

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

**Garry L. Sweeney, Director
Fort Worth Regional Office of Fair
Housing and Equal Opportunity, Region VI
817-978-5868
Garry.L.Sweeney@HUD.GOV**

WELCOME!

Staci Gilliam , Director

Economic Opportunity Division

U.S. Department of Housing & Urban Development

Washington, DC 20410

202-402-3468

section3@hud.gov

Section 3 History

- **Civil Unrest 1968**
- **Kerner Commission Report**
- **Los Angeles Riots**
- **Hurricane Katrina**
- **Current Economic Crisis**

Statute and Regulation

- **Section 3 of the Housing and Urban Development Act of 1968**
 - **12 U.S.C. 1701u**
- **Economic Opportunity Regulation**
 - **24 CFR Part 135**

Regulatory Description

To ensure that economic opportunities generated from HUD funded projects, *to the greatest extent feasible*, will be directed to low and very low-income persons - particularly those receiving assistance for housing, and the businesses that provide economic opportunities to these persons

Simply Stated...

- **HUD funds are one of the largest sources of federal investment in distressed communities**
- **These funds typically result in new employment, training and contracting opportunities**
- **Section 3 is designed to direct those opportunities to local residents**

Intent

- **HUD funding creates opportunities “beyond bricks and mortar”**
- **Promote Self-Sufficiency amongst low-income persons**
- **Level the playing field for Section 3 residents and businesses**



To the Greatest Extent Feasible

...what does this mean???

To the Greatest Extent Feasible

- **Recipients must make every effort to recruit, target, and direct economic opportunities to Section 3 residents and businesses.**
- **More than normal efforts**

Who is Required to Comply?

- **Any entity which receives Section 3 covered assistance, directly from HUD or from another recipient including:**
 - **Any State unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association.**

Funding Thresholds

- **There are **no thresholds** for Public and Indian Housing assistance**
- **Section 3 applies to all activities regardless of the dollar amount**

PHAs & Contractors

- **Section 3 applies to all contractors regardless of the type of contract or dollar amount**
- **PHAs are required to ensure their compliance and the compliance of their contractors**

Housing and Community Development Covered Activities

**HUD Housing and/or
Community Development
Assistance that is used for:**

- ❖ **Housing Construction**
- ❖ **Housing Rehabilitation**
- ❖ **Other Public Construction**

Funding Thresholds

- **The requirements apply to recipients of Housing and Community Development Assistance exceeding \$200,000**
- **The requirements also apply to Contractors/Subcontractors that receive awards exceeding \$100,000**

Funding Thresholds

- **The requirements apply to all construction and rehabilitation activities that are funded from covered assistance**
- **Does not apply on a per-project basis**
- **Covered contractors have the same responsibilities as direct recipients**

Section 3 Covered Funding

2010 Proposed HUD Budget

Public and Indian Housing	\$7,749 billion
<ul style="list-style-type: none"> • Public Housing Capital Fund • Choice Neighborhoods (formerly HOPE VI) • Public Housing Operating Fund • Native American Housing Block Grants • Native Hawaiian Housing Block Grants 	
Housing	\$1,015 billion
<ul style="list-style-type: none"> • Housing for the Elderly (202 Grants) • Housing for Persons with Disabilities (811 Grants) 	
Community Planning and Development	\$8,456 billion
<ul style="list-style-type: none"> • Community Development Block Grant Fund • HOME Investment Partnerships Program • Self-Help Homeownership Opportunity Program (SHOP) • Housing Opportunities for Persons with Aids (HOPWA) 	
Lead Hazard Control Grants	\$69 million
TOTAL Section 3 Covered Funds	\$17,289 billion 40% of HUDs Budget

Applicability to Economic Stimulus Funds

- **PIH Public Housing Capital Funds**
- **Neighborhood Stabilization Program**
- **Community Development Block Grants**
- **Native American Housing Block Grants**
- **Assisted Housing Energy & Green Retrofits**
- **Lead Hazard Control (LHC Grants Only)**

Total: \$7.8 Billion
(57% of HUD's Stimulus Funds)

Section 3 Certification(s)

- **Annual Certifications**
- **Signed by Highest-Elected Officials**
- **Failing to comply with Section 3 Certifications could have severe consequences**

Failure to Comply with Section 3

HUD holds direct recipients of covered funding accountable for their own compliance, and the compliance of their contractors.

