

SECTION 3 PLAN
FOR
THE MISSOULA HOUSING AUTHORITY

Approved by the Board of Commissioners July 2009

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INTRODUCTION

The Missoula Housing Authority (PHA) has adopted this Section 3 Plan outlining a Section 3 program that will assist staff and contractors in complying with the requirements of Section 3 of the HUD Act of 1968, as amended in 1994. This program will ensure that employment, training, and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, be directed to low and very-low income persons, particularly those who are public housing residents and to businesses which provide economic opportunities to low and very-low income persons.

The PHA has established goals for both hiring and contracting that, when met, will demonstrate satisfactory efforts to comply with Section 3.

The PHA, by this program, affirms its commitment to maximize, to the greatest extent feasible, the creation of employment, training, and contracting opportunities for low and very-low income persons.

The PHA also commits to providing contractors with procedural assistance on all matters relating to this program, as needed, to achieve the program's goal.

I. EXECUTIVE SUMMARY

The Missoula Housing Authority (PHA) is committed to helping the residents of its communities achieve greater stability and self-reliance by providing opportunities for training and employment. The PHA provides employment opportunities by hiring qualified residents of PHA communities for available PHA positions. The PHA also provides employment opportunities on construction projects by encouraging its contractors to hire qualified residents of PHA communities, connecting residents to job training and placement activities, and providing program coordination that facilitates economic opportunities to residents.

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1994, requires that, to the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low- and very low-income residents. Federal regulations at 24 CFR Part 135 establish the standards and procedures to be followed by public housing authorities in order to ensure that the requirements of Section 3 are met.

Section 3 applies to all contracts in public housing programs, except that contracts only for the purchase of materials and supplies are not Section 3 covered contracts. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

In order to be considered by HUD to be in compliance with the provisions of 24 CFR Part 135, the PHA will take the following actions:

1. The PHA will adopt recruiting and hiring practices with the goal that at least 30% of the aggregate number of new hires each year at PHA will be qualifying public housing residents or other low-income residents of the metropolitan area.
2. The PHA will establish a goal that all contractors and subcontractors that are not Section 3 businesses will hire qualifying Section 3 residents for at least 30% of the new positions created as a result of contracts with PHA.
3. The PHA will establish a goal that at least 10% of the total dollar amount of contracts for construction, repair and rehabilitation will be awarded to qualifying Section 3 business concerns.
4. The PHA will establish a goal that at least 3% of the total dollar amount of all other PHA contracts are awarded to qualifying Section 3 business concerns.
5. The PHA will develop and enhance its partnerships with the Missoula Job Service and other community employment and training organizations with the goal of identifying a ready pool of public housing residents trained to fill the positions offered by the PHA, its contractors, or subcontractors. The PHA will encourage its partner agencies to design training programs that will ensure that residents will meet the minimum requirements for PHA and contractor employment positions, i.e. valid driving license, high school diploma or equivalent, drug-free workplace requirement, and criminal background checks. The PHA will attempt to connect those residents to other community resources which may provide support services such as day care and transportation. It will also attempt to make residents of PHA communities aware of opportunities as they become available, and inform contractors how to contact Workforce Solutions and other community employment and training organizations that may be able to identify potential employees from PHA communities and other low income residents.

II. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1994, requires that, to the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low- and very low-income residents. Federal regulations at 24 CFR Part 135 establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met. The terms used in this Implementation Plan are as defined in 24 CFR Part 135.

HUD regulations require that the PHA make best efforts to ensure that 30% of new hires of the PHA and of its contractors funded through development assistance, operating assistance or modernization assistance from HUD be Section 3 residents. "Section 3 residents" includes persons living in the PHA's public housing and also other residents of the metropolitan area who have low incomes (below 80% of the area median income) or very low incomes (below 50% of the area median income). Furthermore, the regulations require that best efforts be made to ensure that 10% of all construction or repair related contracts and 3% of all other contracts be

awarded to Section 3 business concerns. A Section 3 business concern is defined as a business concern that is 51% owned by PHA residents or other Section 3 residents, or a business in which 30% of the permanent full time employees are PHA residents or other Section 3 residents or have been within the past three years. A business also qualifies as a Section 3 business concern with respect to a particular contract if it provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded, to business concerns that are Section 3 business concerns.

