades:	Yes	*
Total Amt Other:	Yes	*

Toggle on or off the evaluation criteria for each of your contractors based on their certification.

MIS3 - Section 3 Compliance Management System

View Compliance at a Glance

Agency Overview
JKS Demo Agency
Sunnyville, MA

Contract Overview [Add Contract](#)

Book Store with Coffee Shop
Community Center Construction
JKS Basketball Court Addition
John Doe Home Rehab

Program Overview [Add Program](#)

Capital Funds | Public/Indian Housing | Modernization
CDBG | CDBG Entitlement
Historical/State Preservation Tax Credit | HIST
Operations | Public/Indian Housing | Operation

Contractor Overview

[Select Contractor](#)

Resident Overview

[Select Resident](#)

Community Overview

[Select Community](#)

Reports

HUD60002 Report

HUD60002 Detail

Resident List

Resident List By: [Select Trade](#)

Training

Group Training

Active On-Job Training

Workflow

[Active Records](#)

Contract Overview
Book Store with Coffee Shop

Program	Contractor	Add (Prime Bold)	Date	\$ Trades	\$ Other	Community	Trades	Payroll	Training	Award
CDBG	Jenkins Construction		04/04/2011	100,000	0	Dream Lofts	View	Register Error	Group On Job	Est. Del
CDBG Entitlement										
CDBG	Pleasantville Construction		04/04/2011	200,000	10,000	Dream Lofts	View	Register Error	Group On Job	Est. Del
CDBG Entitlement										
				\$200,000	\$10,000	Total: \$310,000				

[Add New Contract Award](#) [HUD60002 Contract Report](#)

Oragne Housing Agency
Sunnyville, MA

Contract Summary	Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
	22.0 %	25.0 %	22.0 %	0	32.0 %	33.3 %	0.0 %

Contract By Contractor	Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
Jenkins Construction	11.1 %	100.0 %	100.0 %	0	100.0 %	100.0 %	0.0 %
Pleasantville Construction	11.1 %	14.3 %	14.3 %	0	0.0 %	0.0 %	0.0 %

Color Legend

- Sec 3 Contractor
- Sec 3 Compliant
- Not Sec 3 Compliant
- Sec 3 New Hire
- Link
- Inactive

Know how your Contract is performing as a whole and by Contractors. Color coded for easy identification of non-compliance and Section 3 vs. Non-Section 3 Contractor

MIS3 - Section 3 Compliance Management System

View Compliance at a Glance

Contract Overview
Book Store with Coffee Shop

Oragne Housing Agency
Sunnyvale, CA
R.O.

Program	Contractor	Add (Prime/Bold)	Date	\$ Trades	\$ Other	Community	Trades	Payroll	Training	Award
CD05	Jenkins Construction		04/04/2011	100,000	0	DreamLofts	View	Register Edit	Group On/Off	Est. Est
CD05	Pleasantville Construction		04/04/2011	200,000	10,000	DreamLofts	View	Register Edit	Group On/Off	Est. Est
				\$300,000	\$10,000	Total: \$310,000				

[Add New Contract Award](#) [LEAD/CD05 Contract Report](#)

Contract Summary

Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
22.0 %	25.0 %	29.0 %	0	10.0 %	33.3 %	0.0 %

Contract By Contractor

Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
Jenkins Construction	100.0 %	100.0 %		100.0 %	100.0 %	
Pleasantville Construction	11.1 %	14.3 %		0.0 %		

Color Legend

- Sec 3 Contractor
- Sec 3 Compliant
- Not Sec 3 Compliant
- Sec 3 New Hire
- Link
- Inactive

[View Non-Compliance Notification](#)

Whenever you see red, a contractor has fallen below the threshold and needs to be notified immediately.

Send Non-Compliance Notification
Book Store with Coffee Shop

Send Non-Compliance Email To:

	Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
<input type="checkbox"/> Jenkins Construction		100.0 %	100.0 %		100.0 %	100.0 %	
<input checked="" type="checkbox"/> Pleasantville Construction	11.1 %	14.3 %			0.0 %		

Copy To:

☒ Compliance Officer LaTrece East Swiney lswiney@motivation-inc.com

☒ Agency Compliance Manager

☒ Agency Contact

[View Notifications](#) [Cancel](#)

Select exactly who you want to receive the notification so all interested parties remain informed.

