# **Brookline Housing Authority**

**Section 3 Policy** 

**March 2016** 

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# Section 1. - General Provisions and Policy Statement

#### 1.1 Purpose and Scope

The Brookline Housing Authority's (BHA) Section 3 Policy, documents the Authority's commitment, to the greatest extent feasible, that the federal housing funds it receives will be directed (in the form of employment, training and contracting opportunities) to BHA residents, the low and very low income persons living in and around the town of Brookline and business entities that employ or are owned by BHA residents and/or low and very low income residents of the metropolitan Boston area. The goal of the BHA is, to the greatest extent feasible, a substantial percentage of new jobs, training and contracting opportunities generated by HUD financial assistance shall be directed to Section 3 residents and Section 3 business concerns.

The purpose of this document is to define the Section 3 policy of the Brookline Housing Authority, establish procedures and ensure that Section 3 requirements are fulfilled as laid out under Section 3 of the HUD Act of 1968, as amended. As stated in the regulation:

The purpose of Section 3 of the Housing and Urban Development Act of 1968 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

# 1.2 Applicability

Section 3 applies to all funds allocated to public housing authorities, notwithstanding the amount of the funds, except contracts for the purchase of supplies or materials only. The policies herein apply to all BHA hiring practices, economic development and employment training programs, solicitation packages and contracts. This policy does not supercede government requirements for competitive procurement and Davis Bacon wages. It also does not supercede requirements under Massachusetts laws for bidding and construction.

# Section 2. – Definitions as defined by 24 CFR 135.5

#### Recipient:

Any entity that receives Section 3 covered funding directly from HUD or from another recipient and includes LHA's, bidders, sub-bidders, contractors, sub-contractors, business entities, developers, suppliers, vendors, service providers, and public or private organizations and/or respondents to and involved with BHA federal funded procurements and contracts.

# **Employment opportunities generated by Section 3 covered assistance:**

All employment opportunities generated by the expenditure of Section 3 covered funding of any type by HUD (i.e. operations, development, and modernization).

#### **New Hires:**

Full-time employees for a new permanent, temporary or seasonal position that is generated from the expenditure of Section 3 covered assistance.

#### **Preference for Section 3 Residents in Training and Employment:**

Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities to Section 3 residents in the following order:

- 1. BHA residents of the Federal public housing development where work is to be performed.
- 2. Residents of any BHA public housing development
- 3. Participants in HUD Youthbuild programs
- 4. Other income eligible individuals who reside in the metropolitan area.

# **Section 3 Covered Residents:**

- 1. A public housing resident (aged 18 or over ); or
- 2. An individual (aged 18 or over) who resides in the metropolitan area in which the Section 3 covered assistance is expended and who is a low or a very-low income person. Such persons are defined as families (including single person) whose incomes do not exceed 80 percent or 50 percent, respectively, of the median income for the area; or
- 3. An individual (aged 18 or over) who participates in the Youthbuild program.

#### **Section 3 Business Concern:**

A business concern that is:

- 1. 51 percent or more owned by Section 3 resident(s); or
- whose permanent full-time employees include persons, at least 30 percent of whom
  are currently section 3 residents, or within three years of the date of first
  employment with the business concern were section 3 residents; or

3. 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 meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

#### **Section 3 Covered Contract:**

Contracts or subcontracts (including professional service contracts) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. Section 3 covered contracts do not include contracts for the purchase of supplies and materials. However, when a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

#### **Section 3 Covered Assistance:**

All funds allocated to public housing authorities, except contracts for the purchase of supplies or materials only (unless the contract for materials includes installation of the materials in which case Section 3 would apply). Section 3 applies to the entire project or activity funded with Section 3 assistance regardless of whether the Section 3 project is fully or partially funded with Section 3 covered assistance.

#### **Section 3 Covered Project:**

The construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with federal housing or community development assistance. Maintenance and repair undertaken in connection with housing rehabilitation is covered by Section 3.

# Numerical goals for meeting the greatest extent feasible requirements for Section 3:

- 30% of the aggregate number of new hires for one year period to be section 3 residents,
- At least 10% of the total dollar amount of all section 3 covered contracts to be subcontracted to section 3 business concerns,
- For non-construction contracts at least 3% of the total dollar amount of the contract to go to section 3 business concerns.

