

SECTION 3 FREQUENTLY ASKED QUESTIONS

GENERAL QUESTIONS

1. Why does the Housing Authority of the City of Los Angeles (the “HACLA”) enforce Section 3?

HACLA receives funding from the U.S. Department of Housing and Urban Development (HUD); as such HACLA is required to comply with Section 3 provision of the Housing and Urban Development Act of 1968. The act requires that economic opportunities generated by certain HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low and very low-income persons and to businesses that provide economic opportunities for these persons. Compliance with Section 3 is mandatory for all contractors and subcontractors undertaking Section 3 Covered Projects and Section 3 Covered Contracts.

2. How does Section 3 help low-income individuals?

Section 3 ensures that HACLA residents are given job training and employment opportunities, builds stronger communities and helps keep jobs in the community. It also promotes Section 3 businesses.

3. Which contracts are subject to HACLA’s Section 3 requirements?

Most HACLA contracts are subject to Section 3. Applicability of a particular project will be identified in the bid request/solicitation, and subsequently in the contract. Contractors undertaking Section 3 Covered Projects and Section 3 Covered Contracts are expected to meet the requirements of Section 3 and shall demonstrate compliance with the "greatest extent feasible" requirement by meeting the numerical goals for providing training, employment, contracting and/or other economic opportunities to Section 3 Residents and Section 3 Business Concerns. These and other Section 3 regulations are set forth in HACLA’s Section 3 Guide and Compliance Plan available at www.hacla.org/section3.

4. Where can I learn more about Section 3 and HACLA’s Section 3 Guide and Compliance Plan?

HACLA has developed a Section 3 Guide and Compliance Plan to assist contractors in understanding Section 3 regulation and HACLA’s policy. The Plan, as well as additional resources are available at www.hacla.org/section3. The website has additional resources that may be useful to review.

Additional information about the regulation is available on Housing and Urban Development Agency’s website at www.hud.gov/section3

SECTION 3 BUSINESS CONCERN

5. What are the eligibility criteria for a Section 3 Business Concern?

A Section 3 Business Concern is 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 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 within three years of the date of first employment with the business were Section 3 Residents; 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 to businesses that meet one of the first two qualifications set forth above.

6. Can a non-profit organization be considered a Section 3 Business Concern?

Yes. A non-profit organization can be a Section 3 Business Concern, provided it meets the eligibility criteria.

7. Does a business have to be incorporated to be considered a Section 3 Business Concern?

No. A Section 3 Business Concern can hold any type of corporate form, so long as the entity is properly licensed and meets all legal requirements to perform the contract under consideration.

8. Will I be considered a Section 3 Business Concern if I am a Minority Business Enterprise (MBE) or a Women Business Enterprise (WBE)?

No. Section 3 is both race and gender neutral. The preferences provided under Section 3 are based on income-level and geographical location. MBE/WBEs must meet the eligibility criteria to qualify as a Section 3 Business Concern.

Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment, training, and contracting opportunities to low-income residents, and businesses that employ these persons, within their community, regardless of race and/or gender.

To learn more about the MBE/WBE, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at:

http://portal.hud.gov/portal/page/portal/HUD/program_offices/sdb.

9. What is the Section 3 Business Registry?

HACLA's Section 3 Business Registry is a database of businesses that have certified that they meet one of the eligibility criteria of a Section 3 Business Concern. HACLA uses its Section 3 Business Registry as a resource to contract with Section 3 Businesses and refer them to prime contractors for subcontracting opportunities. The Registry is available at www.hacla.org/section3.

In addition to HACLA's Section 3 Business Registry, HUD has also established a national database of Section 3 Businesses. You may access their database at www.hud.gov/sec3biz.

10. How can I enroll my business in the Section 3 Business Registry?

If you believe your business qualifies as a Section 3 Business Concern, you will need to submit Form 2: Section 3 Business Concern Certification Form (available at www.hacla.org/section3) to the Section 3 Compliance Administrator via e-mail at section3@hacla.org.

