

2014

# Section 3 Guide and Compliance Plan

Let's get to work!



Housing Authority of the City of Los Angeles



# SECTION 3 GUIDE AND COMPLIANCE PLAN

## Table Of Contents

I.	INTRODUCTION .....	1
A.	Section 3 Regulation .....	1
B.	HACLA Policy .....	1
C.	Applicability.....	1
D.	Purposes of this Guide and Compliance Plan .....	1
II.	DEFINITIONS .....	2
III.	GOALS .....	3
A.	HACLA’s Numerical Goals.....	3
B.	Contractor Numerical Goals .....	4
C.	Contractor Good Faith Efforts.....	4
D.	Priority Selection of Residents.....	5
IV.	HACLA SECTION 3 FUND .....	6
A.	Purpose of Fund .....	6
B.	Contribution Requirements .....	6
C.	Payment Options .....	6
D.	Voluntary Contributions .....	7
E.	Section 3 Fund Contribution Form.....	7
F.	Use of the Section 3 Fund .....	7
V.	SECTION 3 BUSINESS CONCERNS .....	7
A.	Bid Preference.....	7
B.	Designation as a Section 3 Business Concern .....	8
VI.	SECTION 3 RECRUITMENT AND NEW HIRES .....	8
A.	Recruitment .....	8
B.	New Hires .....	9
C.	Apprenticeship Programs .....	9
D.	Limitations .....	9
E.	Documented Efforts.....	9
F.	Lack of Compliance .....	9
VII.	REQUIRED SUBMISSION DOCUMENTS.....	10
A.	Section 3 Economic Opportunity Plan (EOP) .....	10
B.	Declaration of Intent to Comply with Section 3 Regulations .....	10
C.	Section 3 Compliance Summary Report.....	10
VIII.	COMPLIANCE .....	10
A.	Reviews for Compliance .....	10
B.	Non-Compliance .....	11
IX.	RESOURCES .....	11
A.	General Information .....	11
B.	Questions and Complaints.....	11

## **SECTION 3 GUIDE AND COMPLIANCE PLAN**

### **I. INTRODUCTION**

#### **A. Section 3 Regulation**

Section 3 of the Housing and Urban Development Act of 1968, as amended, (hereinafter referred to as "Section 3") requires that economic opportunities generated by certain U.S. Department of Housing and Urban Development financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low and very low income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons (collectively, "Section 3 Beneficiaries"). The U.S. Department of Housing and Urban Development's regulations implementing Section 3 are found at 24 CFR Part 135.

#### **B. HACLA Policy**

It is the intent and policy of the Housing Authority of the City of Los Angeles ("HACLA") to fully comply with Section 3 and to require its Contractors undertaking contracts to which Section 3 applies to demonstrate good faith effort to comply, to the greatest extent feasible, with Section 3 and the responsibilities described under this Section 3 Guide and Compliance Plan (this "Plan") by providing economic opportunities to Section 3 Beneficiaries.

#### **C. Applicability**

The requirements set forth in this Plan arise when HACLA utilizes Section 3 Covered Assistance for a Section 3 Covered Project or Section 3 Covered Contract, as those terms are defined here. HACLA reserves the right to impose upon Contractors requirements that go beyond the requirements of Section 3 and this Plan when deemed in the best interest of HACLA.

#### **D. Purposes of this Guide and Compliance Plan**

The purpose of this Plan is to assist Contractors in understanding their Section 3 obligations so that they can be successful in meeting these responsibilities. This purpose is accomplished through the guidance and instruction provided in the Plan, in other Section 3 materials and publications provided by HACLA, and assistance provided by HACLA's Section 3 Compliance Administrator. HACLA has developed and continues to develop programs and procedures, all as necessary to implement this Plan in order to realize the goals of Section 3. This Plan shall remain in effect for so long as it remains consistent with federal regulations or until changed by HACLA.

## II. DEFINITIONS

The following terms used throughout this Plan have the following assigned meanings.