MIS3 - Section 3 Compliance Management System

View Non-Compliance Notification
Book Store with Coffee Shop

PC: Prime Contractor
CO: Compliance Officer
CM: Compliance Manager
AG: Agency Contact

Prime Contractor - cc: CO, CM, AG

To: Sally Smith <sally.smith@gmail.com>
From: LaTrece Cast Swiney <lswiney@motivation-inc.com>
CC: LaTrece Cast Swiney <lswiney@motivation-inc.com>, LaTrece Cast Swiney <lswiney@motivation-inc.com>, Apple Frutopia <apple.fruit@mail.com>
Subject: Section 3 Non-Compliance Notification

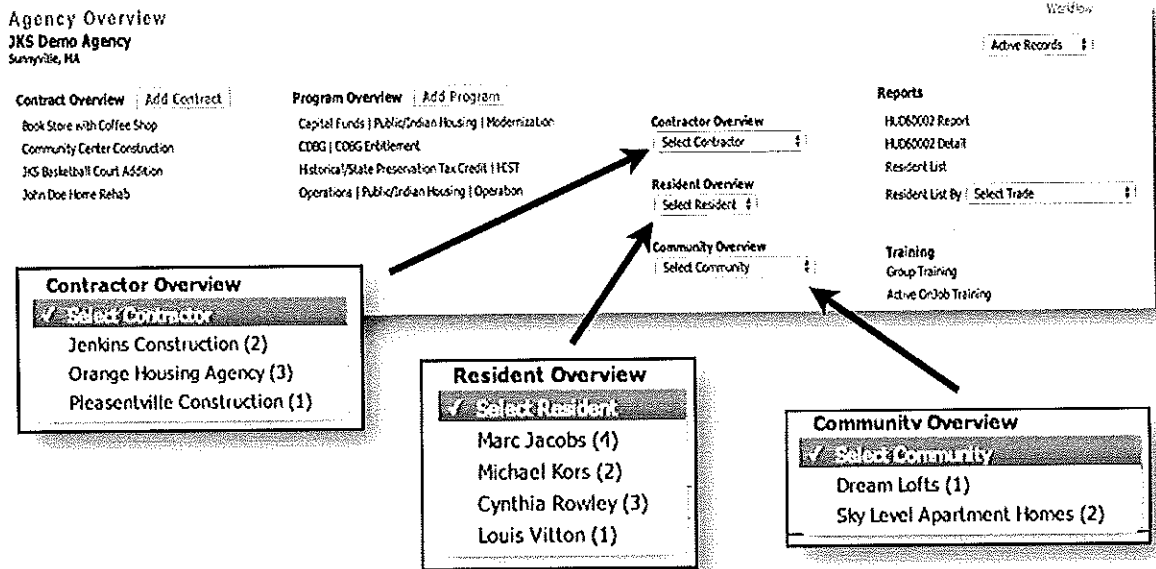
Sally Smith -
Based on your most recent payroll data, Pleasentville Construction is out of compliance with the prescribed Section 3 policy of the Oragne Housing Agency. The categories of which you are non-compliant are denoted in red below. You must meet or exceed the thresholds you agreed to by your next payroll period.

	Hours Worked	New Hires	New Hires Hours	Residents Trained	\$ Total Contract	\$ Total Trades	\$ Total Other
Current	11.1 %	14.3 %			0.0 %		
Required	33.0 %	33.0 %			0.0 %		

LaTrece Cast Swiney
Compliance Manager

The email is clear and concise. It makes the contractor aware of where they are and where they need to be, while providing a cure period.

MIS3 - Section 3 Compliance Management System



Contractor Overview provides at a glance the demographic information, all contract awards with amounts, residents they employed with supporting payroll data and any training.

Community Overview provides information on the residents that live in that community including training and employment data.

Resident Overview provides at a glance demographic information, employer and training information with supporting payroll data.

