



Section 3 Policy

Adopted: November 19, 2012 via Resolution 2012-11-21

This policy is developed for the Lancaster City Housing Authority for its exclusive use as a recipients of HUD certain financial assistance such as public housing Operations, Modernization and Development funds. This policy shall be binding upon all contracting.

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BACKGROUND ON THE SECTION 3 REGULATION

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, is to “ensure that employment and other economic opportunities generated by certain HUD financial funding shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed toward low and very low-income persons, particularly those who are recipients of government funding for housing, and to Business Concern s which provide economic opportunities to low- and very low-income persons.”

Consistent with 24CFR Part 135, as a recipient of HUD funding, the Lancaster City Housing Authority requires fulfillment of Section 3 obligations on all contracts that make use of that assistance. These policies are implemented regardless of the contract amount or whether it is designated as housing construction, housing rehabilitation, lead based paint abatement or other public construction project. The Authority works to ensure the provision of employment, training, contracting, and other economic opportunities to its residents and other low income persons. In doing so, the Authority utilizes Section 3 as a means of promoting stability and self-

sufficiency to Section 3 Residents. Implementation procedures may be amended periodically by the Authority to insure that the policy requirements are being met and/or to enhance the efficiencies of compliance.

I. APPLICABILITY Section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Section 3 requirements apply to all projects and activities funded whole or in part with covered funds and the entire project budget is then a subject to Section 3.

II. DEFINITIONS Please refer to the 24 CFR 135.5 for a full list of prevailing definitions found in the regulation.

NEW HIRES: full-time employees for permanent, temporary or seasonal employment opportunities for any specific Authority related contract. Any person not on a contractors payroll for a continuous period of six (6) months and then hired back will constitute a New Hire for the purposes of this policy.

RESIDENT OWNED BUSINESS (ROB): A ROB is a Business Concern owned or controlled by Public Housing Residents or low income Residents of the City of Lancaster. Residents that are: (a) at least 51% owned and operated by one or more public housing residents; and (b) whose management and daily business operations are controlled by one or more such individuals. For purposes of Section 3 compliance, a ROB must also meet the definition of a Section 3 Business Concern as described below.

EMPLOYMENT OPPORTUNITIES GENERATED BY SECTION 3 COVERED ASSISTANCE: All employment opportunities generated by the expenditure of Section 3 covered funding (i.e. operating funding, development funding, and modernization funding) and with respect to Section 3 covered housing and community development funding, all employment opportunities arising in connection with Section 3 covered projects, including management and administrative jobs (including architectural, engineering, or related professional services and jobs directly related to administrative support of these activities) connected with the Section 3 covered project.

RECIPIENT: Any recipient which receives Section 3 covered funding, directly from HUD or from another recipient and includes, but is not limited to, 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, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or

transferee of any such recipient, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include Section 3 contractors.

SECTION 3: Section 3 of the Housing and Urban Development Act of 1968, as amended (12U.S.C.1701u).

SECTION 3 BUSINESS CONCERN: As defined by HUD, a Section 3 Business Concern is one:

- A. That is fifty-one (51%) percent or more owned by Section 3 Residents; or
- B. Whose permanent, full-time employees includes persons, at least 30 percent of whom are current Section 3 Residents, or were Section 3 Residents within three (3) years of the date of first employment with the Business Concern if the contractor is working on a redeveloped or replacement asset; or
- C. That provides evidence of a commitment to subcontract a minimum of 25 percent of the total contract award amount (including any modifications) to Section 3 Business Concern s as defined in A or B. Example: If the Contract Amount is = \$1,000,000, contractor must subcontract at least 25% or \$250,000 to Section 3 Business Concern (s) as defined in A or B in this part.

SECTION 3 CLAUSE: The contract provisions and sanction set forth in 24 CFR 135.38

SECTION 3 COVERED ACTIVITY: Any activity that is funded by Section 3 covered funding.

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;

SECTION 3 COVERED CONTRACT: A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered funding or for work arising in connection with a Section 3 Covered Project. "Section 3 Covered Contracts" do not include contracts for the purchase of supplies and materials except, whenever a contract for materials includes the installation of the materials, the contract constitutes a "Section 3 Covered Contract".

SECTION 3 COVERED PROJECT: 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 funding.

SECTION 3 JOINT VENTURE: 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:

- Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
- Performs at least 25% of the work and is contractually entitled to compensation proportional to its work.

LOW INCOME PERSON: Families (including single persons) whose incomes do not exceed 80% of the median income for the project area.

VERY LOW INCOME PERSON: Families (including single persons) whose incomes do not exceed 50% of the median family income for the project area.

III. GOALS OF THE SECTION 3 REGULATION

The Authority's Section 3 protocol seeks to aid Section 3 residents to the greatest extent feasible in three ways, listed in order of preference:

A. Hiring low- and very low-income workers

Attempt to hire Section 3 residents for at least 30% of the aggregate number of full-time new hires by the Authority and its contractors, with a preference for residents at the development where the work is being performed or in the census tract where the work is being performed.

B. Awarding contracts to Section 3 business concerns

Attempt to award at least 10% 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, to Section 3 business concerns. Attempt to award at least 3% of the total dollar amount of all other Section 3 covered contracts to Section 3 business concerns.

