

Bloomington Housing Authority



## **Section 3 Policy Manual**

*A guide to the section 3 policies and procedures*

*Revised September 17, 2009*

*Resolution #2009-22*

1007 N. Summit St. Bloomington, IN 47404

Phone (812) 339-3491 Fax (812) 339-3491

[www.bhaindiana.net](http://www.bhaindiana.net)

## I. Background on the Section 3 Program

Section 3 is a policy mandated by the United States Congress. It refers to the third section of the Housing Act of 1968, as amended by section 915 of the Housing and Community Development Act of 1992. 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 toward 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.”

Consistent with 24 CFR Part 135, as a recipient of HUD Public and Indian Housing funding, the Bloomington Housing Authority (BHA) 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 construction. The BHA 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 BHA utilizes section 3 as a means of promoting its mission of offering “supportive services that foster stability and self-sufficiency.”

## II. Statement of Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the BHA to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low and very-low income persons.

## III. General Policy Statement

It is the policy of the Bloomington Housing Authority (BHA) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran’s or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The Housing Authority of Bloomington implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the BHA and other qualified low and very low-income persons.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of BHA residents and other eligible persons and business by BHA contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The BHA shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to BHA residents prior to acting on any proposed contract award.

#### IV. Definitions

A) *Low-income person*: families (including single persons) whose incomes do not exceed 80% of the median income for the area

B) *Very low-income person*: families (including single persons) whose incomes do not exceed 50% of the median family income for the area

C) *Section 3 business concern*: a business entity formed in accordance with State law that is either a) 51% or more owned by section 3 residents, b) employing full-time at least 30% section 3 residents, or c) providing evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to businesses that meet the description of section 3 business concern in sections *a* or *b* of this paragraph.

#### V. Goals of the Section 3 Program

The section 3 program 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 at least 30% of the aggregate number of full-time new hires by the BHA and its contractors must be section 3 residents, with a preference for residents at the development 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.

C) *Providing other economic opportunities*

If the two goals above cannot be met by the BHA or its contractor, other training and employment opportunities can be provided to substitute for goals A and B. These are described further in section VII below.

## VI. Bloomington Housing Authority Responsibilities

The BHA, as the recipient of Public and Indian Housing funding, accepts the responsibility of not only enforcing the section 3 requirements, but also pro-actively facilitating compliance with section 3. The BHA fulfills this responsibility in the following ways:

- A) Notifying section 3 residents of opportunities through posting job openings in the office lobby, quarterly newsletter, the resident building where the Bloomington Housing Authority Resident Council resides, and in local media;
- B) Notifying contractors in each pre-bid meeting of the section 3 requirements;
- C) Incorporating the section 3 clause in all contracts;
- D) Providing applications for employment at the BHA front desk and allowing applications to be submitted at same location;
- E) Encouraging the training of section 3 residents through support of the BHA Resident Council.
- F) Providing an employment application to interested section 3 residents (upon admittance to public or section 8 housing) which is kept on file as a resource for the BHA and contractors when seeking to hire section 3 workers;
- G) Documenting actions taken to comply with section 3 requirements;
- H) Reporting annually on its efforts regarding section 3 implementation (see form HUD-60002 Attachment B);
- D) Refusing to award contracts to businesses or persons in prior violation of section 3 requirements.

## VII. Contractor Responsibilities

The 30% hiring goal and 10% contracts awarded goal are the only safe harbors whereby a contractor will have complied with section 3. If the two goals above cannot be met by the contractor, other training and employment opportunities can be provided to substitute for those goals, but documentation should be submitted explaining why those numerical goals could not be met. If a contractor substitutes economic opportunities for its achievement of the numerical 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 BHA, or in case of a complaint, by HUD.

Recommended activities to demonstrate these efforts are listed in the appendix to part 135 of the Code of Federal Regulations—24 CFR Part 135 (see Attachment C). Section I of this document applies to fulfilling the first goal of hiring 30% section 3 residents, and section II applies to fulfilling the second goal of awarding 10% of contracts to section 3 business concerns. Examples include distributing or posting flyers advertising positions to be filled, contacting the Bloomington Housing Authority Resident Council 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 (see Attachment D). Omission of this document with a bid or proposal makes that contractor non-responsive, and therefore ineligible to be awarded a contract.

### VIII. Preferences and Eligibility

- A) Regarding the hiring of section 3 residents, preference shall be given to those residents who live in the complex where the covered assistance is expended. Next, section 3 residents from other complexes shall be sought. If no section 3 residents are available from the complexes, the BHA and the contractors shall give preference to any section 3 resident.
- B) Regarding the contracting opportunities for section 3 business concerns, preference shall be given to business concerns owned at least 51% by residents of the complex where the covered assistance is expended. Next, section 3 business concerns that are owned at least 51% by residents of other complexes shall be sought. If no section 3 business concern is available from the complexes, the BHA and the contractors shall give preference to any 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.