MIS3 - Section 3 Compliance Management System

Agency Overview
JKS Demo Agency
Sunnyville, MA

Contract Overview [Add Contract](#)
Book Store with Coffee Shop
Community Center Construction
JKS Basketball Court Addition
John Doe Home Rehab

Program Overview [Add Program](#)
Capital Funds | Public/Indian Housing | Modernization
CDBG | CDBG Entitlement
Historical/State Preservation Tax Credit | HCST
Operations | Public/Indian Housing | Operation

Contractor Overview
[Select Contractor](#)

Resident Overview
[Select Resident](#)

Community Overview
[Select Community](#)

Reports
HUD60002 Report
HUD60002 Detail
Resident List
Resident List By: [Select Trade](#)

Training
Group Training
Active On-Job Training

Active Records

The Resident List provides a list of your agency's residents with, demographic, training and employment information for each resident.

The Resident List by Trade allows you to query your resident database for any and all residents with training or work experience in a particular trade. See example below.

Residents with Training or Work Experience as Carpentry-Framer

JKS Demo Agency
Sunnyville, MA

[Print](#)

Name	Tier	Community	Contact Number	Work Hrs	Training Hours
Marc Jacobs	1	Chicago Town Homes	222-311-8888	105	40
Cynthia Rowley	1	Chicago Town Homes	222-333-5555	65	0
Louis Vuitton	1	Dream Lofts	444-444-4444	0	40
Vera Wang	1	New York Lofts	222-444-1111	65	0

Agency Overview
JKS Demo Agency
Sunnyville, MA

Contract Overview [Add Contract](#)
Book Store with Coffee Shop
Community Center Construction
JKS Basketball Court Addition
John Doe Home Rehab

Program Overview [Add Program](#)
Capital Funds | Public/Indian Housing | Modernization
CDBG | CDBG Entitlement
Historical/State Preservation Tax Credit | HCST
Operations | Public/Indian Housing | Operation

Contractor Overview
[Select Contractor](#)

Resident Overview
[Select Resident](#)

Community Overview
[Select Community](#)

Reports
HUD60002 Report
HUD60002 Detail
Resident List
Resident List By: [Select Trade](#)

Training
Group Training
Active On-Job Training

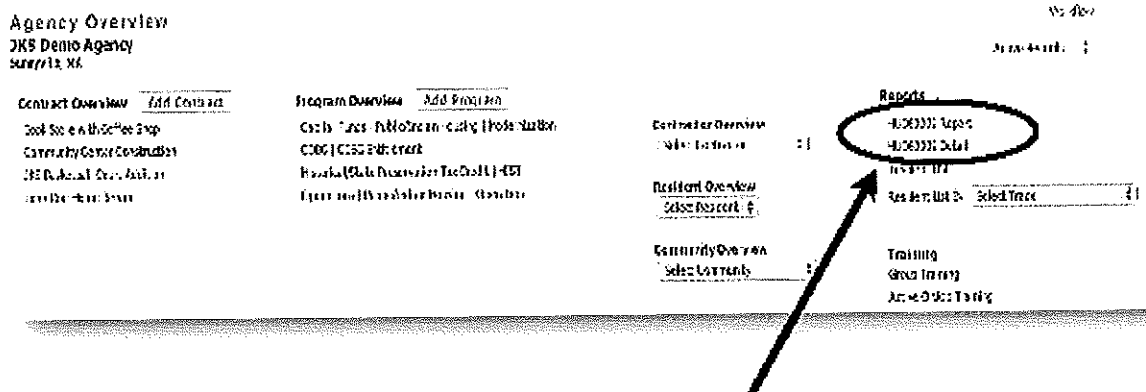
Active Records

View all training data. See what training has taken place and which residents participated.

Reports

With only a few clicks of the mouse the system can produce several reports for you.

- Section 3 Summary Report (HUD Form 60002)
- Summary Detail Report
- Project Summary Report (in HUD 60002 Format)
- Multi-Agency Summary Report (in HUD 60002 Format)



Reports

HUD60002 Report
HUD60002 Detail

The Reports Section of the Agency Overview page will provide the HUD 60002 Report for the specified agency, as well as the Detail Report that corresponds.