Sanctions for noncompliance include:

- **Debarment**
- **Suspension**
- **Limited Denial of Participation**



Intended Beneficiaries

Section 3 Resident

- **Public Housing Resident,
or**
- **A resident of metropolitan area
or non-metropolitan county in
which the Section 3 covered
assistance is expended, and
who qualifies as a low- or very
low-income person.**

Low- and Very Low-Income

*HUD sets the low-income limit at **80%** and very low income limits at **50%** of the median family income for the county or metropolitan area in which you choose to live*

<http://www.huduser.org/portal/datasets/il.html>

Section 3 Preference

- **Section 3 of the HUD act is **race and gender neutral.****
- **Not MBE/WBE**
- **The preference provided by this federal act is based on income and location.**

Sample Certification Form

Section 3 Residents

SECTION 3 RESIDENTS

**THE HOUSING
AUTHORITY or City**
of the _____

**RESIDENT EMPLOYMENT OPPORTUNITY DATA
THE HOUSING AUTHORITY OR CITY
OF THE CITY OF _____
ELIGIBILITY FOR PREFERENCE**

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

**Certification for Resident Seeking Section 3 Preference in Training and
Employment**

I, _____, am a legal resident of the _____
_____ meet the income eligibility guidelines for
a low- or very-low-income person as published on the street.
My permanent address is: _____

I have attached the following documentation as evidence of my status:
 Copy of lease Copy of receipt of public
ASSISTANCE
 Copy of Evidence of participation Other evidence
in a public assistance program.

Signature _____

Print Name Date _____

Section 3 Business Concern

- **51% or more owned by Section 3 Residents, or**
- **30% of employed staff are currently Section 3 Residents or were Section 3 residents within three years of the date of first employment; or**
- **25% of subcontracts committed to Section 3 Businesses.**

Sample Certification Form

Section 3 Businesses

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business

Address of Business

Type of Business: Corporation Partnership

Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

Copy of resident lease Copy of receipt of public assistance

Copy of evidence of participation Other evidence

a public assistance program

For business entity as applicable:

Copy of Articles of Incorporation Certificate of Good Standing

Assumed Business Name Certificate Partnership Agreement

List of owners/stockholders and Corporation Annual Report

% ownership of each Latest Board minutes appointing officers

Organization chart with names and titles Additional documentation

brief function statement

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

List of all current full-time employees List of employees claiming Section 3 status

FHA/ IHA Residential lease less than 3 Other evidence of Section 3 status less than 3

years from day of employment years from date of employment Evidence of ability to perform

successfully under the terms and conditions of the proposed contract

Current financial statement

Statement of ability to comply with public policy

List of owned equipment

List of all contracts for the past two years

_____ (Corporate Seal)

Authorizing Name and Signature

Attested by _____

Triggering Responsibilities

- **Section 3 regulations do not require hiring or subcontracting unless it is necessary to complete the project.**
- **Section 3 is not an entitlement, it is an opportunity**
- **Section 3 is triggered when covered projects require “new” hires or subcontracting.**

Employment Opportunities

Public and Indian Housing Programs-

- **All positions associated with PIH Development, Operations and Modernization**

Housing and Community Development Programs-

- **Construction Labor**
- **Management & Administrative Support**
- **Architectural, Engineering and Professional services**

Eligibility for employment and contracting

A Section 3 resident must meet the qualifications of the position to be filled.

A Section 3 business concern must have the ability and capacity to perform.