11. What are the benefits of enrolling in HACLA’s Section 3 Business Registry?

Businesses on HACLA’s registry receive direct notification of procurement opportunities at HACLA and are referred to prime contractors for their subcontracting needs. In addition, Section 3 Businesses receive bid preferences under certain Invitation for Bids (IFB) solicitations.

SECTION 3 RESIDENTS AND SECTION 3 HIRING

12. Who are Section 3 Residents?

Section 3 Residents are public housing residents or low or very low-income persons who live in the Los Angeles metropolitan area of the Section 3 covered project and who have a household income that does not exceed HUD’s income limits. Current income limits can be found at www.hacla.org/section3.

13. What is “Los Angeles metropolitan area” for purposes of Section 3?

Metropolitan area means a metropolitan statistical area (MSA) as established by the Office of Management and Budget. Los Angeles metropolitan area is the Los Angeles-Long Beach-Anaheim MSA, consisting of Los Angeles and Orange counties.

14. What is a “Section 3 New Hire” for purposes of Section 3?

A Section 3 New Hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of Section 3 Covered Assistance or a Section 3 Covered Project.

15. Are laid-off workers that are “re-hired” as a result of a HUD-funded project considered New Hires for purposes of meeting the Section 3 minimum numerical goals?

Yes. A qualifying employee that was not on the payroll of a Contactor on the day that the Section 3 Covered Contract was awarded can be counted towards the Section 3 minimum numerical goals.

16. Will I be considered in compliance with Section 3 if I were to hire a Section 3 Resident only throughout the contract term?

Yes, provided that you have met the minimum numerical goals. Temporary jobs are included in the overall count of Section 3 New Hire goals. However, you are strongly encouraged to keep the Section 3 Resident New Hire employed, as it may assist you in qualifying as a Section 3 Business Concern.

17. Are Contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?

Contractors are required to provide opportunities to residents when positions are created due to the award of the Section 3 Covered Contract. Contractors are also encouraged to provide meaningful long term employment when possible.

18. How can I recruit Section 3 Residents to meet the New Hire goals?

HACLA maintains a database of qualified employment-ready Section 3 Residents. Contractors are required to submit a Section 3 Job Order Form to the Section 3 Compliance Administrator or his/her designee notifying of the open position(s) and the required qualifications. HACLA will identify candidates from its Section 3 Resident Registry who meet the requirements and refer them to the contractor for interview. Contractors are expected to give each Section 3 New Hire candidate full consideration for available positions, as appropriate, and to impose the same hiring requirements upon Section 3 candidates as are imposed upon their other employment candidates. Contractors retain sole discretion and control over any hiring and personnel decisions.

Contractors are also expected to engage in independent efforts to recruit Section 3 Residents in the order of priority identified in the Section 3 Guide and Compliance Plan and in 24 CFR Part 135.34.

19. What is “order of hiring priority?”

Contractors are expected to make good faith efforts to fill all new positions with Section 3 Resident New Hires in the following order of priority:

1. First priority (P1): Individuals residing in the HACLA owned or managed development/property where the work is performed.
2. Second priority (P2): Individuals residing in other HACLA owned or managed developments/properties.
3. Third priority (P3): Participants in the HUD Youth Build Program.
4. Fourth Priority (P4): All other Section 3 eligible residents in the Los Angeles metropolitan area.

20. What are some of the examples of outreach efforts?

Contractors can work with the Section 3 Compliance Administrator or his/her designee and arrange to distribute flyers in the community, post job notices at management offices and community centers, as well as work with HACLA’s WorkSource Center to engage in other outreach efforts to meet their hiring needs.

21. Am I required to only hire HACLA Section 3 Residents?

Contractors/Subcontractors are required to follow the “order of hiring priority” as identified in Question 19. If all possible sources have been exhausted and the Contractors/Subcontractors have been unsuccessful in hiring P1 and P2 Section 3 Residents for available positions, the contractor/subcontractor must request a waiver from HACLA by documenting efforts and continue their recruitment by trying to fill the position(s) with P3 and P4 Section 3 Residents, in that order of priority. Failure to follow these guidelines will result in a determination that the Contractor/Subcontractor failed to comply with the Section 3 requirements.