MIS3 - Section 3 Compliance Management System

Section 3 Summary Report HUD 60002

Section 3 Summary Report Economic Opportunities for Low- and Very Low-Income Persons		U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity	OMB Approval No: 2529-0043 (exp. 11/30/2010)		
Section back of page for Public Reporting Burden statement		HUD Field Office:			
1. Recipient Name & Address (to include city, state, zip): Oragne Housing Agency 88 Strawberry Lane Sunnyville, MA 02467	2. Federal Identification (if any): CDBG	3. Total Amount of Award: \$2,000,000			
	4. Contact Person: Apple Frutopia	5. Phone (include area code): 222-22-2222			
	6. Length of Grant: 180 days	7. Reporting Period: 01/01/2011 to 12/31/2011			
8. Data Report Submit Date: May 31, 2011	9. Program Code (use separate sheet for each program code): * 7 *	10. Program Name: CDBG Entitlement			
Part I: Employment and Training (** Columns B, C, and F are mandatory fields. Include New Hires in E & F)					
A Job Category	B Number of New Hires	C Number of New Hires that are Sec. 3 Residents	D % of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	E % of Total Staff Hours for Section 3 Employees and Trainees	F Number of Section 3 Trainees
Professionals					
Technicians					
Office Clerical					
Construction by Trade (Lev) Carpentry-Framer	2	2	100.0 %	50.0 %	0
Other Infrastructure	14	2	14.3 %	11.1 %	0

Part II: Contracts Awarded	
1. Construction Contracts	
A. Total dollar amount of all contracts awarded on the project	\$ 300,000
B. Total dollar amount of all contracts awarded to Section 3 businesses	\$ 100,000
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	33.3 %
D. Total number of Section 3 businesses receiving contracts	1
2. Non-Construction Contracts	
A. Total dollar amount of all contracts awarded on the project	\$ 10,000
B. Total dollar amount of all contracts awarded to Section 3 businesses	\$ 0
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	0.0 %
D. Total number of Section 3 businesses receiving contracts	0
Part III: Summary	

MIS3 - Section 3 Compliance Management System

Summary Detail Report

HUD60002 Detail						
Oragne Housing Agency (1)						
Program Name: CDBG Entitlement (7)		Program Length: 183 days		Program Amt: \$2,000,000		
Hours Worked:						
Funding	Program	Trade	Resident	Hours	Hires Hrs	Date
CDBG (4)	CDBG Entitlement (7)	Carpentry-Framer (7)	Not Sec 3 (0)	60	0	2011-04-09
CDBG (4)	CDBG Entitlement (7)	Carpentry-Framer (7)	Marc Jacobs (4)	40	40	2011-04-09
CDBG (4)	CDBG Entitlement (7)	Carpentry-Framer (7)	Cynthia Rowley (3)	40	40	2011-04-09
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Not Sec 3 (0)	480	0	2011-04-10
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Michael Kors (2)	30	30	2011-04-10
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Louis Vixon (1)	30	30	2011-04-10
Sec 3 Hours: 140		Not Sec 3 Hours: 560	Total:	700	140	
Hires:						
Funding	Program	Trade	Resident	Hires	Hires Hrs Not Sec3	Date
CDBG (4)	CDBG Entitlement (7)	Carpentry-Framer (7)	Marc Jacobs (4)	1	0	2011-04-09
CDBG (4)	CDBG Entitlement (7)	Carpentry-Framer (7)	Cynthia Rowley (3)	1	0	2011-04-09
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Not Sec 3 (0)	12	360	2011-04-10
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Michael Kors (2)	1	0	2011-04-10
CDBG (4)	CDBG Entitlement (7)	Other Infrastructure (29)	Louis Vixon (1)	1	0	2011-04-10
Sec 3 Hires: 4		Not Sec 3 Hires: 12	Total Hires:	16	360	
Group Training:						
Funding	Program	Trade	Resident	Total Hours:	Hours	Date
					0	
On-Job Training:						
Funding	Program	Trade	Resident	Total Hours:	Hours	Date
					0	

The Summary Detail Report allows you to look behind the numbers and percentages on the Section 3 Summary Report and see the data that produced those numbers. The Summary Detail Report is also available for Multi-Agency Reports.

MIS3 - Section 3 Compliance Management System

Multi-Agency Reports In HUD 60002 Format

This captures all contracts, contractors, resident training and employment data, for a single funding source and program code for multiple agencies. Great for Federal, State and Local funders of multiple recipients and sub-recipients.

