Understanding Section 3 of the Housing and Urban Development Act

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Section 3 History

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

<table>
<thead>
<tr>
<th>Public and Indian Housing</th>
<th>$7,749 billion</th>
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<tbody>
<tr>
<td>• Public Housing Capital Fund</td>
<td></td>
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<tr>
<td>• Choice Neighborhoods (formerly HOPE VI)</td>
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<tr>
<td>• Public Housing Operating Fund</td>
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<tr>
<td>• Native American Housing Block Grants</td>
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<td>• Native Hawaiian Housing Block Grants</td>
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<table>
<thead>
<tr>
<th>Housing</th>
<th>$1,015 billion</th>
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<tbody>
<tr>
<td>• Housing for the Elderly (202 Grants)</td>
<td></td>
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<tr>
<td>• Housing for Persons with Disabilities (811 Grants)</td>
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<thead>
<tr>
<th>Community Planning and Development</th>
<th>$8,456 billion</th>
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<tr>
<td>• Community Development Block Grant Fund</td>
<td></td>
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<tr>
<td>• HOME Investment Partnerships Program</td>
<td></td>
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<tr>
<td>• Self-Help Homeownership Opportunity Program (SHOP)</td>
<td></td>
</tr>
<tr>
<td>• Housing Opportunities for Persons with Aids (HOPWA)</td>
<td></td>
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<tr>
<th>Lead Hazard Control Grants</th>
<th>$69 million</th>
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<tr>
<th>TOTAL Section 3 Covered Funds</th>
<th>$17,289 billion</th>
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<td>40% of HUDs Budget</td>
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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

THE HOUSING
AUTHORITY of City

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

Section 3 Residents seeking the preference in training and employment provided by this part
shall certify, or submit evidence to the housing authority or subauthority, if required,
that the person is a Section 3 resident, as defined in Section 138.3. (The 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 Residents Seeking Section 3 Preference in Training and
Employment

I, _____________________________________________ am a legal resident of this
__________________________________________________________,
commence with income eligibility guidelines for
__________________________________________________________
My permanent address is: ____________________________________________

I have attached the following documentation as evidence of my status:
- 22 Copy of lease
- 22 Copy of wage statement
- 22 Copy of evidence of participation
- Other evidence

Signature:

Print Name: Date

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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.
CERTIFICATION FOR BUSINESS CONCERN OFFERING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business
__________________________

Address of Business
__________________________

Type of Business □ Corporation □ Partnership
□ Sole Proprietorship □ Trust/Uniform

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
as 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 officials
□ Organizations chart and names and titles □ Additional documentation
□ Brief statement

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to
qualified Section 3 businesses:
□ List of subcontracted Section 3 businesses and subcontracted 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/PHA Residential lease less than $50,000 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 past two years

__________________________ (Corporate Seal)

Authorizing Name and Signature

Attested by _______________________________

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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 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

<table>
<thead>
<tr>
<th>PHAs</th>
<th>Housing &amp; Community Development Assistance</th>
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<tr>
<td>• January 10(^{th}) of each year; or</td>
<td>• Due at time of HUD annual reports (CAPERs);</td>
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<tr>
<td>• Within 10 days of project completion</td>
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Section 3 Complaint Investigations

Form HUD-958
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