CONTRACTING

22. Are Section 3 Residents or Section 3 Business Concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program. Residents and businesses must be able to demonstrate that they have the ability and capacity to perform the specific job or successfully complete the contract that they are seeking. The Section 3 regulation provides preferences to Section 3 Residents and Business Concerns, but is not a guarantee of employment or contracting.

23. Am I guaranteed to receive the contract if I commit to Section 3 hiring?

Several factors are considered when awarding contracts. Being a Section 3 Business, or presenting a Section 3 plan with specific hiring or other kind of commitment may provide an advantage depending on the solicitation type being used.

See Question 25 also.

24. Do contractors have to comply with both hiring and subcontracting goals, or either is sufficient?

Contractors/subcontractors are required to direct newly created employment AND subcontracting opportunities to Section 3 Residents and Section 3 Business Concerns.

25. What is the Section 3 Bid Preference and when does it apply?

HACLA has adopted a bid preference for Section 3 Business Concerns when awarding Section 3 Covered Contracts using the Invitation for Bids (IFBs) method of solicitation. 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. This bid preference does not apply to materials-only contracts.

When the lowest Responsive bid is:	Section 3 Business Concern bid is within lesser of:
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	1 ½% of the lowest Responsive bid, with no dollar limit

COMPLIANCE AND THE SECTION 3 FUND

26. What resources are available to assist with Section 3 compliance?

HACLA's Section 3 Compliance Administrator or his/her designee are available to provide guidance regarding effectively fulfilling your Section 3 obligations and assisting you in completing Section 3 documents. Resources are also available at www.hacla.org/section3.

27. Am I required to submit an Economic Opportunity Plan (EOP)?

Submission of an Economic Opportunity Plan (EOP) is required with all bids/offers for Section 3 Covered Projects, unless indicated otherwise in the solicitation/request for quote. The EOP must clearly identify hiring and subcontracting commitments. Should hiring and subcontracting not be feasible, the bidder/offeror is required to provide other economic opportunities. Failure to submit a viable EOP may deem your bid/offer non-responsive. You may contact the Section 3 Compliance Administrator for assistance in preparing an EOP.

28. I provide professional services and my contract with HACLA will not necessarily create jobs or subcontracting opportunities. How do I comply with Section 3?

Professional service contracts are subject to Section 3. If hiring and subcontracting is not feasible due to the nature of work you do, you can comply with the Section 3 regulation and HACLA's Section 3 Guide and Compliance Plan by offering other economic opportunities (see examples of other economic opportunities in Question 31).

29. What happens if circumstances change and I have to amend my EOP?

Your EOP is incorporated into the contract, which is a binding agreement. Failure to comply with the terms set forth therein will be deemed a material breach of the contract. Should unforeseen circumstances arise, contact HACLA's Section 3 Compliance Administrator or his/her designee immediately to determine whether an amendment is permissible.

30. Can I change the job classification of the commitments made in the EOP, but still hire the same number of employees as stated in the EOP?

See Question 29.

31. What are some examples of "Other Economic Opportunities" as stated in the EOP?

Contractors who are unable to satisfy Section 3 hiring and subcontracting goals are required to commit to providing other economic opportunities to Section 3 Residents. These opportunities include internships, scholarships, mentorships and job shadowing programs, enrollment in a trade school, or other opportunities that enable the Section 3 Residents to gain knowledge and skills which in turn will contribute to obtaining employment in the future. If unable to offer other economic opportunities to Section 3 Residents, as an option of last resort, vendors may contribute to the Section 3 Fund.

32. Our offices are outside of Los Angeles. Are we still required to hire and subcontract with Section 3 Beneficiaries?

If your geographical location hinders the hiring of Section 3 Residents and subcontracting with Section 3 Businesses, you can fulfill your Section 3 obligation by providing other economic opportunities or by contribution to the Section 3 Fund.