Section 3 Summary Report Economic Opportunities for Low- and Very Low-Income Persons		U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity		OMB Approval No: 2520-0343 (exp. 11/30/2010)	
				HUD Field Office:	
Section 3: See page 1 of 1 for Public Reporting Burden Statement					
1. Recipient Name & Address (Street, City, State, Zip): *** MultiAgency Report *** Oragne Housing Agency, Dream Housing Authority, The Demo Agency		2. Federal Award/Action (Grant No.): CDBG		3. Total Amount of Award: \$2,100,000	
		4. Contract Person: LaTrece Cast Swiney		5. Phone (no cell text book):	
		6. Length of Grant: 360 days		7. Reporting Period: 01/01/2011 to 12/31/2011	
8. Date Report Submitted: May 31, 2011		9. Program Code (use separate sheet for each program code): * 7 *		10. Program Name: CDBG Entitlement	
Part I: Employment and Training (** Columns B, C, and F are mandatory fields. Include New Hires in E & F)					
A Job Category	B Number of New Hires	C Number of New Hires that are Sec. 3 Residents	D % of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	E % of Total Staff Hours for Section 3 Employees and Trainees	F Number of Section 3 Trainees
Professionals					
Technicians					
Office Clerical					
Construction by Trade(List) Carpentry, Framing	2	2	100.0 %	50.0 %	0
Other Infrastructure	14	2	14.3 %	11.1 %	0
Water Systems	6	1	54.5 %	28.6 %	0
Constr Trades (Classroom)	0	0	0.0 %	100.0 %	4
Part II: Contracts Awarded					
1. Construction Contracts					
A. Total dollar amount of all contracts awarded on the project					\$ 450,000
B. Total dollar amount of all contracts awarded to Section 3 businesses					\$ 100,000
C. Percentage of the total dollar amount that was awarded to Section 3 businesses					22.2 %
D. Total number of Section 3 businesses receiving contracts					1
2. Non-Construction Contracts					
A. Total dollar amount of all contracts awarded on the project					\$ 30,000
B. Total dollar amount of all contracts awarded to Section 3 businesses					\$ 0
C. Percentage of the total dollar amount that was awarded to Section 3 businesses					0.0 %
D. Total number of Section 3 businesses receiving contracts					0
Part III: Summary					

**Orange Housing Agency
Basketball Court Addition**

**M/W/D Enterprise Report Overall
04/04/2011 thru 09/10/2011**

	Total number of Contracts awarded (This Project)	Total number of Contracts awarded minorities (This Project)	Overall % of Contracts awards to Minority Contractors Prime + Subcontractors
Minority	2	1	50.0 %
Blacks/African American	2	0	0.0 %
Hispanics/Latino	2	1	50.0 %
Asian Pacific Islanders	2	0	0.0 %
Native American	2	0	0.0 %
Women	2	0	0.0 %
Disadvantaged	2	0	0.0 %
TOTALS	2	1	50.0 %

**M/W/D Enterprise Report for Prime Contractors
04/04/2011 thru 04/04/2011**

	Total number of Prime Contracts awarded (This Project)	Actual number of Prime Contracts awarded to Minority Contractors (This Project)	% of Prime Contracts awarded to Minority Contractors	Goals for Prime Contract Awards (Affirmative Action Target Percentages)	Difference between Goal and Actual
Minority	1	0	0.0 %	5.0	-5.0
Blacks/African American	1	0	0.0 %		
Hispanics/Latino	1	0	0.0 %		
Asian Pacific Islanders	1	0	0.0 %		
Native American	1	0	0.0 %		
Women	1	0	0.0 %	5.0	-5.0
Disadvantaged	1	0	0.0 %	5.0	-5.0
TOTALS	1	0	0.0 %	5.0	-5.0

**M/W/D Enterprise Report for Sub Contractors
09/10/2011 thru 09/10/2011**

	Total number of Sub-Contracts awarded (This Project)	Actual number of Sub-Contracts awarded to Minority Contractors (This Project)	% of Sub-Contracts awarded to Minority Contractors	Goals for Sub-Contract Awards (Affirmative Action Target Percentages)	Difference between Goal and Actual
Minority	1	1	100.0 %	2.0	98.0
Blacks/African American	1	0	0.0 %		
Hispanics/Latino	1	1	100.0 %		
Asian Pacific Islanders	1	0	0.0 %		
Native American	1	0	0.0 %		
Women	1	0	0.0 %	2.0	-2.0
Disadvantaged	1	0	0.0 %	2.0	-2.0
TOTALS	1	1	100.0 %	2.0	98.0

**U.S. Department of
Labor**
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.doi.gov/whd/forms/wh347instr.htm)
Persons are not required to respond to the collection information unless it display a currently valid OMB control number.