#### Section 3. – BHA Section 3 Efforts

The BHA hiring and training requirement for recipients is that to the greatest extent feasible, at least 30% of new hires or trainees in any federal fiscal year constitute Section 3 residents. This requirement applies to all new hiring and training opportunities

generated from the Section 3 covered activity. A "new hire" is a full time employee for a permanent, temporary, or seasonal employment opportunity.

#### 3.1 BHA Resident and Training Requirement Practices

#### A. Section 3 Resident Preferences in Hiring

The BHA will continue to strive to meet the Section 3 goals through the following means:

The BHA will give preference for employment to residents of public housing and low income persons who are qualified Section 3 residents and who have the qualifications that match the needs of the job. This preference is intended to increase opportunities for training and employment for Section 3 Residents. Being a Section 3 resident will not automatically entitle that person to be offered the position. Preferences will be applied as follows as per 24 CFR 135.34:

- 1. Residents of the BHA development where the work will occur
- 2. Residents of other BHA developments
- 3. Participants in HUD Youthbuild programs in the metropolitan area
- 4. Other low income or very low income residents who live in the Town of Brookline and Metropolitan area

#### **B. Job Notification Mailings**

The BHA shall send job postings for all full-time staff positions to be filled, to all property managers, Director of Next Steps and Family Learning Centers, Director of Maintenance, Director of Modernization, Director of Subsidized Programs/ Occupancy, Section 3 Coordinator, BHA Tenant Association and the Town of Brookline. Postings will specifically state that BHA Section 3 residents are encouraged to apply and that qualified residents will be given preference.

#### **C. Job Notification Postings**

BHA Property Managers shall post job notifications on a Bulletin Board at the property site which shall be placed in an area accessible to all tenants. BHA job vacancy notices shall be placed at the central administrative office of BHA, on the BHA web site, and other locations frequented by section 3 residents. Advertising for employment and business opportunities will be done with local newspapers likely to reach Section 3 residents such as the Brookline Tab and the Bay State Banner.

BHA shall contact people from its Section 3 resident and Section 3 business concern lists who indicated their interest in upcoming opportunities. A copy of the job notification will be mailed and/or emailed to eligible people on the list.

#### 3.2 Section 3 Business Concerns

The BHA Section 3 contracting goals apply to all contracting and subcontracting needs generated by the Section 3 covered activities. Recipients shall endeavor to meet the following goals, to the greatest extent feasible. For construction contracts, the goal is to award at least 10% of the total dollar amount of contracts for building trades work for maintenance, repair, rehabilitation, modernization, construction or development to qualifying Section 3 business concerns. For other types of contracts, the goal is to award at least three percent (3%) of the total dollar amount of all other contracts to qualifying Section 3 business concerns. Contractor Selection shall be consistent with federal and state procurement laws and regulations.

If a section 3 covered activity does not generate contracting opportunities, the recipient is not required to create contracts simply to fulfill the Section 3 program requirements (e.g. so called single trade construction projects may not require sub-contracts or additional contracting).

When Section 3 covered activity is generated, BHA will at a minimum:

- Notify Section 3 business concerns about contracting opportunities on Section 3 covered contracts.
- BHA will, to the greatest extent feasible, give preference to section 3 business concerns when entering into any contract with a Section 3 covered activity. Being a Section 3 business concern will not automatically entitle that business to be awarded the contract.

# 3.3 Contracts Procured through the Maintenance Department

### A. Solicitations

Section 3 language shall be included in all standard RFP's and bid documents for goods and services as set forth in 24 CFR 135.38.

# **B.** Contracts

BHA shall include HUD form 5370 rev. (1/2014) § 40 (Employment, Training and contracting Opportunities for low income persons, Section 3 of the Housing and Urban Development Act of 1968) in all federally subsidized contracts. This HUD form incorporates the mandatory Section 3 participation contract clause.

#### C. Pre-Bid Conferences

Requirements of Section 3 shall be discussed at all pre-bid conferences.

### **D. Certified Payroll Reports**

All Contractors performing work shall be required to submit Certified Payroll Reports to comply with HUD's Labor Regulations. These reports list the name, address, hours worked, and hourly wage rate of each person performing work on a particular project.

#### E. Outreach

The Maintenance Department in conjunction with the Modernization Department, will maintain a list of Section 3 business concerns (refer to section 3.8) and also outreach to the HUD Section 3 business registry.