“Contractor” means any person or entity that enters into a contract with HACLA, and includes the plural form “Contractors.” When referred to collectively as Contractor/Subcontractor and its plural form, Contractors/Subcontractors, the term means both the Prime Contractor and any of its Subcontractors engaged under a Section 3 Covered Contract.

“HACLA” means the Housing Authority of the City of Los Angeles.

“HUD” means the United States Department of Housing and Urban Development.

“IFB” means an Invitation for Bids, which is a procurement methodology that typically awards a contract to the lowest cost bidder, provided that the bidder meets certain minimum criteria.

“New Hire” means a full-time employee hired on a permanent, temporary or seasonal basis as a direct result of a Contractor’s/Subcontractor’s contractual obligation in connection with a Section 3 Covered Project, and includes its plural form “New Hires.” An employee who was on a Contractor’s/Subcontractor’s payroll on or prior to award of the Section 3 Covered Contract shall not be counted towards the Contractor’s/Subcontractor’s numerical goals under Section III.B.

“Section 3” means Section 3 of the Housing and Urban Development Act of 1968, as amended, codified in 12 U.S.C. 1701u and 24 C.F.R. part 135.

“Section 3 Beneficiaries” refers, collectively, to Section 3 Business Concerns and Section 3 Residents.

“Section 3 Business Concern” means a business entity authorized to engage in the type of business activity for which it was formed, and which satisfies one or more of the following criteria: (i) at least fifty-one (51) percent of the business is owned by one or more Section 3 Residents; (ii) at least thirty (30) percent of its permanent, full-time employees include persons who are currently Section 3 Residents, or were Section 3 Residents within three (3) years of the date such persons were first employed with the business; or (iii) a business that provides HACLA sufficient evidence of its commitment to subcontract more than twenty-five (25) percent of the dollar award of all subcontracts awarded under a Section 3 Covered Contract to Section 3 Business Concerns.

“Section 3 Covered Assistance” means financial assistance received from HUD or any other federal agency, receipt of which triggers the obligations that arise under Section 3.

“Section 3 Covered Contract” means a contract entered into directly with HACLA or a subcontract (including a professional service contract) awarded to a Contractor for work generated by the expenditure of Section 3 Covered Assistance, or for work arising in connection with a Section 3 Covered Project, and includes its plural form, “Section 3 Covered Contracts.”

“Section 3 Covered Project” means a project funded using Section 3 Covered Assistance

and includes construction related projects involving the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), and the construction and reconstruction of buildings and improvements and non-construction related projects.

“Section 3 Resident” means: (i) public housing resident or (ii) a low or very low income person who lives in the Los Angeles metropolitan area of the Section 3 Covered Project and who has a household income that does not exceed HUD’s income limits, as described in the most current version of HUD’s Income Eligibility Guidelines. Includes its plural form, Section 3 Residents.

<b>Income Eligibility Guidelines for Los Angeles Metropolitan Area (effective 2014)</b>		
<b>Number in Household</b>	<b>Very Low Income (50%)</b>	<b>Low Income (80%)</b>
1 individual	\$ 28,550	\$ 45,650
2 individuals	\$ 32,600	\$ 52,200
3 individuals	\$ 36,700	\$ 58,700
4 individuals	\$ 40,750	\$ 65,200
5 individuals	\$ 44,050	\$ 70,450
6 individuals	\$ 47,300	\$ 75,650
7 individuals	\$ 50,550	\$ 80,850
8 individuals	\$ 53,800	\$ 86,100

Note: Income limits are subject to change annually. Current income limits may be accessed on the following HUD link:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3)

“Subcontractor” means any person or entity (other than a person who is an employee of the Contractor) that contracts with a Prime Contractor on a Section 3 Covered Project, and includes its plural form “Subcontractors.” When referred to collectively as Contractor/Subcontractor and its plural form, Contractors/Subcontractors, the term means both the Prime Contractor and any of its Subcontractors engaged under a Section 3 Covered Contract.

### **III. GOALS**

The goals set forth in this section apply to all Section 3 Covered Contracts awarded by HACLA in any fiscal year.