[illegible]

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.2, 5.6(a). The Copeland Act (40 U.S.C. § 3115) prohibits contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to comply with the Davis-Bacon Act (40 U.S.C. § 3141) by submitting weekly a copy of the statement required by the Federal Acquisition Regulation (FAR), FAR E.O. 12813, 48 CFR § 1.01-60.1(c)(2)(ii) require contractors to submit weekly a copy of the statement required by the FAR, FAR E.O. 12813, 48 CFR § 1.01-60.1(c)(2)(ii) require contractors to submit weekly a copy of the statement required by the FAR, FAR E.O. 12813, 48 CFR § 1.01-60.1(c)(2)(ii).

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 53502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Davis Bacon Payroll Register

Date: 01/24/2012

I, **LaTrice Swiney**, title: **Compliance Manager**
do hereby state:

(1) That I pay or supervise the payment of the persons employed by **Jenkins Construction** on the **JKS Basketball Court Addition**; that during the payroll period commencing on the **10 day of October, 2011** and ending the **16 day of October, 2011**, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said **Jenkins Construction** from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), Issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

[illegible]

The final piece of this Certified Section 3 Coordinator training is a test of your knowledge of the regulation as it applies to your position. In order to receive your certification you must score at least 80% competency on the test.

As this was not a regulatory training itself, you should know what is called for already. If you review the HUD FAQ attached, it will help you prepare for the test.

Good Luck!

FINAL CERTIFICATION EXAM

CERTIFICATION EXAM

Name: _____ Title _____
Agency/Company Name _____ (O) _____
Address _____ (E) _____

True or False 2 points each (20 Potential Points This Section)

1. The HUD Act that includes the Section 3 regulation was passed by Congress in 1966?
☐True or ☐False
2. To the greatest extent feasible, means compliance with the regulation is optional.
☐True or ☐False
3. Residents of a city or county that earn 81% of the AMI are considered low income.
☐True or ☐False
4. A business can employ 30% low income persons that live in that city where they are performing covered work and qualify for Preference.
☐True or ☐False
5. If a public housing resident earns one million dollars as an employee on a covered contract the first year but was previously unemployed to this job, their rent will increase immediately.
☐True or ☐False
6. There is a \$100,000 threshold for all public housing contracts.
☐True or ☐False
7. CDBG funds have a \$200,000 contractor threshold before compliance is required.
☐True or ☐False
8. Section 3 is gender and race neutral and American Indians don't receive Preference.
☐True or ☐False
9. Household Income is determined as it is under public housing guidelines.
☐True or ☐False
10. Section 3 prohibits the creation of opportunities just for the sake of doing something.
☐True or ☐False

Fill-in the Blanks 2 points each (60 Potential Points This Section)

- Every recipient should have a Section 3 (11) _____, step-by-step (12) _____ and (13) _____ forms.
- Contractors seeking Preference shall self (14) _____.
- Residents seeking Preference must (15) _____ as to their eligibility as Section 3 low-income households.
- Community Development contracts are not (16) cumulative to reaching the \$ _____ threshold, but must be one contract at that level or above.
- The purpose of the regulation is to ensure (17) _____ and other economic (18) _____ generated by certain (19) _____ financial assistance shall, to the (20) _____ extent feasible and consistent with (21) _____, (22) _____ and local (23) _____ and regulations be directed to (24) _____ and (25) _____ low income persons, particularly those who are (26) _____ of government assistance for (27) _____, and to (28) _____ concerns which provide (29) _____ opportunities to low- and very low-income persons.
- The (30) _____ report is due to HUD by the 10th day of (31) _____ each year.
- A person or business can file a complaint up to (32) _____ days of the date of occurrence or (33) _____.
- Section 3 (34) _____ do not apply to (35) _____ only contracts.
- Recipients and contractors must (36) _____ efforts taken to meet the regulation.
- The Section 3 (37) _____ must be in all solicitations for (38) _____ and (39) _____.
- Section 3 is overseen by the office of (40) _____ at HUD.