# 3.4 Architect/Consultant Contracts procured through the Modernization Department

#### A. RFPs/RFQs

All Requests for Proposals/Requests for Qualifications from Architects and Consultants shall include specific Section 3 participation language as set forth in 24 CFR 135.38.

# **B. Pre-proposal Conferences**

Section 3 participation goals and plan requirements shall be discussed at all preproposal conferences.

#### C. Section 3 Plan Submissions

All Architects and Consultants performing work on Section 3 covered projects shall be required to submit a written statement regarding Section 3 goals. To the greatest extent feasible they shall 1) give preference to qualified Section 3 Residents when making any New Hires in connection with a Section 3 covered contract and 2) provide opportunities for training Section 3 Residents.

#### D. Outreach

The Modernization Department shall facilitate the award of Section 3 contracts to Section 3 Business concerns by undertaking activities such as described in the Appendix to 24 CFR 135.

The Modernization Department will maintain a list of Section 3 business concerns and outreach to the HUD Section 3 business registry.

#### E. Kick-Off Meetings

Section 3 requirements shall be reviewed in detail at all kick-off meetings. At that time, the BHA shall make best efforts to provide architects/consultants with any available resource information regarding agencies and organizations that can provide assistance in meeting the Section 3 requirements. BHA will provide a list of names of residents and qualified Section 3 business concerns.

# 3.5 Construction Contracts Procured through the Modernization Department

#### A. Goal

Contractors for Section 3 covered projects shall to the greatest extent feasible, 1) give preference to qualified Section 3 residents when making any New Hire in connection with a Section 3 Covered Contract and 2) give preference to qualified Section 3 business concerns.

#### **B.** Advertisement

BHA shall include language on Section 3 participation in all invitations for bids for Section 3 covered projects.

# C. Bid Package

As part of the public bid package, BHA shall notify potential contractors for Section 3 covered projects of the Section 3 requirements. BHA shall incorporate the Section 3 clause set forth in 24 CFR 135.38 in all solicitation and contracts (see Appendix #1).

#### D. Section 3 Plan Submission

All General Contractors for Section 3 covered projects shall submit a written statement regarding Section 3 goals using the attached documentation in Appendix # 2.

#### **E. Pre-construction Conference**

Section 3 requirements shall be reviewed in detail at all pre-construction conferences. At that time, the BHA shall make best efforts to provide contractors with any available resource information regarding agencies and organizations that can provide assistance in meeting the Section 3 requirements. BHA will provide a list of names of residents experienced in construction and in addition qualified Section 3 business concerns.

#### F. Certified Payroll Reports

All Contractors performing work shall be required to submit Certified Payroll Reports to comply with HUD's Labor Regulations. These reports list the name, address, hours worked, and hourly wage rate of each person performing work on a particular project. This documentation also provides BHA with the ability to track compliance with Section 3 on a covered project.

#### G. Outreach

The Modernization Department shall facilitate the award of Section 3 contracts to Section 3 Business concerns by undertaking activities such as described in the Appendix to 24 CFR 135. The Modernization department will maintain a list of Section 3 business concerns and outreach to the HUD Section 3 business registry. In addition, BHA will maintain a list of potential eligible Section 3 residents which will be forwarded to the Contractor.

### 3.6 Designation of Section 3 Coordinator

The BHA has designated a Section 3 Coordinator. The role of this person will be responsibility for monitoring BHA Section 3 Program activities, coordinating along with BHA Department Heads Section 3 program efforts of BHA departments and work with Section 3 residents and business concerns. The Section 3 Coordinator will maintain a list/database of eligible Section 3 residents and business concerns and will ensure Section 3 reporting requirements are completed.

#### 3.7 Recruitment of Section 3 Residents

- At lease signing the head of household/Co-head of household will be informed of BHA's Section 3 Program for all members of the household over the age of 18.
   Resident will be given a Section 3 form (see Appendix #3) to register their interest in future opportunities and will be asked to return this to the Section 3 Coordinator.
- At Section 8 briefings all participants will be informed of the Section 3 Program.
   Participants will be given a Section 3 form (see Appendix #3) to register their interest in future employment and training opportunities.
- For all those interested in the Section 3 program their names will be entered into the Section 3 database/list.