A Section 3 business concern that is certified as such by another governmental entity is also considered to be a Section 3 business concern by the PHA.

III. OUTREACH AND RECRUITMENT OF QUALIFIED RESIDENTS AND BUSINESSES

In order to comply with 24 CFR Part 135, the PHA will establish procedures that facilitate the training and employment of residents of PHA communities. The PHA will do so by undertaking activities such as:

1. Publicizing PHA employment opportunities to PHA residents and assisting contractors or subcontractors to recruit qualified residents when they are hiring workers in connection with PHA contracts.
2. Referring residents to community agencies that may provide assessments, training, counseling and other assistance with job placement, job interviews, job applications, referrals to contracts seeking Section 3 residents, etc.
3. Encouraging those community agencies to maintain current lists of available and qualified PHA residents and to make the lists available to contractors.
4. Maintaining lists of Section 3 business concerns and their specialties.

Section 3 Coordinator. The PHA will designate a Section 3 Coordinator who will work with PHA departments, contractors, Section 3 business owners, members of the community, residents and Resident Councils to coordinate and monitor activities that contribute to Section 3 compliance. The Section 3 Coordinator will be responsible for preparing the annual report to HUD on Economic Opportunities for Low-Income Persons in conjunction with Assisted Projects (Form HUD 60002).

IV. PROCUREMENT AND CONTRACTING

The PHA's Purchasing Policy states the Agency's commitment to comply with Section 3 requirements in all contracting.

The PHA will develop, implement and monitor procurement and contracting procedures to:

- Ensure that PHA contractors and subcontractors maximize hiring of residents of PHA communities, and
- Facilitate contracting with Section 3 business enterprises.

To accomplish these goals, the PHA will employ strategies which may include, but are not limited to, the following:

1. The PHA will establish standards for structuring and awarding contracts that provide incentives for full participation in the provisions of Section 3 and for enforcing the Section 3 contract provisions.
2. All Section 3 covered contracts will include the “Section 3 clause” as required by 24 CFR Section 135.38.
3. Offering documents will include notification that the bidder/proposer must commit to comply with Section 3 requirements, with the details to be negotiated with staff after the apparent low bidder is determined.
4. The Contracting Officer will negotiate the terms of Section 3 compliance with the apparent low bidder on formal contracts. If the contractor is unable or unwilling to comply with Section 3 requirements to the satisfaction of the Contracting Officer, the Contracting Officer may recommend to the Board of Commissioners that the bid be rejected as non-responsive.

Contract Size

If the estimated value of the contract is less than \$5,000, Section 3 requirements apply, but no additional documentation from the contractor will be required. Staff will endeavor to award such contracts directly to Section 3 businesses, to the greatest extent feasible.

If the estimated value of the contract is \$5,000 or more, a successful bidder/proposer that is not a Section 3 business will be required to provide a Section 3 Action Plan that includes, at minimum, the following commitments:

- 1.30% (as defined) of new employees to be hired for this contract work will be hired from among qualified Section 3 residents; or
- 2.25% of subcontracted work under the contract will be subcontracted to Section 3 businesses; or
- 3.If the contractor is unable to meet the above goals, the contractor must demonstrate why meeting the goals was not feasible.

It is the responsibility of contractors, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any bidder/proposer’s failure to agree a Section 3 Action Plan may render

the bid non-responsive and cause the contractor to be disqualified from further consideration for this contract.

Section 3 Procurement Notice. The PHA will provide a notice to all interested bidders/proposers explaining HUD's Section 3 requirements and the PHA's procedures.

V. MONITORING AND COMPLIANCE

The PHA, through the Section 3 Coordinator and other staff, will monitor contractors' outreach and hiring practices and use of subcontractors, including monitoring the dollar value of subcontracts awarded to Section 3 businesses.

All contracts will be evaluated at closing for compliance with the Section 3 Action Plan for the contract. The contractor's compliance may be used to determine contractor responsibility and bid responsiveness on future contracting opportunities with the PHA.