#### **A. HACLA’s Numerical Goals**

1. HACLA shall, to the “*greatest extent feasible*,” provide economic opportunities to Section 3 Beneficiaries.

2. Under HUD regulations, HACLA can satisfy the “*greatest extent feasible*” requirement by meeting these numerical goals:

a. At least ten percent (10%) of all contracts awarded by HACLA for

construction related Section 3 Covered Projects should be awarded to Section 3 Business Concerns.

b. At least three percent (3%) of the total dollar amount of all non-construction related Section 3 Covered Contracts awarded by HACLA should be awarded to Section 3 Business Concerns.

**B. Contractor Numerical Goals**

1. Contractors employed on Section 3 Contracts shall, to the *greatest extent feasible*, provide economic opportunities to Section 3 Beneficiaries.

2. Under HUD regulations, Contractors can satisfy the “*greatest extent feasible*” requirement by meeting these numerical goals:

a. Contractors are expected to achieve a level of thirty percent (30%) of all New Hires employed in connection with a Section 3 Covered Project to be Section 3 Residents and to maintain this percentage throughout the life of the contract. This is HACLA’s preferred method for Contractors to meet their Section 3 obligations. The employment need not be related to the scope of services covered under the contract, but it should be meaningful.

b. At least ten percent (10%) of all Contractor subcontracts awarded by Contractor in connection with a construction related Section 3 Covered Project should be awarded to Section 3 Business Concerns.

c. At least three percent (3%) of the total dollar amount of all Contractor subcontracts awarded by Contractor in connection with a non-construction related Section 3 Covered Project should be awarded to Section 3 Business Concerns.

**C. Contractor Good Faith Efforts**

1. Contractors who are unable to satisfy the goals stated above, shall demonstrate, to HACLA’s satisfaction, their good faith efforts to comply with the requirements of Section 3 and this Plan.

2. Examples of good faith effort include, but are not limited to, the following:

a. Entering into hiring agreements with organizations representing Section 3 Residents;

b. Develop or participate in HACLA-approved apprenticeship and training programs.

c. Advertising available training opportunities and employment positions by distributing flyers that identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process to every occupied dwelling unit in one or more of HACLA’s housing developments and posting copies of the flyer in the development’s common areas;

d. Contacting agencies administering Los Angeles County YouthBuild Programs, and requesting their assistance in recruiting LA County YouthBuild Program participants for training opportunities and employment positions;

e. Consulting with state and local agencies administering training programs, such as those funded through Workforce Investment Act, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 Residents for training opportunities and employment positions;

f. Advertising training opportunities and employment positions through local media, such as community television networks, newspapers, of general circulation, and radio advertising; and

g. Utilizing HACLA's Resident Relations Department to support recruitment for job ready Section 3 Residents.

3. Contractors who fail to meet these Section 3 numerical goals have the burden of demonstrating, to HACLA's satisfaction, the reason why compliance was not feasible by providing HACLA with documentation of efforts taken and barriers encountered.

#### **D. Priority Selection of Residents**

1. When providing Section 3 Residents with training opportunities and employment positions, Contractors shall apply the following system of priority selection:

a. First priority (P1): Individuals residing in the HACLA owned or managed housing development where the Section 3 Covered Project is being performed.

b. Second priority (P2): Individuals residing in other HACLA owned or managed housing developments.

c. Third priority (P3): Other residents of Los Angeles County who are participants of HUD Youth Building Programs being carried out in within the Los Angeles metropolitan area.

d. Fourth Priority (P4): Individuals from the Los Angeles metropolitan area who qualify as a Section 3 Resident.

2. After the award of a Section 3 Covered Contract, if Contractors must hire to maintain the Section 3 workforce percentage, renewed hiring efforts must be made in accordance with the above Section 3 priority preferences.

3. In those instances where no new employment opportunities are generated, good faith compliance efforts may include those identified in the section above such as offering training as well as any other efforts deemed acceptable to HACLA.

## **IV. HACLA SECTION 3 FUND**

### **A. Purpose of Fund**

1. Contractors who, prior to contract award, demonstrate to HACLA's sole satisfaction that they (i) are unable to meet the Section 3 numerical goals, (ii) are unable to provide meaningful training or other economic opportunities to Section 3 Beneficiaries, and (iii) do not have other feasible alternatives for complying with the requirements of Section 3 and this Plan, may be required to contribute to HACLA's Section 3 Fund.