#### 3.8 List of Eligible Section 3 Residents and Section 3 Business Concerns

In October 2015 a Section 3 Resident survey was mailed out to the residents of BHA. 41 residents responded and 30 of those indicated they were interested in the Section 3 program. Their names and contact details were entered into a database indicating their area of skill/trade/experience etc. (See attached Appendix #4).

The database will be updated periodically.

Names of people will be added to the database as and when new residents are interested in being added to the program.

Tenant Coordinators names will also be added to the list.

The database can be used by other BHA staff and utilized for future employment/training and contracting opportunities at BHA.

# Section 4. – OTHER ECONOMIC OPPORTUNITES

If BHA, contractors and/or vendors cannot meet the Section 3 goals of hiring and training due to impediments encountered, despite actions taken, they shall strive to comply with Section 3 by making other economic opportunities and training available to Section 3 residents. Section 3 regulations encourage alternate training and employment activities including, but not limited to, development of training programs, apprenticeships, mentoring programs, onsite job placement or counseling services, job readiness programs, and employment outreach activities.

#### 4.1 BHA Section 3 Other Economic Opportunities

#### **Resident Services**

BHA has a number of resident programs working with adults and children throughout its housing developments.

#### A. Steps to Success

Steps to Success is a comprehensive educational achievement program, operated by the Public Schools of Brookline with support from the BHA, providing academic, social, development and family support for low-income students and their families. Working with students in Grades 4-12, the program seeks to break through the attitudes and substantive barriers – both personal and institutional – that can make it difficult for students to succeed in school and pursue a college education.

The following programs have been established to address these barriers:

- Academic enrichment and mentoring
- Work connections for youth
- Early college awareness and readiness
- Family support services

#### **B. Next Steps Program**

BHA's Next Steps Program purpose is to reduce and alleviate poverty in Brookline by addressing the career development needs of unemployed or underemployed low income adult (age 18 and over) residents. The program provides free one-on-one counseling services and relevant resource/training referrals to those who seek to establish and/or advance their vocational goals.

Next Steps program places strong emphasis on job readiness skills. Most clients are assisted in creating or revising a resume, in addition to being educated in effective online job searches and completion of online job applications. Next Steps Director assists clients in creating email accounts and completing online applications. In addition to providing access to computers, guidance is provided in answering application questions, cover letter writing as well as practice interview sessions. Next Steps will also provide references. Soft skills are also emphasized including self-advocacy and on-the-job conflict resolution coaching. BHA's Next Steps Program helps adults to write or revise resumes, find employment, and pursue continuing education opportunities including GED, certificate programs, 2 and 4 year colleges and job/skills training. Next Steps organized and sponsored an "Alternatives to College Fair" in partnership with the Brookline Teen Center. This allowed for representatives from businesses, training programs and government agencies to talk to young adults and teens regarding employment and training opportunities.

The following are additional programs:

- Training Incentive Program
- Alternatives to College Fair
- Financial Literacy Programming
- Partnership with Steps To Success
- Leadership role with Women and Girls Thriving in Brookline
- Partnerships with local organizations and employers
- Summer job program
- Police exam info sessions
- Women's commission clothing drive
- Job Corps

# C. Computer Learning Program

The BHA has a number of Family Learning Centers located at its family developments. The centers have computer rooms and are open to all residents of BHA. Children are given training in computers after school and during the summer, and adults are instructed in skills often needed for employment or advancement. Classes are also given in BHA's elderly/disabled buildings.

#### **D. Brookline Learning Project**

Since 1998 the Brookline learning project (BLP) has served as the primary provider of English language classes for low-income adults living in the town of Brookline. With roots in the STS an educational achievement program for youth, BLP has expanded to serve a broad cross section of immigrant families ranging from 26 to 89 years of age. However since August 2015 the BLP is under the sponsorship of the BHA. The overall goal of BLP is to provide free high quality comprehensive English language instruction for low income adults living in Brookline resulting in improved prospects for achieving economic self-sufficiency, becoming more involved in their children's education, and accessing the resources that the town has to offer.

Through the BLP 50 or more adult students are able to enroll in English language classes. Low income participants primarily live in BHA developments. One quarter are low-income non BHA residents living in Brookline.