The contractor will provide the following reports to the PHA to facilitate monitoring Section 3 hiring and contracting activity, compliance with Davis-Bacon Wage Rate requirements and the provision of economic opportunities for women and minorities:

1. A certified list of all new hires for each contractor, either biweekly or at other intervals specified in the Section 3 Action Plan. The certified lists will include: name, address, trade, section category, gender and ethnic group or race, date hired, indication of how contact was made (PHA referral, walk-in, resident council referral, etc.).
2. A weekly certified payroll for each contractor and subcontractor. The certified payroll will indicate: trade and status (i.e., apprentice, journeyman, master, foreman, superintendent, etc.), wage rate and hours worked each day, whether claimed as Section 3 employee, name and address of each employee.
3. A copy of each subcontract when executed, with cover sheet indicating dollar value of contract and gender and race or ethnicity of 51% owner and whether or not the business is a certified Section 3 business.
4. If the Section 3 Coordinator refers Section 3 residents to the contractor, the contractor will report back to the Section 3 Coordinator whether the resident is or is not hired.

The contractor shall maintain documentation of Section 3 outreach and recruitment activities available for review by the Section 3 Coordinator. Items to be made available for review include:

1. Walk-in applicant list indicating which job applicants were residents of PHA communities and status of their application/employment;
2. List of applicants and their application or employment status;

3. Equal Employment Opportunity Policy;

VI. PROTEST AND COMPLAINT PROCESSING

Cooperation in Achieving Compliance

The PHA recognizes that the success of ensuring that Section 3 residents and Section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of the PHA, the contractors and subcontractors. As stated in the PHA Purchasing Policy, “It is the PHA’s policy to resolve all contractual issues informally and without litigation.” The same approach applies to Section 3 issues, although a Section 3 resident or business always has the right to file a complaint directly with HUD’s Office of Fair Housing and Equal Opportunity.

All recipients shall cooperate fully and promptly with the HUD in Section 3 compliance reviews, in investigations of allegations of noncompliance made and with the distribution and collection of data and information.

The PHA shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

Filing and Processing Complaints

Who may file a complaint? The following individuals and business concerns may, personally or through an authorized representative, file a complaint with HUD alleging noncompliance with Section 3:

1. Any Section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities, or by a representative who is not a Section 3 resident but who represents one or more Section 3 residents;
2. Any Section 3 business concern on behalf of itself, or as a representative of other Section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of Section 3 assistance from a recipient or contractor, or by an individual representative of Section 3 business concerns.

Where to file a complaint. A complaint must be filed with the PHA’s Contracting Officer or with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC 20410.

Time of Filing

1. A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.
2. Where a complaint alleges noncompliance with Section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.
3. Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

Contents of Complaint

Written complaints: Each complaint must be in writing, signed by the complainant, and shall include:

1. Name and address of the complainant;
2. The name and address of the respondent;
3. A description of the acts or omissions by the PHA that is sufficient to inform the Assistant Secretary of the nature and date of the alleged non-compliance; and
4. A complainant may provide information to be contained in a complaint by telephone to HUD.

Amendment of Complaint

Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

Resolution of complaint by the PHA

1. Within ten (10) days of a timely filing of a complaint, that contains complete information, the Contracting Officer shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with Section 3. If a determination is made that there is an allegation of noncompliance with Section 3, the complaint shall be sent to the recipient for resolution.

2. If the Contracting Officer believes that the complaint lacks merit, the Contracting Officer must notify the Assistant Secretary, in writing, of this recommendation with supporting reasons, within thirty (30) days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.
3. If the Contracting Officer determines that there is merit to the complaint, the PHA will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the sixty (60) day period, the PHA must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached.

If resolution has been reached, the notification must be signed by both the PHA and the complainant, and must summarize the terms of the resolution reached between the two parties.

4. Any request for an extension of the sixty (60) day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.
5. If the recipient is unable to resolve the complaint within the sixty (60) day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

Judicial relief: Nothing in this procedure precludes a Section 3 resident or Section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.