

**What is Section 3 & How Do I Comply?**  
**Technical Assistance Training**  
For  
**Housing Authority Associations & Community Development Officials**



Motivation, Inc.


Presented by  
**Motivation, Inc.**  
A Real Estate Consulting Company

**J. Keith Swiney, President/CEO**

- Experience with Section 3 Since 1997
- Work with Contractors to Meet Compliance
- Department of Labor Approved Training Materials and Service Providers
- Create and Support Section 3 Business Concerns
- Provide On-Site Service to Recipients
- Free One Year Follow-up is Standard on all Resident Training and Consulting Contracts

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**What is Section 3?**



Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency.

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**The Definition of Section 3**

The Section 3 program requires that recipients of certain financial assistance, to the greatest extent feasible, provide **Job Training, Employment**, and **Contracting** opportunities for low-income residents/persons in connection with projects and activities in their neighborhoods

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**What This Means to You?**

Section 3 is all about:

**Geography** and **Income**

The closer a Section 3 person lives to where the money is being spent, the higher the priority should be to provide them the opportunity to benefit from the project.

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**What This Means to You?**

Section 3 is:

**Gender** and **Race**

**Neutral**

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### What programs are covered?



Section 3 applies to HUD funded expenditures from Public and Indian Housing assistance for:

- **Development**
- **Operations**
- **Modernization**

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### What Contracts are Affected by Section 3?

Contracts and subcontracts for:

- There are no thresholds for Public and Indian Housing assistance. Section 3 applies to all activities regardless of the dollar amount
- The requirements also apply to all contractors regardless of the dollar amount of the contract [ § 135.3(3)]

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### What programs are covered?



Section 3 applies to HUD funded Community Development Program funds provided to state and local governments for:

- **Housing Rehabilitation**
- **Housing Construction**
- **Other Public Construction Projects**

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### What Multi-Family (MF) programs are covered?

Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an **aggregate of 500 or more units** in any fiscal year, the managing partner or management agent **may** demonstrate compliance by committing to employ section 3 residents as:

- 30% of the aggregate number of new hires

**MF Mortgagers must provide Preference to Section 3 Business Concerns** [135.11(2)]

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### What Contracts are Affected by Section 3 for H&CD Recipients?

#### Housing and Community Development Assistance

(A) *Recipient thresholds* [135.3(3)(ii)]

The requirements of this part apply to Recipients of other housing and community Development programs for which the amount of the assistance exceeds \$200,000.

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### What Contracts are Affected by Section 3 for Housing & Community Development Recipients?

(B) *Contractor and subcontractor thresholds* [135.3(3)(ii)]

The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

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### What Contracts are Affected by Section 3 for Housing & Community Development Recipients?

(C) *Threshold met for recipients, but not  
contractors or subcontractors.*

If a recipient receives section 3 covered  
Housing or community development  
assistance in excess of \$200,000, but no  
contract exceeds \$100,000, the section 3  
preference requirements only apply to the  
recipient. [135.3(3)(C)]

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### What Contracts are Affected by Section 3 for Housing & Community Development Recipients?

A State or county which distributes  
funds for section 3 covered assistance  
to units of local governments, to  
the greatest extent feasible, must attempt  
to reach the numerical goals set  
forth in 135.30 regardless of the number  
of local governments receiving funds  
[135.32(f)]

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### What Contracts are Affected by Section 3 for Housing & Community Development Recipients?

The State or county must inform units of local  
government to whom funds are distributed of  
the requirements of Section 3.

Assist local governments and their contractors  
in meeting the requirements and monitor the  
performance of local governments with  
[135.32(f)]

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### The Entire Project is Encumbered Despite Funding Sources

Applicability of Section 3 on the entire project.  
[135.3(3)(C)(b)]

The entire project or activity that is funded  
with section any 3 covered assistance is then  
fully encumbered. **Example:** A \$20,000,000  
project has only \$200,000 of HUD covered  
Funding. The entire \$20,000,000 is then  
covered and must be calculated into any 25%,  
10% or 3% contract goals.

