



# Homes and Community Renewal

## **SECTION 3**

# **Policies and Procedures Manual**

**Andrew M. Cuomo, Governor of New York State**  
**RuthAnne Visnauskas, Commissioner**

November 2017

This manual represents the current version of the New York State Homes and Community Renewal's guidance for the operation of its Section 3 Program. This Policies and Procedures Manual will be reviewed periodically and will be updated as needed. HCR will use its best efforts to keep all of its Manual current. Therefore, you are strongly urged to visit our website <http://www.nyshcr.org> to ensure that this is the latest version, as there may be times when a policy or procedure will change before the Manual can be revised.

## TABLE OF CONTENTS

<b>Section 3 Definitions .....</b>	<b>3</b>
<b>HCR Section 3 Policies .....</b>	<b>5</b>
Overview .....	5
Section 3 Thresholds and Triggers .....	6
<b>Section 3 Goals.....</b>	<b>6</b>
<b>Section 3 Eligibility &amp; Certifications .....</b>	<b>8</b>
Section 3 Resident.....	8
Section 3 Business Concerns .....	9
<b>HCR Section 3 Procedures.....</b>	<b>9</b>
Procurement .....	9
HCR Section 3 Coordinator.....	9
Section 3 Monitoring & Compliance .....	10
<b>Awardee, Contractor and Subcontractor Section 3 Procedures.....</b>	<b>11</b>
Training and Employment Opportunities for Section 3 Residents .....	11
<b>Section 3 Outreach Best Practices.....</b>	<b>13</b>
Contracting with Section 3 Business Concerns .....	15
Procurement.....	15
Contract Execution .....	16
The Section 3 Participation Plan.....	16
Awardees Section 3 Coordinator.....	16
Quarterly Reporting.....	16
Contract Close-Out .....	17
<b>Section 3 Grievance Process .....</b>	<b>18</b>

## SECTION 3 DEFINITIONS

**Awardee** - The recipient of an HCR award subject to the provisions of Section 3.

**Category 1 & 2 Residents** – In Public and Indian Housing programs, all efforts shall be directed to provide training and employment opportunities to Section 3 residents in the following order of priority:(i) Residents of the housing development or developments for which the Section 3 covered assistance is expended (category 1 residents); or (ii) Residents of other housing developments managed by the Housing Authority that is expending the Section 3 covered housing assistance (category 2 residents).

**Contractor** - Any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or work in connection with a Section 3 covered contract.

**First Source Hiring** - First source hiring ordinances, contract clauses, and related agreements seek to provide meaningful employment opportunities to residents living within communities most directly impacted by local development projects. First source hiring initiatives seek to ensure that local residents receive a fair share of the economic benefits of public development projects.

**HUD** –United States Department of Housing and Urban Development.

**Low- Income** – Individuals and families whose incomes do not exceed 80 per cent of the median income for the area. The HUD Secretary can make adjustments for smaller and larger families, or make exceptions to the income ceilings that are either higher or lower than 80 percent of the median for the area. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

**New Hire** – Full-time employees for permanent, temporary or seasonal employment created as a direct result of the expenditure of Section 3 covered financial assistance.

**Section 3** - Section 3 of the Housing and Urban Development Act of 1968 as found at 12 U.S.C. 1701u.

**Section 3 Business Concern** – A Business Concern that meets the following criteria:

1. 51% or more owned by Section 3 resident(s); or
2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or during the three years of the date of first employment with the business concern were Section 3 residents, or

3. Any Business Concern that commits to subcontract over 25% of the total dollar award of all their subcontracts to Section 3 Business Concerns that meet the qualifications set forth in (1) or (2) of this paragraph.

**Section 3 Contract Clause** – The contract provisions that bind parties to make the “greatest extent feasible” efforts to adhere to the Section 3 program as set forth in Section 24 CFR 135.38.