The BLP partners with other programs that serve the same target population including STS to enroll parents of school aged children, Brookline food pantry, and the Brookline Community Mental Health Center.

BLP offers twice weekly classes 4 hours a week Oct to June with additional weekly class options to serve smaller groups of students in more locations.

In addition to traditional ESOL classes the BLP is piloting a targeted intermediate writing group for Adult Basic Education (ABE) students residing in the area of Egmont, Trustman and Dummer Street developments.

# **E. Hiring of Tenant Coordinators**

To maximize the Section 3 program benefits for its resident population, the BHA periodically employs Tenant Coordinators for modernization projects.

### F. Staff who are currently BHA Public Housing Residents or Section 8 Recipients

Section 8 office based staff	F/T	High Street Veterans
Section 8 office based staff	F/T	Section 8 Recipient
Maintenance employee	P/T	Egmont Street Veterans
ESOL Program Director	F/T	<b>Boston Public Housing Resident</b>
Receptionist	P/T	Trustman Apartments
After-school Programs	P/T	Several

In addition, four other current BHA employees previously lived in public housing.

One of BHA's recent hires was recruited from the Section 3 resident Survey. BHA was looking to recruit a part-time receptionist at its main administrative offices and found a good match from the survey/questionnaire.

The recent hire ESOL Program Director currently lives in subsidized housing in the metropolitan area.

BHA encourages the employment of tenant coordinators wherever possible. In a recent construction project BHA used three Tenant Coordinators who live in BHA's public housing developments (on a part-time basis), who provided valuable assistance during the construction phase.

# Section 5. – Compliance Requirements

#### 5.1 Hiring

The Section 3 regulations provide that recipients and contractors make good faith efforts to employ Section 3 residents as 30% of the aggregate number of new hires. A vendor is required to hire only when a new hire is needed to perform the work.

In situations where a new hire is needed a recipient will not be required to hire persons who are not qualified. If a new hire is needed and a Section 3 resident is identified, that Section 3 resident will be required to submit evidence of Section 3 status to the recipient, contractor or subcontractor. Any Section 3 resident claiming preference for employment, training or contracting opportunities is responsible for providing evidence

of their eligibility for the preference. The following documents are acceptable for proof of eligibility:

- Copy of lease
- Copy of receipt of public assistance
- Copy of evidence in a public assistance program
- Proof of current income
- Copy of enrollment/participation in a Youthbuild program

See Appendix #5 for the form which section 3 residents must complete to self certify they are a Section 3 Resident.

If proof cannot be provided, the potential Section 3 resident will not be counted as eligible.

The BHA prefers that contractors hire qualified individuals from the development where work is being performed. However, the BHA will not require a vendor to hire from the development at the work site if:

- 1. A pre-identified list of Section 3 residents from a job site contains no persons qualified to perform the work. Qualified residents from other developments shall then be considered.
- 2. The vendor's workforce is adequate to do the job and no new hiring is needed,

# 5.2 Contracting

#### A. Background

- 1. The Section 3 Regulations, at 24 CFR Part 135, provide that the BHA and its contractors may demonstrate compliance by awarding contracts to Section 3 business concerns or to vendors who contract with such firms.
- Recipients that award contracts to contractors that will provide training or make New Hires, should strive to ensure that contractors provide training, employment and contracting opportunities to qualified Section 3 Residents and Section 3 Business concerns.
- As part of each bid or proposal submitted, the respondent must document its
  workforce by position for the subject project. Vendors will be required to submit
  documentation in the form of payroll forms submitted weekly that identify Section 3
  hires.
- 4. Non-BHA households claiming Section 3 status must be prepared to submit evidence of income and residency in Brookline at the time of hire. As part of the Section 3

compliance process, vendors will be required to document that employees hired meet the residency and income requirements.

#### **B.** Compliance

- 1. Business Concerns claiming Section 3 status based on ownership and workforce or workforce only (as applicable) must meet that status at the time the bid or proposal is submitted to BHA.
- 2. Anyone claiming to be a Section 3 resident or business concern shall be required to provide evidence of such status and complete the form Certification of Section 3 Status for Businesses (see Appendix #6).