2. Contractors who, following contract award, are unable to satisfy their Section 3 commitments set forth in their EOP may be permitted to contribute to HACLA's Section 3 Fund and avoid the penalties for default described in section VIII.B provided the Section 3 Compliance Administrator finds Contractor's lack of compliance is due to extraordinary circumstances and not to the Contractor's lack of good faith compliance efforts or Contractor's failure to exhaust all feasible alternatives for compliance.

3. Contributing to HACLA's Section 3 Fund is considered an option of last resort, as HACLA's preferred method for Contractors to meet their Section 3 obligations is to achieve a level of thirty percent (30%) of all new hires employed in connection with a Section 3 Covered Project to be Section 3 Residents and to maintain this percentage throughout the life of the contract. Contributions to the Section 3 Fund will not be accepted in lieu of compliance with Section 3 or this Plan.

### **B. Contribution Requirements**

Section 3 Fund contribution requirements are dependent upon the circumstances as outlined in this section.

1. For construction related Section 3 Covered Projects awarded under a single contract of \$100,000 or greater, Contractor contributions shall be equal to the lesser of three percent (3%) of (i) the total contract amount plus any modifications, or (ii) the actual dollar amount spent by HACLA under the contract.

2. For non-construction related Section 3 Covered Projects awarded under a single contract of \$100,000 or greater, a contribution equal to the lesser of three percent (3%) of (i) the total contract amount plus any modifications, or (ii) the actual dollar amount spent by HACLA under the contract.

### **C. Payment Options**

1. For construction related Section 3 Covered Projects with contracts of up to one (1) year, Contractors have the option of making contributions in a single up-front payment or periodically following the receipt of payment from HACLA. Periodic payments must be in amounts of no less than three percent (3%) of the amount HACLA has paid the Contractor for a particular installment.

2. For all other contracts exceeding one (1) year, Contractors have the option of making contributions in a single up-front payment at contract commencement based upon the

subject year's contract award value, in periodic payments of three percent (3%) or greater of each payment received from HACLA, or at the end of the contract year based upon the actual dollar amount spent by HACLA under the contract for that particular year.

**D. Voluntary Contributions**

Contractors may contribute to HACLA's Section 3 Fund in discretionary amounts in addition to satisfying their Section 3 obligations.

**E. Section 3 Fund Contribution Form**

Contractors who seek to contribute to HACLA's Section 3 Fund must complete and submit the Section 3 Fund Contribution Form (to be provided by HACLA).

**F. Use of the Section 3 Fund**

The Section 3 Fund will be used by HACLA to generate economic opportunities for Section 3 Residents, as selected by HACLA in its sole discretion.

**V. SECTION 3 BUSINESS CONCERNS**

**A. Bid Preference**

HACLA has adopted a bid preference for Section 3 Business Concerns when awarding Section 3 Covered Contracts utilizing the Invitation for Bids ("IFB") method of solicitation for services and for construction and maintenance activities. The bid preference requires that the IFB be awarded to the qualified Section 3 Business Concern with the highest priority ranking and with the lowest responsive bid if that bid meets the criteria set forth in the following Bid Preference Table:

**Bid Preference Table**

<b>When the lowest responsive bid is:</b>	<b>Section 3 Business Concern bid is within lesser of:</b>
Less than \$100,000:	10% of that bid or \$9000
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 \$1million, 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	1½% of the lowest responsive bid, with no dollar limit

## **B. Designation as a Section 3 Business Concern**

1. Business owners seeking HACLA's designation as a Section 3 Business Concern must submit a Section 3 Business Certification Form (to be provided by HACLA) in their bid/offer package, along with required supporting documentation, including the form for verification.