### IX. 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 at the following address:

Assistant Secretary for Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
Washington, D.C. 20410

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 BHA 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.

#### X. Attachments

- A) Section 3 Contract Clause
- B) HUD Form 60002 – Section 3 Summary Report
- C) 24 CFR Part 135 – Section 3 Regulations
- D) Affirmative Action Plan Implementing Section 3

ATTACHMENT A) Section 3 Contract Clause

**SECTION 3 CLAUSE**

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implements Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
  
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7 (b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organization and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7 (b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7 (b).

ATTACHMENT B) HUD Form 60002 – Section 3 Summary Report

[http://www.hud.gov/offices/lead/library/lead/Section3\\_Form.pdf](http://www.hud.gov/offices/lead/library/lead/Section3_Form.pdf)

ATTACHMENT C) Link to 24 CFR Part 135 – Section 3 Regulations

<http://www.ecfr.gov/cgi-bin/retrieveECFR?SID=20d035cbeb51d757ce791b31bac627a5&n=24y1.2.1.2.10&r=PART&ty=HTML>

D) Affirmative Action Plan Implementing Section 3

**Affirmative Action Program Implementing Section 3  
of the Housing and Urban Development Act of 1968**

I. DETERMINATION – PROJECT AREA BOUNDRIES

A. Address of Proposed Project:

Bloomington Housing Authority  
Bloomington, Indiana, Monroe County

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

B. Below, indicate whether this project is located in an Urban Renewal Area, Neighborhood Development Program Area, Model Cities Area, Metropolitan Development Plan Area or Indian Reservation.

Yes (Specify) \_\_\_\_\_

If yes, the project area for purposes of this Section 3 Affirmative Action Plan is coextensive with boundaries of the Urban Renewal, NDP, Model Cities, Metropolitan Development Plan or Indian Reservation boundaries. (Exception 701 Projects; see Toote/Meeker memo notice dated 7/1/74).

No. If no, specify the smallest political jurisdiction within the project is located (i.e. name of township, city, county, village, county, etc.):

**State of Indiana, City of Bloomington, County of Monroe.**

The project area for purposes of this Section 3 Affirmative Action Plan is coextensive with the political jurisdiction specified above,

C. Based on the information given in Columns 1, 2 and 3 (Table B), and the availability of eligible business concerns within the project area doing business in professions or occupations identified set forth goals for the number of contracts to be awarded to eligible project area businesses in Column 4 and for the approximate dollar amount to be awarded to project area businesses in Column 5. Eligible project area businesses will be utilized to the greatest extent feasible.

II. SPECIFIC AFFIRMATIVE ACTION STEPS

\_\_\_\_\_ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and project area businesses.

A. To ascertain from the HUD Area Office Director the exact boundaries of the Section 3 covered project area and while advantageous, seek the assistance of local officials of the Department in preparing and implementing and affirmative action plan.

B. To attempt to recruit from the appropriate areas the necessary number of lower income residents through; local advertising media, signs placed at the proposed

site for the project, signs placed at community organizations and public or private institutions operating within or serving the project area such as; Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, U.S. Employment Service

- C. To maintain a list of all lower income area residents who have applied wither on their own or on referral from any source, and to employ such persons. If otherwise eligible and if a vacancy exists.
- D. To insert this affirmative action plan in all bid documents, to require all bidders to submit a Section 3 negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- E. To insure that contracts which typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let on a Section 3 covered project area.
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G. To insure that all appropriate project area business concerns are notified of pending contractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint our recruit and executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 affirmative action plan.
- J. To list on Table C, all projected workforce needs for all Phases of this project by occupation, trade, skill level and number of positions.

As officers and representatives of \_\_\_\_\_(Company) we the undersigned have read and fully agree to this Affirmative Action Plan, and become a party of the fully implementation of this program.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)



**TABLE C**  
**ESTIMATED PROJECT WORKFORCE BREAKDOWN**

<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>	<b>COLUMN 4</b>	<b>COLUMN 5</b>
<b>Job Category</b>	<b>Total estimate Positions</b>	<b># Positions currently Occupied by permanent Employees</b>	<b># Positions not completely occupied</b>	<b># Positions to be filed with L.I.P.A.R*</b>
Professionals				
Technicians				
Housing Sales/ Rental Management				
Office Clerical				
Service Workers				
Others				
Trade				
Journeyman				
Helpers				
Apprentices				
Maximum Trainees				
Others				
Trade				
Journeyman				
Helpers				
Apprentices				
Others				
Maximum Trainees				
Trade				
Journeyman				
Helpers				
Apprentices				
Others				
Maximum Non-Trainees				
Others				
TOTAL				

L.I.P.A.R. (Lower Income Area Residents)

Individuals residing within the Section 3 project area boundaries whose family income does not exceed 90% of the median income of the Standard.