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### What The Section 3 Regulation Doesn't Tell You?

There are two major areas of concern when  
addressing Section 3 at ground level:

- 1.State and Local Procurement Laws
- 2.Labor (Union) Contracts

#### 1.State and Local Procurement Laws

•Business concern means a business entity  
formed in accordance with State law, and  
which is licensed under State, county or  
municipal law to engage in the type of business  
activity for which it was formed.

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### What The Section 3 Reg. Doesn't Cover Well?

There are two major areas of concern when  
addressing Section 3 at ground level:

#### 2.Unions and Labor Contracts

- There is **limited** mention of Labor Unions in  
the entire regulation
- See the Section 3 Clause 135.38(C)
- Apprenticeship programs are covered in:  
• **§ 135.11 (2) (d) Other laws governing  
training, employment, and contracting**

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### What The Section 3 Reg. Doesn't Cover at ALL?

There is no mention or relationship of:

1. Minority Owned Business
2. Women Owned Business
3. Disadvantaged (8a) Owned Business

**It Does give preference to American-Indian Owned Businesses and Enterprises in contracting**

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### The 24 CFR 85.36 WINS!!!

§ 135.11(a) *Procurement standards for States and local governments (24 CFR 85.36)—(1) General*

Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

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### Safe Harbor Compliance

Any (PIH & CD) Recipient or contractor that meets **ALL** these criteria will have met the Safe Harbor requirements for compliance:

- **10%** of the total dollar amount of annual Building Trades Contracts to Section 3 Concerns
- **3%** of the total dollar amount of annual "Other" Contracts to Section 3 Concerns
- Commits to **30%** New Hires annually for projects [135.30(c) & (d) Page 697]

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### To Correctly Comply with Section 3

1. You must have a **Section 3 Policy** that clarifies all methods of compliance and Tier priority for: Residents, Project Sites & ROB's
2. You must have a **Section 3 Certification and Action Plan** solicitation document that allows for this election by contractors
3. You must have a **Procurement Policy** that meets the requirements of Section 3 and corresponds with the **Operations Procedure** in compliance with **Your** entities policy

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### Who is a Section 3 Resident and Who Gets Priority in Employment, Training & Contracting?

#### Section 3 (TIER I) Residents are:

Low income (80% or Less of the AMI) Persons in

**ANY** HUD assisted housing, including:

- PIH & Housing Choice Voucher Holders
- Substance Abuse Rehabilitation Housing
- Domestic Violence Shelters
- Transitional Housing Facilities
- Homeless Shelters
- Veterans Housing

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### Who is a Section 3 Resident and Who Gets Priority in Employment, Training & Contracting?

#### Section 3 (TIER II) Residents are:

- Persons in the area where the HUD financial assistance is spent (Including the metropolitan city or non-metropolitan county of the project)
- Participants in HUD/DOL Youthbuild programs

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## Compliance Goals for Housing & Community Development Recipients?

State and Local governments must:

- Attempt to meet numerical goals
- At their own discretion establish a priority to recipients of government assistance with preference to section 3 persons in the area of the project, Youthbuild, the homeless then other section 3 residents [135.34(1)(iv)]





**HUD DOL Letter**

Dear Public Housing Agencies and Workforce Investment Boards

On February 17, 2009, President Obama signed the historic American Recovery and Reinvestment Act of 2009 (the "Recovery Act" or "RAA"). As the President said, "The Act provides a direct boost to help lift our Nation from the greatest economic crisis in our history and for the foundation for future growth." As Secretaries of the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Labor (DOL), we are working hard to ensure that this fiscal boost lays the foundation for future growth for all of our communities and are writing to ask for your cooperation and participation in this effort.

Through the Recovery Act, the Administration is making substantial investments - \$150 billion in HUD's housing and community development programs and \$3.9 billion in employment and training programs administered by DOL. These investments reflect the principal goals of the Act, namely to generate jobs in the near term, lay the foundation for long term economic growth (e.g., through investments in energy efficiency) and mitigate the impact of the economic downturn on distressed communities and the most vulnerable populations in our country.