2. Where a business entity is certified by HACLA as a Section 3 Business Concern based on its ownership interest (i.e., at least 51 percent of the business is owned by one or more Section 3 Residents) or the percentage of employees who are or were Section 3 Residents at the time of contract award (i.e., at the time of award, at least 30 percent of its permanent, full-time employees include persons who are currently Section 3 Residents, or were Section 3 Residents within 3 years of the date such persons were first employment with the business), the certification is valid for three (3) years.

3. Where a business entity is certified by HACLA as a Section 3 Business Concern based on its commitment to subcontract more than 25 percent of the dollar award of all subcontracts awarded under a Section 3 Covered Contract to Section 3 Business Concerns, HACLA's certification of the business is valid for the term of the business's Section 3 Covered Contract.

4. HACLA reserves the right but is not compelled to accept a Contractor's/Subcontractor's certification as a Section 3 Business Concern approved by another governmental entity.

5. Being certified as a Section 3 Business Concern does not relieve Contractors from their Section 3 obligations. Section 3 Business Concerns are required to demonstrate compliance with Section 3 and this Plan.

## **VI. SECTION 3 RECRUITMENT AND NEW HIRES**

Contractors are expected to make good faith efforts to fill all new positions with Section 3 Resident New Hires, to the extent practical, following the order of priority set forth above before and in accordance with the process set forth in this part.

### **A. Recruitment**

1. HACLA maintains a database of employment-ready Section 3 Residents who meet certain minimum qualifications for various categories of employment. Upon receipt of a completed Section 3 Job Order Form (to be provided by HACLA) from Contractor/Subcontractor, HACLA will provide referrals to qualified candidates from the database. Contractors are expected to provide HACLA with the Section 3 Job Order Form well in advance of project commencement when reasonably possible.

2. Upon receipt of a Section 3 Job Order Form, HACLA will refer a maximum of six (6) qualified candidates for interviews for each available position. Contractors are expected give each New Hire candidate full consideration for available positions, as appropriate, and to impose the same hiring requirements upon Section 3 Resident New Hires as are imposed upon their other employment candidates.

3. In those instances where HACLA is unable to provide a sufficient pool of Section 3 Residents from which to recruit for available positions, Contractors shall engage in independent efforts to recruit Section 3 Residents in the order of priority set forth in the section above.

**B. New Hires**

All Section 3 Resident New Hires will be employees of the Contractor and shall have all the protections afforded to employees under state, federal and local laws. Contractors are expected to impose the same hiring requirements and personnel rules and policies upon Section 3 Resident New Hires as are imposed upon their other employment candidates and employees.

**C. Apprenticeship Programs**

Contractors are required to utilize the appropriate federally-approved apprenticeship programs as a means to meet the Section 3 numerical goals when employing apprentices. Apprentices may be used on Section 3 Covered Projects only to the extent permitted under the Department of Labor regulations at 29 CFR part 5, for work subject to HUD-determined prevailing wage rates, and HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices to journeymen set out in approved apprenticeship programs. Prior to the contract commencement Contractors are responsible for the submission of apprentice certificates issued by the Department of Labor for each apprentice employed on the project.

**D. Limitations**

Contractors retain the sole discretion and control over any hiring and personnel decisions. HACLA cannot and will not exercise any control over any of the Contractors' employees, including New Hires, regardless of whether they were referred by HACLA or are Section 3 Residents.

**E. Documented Efforts**

Contractors shall document efforts taken to recruit and interview Section 3 Residents for hire and shall, upon reasonable request, provide HACLA with documentation that demonstrates such efforts.

**F. Lack of Compliance**

A Contractor's failure to satisfy the requirements of this section may result in HACLA's determination that the Contractor has failed to demonstrate good faith efforts to comply with the requirements of Section 3 and this Plan and may subject Contractor to the penalties for default described in section VIII.B, including monetary fines and debarment.

## **VII. REQUIRED SUBMISSION DOCUMENTS**

### **A. Section 3 Economic Opportunity Plan (EOP)**

1. All Contractors awarded a Section 3 Covered Contract and their Subcontractors shall prepare an EOP, which provides HACLA a “snapshot” of Contractors’ and Subcontractors’ current workforce, anticipated workforce to complete the project, subcontracting needs and efforts to generate economic opportunities in compliance with Section 3. The specific requirements of the EOP will be included in HACLA’s solicitation for the work.