33. What if I attempt but am unable to meet my Section 3 commitments?

Any obstacles you face should be immediately communicated to the Section 3 Compliance Administrator or his/her designee, who may be able to assist you to the extent possible. Contractors/Subcontractors who are unable to meet their Section 3 commitments and who have demonstrated to the satisfaction of HACLA that they have engaged in recruitment and other efforts to satisfy their commitments, may be required to contribute to HACLA's Section 3 Fund.

34. Can I contribute to the Section 3 Fund in lieu of hiring and/or subcontracting?

No. Contributing to HACLA's Section 3 Fund is considered an option of last resort. To contribute to the Section 3 Fund you must be able to demonstrate to HACLA that you made effort to fulfill hiring and subcontracting requirements but were unable to do so.

35. How is the contribution to the Section 3 Fund determined?

The contribution amount will be calculated as a percentage of the contract amount, as outlined in HACLA's Section 3 Guide and Compliance Plan, Parts IV B and C.

RECORDKEEPING AND REPORTING

36. How do I report my outreach efforts and compliance with Section 3?

Contractors are required to periodically submit a Section 3 Compliance Summary Report (Form-5). The report must clearly identify new hires, trainings and subcontracting activities. A Section 3 Resident Certification (Form 3) must be submitted for each new hire prior to the employee's start date. Subcontractors are subject to the same Section 3 rules and are required to provide the same reporting documents for their activities. The prime contractor is responsible for ensuring its subcontractors' Section 3 compliance. Contractors are encouraged to submit a narrative on company letterhead explaining outreach efforts in support of data reported on Forms 3 and 5.

37. How do I report Section 3 New Hires?

Section 3 New Hires should be reported to HACLA using Form 3: Section 3 Resident Certification Form prior to the employment start date.

38. What kind of documentation should I provide HACLA to demonstrate my good faith effort to be in compliance with Section 3?

Contractors are required to periodically submit a Section 3 Compliance Summary and Section 3 Resident Certification forms. In addition, all outreach efforts should be documented, including but not limited to: mailings, flyers, emails, job postings and interview notes, as applicable. You should submit this information and documents to HACLA at project end or throughout the project term as requested by HACLA. The documents should clearly state the date, location, subject matter, outcome and the person conducting outreach. It is recommended to keep a chronological log providing date, person conducting the outreach/work, description and outcome. That log can

be signed by an authorized representative of the company and submitted as documentation of efforts made to comply with Section 3.

Contractors who committed to training, mentorship or other economic opportunities are expected to provide a written report after each training and after satisfying the commitment. The report should include, as applicable, names of participants, date, time, location, agenda, activities, mentor name, curriculum, purpose, benefits and future actions.

39. As a Contractor, am I obligated to report to HUD?

No. Contractors are not required to report directly to HUD. You are required to submit all your paperwork to HACLA throughout the project term and at project completion. HACLA will compile the information and report to HUD.

CONSISTENCY WITH OTHER LAWS

40. What is the relationship between Section 3 and the Davis Bacon Act?

Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under the Davis-Bacon Act (40 U.S.C. 276a—276a-7) and U.S. Department of Labor regulations (29 CFR Part 5).

The applicability of Section 3 does not minimize or otherwise impact the applicability of the Davis-Bacon Act or a Contractor’s obligation to pay prevailing wages. Compliance with Section 3 must be achieved consistent with the requirements of the Davis-Bacon Act and other applicable labor laws.

41. What if my Section 3 hiring commitments trigger State Apprenticeship mandates or impact other workforce regulations and requirements?

It is the responsibility of the contractor to identify and comply with applicable laws that will be triggered by your commitment to hire Section 3 Residents. Your commitments set forth in the EOP are incorporated into your contract. Failure on the part of contractor or its subcontractors to meet the commitments in their EOPs may result in a determination that the Contractor is in material default of the contract regardless of any inconsistent state law.

42. Can contracting with MBE/WBE count towards Section 3 subcontracting goals?

Only Minority Business Enterprises/Women Business Enterprises that meet the eligibility criteria for Section 3 Business Concerns can be counted towards the Section 3 minimum numerical goals.