Multiple Choice 5 points each (20 Potential Points This Section)

41. Section 3 regulations were proposed to Congress and passed by what President?
- A. Clinton
 - B. Lincoln
 - C. Johnson
 - D. Obama
42. The current interim rule Section 3 recipients operate under today is dated?
- A. January 1, 1968
 - B. January 1, 1864
 - C. October 1, 1992
 - D. June 30, 1994
43. The following ethnic group receives Preference in contracting.
- A. Asian/Island Pacific
 - B. Black/African American
 - C. American Indian (Native)
 - D. Rich White Contractors
44. Community Development Recipients have the following annual compliance thresholds and individual contract compliance thresholds:
- A. The Recipient must receive \$100,000 and the individual contract must be \$10,000
 - B. The Recipient must receive \$500,000 and the individual contract must be \$100,000
 - C. The Recipient must receive \$1,000,000 and the individual contract must be \$10,000
 - D. The Recipient must receive \$200,000 and the individual contract must be \$100,000

Signature

Date

Completion Time

Score

Need Additional Help?



Thank you for attending a Motivation, Inc. Training. We hope this has been an exceptional learning experience for you. As our time was limited together we realize that you may have questions specific to you and your agency as you wrap up your time with us. Please use the form below to let us know what you would like us to follow up with you on.

Our team of professionals is always here to assist you. We offer a variety of services to meet your needs. Listed below is a sample of our other services if you would like more information check the appropriate boxes below. As always, check our website regularly for new information, and make sure you are on our email list to stay abreast of any industry updates.

Thanks again and we hope to see you again in the future!

Name

Agency

Title

Email

Phone

How do you prefer we contact you? ☐ Email ☐ Phone

Please follow up with me on the following items:

1

2

3

I am interested in other Motivation, Inc. services that may benefit my agency. Please send me information about: (check boxes below)

- | | |
|---|--|
| <input type="checkbox"/> Section 3 Policy Package | <input type="checkbox"/> Staff / Departmental Assessments |
| <input type="checkbox"/> Resident Training | <input type="checkbox"/> Resident Services Assessments |
| <input type="checkbox"/> MIS3 - Section 3 Compliance Software | <input type="checkbox"/> Organizational Assessments |
| <input type="checkbox"/> Section 3 Compliance Staff Training | <input type="checkbox"/> Board of Commissioner Advisory Services |
| <input type="checkbox"/> Fair Housing Training | <input type="checkbox"/> Professional Development Training |
| <input type="checkbox"/> Other: | |

MOTIVATION, INC.



The Leader in Section 3 Consulting

We've been your **#1**

Section 3 Compliance
Solution Since 1997

We have affordable compliance solutions to meet your every need!

1. Staff Training

Facilitate an educational Section 3 compliance staff training on site including implementation and best practices

3. Contractor Compliance Training

Get your contractors up to speed on the regulation and how to comply. We'll facilitate a Section 3 compliance training, up to 4 hours with the your invited attendees including architects, contractors, municipal officials, service providers, development partners, local DOL-Workforce staff and others up to 100 attendees

**5. MIS3 Compliance Management System
(Section 3, Davis Bacon & M/W/DBE)**

With and *annual license agreement you can employ our proprietary web based system to track your contracts, contractors and residents. Have your 60002 Reports complete and ready to send to HUD with a few clicks of your mouse.

Too much on your plate? We can handle everything for you, from tracking down your contractors to completing your reports.
(Price based upon contract volume - call for quote)

2. Compliance Documents

We'll develop your agency's Section 3 Policy, Procedures, Contractor Certification/Action Plan and Resident Certification/Affidavit Forms

4. Section 3 File Review

Upon your request we will conduct an in house, confidential, comprehensive review of procurement files and any other activities related to Section 3. Utilizing our 26 point scoring checklist we will score your files based on the Part 135 regulation.

6. DOL Approved Resident Trainings

- Employment Readiness and Professional Development
5 days, up to 100 people
- Section 3 Business Concern Development
5 days up to 10 people
- Construction Trade Skills (Classroom)
5 days up to 100 people
- Construction Trade Skills (Hands-on)
15 days, up to 50 people
(see proposal for details)
- Computer Operations (Data Entry)
5 days, up to 20 people
(participants keep laptops!)

Please contact us today for a proposal to provide these and other training or consulting services to achieve and maintain compliance. Trust the company that has over a decade of Section 3 experience and success with references to prove it. **Trust Motivation, Inc.!**

1.888.663.9323

www.motivation-inc.com

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