Acceptable documentary evidence includes:

- Copy of resident lease
- Copy of evidence of participation in a public assistance program
- Copy of receipt of public assistance
- Copy of articles of incorporation
- Assumed business name certificate
- Certificate of good standing
- 3. Pursuant to 24 CFR 135.36 (c) any firm, prime or subcontractor claiming Section 3 status must demonstrate to BHA's satisfaction that the business concern is responsible and has the ability to complete the work under the terms and conditions of the proposed contract. In evaluating firms under this provision BHA will examine:
  - the work history and prior performance of the firm;
  - the requirements of the job verses the skills evidenced by the firm through its owners, officers, principals, and key staff;
  - technical and logistical capacity to complete the work considering contracts already awarded to the firm by BHA or others;
  - bonding capacity and ability to obtain required insurance (with allowances for disadvantaged or start-up firms);
  - evidence of past sanctions imposed by the BHA or others; and
  - evidence that the firm, its principals, associates, partners, subcontractors or others have not acted or colluded in order to circumvent the compliance process by structuring contractual or other relationships or engaging in practices designed to comply with Section 3 only to obtain the preference without regard to the work or requirements of the job.
- 4. If a business concern claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to the BHA as part of the response to the bid, quote, or proposal. Further, the firm must maintain

the Section 3 workforce percentage throughout the life of the contract. Workforce composition is subject to audit.

5. A business concern seeking to qualify for Section 3 status shall certify and submit evidence that it is entitled to the applicable Section 3 status and that it is a Section 3 business concern as defined in 24 CFR, Part 135 and by the BHA pursuant to this policy.

#### 5.3 Non-Compliance

If any Contractor fails to reach the minimum numerical goals as defined in section 2, they may still be considered in compliance with these policies and procedures. To do so they must document that they have made good faith efforts to achieve to the fullest extent possible the established percentage goals.

The BHA will assist Contractors in promoting the availability of employment and contracting opportunities arising from BHA projects to Section 3 residents.

It is the responsibility of the Contractor associated with a Section 3 contract to ensure compliance with Section 3 policies and procedures to the greatest extent possible. Prior to and during the construction contract BHA will assist contractors in promoting the availability of employment and contracting opportunities arising from BHA projects to BHA residents.

# Section 6. – Record Maintenance and Reporting

BHA shall document on HUD form 60002 its efforts to comply with the requirements of Section 3, the results of the actions taken and impediments, if any.

On an annual basis the BHA will compile information about Section 3 employment, training and contracting efforts gathered from BHA records, and Contractors records associated with BHA projects. This information will be provided and submitted to HUD on the HUD 60002 Section 3 Summary Report at the end of each calendar year in January.

The BHA will be responsible for keeping all reports and information provided by contractors and all reports sent to HUD. These records will be maintained and made available for HUD inspections and for any individual or firm that files a written complaint alleging violation of these policies and procedures.

BHA will maintain records of job vacancies, solicitations for bids or proposals, selection materials, and contract documents (including scope of work and contract amount).

# Section 7. – Grievance/Complaints Procedure

Any Section 3 resident or Section 3 business concern and recipients can file a complaint if they feel that Section 3 regulations were not complied with. Complaints should be filed in writing and must contain the name of the complainant and a brief description of the alleged violation. Complaints should be addressed to:

Brookline Housing Authority Attention: Modernization Director/Section 3 Coordinator 90 Longwood Avenue Brookline, MA 02446

Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation. The BHA will conduct an informal investigation affording all interested parties the opportunity to submit evidence/testimony pertinent to the complaint. The BHA will issue a letter detailing the findings of the investigation no later than thirty (30) calendar days after filing of the complaint.

A complaint may also be filed with HUD. The HUD complaint form (HUD Form 958) is available on the HUD section 3 website. Complaints are investigated by HUD directly. Complaints must be addressed to:

U.S. Department of Housing and Urban Development New England Office Boston Regional Office 10 Causeway Street Boston, MA 02222

Complainants are responsible for filing their complaints with HUD in accordance with applicable regulations which can be found at CFR24 Part 135.76. Complaints filed with the BHA will not be automatically forwarded to HUD.

#### 8. - Other BHA Outreach Efforts

- 1. BHA will comply with Section 3 Regulations 24 CFR subpart B 135.32 including the Appendix to 24 CFR Part 135 of the Section 3 regulations to the greatest extent feasible.
- 2. BHA will survey all residents in BHA public housing developments and maintain a list of eligible Section 3 residents and Section 3 businesses. A database will be kept by the BHA Section 3 Coordinator, of skill/trade, capacity and interest. When employment or contracting opportunities arise BHA will contact those people on the list by mail, telephone or email and inform them of upcoming opportunities.