**Section 3 Covered Contracts** – 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 assistance, 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. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

**Section 3 Plan** – A comprehensive document that identifies the goals, objectives, and actions that will be implemented by Awardees and/or Contractors to ensure compliance with the requirements of Section 3. The plan identifies a list of strategies to be adopted for compliance with the stated employment, training and contracting goals.

**Section 3 Resident** - A public housing resident, a “low-income” individual, or a “very-low income” individual as defined herein.

**Step-Up Employment Program** – A “Step-Up” employment program is a new national program developed by HUD with the cooperation of the Department of Labor and the National Association of Housing and Redevelopment Officials (NAHRO) to provide job and job training opportunities on HUD-assisted construction to residents of public housing and other low-income people.

**Subcontractor** - Any entity which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very Low- Income** - Families (including single persons) whose incomes do not exceed 50 per cent of the median income for the area. The HUD Secretary can make adjustments for smaller and larger families, or may establish income ceilings that are higher or lower than 50 percent of the median for the area. Local income levels can be obtained online at:

<http://www.huduser.org/DATASETS/il.html>.

## HCR SECTION 3 POLICIES

### OVERVIEW

“Section 3” refers to a provision of the Housing and Urban Development Act of 1968.<sup>1</sup> It is a means by which the United States Department of Housing and Urban Development (HUD) fosters neighborhood economic development and individual self-sufficiency.

More specifically, the purpose of 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, 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.

### **Section 3 is the LAW, it is not an option.**

Section 3 applies to the following HUD assistance:

(1) Public and Indian housing assistance - Training, employment, contracting and other economic opportunities arising from the expenditures of the following public and Indian housing assistance: development assistance, operating assistance, and modernization assistance.

(2) Housing and community development assistance - Training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects: housing rehabilitation (excluding routine maintenance), housing construction, and public construction.<sup>2 3</sup>

Therefore, any HUD assistance deriving from the following programs may be subject to Section 3’s provisions:

- Community Development Block Grants (CDBG) & Community Development Block Grants – Disaster Recovery (CDBG-DR)
- Home Investment Partnership
- Housing Opportunities for Persons with Aids (HOPWA)

---

<sup>1</sup> 12 U.S.C. 1701u. Implementing regulations can be found at 24 CFR 135 et al.

<sup>2</sup> 24 CFR 135 (a) (2) (i) – (iii).

<sup>3</sup> Housing and community development assistance used for acquisition, routine maintenance, operations, administrative costs, and project rental assistance contracts (PRAC) are exempt from compliance with Section 3 because these activities are not considered “construction” or “rehabilitation” activities.

- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled

### SECTION 3 THRESHOLDS AND TRIGGERS

The requirements of Section 3 apply to recipients of HUD funding for Section 3 covered project(s) in which the amount of the assistance is in excess of **\$200,000**.<sup>4</sup>

Contractors and Subcontractors are also subject to Section 3's requirements when performing **any** type of activity on Section 3 covered projects for which the amount of funding is in excess of \$200,000 and the contract or subcontract exceeds **\$100,000**.<sup>5</sup>

If a recipient receives Section 3 covered housing construction or public infrastructure or community development assistance in excess of \$200,000, but no individual contract exceeds \$100,000, Section 3 requirements will only apply to the recipient (e.g. hiring and training goals).

### SECTION 3 GOALS

When Section 3 is triggered by the thresholds above, all parties must attempt, to the "greatest extent feasible," to meet the minimum numerical goals as follows:

- ▶ At least **30%** of all new hires must be Section 3 Residents; and
- ▶ At least **10%** of the total dollar amount of all Section 3 covered contracts for housing rehabilitation, construction, and other public construction should be awarded to eligible Section 3 Business Concerns; and,
- ▶ At least **3%** of the total dollar amount of all Section 3 covered non-construction (e.g., professional services) contracts should be awarded to eligible Section 3 Business Concerns.<sup>6</sup>