***Recipient
Responsibilities
&
Practical Tips***

24 CFR Part 135.32

States and Counties

States and counties that distribute funds to other units of local government must attempt to achieve compliance regardless of the number of sub-recipients receiving covered funding

States and Counties

- **Inform sub-recipients of covered funding about their obligations;**
- **Assist with their compliance; and**
- **Monitor their performance and the performance of their covered contractors**

Responsibility #1

**Design and implement
procedures to comply
with the requirements of
Section 3**

Practical Tips:

- **Develop and Publish official policies—Section 3 Plan**
- **Strategic Planning**
- **Internal/External Meetings**

Practical Tips:

- **Identify long and short term projects/activities**
- **Consider applicable State, Federal and local laws**

Section 3 Plans

- **Strategies to target Section 3 residents and businesses**
- **Certification/Selection criteria**
- **Process for informing contractors about responsibilities and assessing hiring/subcontracting needs**

Section 3 Plans

- **Penalties for noncompliance**
- **Incentives for good performers**
- **Reporting Requirements**
- **Recordkeeping**
- **Section 3 Coordinator**

Responsibility #2

**Notify Section 3
residents about training
and employment
opportunities and
Section 3 businesses
about contracting
opportunities**

Practical Tips:

- **Establish certification procedures**
- **Maintain lists of certified Section 3 residents & businesses**
- **Personally notify certified residents and businesses**
- **Post Notices Door-to-Door**

Practical Tips:

- **Community Job Fairs**
- **Online Job Search Vehicles**
- **Community Partnerships**
- **Section 3 Coordinator**

Responsibility #3

**Notify covered
contractors about the
requirements of
Section 3**

Practical Tips:

- **Pre-Bid Hearings/ Meetings**
- **Section 3 Workshops**
- **Provide copies of your agency's Section 3 Plan and have contractors certify receipt**

Practical Tips:

- **Include compliance with Section 3 as a rating factor when selecting “responsible bidders”**
- **Assess bidders on their strategy for meeting the requirements of Section 3**

Responsibility #4

**Incorporate the Section
3 clause into covered
solicitations and
contracts**

--24 CFR Part 135.38

Practical Tips:

- **Refer to Section 3 in bid packages, RFPs, etc.**
- **Review clause with developer and have them certify compliance**

Practical Tips:

Monitor Developers/Contractors Regularly

Develop appropriate penalties for noncompliance and/or incentives for those that exceed minimum goals

Responsibility #5

Facilitate training and employment of Section 3 residents and the award contracts to Section 3 businesses, as appropriate to reach the minimum numerical goals

Practical Tips:

- **Assess needs of developers at time of contract award**
- **Match potential employees or subcontractors with developers**
- **Ensure that developers advertise vacancies in accordance with the agency's policies**

Practical Tips:

- **Conduct local career/business development trainings**
- **Sponsor Job-Fairs**
- **Develop Partnerships with local One-Stop Career Centers**
- **Youthbuild/Apprenticeship Programs**

Practical Tips:

- **Provide guidance for determining Section 3 eligibility**
- **Have certified residents and businesses provide evidence to contractors**

Responsibility #6

Minimum Numerical Goals:

- **30% of new hires annually**
- **10% of the total dollar amount of covered construction contracts**
- **3% of the total dollar amount of covered non-construction contracts**

Minimum Numerical Goals

- **24 CFR Part 135.30**
- **Numerical Targets (may be exceeded)**
- **Safe Harbor Compliance**
- **Other Efforts Taken to Achieve Compliance—To the Greatest Extent Feasible**

Who Can be Counted As a New Hire?