- 3. The list of Section 3 residents and business concerns will be reviewed annually and can be used by other BHA members of staff.
- 4. Attached to the Section 3 Policy is the survey that was mailed to BHA residents. (see Appendix #7)
- 5. At Section 8 briefings and when new public housing tenants sign new leases BHA staff will issue a notice informing tenants of the Section 3 program and ask they complete the questionnaire (see Appendix #3) regarding information about their employment skills and if they would like to be placed on the BHA list.
- 6. When Section 3 businesses are identified, BHA will notify them of the opportunity to list in the HUD Section 3 Business Registry, and encourage them to register.
- 7. Employment and contracting opportunities will be posted at all BHA developments, at the BHA Family Learning Centers, BHA Next Steps offices, on the BHA web site, and BHA administrative offices.
- 8. Businesses on the State Office for Minority and Women Business Assistance (SOMWBA) list (now Supply Diversity office) will be notified of upcoming relevant contracts.
- 9. Section 3 Policies will be reviewed periodically at senior staff meetings with Executive Director, Section 3 Coordinator and Heads of Departments.

# **APPENDICES**

Appendix 1.	Section 3 clause language as set forth in 24 CFR 135.38 Section 3 language used in General Conditions HUD 5370 Section 3 language used in Supplements & Amendments HUD 5370 Notice to Contractors regarding Section 3 Opportunities
Appendix 2.	Estimated and Proposed Project Workforce Breakdown
Appendix 3.	BHA Section 3 Resident Questionnaire
Appendix 4.	Eligible Residents and Businesses
Appendix 5.	Section 3 Resident Self certification form
Appendix 6.	Section 3 Business Concern certification form
Appendix 7.	Section 3 Resident Survey
Appendix 8.	Sample records of complying with Section 3 and procurement laws
Appendix 9.	Examples of BHA's Other Economic Opportunities Programs

#### § 135.38

perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

#### § 135.38 Section 3 clause.

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

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3. shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause,

#### 24 CFR Subtitle B, Ch. I (4-1-06 Edition)

upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section

#### § 135.40 Providing other economic opportunities.

(a) General. In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) Other training and employment related opportunities. Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in



# SECTON 3 LANGUAGE INCLUDED IN GENERAL CONDITIONS

- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or handicap.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.
- Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).



LANGUAGE INCLUDED

IN SUPP. CONDITIONS

shall supply the BHA with all reports, certifications and other documentation of section 3 compliance as required in the "Notice to Contractors, Section 3 Economic Opportunities for Low Income Persons."



#### **ARTICLE 49. OSHA SAFETY TRAINING**

ADD CLAUSE 49 as follows:

49. OSHA Safety Training.

The Contractor shall comply with the requirements of M.G.L. c 149 sec. 44A for safety training for workers. The contractor shall submit proof that each worker on the site has completed training approved by the US Occupational Safety and Health Administration.

#### ARTICLE 50. TIME IS OF THE ESSENCE

ADD CLAUSE 50 as follows:

#### " 50. Time is of the Essence.

All provisions of the contract relating to time of performance, timeframe deadlines submission of required documents, and/or completion of the Work are for the purpose of enabling the PHA to: (a) comply with applicable funding obligation and expenditure requirements imposed on the PHA by its funding sources; and (b) administer public property and funds efficiently, economically and in a manner that is least disruptive to PHA's residents and communities. Accordingly, all such time limits are of the essence of this contract."

END

"All insurance shall be carried with companies which are financially responsible with a rating of A or better and licensed to do business in Massachusetts. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be materially changed, canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer. All certificates of Insurance shall:

(i) name the PHA as an additional insured with respect to all general liability insurance policies and all automobile liability insurance policies; (ii) list the Project name and the PHA Development or property where the contract work will be performed; and (iii) list the PHA as the additional insured and/or certificate holder as follows: "Brookline Housing Authority, 90 Longwood Avenue, Brookline, MA 02446."