As the Secretaries for HUD and DOL, we recognize that we must work together to make these goals a reality. That's why we have come together to create a partnership between our two agencies to better pathways to training and employment for residents of HUD housing as a part of our Recovery Act Program. As a first step in this partnership, we are writing to encourage local Workforce Investment Boards (WIBs) and Public Housing Agencies (PHAs) to work collaboratively to identify opportunities to train and place public housing residents into jobs created by PHAs' Recovery-Related capital improvement projects. It is our hope that such collaboration will especially help residents find training programs and sustainable employment in the green job sector that will be created by the Administration's investments in energy efficiency, labor's workforce training and other RAAs' investment in public housing through the Public Housing Capital Fund.

Our Departments stand ready to assist in this collaboration. Through their One-Stop Career Centers, WIBs offer job training programs and other services that improve the employment prospects of adults, youth, low-income individuals, and disabled workers, and can be a valuable tool to assist PHAs with meeting the statutory and regulatory requirements of Section 3 of the Housing and Urban Development Act of 1968. Section 3 requires PHAs to direct new employment, training, and contracting opportunities created during the expenditure of HUD funds to low- and very low-income residents of the community where the funds are spent.



particularly those receiving housing assistance, and certain businesses that substantially employ these persons.

We strongly encourage PHAs and WIBs to reach out to each other and engage in a dialogue about how we can work together to create greater employment opportunities for residents of HUD housing. As a minimum, PHAs and their contractors should be in regular contact with their WIB and the One-Stop centers. WIBs and PHAs should proactively engage in outreach activities to inform public housing residents of local job opportunities and contracting training offerings in their communities. In addition, regarding the creation of jobs, housing over the long term, significant barriers to employment, the WIBs and PHAs should work collaboratively to identify persons to whom they qualify work supports are in place. It is expected that PHAs and WIBs should be open and receptive to these dialogues.

We share the President's confidence about the promise and potential of the Recovery Act and strongly believe that PHAs and WIBs can play a critical role in economic recovery. We look forward to working together to make the goals of the Recovery Act a reality.

Sincerely,



Secretary Shaun Donovan  
U.S. Department of Housing and Urban Development



Secretary Hilda L. Solis  
U.S. Department of Labor



## HUD DOL Letter



## What is a Section 3 Business Concern and Who Gets Priority in Contracting?

A business that:

- Is **51% or more owned and operated** by Section 3 residents;
- Employs Section 3 residents for **at least 30% of its full-time, permanent staff**; or
- Provides evidence of a commitment to **subcontract** to Section 3 business concerns, **25% or more of the dollar amount** of the awarded contract.



## Preferences in Contracting for Section 3 Business Concerns

- Contractors that Certify to and meet the Requirements of a Section 3 Concern must receive Preference in receiving contracts.

**Example:** Cheryl's Construction Co. certifies in its bid that it will sub-contract 25% of its total award to a 1<sup>st</sup> tier sub, and is now a Section 3 Concern. If a competitor bids lower by "X" amount she may still be awarded the contract because she's providing a direct benefit to HUD recipients.



## Preferences in Contracting for Section 3 Business Concerns

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and (B) is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

	x=lesser of:
When the lowest responsive bid is less than \$100,000	10% of that bid or \$9,000
At least \$100,000, but less than \$200,000	9% of that bid, or \$16,000
At least \$200,000, but less than \$300,000	8% of that bid, or \$21,000
At least \$300,000, but less than \$400,000	7% of that bid, or \$24,000
At least \$400,000, but less than \$500,000	6% of that bid, or \$25,000
At least \$500,000, but less than \$1 million	5% of that bid, or \$40,000
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000
At least \$4 million, but less than \$7 million	2% of that bid, or \$105,000
\$7 million or more	112% of the lowest responsive bid, with no dollar limit.