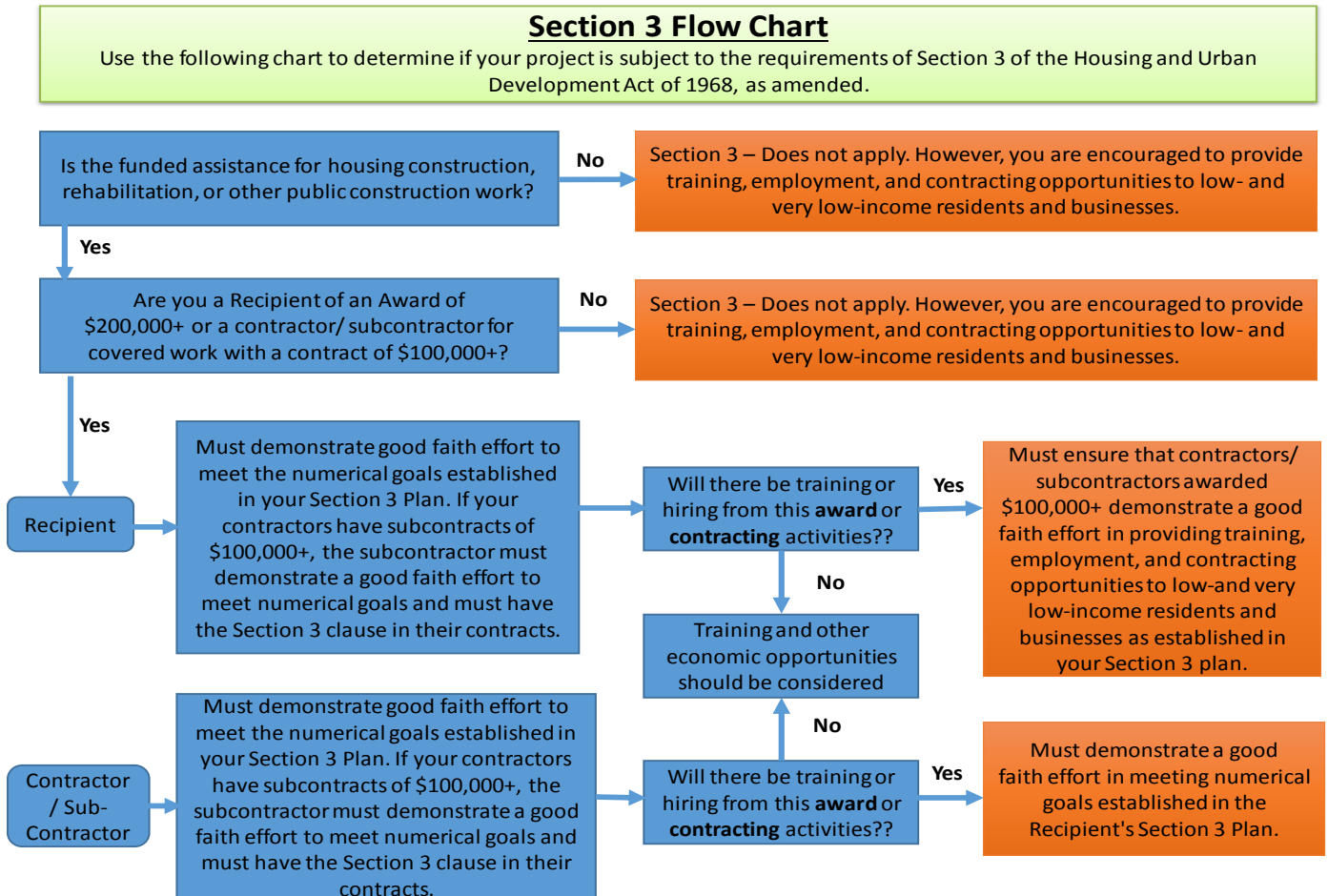
---

<sup>4</sup> See 24 CFR 135.3 (a) (3) (ii).

<sup>5</sup> 24 CFR 135.3 at 135 (3) (ii) (B).