C. Providing other economic opportunities

If the two goals above cannot be met by the Authority or its contractors, other training and employment opportunities can be provided to substitute for goals A and B. Firms may provide other economic opportunities and will be responsible for soliciting and contracting a qualified firm experienced in providing a

Department of Labor Approved curriculum consistent with Section 3 requirements [135.11] in the area of resident training in the following areas:

- Employment Readiness and Professional Development
- Section 3 Small Business Concern Development Training
- Building Construction Trades Training
- Computer Skills Training
- Professional or Trades or Skills Training

These are described further in section VII below.

IV. Authority Responsibilities

The Authority, as the recipient of HUD funding, accepts the responsibility of not only enforcing the Section 3 requirements, but also pro-actively facilitating compliance with Section 3. The Authority may fulfill this responsibility in the following ways:

- A) Notifying Section 3 residents of opportunities through posting job openings in the offices of procurement and community development, and in local media;
- B) Conveying that the contract work is a Section 3 Covered Contract in any advertisement for bids and proposals
- C) Notifying contractors in each pre-bid meeting of the Section 3 requirements;
- D) Incorporating the HUD mandated Section 3 clauses in all contracts;
- E) Providing Resident Certification and Affidavit forms for employment at the Authority offices and allowing applications to be submitted at appropriate County locations;
- F) Encouraging the training of Section 3 residents through the Authority contractors;
- G) Facilitating an opportunity annually for contractors to meet interested Section 3 residents for employment. A list can be developed as a resource for the Authority and contractors when seeking to hire Section 3 workers
- H) Facilitating an opportunity fair annually for small contractors to meet large prime contractors interested in bidding work awarded by the Authority;
- I) Documenting actions taken to comply with Section 3 requirements including all results and impediments;
- J) Reporting annually on its efforts regarding Section 3 implementation (Form-60002);
- K) Refusing to award contracts to businesses or persons who have previously violated Section 3 requirements;
- L) Posting all job sites funded by the Authority with a location or phone number of whom and how to apply for any opportunities for employment, training or contracting.

V. Contractors' Responsibilities in Assisting the Authority in Meeting Its Goals

The 30% new hiring goal and 10% & 3% contracts awarded goal are the only safe harbors whereby a Authority will have complied with Section 3. If the two goals above cannot be met through it contractors and their sub-contractors, other training and employment opportunities can be provided to substitute for those goals, but documentation should be submitted explaining why hiring goals could not be met. If a contractor substitutes economic opportunities for its achievement of the hiring goals, their efforts need to be equivalent to those that would be required to meet those goals. The acceptability of these efforts will be determined by the Authority, or in cases of a complaint, by HUD.

Examples of activities to demonstrate these efforts are distributing or posting flyers advertising positions to be filled, contacting the Authority for a list of Residents list they may have compiled that have expressed interest in Section 3 employment, notify the local Authority about open positions, holding job informational meeting for residents, etc. Contractors must submit with any bid or proposal an action plan describing the implementation of Section 3. Omission of this document with a bid or proposal makes that contractor non-responsive, and therefore ineligible to be awarded a contract.

VI. Preferences and Eligibility

Note: All persons that are recipients of housing assistance by the government are Section 3 Residents and Public housing residents are a top priority Section 3 Resident. The businesses owned by public housing residents are also top priority business concerns. When employment or contracting opportunities are offered and all requirements are met and remain equal, public housing residents/businesses within the Authority shall be provided preference over other Section 3 residents/business concerns and non-section 3 residents/business concerns.

- A) Regarding the hiring of Section 3 residents, Preference shall be given to those residents who live at the project site where the covered assistance is expended. These will be considered Tier I residents. Next Preference shall be given to any resident of any other property owned or managed by the Authority. Last, Section 3 residents from the entire City shall be sought. These will be considered Tier II residents. If no Section 3 residents are available from the project site where the project is located or any other property owned or managed by the Authority, the contractors shall give Preference to any non-Section 3 Resident without regard for their residency. At all times, Authority Residents successfully completing training from any approved training course authorized and recognized by the Authority shall receive a Priority Preference over Tier I residents as a direct reward for their initiative.

- B) Regarding the contracting opportunities for Section 3 business concerns, preference shall be given to business concerns owned at least 51% by any Authority residents of where the project is located and where the covered assistance is expended. Next, any Authority residents of any other property owned or managed by the Authority. Last, Section 3 business concerns that are owned at least 51% by residents of the City shall be sought. If no Section 3 business concern is available from the City where the project is located, the contractors shall give Preference to any non-Section 3 business concern.

- C) Regarding eligibility, a Section 3 resident seeking employment must fulfill the requirements of the sought position and, if asked, must provide evidence of their Section 3 status (e.g., receipt of public assistance, tax return). A Section 3 business concern seeking to win a contract must fulfill the requirements of the contract and, if asked, provide evidence of their Section 3 status.

VII. Other Economic Opportunities

For contracts or all purchase orders, other economic opportunities may only be used where a contractor or sub-recipient can not comply with the hiring or subcontracting goals set forth in the Preference Tier structure in paragraph VI. Whenever the other economic opportunities are employed they must equal or exceed 3% of the total contract value including any change orders.

VIII. Complaints and Compliance

Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity.

The complaint must be in writing and be received within 180 days from the date of the action upon which the complaint is based. It should include the complainant's name and address, the Authority or contractor's name and address, and a description of the acts in question. The complainant will receive a response from HUD within 10 days in which further investigation will be explained.

Included herein by reference...

24 CFR Part 135 – Section 3 Regulation