### Example of a Section 3 Business Concern?

Is 51% or more owned and Operated by Section 3 residents;

**Example/Question:** Mary Jenkins of College Park Homes (A PHA property) starts a cleaning company and bids work from the authority with Jerry Maids, Inc. as a 50%/50% Joint Venture Partnership. Does this JVP qualify as a Section 3 Concern?

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### Example of a Section 3 Business Concern?

Employs Section 3 Residents for at least 30% of its full-time, permanent staff; or

**Example:** Sue's Plumbing, LLC states in its Section 3 Action Plan submitted with its bid, that it will hire 3 new HA residents as plumbers assistant to fill its 10 person staffing level. Is Sue a qualified Section 3 Concern?

She **must maintain the 30% Section 3 residents** during the entire contract (despite the number of employees).

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### Example of a Section 3 Business Concern?

Provides evidence of a commitment to subcontract to Section 3 business concerns, 25% or more of the dollar amount of the awarded contract.

**Example:** Mike's Electrical states in his \$100K bid that he will award \$25K to a Resident owned business – Mike's Elec. effectively is now a qualified Section 3 business concern. **But must increase that percentage if his contract increases.**

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### How **Prime Contractors** can qualify as a Section 3 Business Concern?

Recipient

Prime (Qualifies as a Section 3 Concern if 1 of 2 scenarios exist)

Commits to either 30% **New Hires** or Sub-Contract 25% of their total award to any Section 3 Concern

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### How **Sub-Contractors** can qualify as a Section 3 Business Concern?

Recipient

Prime

Commits to either 30% **New Hires** or Sub-Contract 25% of their total award to a Resident Owned (ROB) Section 3 Concern

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### The affect of a Qualified Section 3 Sub-contractor on a Prime

Recipient

Anytime a Sub-contractor qualifies as a Section 3 Concern, the Prime is Section 3 Qualified as well

Sub-Contractor Commits to either 30% **New Hires** or receives 25% of the total prime's award

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### A Real World Warning of Section 3 ROB Abuse?

Because of the Preference in Contracting:

- Prime contractors can form paper partnerships with ROB's in what should be legitimate JVP's, but are actually shell deals designed to win contract awards
- The ROB usually gets less than the 51% profit, has little to no operational oversight and residents are generally used on a limited basis as employees less than 25%

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### A Real World Warning of Section 3 ROB Abuse?

Because of the Preference in Contracting and because of what is viewed as forced fun:

- Contractors will not actually hire residents as employees but use them as 2<sup>nd</sup> or 3<sup>rd</sup> tier subs and issue them 1099's or pay them cash with no records
- If the contractor states they will hire residents, someone should be verifying that on the regular payroll runs

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### The Section 3 Clause

All Section 3 Covered contracts shall include, "The Section 3 Clause" found at:

[Part 135.38 of the HUD Act of 1968](#)



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### The Easiest Method of Compliance

Every Contractor that **Does Not Require New Employees or Can Not Sub-contract 25% of its total award to a Section 3 Business Concern**, should:

**Pay up to 5% into a Section 3 Training Fund**

- Building Trades Contractors should pay 5%
- Non-Building Trades Contractors pay 1.5%
- The Training fund should be managed by and all training services contracted by the Recipient
- The Contractor will have **fully complied!!!!**

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### Examples of Section 3 Opportunities Include?

Accounting	Electrical	Marketing
Architecture	Elevator	Painting
Appliance Repair	Construction	Payroll
Bookkeeping	Engineering	Photography
Bricklaying	Fencing	Plastering
Carpentry	Florists	Plumbing
Carpet Installation	Heating	Printing Purchasing
Catering	Iron Works	Research
Cement/Masonry	Janitorial	Surveying
Computer	Landscaping	Tile setting
Information	Machine	Transportation
Demolition	Operation	Word processing
Drywall	Manufacturing	Vehicle Detailing
Special Events Assistance	One Time Projects	Fill-in Office Support

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### Why Training as a First Step?