<sup>6</sup> *Id.* at 135.30 (b) (1).

The following “Section 3 Flowchart”, as found at <https://www.hudexchange.info/resources/documents/Section3FlowChart.pdf>, is provided to guide HCR Awardees, Contractors, and Subcontractors in determining whether their projects are subject to Section 3 requirements:



**Section 3 requirements apply to the entire project or activity funded with Section 3 covered assistance, regardless of whether the Section 3 activity is fully or partially funded with Section 3 covered assistance.**

As previously noted, Section 3 requirements apply to the entire project regardless of whether the project is fully or partially funded with Section 3 assistance. For example, assume Contractor X's total project cost is \$1 million. HCR awards Contractor X \$250,000 from HUD's CDBG Program. However, the remaining \$750,000 is funded from non-HUD resources. Because Contractor X accepted \$250,000 of Section 3 covered assistance, it is now responsible for meeting the minimum Section 3 employment and contract goals for the entire \$1 million allocation – not just the \$250,000 HUD grant.

## SECTION 3 ELIGIBILITY & CERTIFICATIONS

Any resident or business seeking consideration for training, employment or contracting opportunities generated by Section 3 funds must be eligible for and certify that it meets the criteria of a Section 3 Resident or Section 3 Business Concern. Section 3 Business Concerns can apply for certification if they meet the criteria as defined in the HUD Section 3 portal which can be accessed at the following website url: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/AmISection3>.

## SECTION 3 RESIDENT

Section 3 Residents are defined as:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the Metropolitan Area or Nonmetropolitan County in which the Section 3 covered assistance is expended and meet the criteria of low- or very low-income.<sup>7</sup> Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

A resident who meets the eligibility requirements and seeks the Section 3 preference in training and employment opportunities shall certify, or submit evidence (if requested) to HCR, its Awardees, Contractors or Subcontractors that he or she qualifies as a Section 3 resident.<sup>8</sup>

An example of evidence of eligibility for the preference is a receipt of public assistance, or evidence of participation in a public assistance program. A sample Section 3 Certification Form for Section 3 Residents is available at the following website url: [http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Downloads/Exhibit2\(2\).pdf](http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Downloads/Exhibit2(2).pdf)

---

<sup>7</sup> What constitutes "Low" and "Very Low" Income is defined in the "Definition" Section above.

<sup>8</sup> *Id.* at 135.34 (b).



## SECTION 3 BUSINESS CONCERNS

Section 3 Business Concerns are one of the following:

1. Businesses that are 51 percent or more owned by Section 3 residents; or
2. Businesses 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 firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

Similar to Section 3 Residents, businesses that seek Section 3 preference shall certify, or submit evidence (if requested) to HCR, its Awardees, Contractors or Subcontractors verifying that they meet the definitions provided in the above.

## HCR SECTION 3 PROCEDURES

### PROCUREMENT

All Requests for Proposal (RFP)/Notice of Funding Availability (NOFA) issued by HCR will include general information regarding Section 3 and if applicable, the HUD Section 3 clause, and a Section 3 brochure.

### HCR SECTION 3 COORDINATOR

The Section 3 Coordinator may be able to assist Section 3 recipients by:

- Encouraging Awardees to utilize the HUD Business Concern Registry as a means of identifying certified Section 3 Business Concerns throughout the State of New York;
- Facilitating contact with local housing authorities, social service agencies, etc. to assist Contractors, Subcontractors and Awardees with identifying Section 3 Residents;
- Raising awareness among Section 3 Residents about their eligibility for training and employment opportunities;
- Raising the awareness among Section 3 Business Concerns about their eligibility for contracting opportunities;
- Providing technical assistance to Contractors, Subcontractors and Awardees during the process of developing a Section 3 Plan;

- Reviewing Awardee, Contractor and Subcontractor Section 3 Plans for sufficiency;
- Overseeing the implementation of all Section 3 Plans;
- Managing education and outreach efforts in order to ensure that all parties meet their Section 3 obligations; and,
- Collecting and aggregating data to properly report HCR's progress to HUD.