2. A Contractor’s EOP shall be submitted with Contractor’s bid/offer package, unless the solicitation specifies otherwise. Contractor and Subcontractor commitments set forth in the Contractor’s EOP will be incorporated into the contract; Contractor shall incorporate its EOP commitments in any subcontracts it awards for the contract work. Bids/Offer submitted by Contractors without an EOP, when required, will be rejected as non-responsive and will not be considered for contract award.

3. Failure on the part of Contractor or any of its Subcontractors to meet the commitments set forth in Contractor’s EOP may result in a determination that the Contractor is in material default of the contract.

### **B. Declaration of Intent to Comply with Section 3 Regulations**

In addition to the EOP, Contractors awarded a Section 3 Covered Contract and their Subcontractors shall complete a Declaration of Intent to Comply with Section 3 Regulations form (to be provided by HACLA), which shall be submitted with Contractor’s bid/offer package, unless the solicitation specifies otherwise. Bids/Offer submitted by Contractors without a Declaration, when required, will be rejected as non-responsive and will not be considered for contract award.

### **C. Section 3 Compliance Summary Report**

1. Contractors/Subcontractors shall, upon HACLA’s request, provide updated reports using the Section 3 Compliance Summary Report form. The updated reports must list all New Hires and identify which of those New Hires are Section 3 Residents.

2. In conjunction with each report, Contractors/Subcontractors shall submit comprehensive documentation of their Section 3 outreach efforts so long as New Hires and Subcontractors are required.

## **VIII. COMPLIANCE**

### **A. Reviews for Compliance**

1. HACLA may periodically audit Contractors’/Subcontractors’ compliance with Section 3 requirements and conduct periodic site visits to support such efforts.

2. In connection with an audit for compliance, HACLA reserves the right to request from Contractors/Subcontractors additional reports and information concerning its efforts to comply with requirements of Section 3 and this Plan, and the Section 3 related terms and

conditions of the Section 3 Covered Contract.

## **B. Non-Compliance**

1. Contractors who fail to comply with their EOPs or otherwise fail to meet their commitments and obligations arising under Section 3, this Plan or the Section 3 Covered Contract, shall, following notice and a reasonable opportunity to cure (as determined by HACLA in its sole discretion based upon the circumstances), be deemed in material default of their contracts and subject to fines and/or debarment as follows:

a. 1<sup>st</sup> Violation: Fine of ten percent (10%) of the contract award amount including all amendments.

b. 2<sup>nd</sup> Violation: Fine of additional ten percent (10%) of the contract award amount including all amendments.

c. 3<sup>rd</sup> Violation: Debarment, suspension, denial of participation in HACLA contracting or HUD programs, in accordance with 24 CFR § 135.74.

## **IX. RESOURCES**

### **A. General Information**

HUD provides general information concerning Section 3, including the provisions of the Code of Federal Regulations relating to Section 3 (24 CFR part 135), which is available here: [www.hud.gov/section3](http://www.hud.gov/section3).

HACLA has published its own Frequently Asked Questions concerning Section 3, which is available here: [www.hacla.org/section3](http://www.hacla.org/section3).

All forms referenced in this Plan are available online at [www.hacla.org/section3](http://www.hacla.org/section3) or by contacting HACLA's Section 3 Compliance Administrator or his/her designee at: [section3@hacla.org](mailto:section3@hacla.org).

### **B. Questions and Complaints**

Questions or complaints concerning this Plan or HACLA's Section 3 program should be directed to HACLA's Section 3 Compliance Administrator:

**Housing Authority of the City of Los Angeles**  
**Section 3 Compliance Administrator**  
**2600 Wilshire Blvd., 4<sup>th</sup> Floor**  
**Los Angeles, CA 90057**  
**Email: [section3@hacla.org](mailto:section3@hacla.org)**

Consistent with 24 CFR §135.76, a Section 3 Resident or a Section 3 Business Concern may file a Section 3 related complaint directly with HUD using HUD form 958.