- Section 3 Allows for employment training as a compliance component
- Education is a building block for persons who have historically had difficulty attaining and/or maintaining employment
- It allows them to demonstrate their ability to start, participate, and complete something that has future meaning

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### Skills Training is a Qualified Section 3 Activity



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### How can businesses find Section 3 Residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. By:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers
- Call Motivation, Inc. 1-888-663-9323

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### Are recipients, contractors, and subcontractors required to provide long-term employment opportunities?

- Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs.
- Recipients and contractors are **encouraged** to have Section 3 residents make up at least 30% of their permanent, full-time staff.

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### When Does A Person or Business Concern No longer Qualify as Section 3?

A Section 3 business concern that has been contracted for 3 years may no longer be counted towards meeting the 30% requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

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### Women in Non-Traditional Trade Skills Training is a Qualified Section 3 Activity



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### A Simple Section 3 Compliance Equation is: HUD Funded Project or Other Qualified Service Contract +



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**Qualified Section 3 Persons in an Employment Readiness Training or;**



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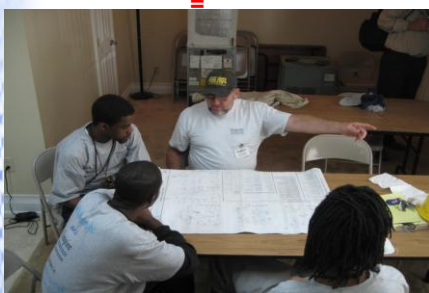
**Qualified Section 3 Persons in an Employment Skills Training Class or;**



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**Qualified Section 3 Persons in a Paid or Unpaid Employment Skills Training**

=



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**Recipient/Contractor + Qualified Section 3 Persons + Training/Employment/Contracting = Section 3 Compliance on a 60002**



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**Best Practices for Pre-Employment Training**

1. DOL Approved Employment Readiness (ER) and Professional Development (PD) Training 5-Days Minimum
2. DOL Approved ER, PD and Section 3 Small Business Concern Development Training 10-Days Minimum
3. DOL Approved ER, PD and Construction Trades Training 10-Days Minimum
4. DOL Approved ER, PD and Construction Trades Training Total 30-Days Job Site Apprenticeship and Classroom

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**The Training Curriculum Must be Realistic and Hard Hitting**

1. What Is Section 3
2. Six Steps to Greatness
3. Practice Completing an Employment Application
4. Things Gained and Lost
5. Banking Knowledge For the Future
6. Right for the Now and Right for the Long Term Decision Making
7. Preparing for Employment with a Criminal and/or Addiction History
8. Attire and Grooming for the Work Place
9. Professional Communication
10. Conflict Resolution
11. Goal Setting And Time Management
12. How to be a Good Crab (Helping Others)
13. Marketing Your Special Talents

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### The Training Curriculum Must be Realistic and Hard Hitting

- 14. Budgeting for Tomorrow
- 15. Completing a Job Application
- 16. Workplace Ethics
- 17. Job Search and Interviewing Skills
- 18. Glossary
- 19. Corporate History and Facilitator Profile

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### Challenges with Immediate Employment

- Employment retention is less than 30 days without learning the fundamentals
- Continuous loss of employment creates a negative track record and discourages future successes or attempts
- Meaningless jobs that have no sustainable and viable skill-set are counter-productive to the regulation

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### Challenges with Immediate Employment

- The basic truth that we have learned is that many of the Section 3 Tier I residents we encounter are suffering “**Brain Atrophy**”. The majority of them have not been in a stable learning or work environment and have to be conditioned to receive new ideas and ways to work their bodies and minds for a full work day.

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### Why is Contracting So Difficult?

- There is no central data base to find Section 3 Business Concerns
- Developing a small Resident Owned Business is costly and time intensive
- Qualifying an existing business as a Qualified Section 3 Concern requires constant tracking to remain compliant

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### Section 3 Related Regulations

- *24 CFR Part 135.92 – Economic Opportunities For Low- and Very Low-Income & Appendix’s Persons*
- HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of ..section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

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### Section 3 Related Regulations

- **24CFR 963.3** – *Subpart A Contracting with Resident Owned Businesses-Applicability*
- The policies and procedures contained in this part apply to public housing developments that are owned by public housing agencies (PHAs) and that are covered by Annual Contributions Contracts (ACC) with the Department.