The Section 3 Coordinator will review the Section 3 Plans and advise program staff upon approval of the submitted plan.

### SECTION 3 MONITORING & COMPLIANCE

HCR maintains documentation to demonstrate compliance by the agency, Awardees, Contractors and Subcontractors with Section 3 requirements. In order to ensure compliance, HCR will periodically evaluate the activities and performance of its partners. Evaluation criteria will include:

- Actual hiring, in relation to goals;
- Actual contracting (in terms of numbers of contracts and contract value), in relation to goals;
- Efforts to meet the Section 3 requirements;
- Whether the dollar amount of the contract exceeds the threshold requirements of Section 3;
- Whether the contract is likely to generate jobs or business contract opportunities; and
- Whether or not complaints have been raised.

If an Awardee, Contractor and/or Subcontractor fails to meet the goals established in their Section 3 Plan, the Section 3 Coordinator will promptly send written notice of non-compliance. Parties will be given an opportunity to respond to findings or concerns identified and must take corrective action as needed.

If the non-compliant party does not cooperate with the Section 3 Coordinator, "failure to comply" proceedings may take place.

## AWARDEE, CONTRACTOR AND SUBCONTRACTOR SECTION 3 PROCEDURES

Awardees are responsible for their Contractors and Subcontractors' activities.<sup>9</sup> It is therefore critical that all stakeholders comply with the requirements of Section 3. When an LPA is unable to meet the required Section 3 goals they must document all good faith efforts to direct employment and other economic opportunities toward low- and very low-income persons and provide a narrative of the outcome.

## TRAINING AND EMPLOYMENT OPPORTUNITIES FOR SECTION 3 RESIDENTS

Awardees, Contractors and Subcontractors must make "greatest extent feasible" efforts to train and employ Section 3 residents. This includes, but is not limited to:

- (1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- (3) Establishing training programs, that are consistent with the requirements of the New York State Department of Labor (DOL), for public and Indian housing residents and other Section 3 residents in the building trades.
- (4) Advertising the training and employment positions by posting opportunities with the public employment system, such as DOLs New York State Job Bank and Jobs Express.
- (5) Advertising the training and employment positions by distributing flyers (identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where Category 1 or 2 Residents live.
- (6) Advertising the training and employment positions by posting flyers (identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For housing authorities (HA), post such advertising in the housing development or developments where Category 1 or 2 Residents live; for all other recipients, post such advertising in the housing

---

<sup>9</sup> 24 CFR § 135.32.

development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.

(7) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where Category 1 or 2 Residents live, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(8) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a HA or contractor representative or representatives at a location in the housing development or developments where Category 1 or 2 Residents live or in the neighborhood or service area of the Section 3 covered project.

(9) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where Category 1 or 2 Residents live and in the neighborhood or service area in which a Section 3 project is located.

(10) Arranging for a location in the housing development or developments where category 1 or 2 Residents live, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative(s).

(11) Conducting job interviews at the housing development or developments where low- and very-low income individuals reside, or at a location within the neighborhood or service area of the Section 3 covered project.

(12) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(13) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

(14) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement, that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(16) For a HA, employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as “force account labor” in HUD’s Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)

(17) Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.

(18) Partnering with local educational institutions who are conducting job counseling, education and related programs.

(19) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

(20) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.

(21) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

### SECTION 3 OUTREACH BEST PRACTICES

Awardees, Contractors and Subcontractors must, as stated throughout this Section 3 Policy and Procedure Manual, exert “greatest extent feasible” efforts to identify and provide opportunities to Section 3 Residents and Business Concerns.

Best practices to provide training and employment opportunities to Section 3 Residents include:

- Clearly indicate on all job applications and websites for job postings that the position is “A Section 3 eligible job opportunity.”