- **New Workers**
- **Returning Laid-off Workers**
- **Temporary/Seasonal Workers**
- **Full-time Workers**

Today's Section 3 Residents

- **Residents of Public Housing**
- **Section 8 Voucher Holders**
- **Recently Unemployed**
- **Veterans**
- **Recipients of Other Federal Assistance (TANF, employment)**
- **Single Mothers Re-entering the Workforce**
- **Recent College Graduates**

Practical Tips:

- **Identify short- and long-term capital improvement projects, job vacancies, training opportunities, contracts, etc.**
- **Implement strategies to target Section 3 residents and businesses**
- **Review Appendix to Regulation**

Practical Tips:

- **Consider all hiring and subcontracting needs of developers and contractors**
- **Maintain evidence of efforts taken to achieve compliance**
- **Describe efforts taken on Section 3 annual report**

Responsibility #7

Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors

Practical Tips:

- **Cooperate with HUD's Section 3 Enforcement Actions**
- **Hold developers/contractors accountable**

Practical Tips:

- **Develop appropriate penalties and apply them consistently**
- **Withhold Final Payments for “Section 3 Training Fund”**

Responsibility #8

**Refrain from entering
into contracts with
contractors that fail to
comply**

Practical Tips:

- **Determine appropriate timeframe for suspensions (i.e., 90 days, 1 year, 3 years)**
- **Be Consistent!!!**
- **Publicize actions taken**

Responsibility #9

**Documenting actions
taken to comply with the
requirements of Section 3,
results of actions taken,
and impediments,
if any**

Practical Tips:

- **Records of notification/
recruiting efforts**
- **Copies of vacancy
announcements**
- **Participation in local events**
- **Signed contracts**
- **Penalties imposed**
- **Outcomes produced**
- **Annual 60002 forms**



Section 3
Reporting Requirements

Section 3 Reporting

- **Measures efforts to meet numerical goals**
- **Narrative explanations**
- **Must be submitted even if no covered actions were completed**

Section 3 Reporting

- **Form HUD-60002**
- **Online Reporting System**
- **Hard copies submitted to FHEO
in Washington, DC**

Section 3 Reporting Due Dates

PHAs	Housing & Community Development Assistance
•January 10th of each year; or	•Due at time of HUD annual reports (CAPERs);
•Within 10 days of project completion	•Within 10 days of project completion

Section 3 Complaint Investigations

Complaint Register Under Section 3 of the Housing And Urban Development Act of 1968		U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity	OMB Approval No. 2529-0043 (Expires 11/30/2010)
Name of Complainant (Person or organization)		Home Phone	
Street Address		Work Phone	
City, State, Zip code			
Against whom is this complaint being filed?		Business Phone	
Name of organization or company			
Street Address			
City, State, Zip code			
Name and identify others (if any) who violated the law in this case			
You are (check all that apply)			
<input type="checkbox"/> A. Low/Very low income		<input type="checkbox"/> D. Section 3 business concern	
<input type="checkbox"/> B. Public housing resident		<input type="checkbox"/> E. A representative of D	
<input type="checkbox"/> C. A representative of A or B			
+ Complaint is against (check one or more boxes)			
<input type="checkbox"/> A. Applicant		<input type="checkbox"/> D. Recipient	
<input type="checkbox"/> B. Sub-Recipient		<input type="checkbox"/> E. Contractor	

Form HUD-958



**New
Section 3 Initiatives**

Section 3 Initiatives

- **HUD Form 60002 included in A-133 Compliance Audit checklist**
- **Complaint processing returned to Regional Field Offices**
- **Development of a national Section 3 business database**

Section 3 Initiatives

- **Restrictions for noncompliance from NOFA Competition**
- **Collaboration with local DOL workforce investment boards**
- **Coordination with Field Section 3 Coordinators**

Section 3 Initiatives

- **Proposed statutory amendment**
- **2009 and 2010 Reporting Compliance**
- **2011 Substantive Compliance**
- **Increased Penalties for noncompliance**

Section 3 Initiatives

- **Regulatory Revision**
- **Revisions to form HUD-60002**
- **Listening Sessions**
- **Increased training/technical assistance**

Additional Resources

- **www.hud.gov/section3**
- **section3@hud.gov**
- **FHEO Regional/Field Offices**
- **Economic Opportunity Division
202-708-3633**



*Questions
&
Answers*