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### Section 3 Related Regulations

- **24 CFR 963.5** – *Subpart A Contracting with Resident Owned Businesses-Definitions*
- The terms *HUD* and *Public housing agency (PHA)* are defined in 24 CFR part 5.
- *Act.* The U.S. Housing Act of 1937 (42 U.S.C. 1437).

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### Section 3 Related Regulations

- **24 CFR 963.10** – *Subpart B Contracting with Resident Owned Businesses-Eligible Resident-Owned Businesses*
- To be eligible for the alternative procurement process provided by this part...the business concern must:
- (a) *Legally formed business*
  - (b) *Resident-owned business as defined by this part*
  - (c) *Responsibility to complete the contract*
  - (d) *Limitation on alternative procurement contract awards of \$1,000,000 or less*

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### Section 3 Related Regulations (con't)

- **24CFR 963.12** – *Subpart B Contracting with Resident Owned Businesses-Alternative Procurement Process*
- HUD promotes TOP programs to support activities that enable residents to improve the quality of life and resident satisfaction, and obtain other social and economic benefits for residents and their families.

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### Section 3 Related Regulations (con't)

- **24 CFR 964.140** – *Tenant Participation and Tenant Opportunities in Public Housing-Subpart B-Resident Training.* The categories in which training could occur include:
  - (1) Community organization and leadership
  - (2) Organizational development for RMC's and Resident Councils;
  - (3) Public housing policies, programs, rights and responsibilities
  - (4) Business entrepreneurial training, planning and job skills.

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### Section 3 Related Regulations (con't)

- **24 CFR 964.11** – *Tenant Participation and Tenant Opportunities in Public Housing-Subpart A- HUD Policy on Tenant Participation*
- HUD promotes resident participation and the active involvement of residents in all aspects of a HA's overall mission and operation.

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### Section 3 Related Regulations (con't)

- **24 CFR 964.14** – *Tenant Participation and Tenant Opportunities in Public Housing-Subpart A-HUD Policy on Partnerships*

HUD promotes partnerships between residents and HAs which are an essential component to building, strengthening and improving public housing.

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### 24CFR Part 963.3

CHAPTER 15. EMPLOYMENT & TRAINING OPPORTUNITIES AND CONTRACTING WITH RESIDENTS, RESIDENT-OWNED, SMALL, MINORITY, AND OTHER DISADVANTAGED BUSINESSES

#### •15.1 General

HUD strongly supports a policy of providing training and employment opportunities to residents and contracting with residents and resident owned businesses, including RMC's, whenever possible.

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### 24CFR Part 963.12

*Subpart B Contracting with Resident Owned Businesses-Alternative Procurement Process*

#### *Method of procurement.*

- In contracting with resident-owned businesses, the PHA shall follow the applicable method of procurement as set forth in 24 CFR 85.36(d), **with solicitation limited to resident-owned businesses**. Additionally, the PHA shall ensure that the method of procurement conforms to the procurement standards set forth in 24 CFR 85.36(b).

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### 24CFR Part 963.12

- (b) *Contract awards.* Contracts awarded under this part shall be made only to resident-owned businesses that meet the requirements of Section 963.10, and that comply with such other requirements as may be required of a contractor under the particular procurement and the Department's regulations. An award shall not be made to the resident-owned business if the contract award exceeds the independent cost estimate required by 24 CFR 85.36(f), and the price normally paid for comparable supplies, services, or construction in the project area.

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### 24CFR Part 963.12

- (c) *Contract requirements.* Any contract entered into between a PHA and a resident-owned business under this part shall comply with:
- The contract provisions of 24 CFR 85.36(i); the provisions of 24 CFR 85.36(h), 24 CFR 968.240(d) or 24 CFR 968.335(c)(1)

The records for such procurement shall include:

1. Governing bonding requirements
2. Independent cost estimate
3. Comparable price analysis
4. Basis for contractor selection, applicable to the particular procurement

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### What Does Section 3 Require of me?