- Request current list of Section 3 eligible applicants and certified Section 3 businesses from housing authorities and other HUD funded agencies.
- Advertise job and subcontracting opportunities in local, community papers and job boards in impacted areas and communities.
- Partner with the NYS Department of Labor's Division of Employment and Workforce Solutions (<http://labor.ny.gov/dews-index.shtm>) to promote special advertisement of Section 3 job postings and opportunities.
- Contact local community organizations (e.g. faith-based organizations, community centers, organizations that serve adult special needs population, etc.) and provide them with job postings for Section 3 eligible applicants.
- Word-of-Mouth – ask others to refer qualified applicants to your firm.
- Through the usage of social media including Facebook, Twitter, etc.

Best practices to recruit and award Section 3 Business Concerns include:

- Advertise contracting opportunities via newspaper, mailings, and/or post notices that provide general information about the work to be contracted and where to obtain additional information.
- Provide written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice should be provided in sufficient time to enable Business Concerns the opportunity to respond to the bid invitation.
- Coordinate pre-bid meetings at which the Section 3 Business Concerns would be informed of upcoming contracting opportunities in advance.
- Conduct workshops on contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner, in an effort to allow Section 3 Business Concerns the opportunity to take advantage of any upcoming contracting opportunities.
- Contact Minority and Women's Business Enterprise (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 Business Concerns.

- Establish relationships with the United States Small Business Administration (SBA), Community Development Corporations, and other sources as necessary to assist with educating and mentoring residents with a desire to start their own businesses.
- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training and mentoring so residents may obtain necessary skills that will transfer into the external labor market.
- Develop resources or seek out training to assist residents interested in starting their own Business Concerns to learn to prepare contracts, prepare taxes, and obtain licenses, bonding, and insurance.

## CONTRACTING WITH SECTION 3 BUSINESS CONCERNS

### PROCUREMENT

Numerous activities should be undertaken by Awardees, Contractors and Subcontractors to assist in directing opportunities towards Section 3 Business Concerns as a part of their selection and procurement process. It is the responsibility of Awardees, Contractors and Subcontractors to make active efforts to comply with Section 3.

These procurement responsibilities include, but are not limited to:

- The inclusion of Section 3 language in all RFPs, procurement documents, bid offerings and contracts;
- Notifying HCR's Section 3 Coordinator prior to the release of solicitations or procurements so that feedback can be provided with regards to Section 3 activities; and
- When feasible, the participation of HCR's Section 3 Coordinator or her/his designee at pre-bid meetings to explain and answer questions related to the Section 3 policy.

Each bidder/proposer must include a Section 3 Participation Plan which indicates its commitment to meet resident hiring and Business Concerns contracting requirements. It is the policy of HCR that it will not provide a funding commitment for any funding source that triggers Section 3 requirements until there is an approved Section 3 Participation Plan in place. For all applicable assistance, HCR will require the submission of a completed Section 3 Plan as a schedule to a funding agreement. Required Section 3 Plans will be reviewed and approved by FEHO Section 3 Coordinator or designee for completeness at the time of submission, prior to contract execution.

## CONTRACT EXECUTION

The “Section 3 Contract Clause” specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Contract Clause must be included in all Section 3 covered project contracts whether those of HCR, its Awardees, Contractors or Subcontractors.

Regardless of the method of procurement used, the solicitation of bids/proposals and the final contract documents must include notice of Section 3 obligations. The Awardee, Contractor and Subcontractor must develop and grant preferences to those contractors that provide economic opportunities to Section 3 Residents and Business Concerns.

## THE SECTION 3 PARTICIPATION PLAN

Awardees, Contractors and Subcontractors must develop a Section 3 Participation Plan. The Participation Plan states how the awardee intends to comply with Section 3. The plan identifies the goals, objectives and actions that will be implemented. The Section 3 Plan also pinpoints a list of strategies to be adopted for compliance with employment, training and contracting goals’ will also provide training to assist with the development and execution of Section 3 Plans.