#### **ARTICLE 37. SUBCONTRACTS**

(f) CLAUSE 37: ADD the following paragraph (f):

"(f) Prior to the award of each subcontract, the Contractor shall notify the Contracting Officer in writing of the name and business address of each Subcontractor proposed, and furnish such written information as the Contracting Officer may require concerning the proposed Subcontractor, together with the following: (i) the proposed Subcontractor's Non-Collusive Affidavit in the form prescribed by the Authority; (ii) and informational copies of all required certificates of insurance. objection shall be expressed in writing by the Contracting Officer within ten (10) days after receipt."



#### ARTICLE 40. EMPLOYMENT AND TRAINING OPPORTUNITIES FOR RESIDENTS IN THE PROJECT AREA

(g) CLAUSE 40: ADD the following paragraph (g):

"(g) The contractor shall require all new hires and subcontractors, of any tier, qualifying for section 3 status to certify to this status and to supply supporting evidence. The contractor

# Notice to Contractors Section 3 Economic Opportunities for Low Income Persons

This contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD-assisted projects shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing. Section 3 regulations are set forth in 24 CFR part 135. The requirements that apply to this contract are summarized below.

Section 3 establishes goals for employment and subcontracting. The contractor is required to document actions taken and impediments, if any, towards meeting the section 3 goals. The employment goal is for at least 30% of new hires to be section 3 residents. New hires are defined as full-time employees for permanent, temporary or seasonal positions. The subcontracting goal is for at least 10% of the total dollar amount of the construction contract to be subcontracted to section 3 business concerns. For non-construction contracts the goal is to subcontract at least 3% of the total dollar amount of the contract to section 3 business concerns.

### Employment

The contractor is required to provide a preference to section 3 residents in filling available training and employment positions. Any section 3 resident hired must meet the qualifications of the position to be filled, whether it be a trainee, apprenticeship, or journeyman position. Section 3 residents fall into the following categories. The categories are listed in the *ranked order* for providing preference.

Category 1. Residents of the Federal (specify name of development) public housing development(s) where the construction will be performed.

Category 2. Residents of other housing developments managed by the Brookline Housing Authority.

Category 3. Participants in HUD Youthbuild programs in the metropolitan area.

Category 4. Individuals who reside in the metropolitan area and who are low income or very low income. See the attachment for a description of the metropolitan area and a list of family income limits.

#### Subcontracts

The contractor is required to make efforts to award subcontracts to section 3 business concerns in the following order of priority:

Category 1. Business concerns that are 51%, or more, owned by residents of the housing development(s) (specify name of development(s)) where the construction will be performed, or whose permanent full-time work force includes no less than 30% of these persons as employees.

Category 2. Business concerns that are 51%, or more, owned by residents of other Federal housing developments managed by the Brookline Housing Authority, or whose permanent full-time work force includes no less than 30% of these persons as employees.

Category 3. Business concerns that are 51%, or more, owned by residents of any other housing developments managed by the Brookline Housing Authority, or whose permanent full-timework force includes no less than 30% of those persons as employees.

Category 4. HUD Youthbuild programs being carried out in the metropolitan area.

Category 5. Business concerns that are 51%, or more, owned by section 3 residents, or whose permanent full-time work force includes no less than 30% of section 3 residents as employees, or that contract in excess of 25% of the total amount of subcontracts to business concerns that qualify for category 1 or category 2 status above.

A section 3 business concern seeking a subcontract shall submit evidence to the contractor sufficient to demonstrate that the business concern is responsible and has the ability to perform the contract.

## **Reporting Forms**

As a first step towards meeting section 3 goals the contractor shall complete and submit three of the attached forms at the time of contract award.

- The Certification of Section 3 Status for Businesses will document whether the contractor qualifies as a section 3 business. This certification is also required of all subcontractors.
- The Estimated Project Work Force Breakdown will document anticipated employment and training opportunities for section 3 residents, and
- The Proposed Subcontract Breakdown will document anticipated subcontract opportunities for section 3 business concerns.

The contractor is required to reach out to potential section 3 residents and businesses and to document actions taken and impediments, if any, towards meeting the section 3 goals.

- The Actual Project Work Force Breakdown and Actual Subcontract Breakdown will be required as the project progresses.
- If the contractor or subcontractors are hiring workers for this project, job applicants shall complete the Certification and Determination of Eligibility for Section 3 Employment Preference.

Refer to the General Contract Conditions for additional information.