- Notify section 3 businesses of your contracting opportunities funded by section 3-covered assistance. [135.32(a)]
- Notify all potential contractors for section 3-covered projects of the section 3 contracting requirements and include the required section 3 clause [135.38] in all section 3-covered contracts [135.32(b)]
- Assist and "Actively" cooperate with HUD in obtaining contractor/subcontractor compliance with section 3 requirements [135.32(d)]

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### What Does Section 3 require of me? (con't)

- Not award contracts to any contractor who has been found to have violated the section 3 requirements [135.32(d)]
- Take appropriate remedial action against contractors who fail to comply with the section 3 requirements (e.g., termination) [135.38]

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### What Does Section 3 require of me? (con't)

- Document actions (including results and impediments) taken to comply with section 3 requirements [135.32(e)]
- Maintain dated flyers with a list of where they were distributed
- Maintain a contact list showing all the people and groups you notified and how

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### What Does Section 3 require of me? (con't)

- Certify that the contractor did not circumvent the Section 3 employment opportunity requirements, if the contractor hired any persons not covered by Section 3 between the time the contractor was selected and the contract was executed. [135.38]

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### Is this really a Section 3 covered business?

Businesses must self-certify as to their qualification for Section 3 “preference.” If in doubt, you may request supporting evidence.



[135.36(b)].

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### How does this differ from normal operations?

Section 3 – covered businesses, just like any other bidder or offeror, must be determined to be responsible as required by 24 CFR 85.36(B)(8) (States or local governments) or OMB Circular A-110, Attachment O (non-profit organizations).

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### How does this fit? “Trust but Verify”

For a section 3-covered procurement:

- Request certification by the business of its section 3 status and, verification of section 3 qualifications
- Verification that an acceptable section 3 strategy is submitted before award.
- Past compliance with the section 3 certification and qualification requirements must also be considered. [135.36(c)]

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**Part C: Contract Summary**

1. Contract Number: \_\_\_\_\_

2. Contract Title: \_\_\_\_\_

3. Contract Start Date: \_\_\_\_\_

4. Contract End Date: \_\_\_\_\_

5. Contract Value: \_\_\_\_\_

6. Contract Type: \_\_\_\_\_

7. Contract Location: \_\_\_\_\_


8. Contract Description: \_\_\_\_\_

9. Contract Status: \_\_\_\_\_

10. Contract Notes: \_\_\_\_\_

## HUD Form 60002

### Page 2



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## Completing the HUD FORM 60002

- Each year you should complete the 60002 form identifying the total number of trainees
- Attach the training attendance report form with the actual attendee signatures
- Attach the flyers and any other recruiting efforts employed to attract participation or giving notification
- Attach a brief training course outline
- Refresh the training annually

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## Completing the HUD FORM 60002

**Note:**

- Do not count the contractor as a Section 3 Concern unless he/she meets and maintains the 30% or 25% Requirement at ALL times during the life of the contract

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## Proposed Changes to the Section 3 Regulation

### Earnings and Living Opportunities Act (ELOA)

Proposed House Bill by Congresswoman Nydia Velázquez (D) NY

[Here are the highlights of the Bills Requirements](#)

- “To the greatest extent feasible” is **removed**
- 30% of All Hours Worked on a project (Gross Payroll)
- 30% New Hires
- 10% of all Building Trade Contract Awards
- 3% of all Other Contracts

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## Proposed Changes to the Section 3 Regulation

### Earnings and Living Opportunities Act (ELOA)

Proposed House Bill by Congresswoman Nydia Velázquez (D) NY

- High Preference for HUD Assisted Individuals
- Sanctions for Non-Compliance for the Recipient, Contractor, and Sub-Contractor including;
  - Reduction of future funding
  - Debarment
  - Suspension
  - Limited denial in participation of HUD programs
  - Other