Awardees, Contractors and Subcontractors may develop their own participation plan for FEHO approval or use the program template provided at:

[http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Section3\\_reference.htm](http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Section3_reference.htm).

## AWARDEES SECTION 3 COORDINATOR

Awardees, Contractors and Subcontractors must designate their own Section 3 Coordinator to serve as a point of contact for HCR. This individual is responsible for ensuring compliance with the requirements of Section 3 for their portion of the contract.

## QUARTERLY REPORTING

All Awardees, Contractors and Subcontractors must submit to HCR a quarterly report capturing their efforts to comply with the provisions of Section 3.

These reports must be submitted to HCR in the format and timeframe provided. More specifically, the Awardee, Contractor or Subcontractor must track and report the following:

1. The efforts made to direct employment and other economic opportunities generated to Section 3 Residents and Business Concerns;
2. The total number of employees working on the project;
3. The total number of employees working on the project that meet Section 3 requirements;



4. The total number of new hires/trainees hired to work on the project;
5. The total number of new hires/trainees hired that meet Section 3 requirements listed by trade/profession;
6. The number of hours worked on the project by all employees; and,
7. The number of hours worked on by new hires/trainees.

Recipients that fail to meet the numerical goals above bear the burden of demonstrating why it was not possible. This includes describing the efforts that were taken, barriers encountered, and any other relevant information that will allow HCR to make a determination regarding compliance. It is important to note that there is no waiver for compliance, or a lack thereof, with Section 3 mandates.

In some cases, meeting the goals may not be possible. In such cases the reporting party must also submit a description of their efforts to comply with the Section 3 goals to demonstrate progress. In addition to outreach and training efforts, Awardees, Contractors, and Subcontractors may also consider providing documentation of programs undertaken which provide additional economic opportunities to Section 3 Business Concerns and Section 3 Residents.

HCRs Section 3 Coordinator can provide technical assistance to its Awardees, Contractors and Subcontractors in completing the quarterly report. It is important to document all efforts and activities related to Section 3 compliance and demonstrated efforts to achieve the hiring and contracting goals.

## CONTRACT CLOSE-OUT

After the contract scope has been completed, the HCR Section 3 Coordinator will conduct an exit interview with all parties that have not met the goals as prescribed herein. During this meeting, the Awardee, Contractor or Subcontractor will discuss and provide documentation of efforts to meet the hiring and contracting goals.

As part of this process, the HCR Section 3 Coordinator will collect and record “proof” of proactive steps taken by the party to meet the Section 3 requirement goals. Such documentation is collected in order to determine whether the Awardee, Contractor or Subcontractor actually exerted “greatest extent feasible” efforts as required by law. If a determination is made that the efforts exerted were insufficient and/or the party acted in bad faith, such Awardee, Contractor or Subcontractor may be found to be in violation of the regulations in 24 CFR part 135. Such violations may result in sanctions or other penalties, as applicable.

## SECTION 3 GRIEVANCE PROCESS

Any Section 3 Resident or Business Concern may file a complaint alleging noncompliance with Section 3 by an Awardee, Contractor or Subcontractor.

A written complaint must contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HCR, Awardees, Contractors or Subcontractors);
- Description of acts or omissions in alleged violation of Section 3; and
- Statement of corrective actions sought.

Upon receipt of a written complaint, HCR will investigate the specific allegations of the complaint and render a finding. Complaints will be investigated and appropriate measures will be sought. In certain instances, relief will be granted.

The complainant shall have appeal rights to the Secretary of HUD concerning any HCR decision. Appeals must be submitted to HUD within one hundred and eighty (180) days of the action or omission upon which the complaint is based.

Written complaints against HCR Awardees, Contractors or Subcontractors shall be filed with:

New York State Homes & Community Renewal  
Fair and Equitable Housing Office, Section 3 Coordinator  
38-40 State St., Hampton Plaza, Albany, NY 12207  
(518) 473-3089 | feho@nyshcr.org

In addition to the venues above, Section 3 Residents and Business Concerns may also seek judicial relief.