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## Proposed Changes to the Section 3 Regulation

### Earnings and Living Opportunities Act (ELOA)

Proposed House Bill by Congresswoman Nydia Velázquez (D) NY

- Prohibition of contracting with entities that violate Section 3 when the recipient **has notice** or **knowledge** of such previous violation
- Authorizes the **Private Right of Action** to achieve enforcement by allowing individuals or groups to **file law suits directly** without having to go through the HUD complaint process

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### Proposed Changes to the Section 3 Regulation

**Earnings and Living Opportunities Act (ELOA)**  
Proposed House Bill by Congresswoman Nydia Velázquez (D) NY

- Increase the term a person or entity can sustain Section 3 status from 36 months to a full five (5) years
- Coordination between all Federal Agencies on the requirements
- **Requirement that each local recipient designate, employ, or contract with a Section 3 Coordinator** to maintain, monitor, and manage compliance

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### Contract Compliance Monitoring

Compliance Monitoring for Active Contracts. Its important that the contractors that employ residents be monitored with every payroll.



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### Contract Compliance Monitoring

Compliance Monitoring for Active Contracts. Its important that the contractors that commit to subcontracting a percentage of their award be monitored with every pay request. This is usually the architects job. But could also be a function of the staff for small contracts.



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### Easy Compliance Methods

- Hire residents for special office assignments
- Hire residents for short term additional support in the field like pressure washing, light painting, etc.
- Encourage contractors to utilize residents for any work efforts including traffic control, labor and securing materials or equipment during work hours
- Write small contracts for light assignments under small procurements like auto detailing, office cleaning, window washing, etc.

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### Easy Compliance Methods

- Write Section 3 Alternative Procurements isolated to Resident Owned Businesses (ROB's)
- Write in a minimum number of Section 3 Residents to be hired on certain contracts
- Offer Small Business Development Trainings geared to ROB's to create a list of ROB's
- Use residents to assist in the preparation of events, trainings and large meetings (Decorating, Food Prep, Serving, Materials Development and Clean-up). You can do these as small purchases or special assignments

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### Rewarding Contractors for Past Compliance

- In your procedures you should write in additional points for ROB's and Section 3 Business Concerns
- Provide additional points to contractors that have had positive prior Section 3 compliance on HUD funded contracts
- Encourage contractors to consider developing trades skills training programs independent of the contract and in partnership with you for future use in providing training solicited from the Recipient's Training Fund

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### Section 3 Does Change Lives!

Employment Readiness,  
Professional Development &  
Construction Skills Trades  
Training (1 of 3) 6/2007

Employment Readiness &  
Professional Development  
Training January 22, 2010



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### Section 3 Does Change Lives!

Byron's Turnkey Service Started June 2007

Here he is interviewing a public housing resident in Milledgeville, GA to work for him on a 30 unit apartment turnkey contract he won through competitive bid. He hired 5 residents that day!



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### Section 3 Does Change Lives!

Sam's Detail Service Started November 2009

Pictured is Sam receiving his certificate for completing our Employment Readiness and Professional Development Training on November 6, 2009; and then in front of a housing authority van he just cleaned as a Section 3 Concern.



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### Your 1st Steps to Meeting Compliance

1. Develop a sound, current Section 3 Policy
2. Develop a related proactive Operating Procedure
3. Develop mandatory Section 3 requirements for contractor/vendor Action Plans and Certifications
4. Hold an Education Summit to update contractors, architects, procurement/HR staff, resident leaders and other stakeholders on the new policy, procedures and expectations

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### Please Be Cautious !

1. In developing your policy and procedures please use caution and do not get overly involved in the employee/employer relationship.
2. Don't hand contractors specific Section 3 residents. Make a list available for them to interview the successful graduates from your employment readiness or related training classes.
3. Limit your intervention to wage and contract reviews as would be customary. Do not get involved in mediating differences. Instead offer counseling to Section 3 residents as needed and workshops to contractors on the training that has been provided to residents.

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## Q & A

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