



**Lancaster City Housing Authority**

325 Church Street  
Lancaster, PA 17602-4201

# SECTION 3

# Implementation

This policy is developed for the Lancaster City Housing Authority for its exclusive use as a recipients of HUD certain financial assistance such as public housing Operations, Modernization and Development funds. This policy shall be binding upon all contracting.

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# LANCASTER CITY HOUSING AUTHORITY

## STANDARD SECTION 3 OPERATING PROCEDURES

Policy Effective Date: January 1, 2013 - Procedural Change Date: January 1, 2013

### Procedure Title: Section 3

This operating procedure is tied to the Operating Policy on Section 3 designed to achieve and maintain compliance with the HUD Act of 1968 revised 1992 and 1994.

The procedures contained within are relative to the Section 3 daily operations in:

- Hiring
- Procurement
- Contracting
- Compliance Management
- Solicitation Package and Certification Documents

#### **Section 1 - Hiring**

This procedure encompasses all employment types including full time, part time, long term, short term, temporary and special assignments. In the process of seeking new employees for the Authority, the following procedures should be followed in an effort to create as many employment opportunities for Tier I HUD direct recipients:

**Step 1** Refer to any list of graduates from any employment readiness training programs sponsored by the Authority. Notify those Tier I persons first of any employment opportunities and invite them to apply for the position. Only make direct contact below Tier I or beyond persons when no Tier I residents can be secured through any other means listed below.

**Step 2** Post the position in community media sources that are generally available to low income residents and the general public.

**Step 3** When timing allows, place a notice of the position(s) in any newsletters, notices or bulletins.

**Step 4** Place an advertisement in the local newspaper of the open position. Be certain to list that the position is a **“Section 3 Covered Position and that HUD Recipients are encouraged to apply”**.

**Step 5** In reviewing all applicants, be certain to first select candidates that best fit the position requirements, if a Tier I resident is identified as a qualified candidate all things being equal with others in consideration, a preference should be given to the Authority Residents for employment.

**Step 6** As a means of compliance, we may establish a relationship and requirement with any temporary employment agency contractor that any person identified for placement with the Authority complete the Authority’s Self Certification form clarifying their qualifications as a County Resident. Any person certifying as a County Resident must be given preference for any assignment with the Authority providing they meet all other position requirements.

## **Section 2 - Procurement**

This policy on procurement procedures is relative only to Section 3 and is not designed to re-write the approved procurement policy for the Authority.

Whenever a service or service contract is solicited, these steps must be followed to provide priority in contracting to a Section 3 Resident Owned Business Concern (ROB) in line with the Authority's approved Section 3 Policy.

**ROB Verification** Whenever ROB status is sought, the Authority staff shall request address and ownership verification of the 51% Owner/Operator rule as stated in the HUD Act of 1968. Use of the "**Section 3 Self-Certification Form**" attached to this policy is an acceptable statement of address and business data, when presented along with all other required incorporation documents including any Letter of Issuance of a Federal Employer Identification Number (FEIN) and state Articles of Incorporation.

**Step 1** During the development process of any solicitation or work project, there should be a determination as to whether or not the work can be and/or should be isolated to Resident Owned Businesses (ROB's) under the **24CFR Part 963.12 Alternative Procurement Method**. If so, than Steps 2-8 should be followed with respect for **ROB's ONLY**. Keep in mind, a qualified ROB can be one that is a Joint Venture Partnership where a non-ROB can participate at no more than 49% ownership, operations and profit. A statement where both parties have committed to these terms is required as validation of ROB status.

**Step 2** Refer to any list of graduates from any small business development training programs sponsored by or in partnership with the Authority. Notify any of those persons that are known to have a small business of any contract opportunities first and invite them to pick up a bid package. Though the work being solicited is not directly in line with their capabilities or line of work, they may be able to secure some sub-contracting opportunities. Encourage them to attend any pre-bid meetings to meet and introduce themselves and business concern to other contractors.

**Step 3** Post notice of the solicitation in community media sources where public housing and low income residents normally meet and provide notice to the local public housing authority.

**Step 4** the Authority it's sub-recipients and contractors must place a notice of the contracting opportunity(ies) in any public housing resident newsletters, notices or bulletins.

**Step 5** the Authority it's sub-recipients and contractors must place an advertisement in the local newspaper of the contract opportunity(ies). The ad must include a notice that the contract opportunity is a "**Section 3 Covered Contract and that HUD Resident Owned Business Concerns are encouraged to apply**".

**Step 6** All procurements must include the attached "**Section 3 Action Plan and Certification**" for contractors to complete and return with their responses. Any response that is received without the completed form, signed and notarized should be considered non-responsive and the response rejected.

**Step 7** In reviewing the solicitation responses, any contractors that are identified as qualified Section 3 Concerns should be reviewed and if legitimate, granted a preference in contracting according to the HUD example on the policy attachment titled, "**Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns**".

**Step 8** When procurements require point scores as part of the award process, there should always be bonus awards of **15 Points awarded to Qualified ROB's** and **10 points awarded for non-ROB Section 3 Business Concerns**.

**Step 9** All solicitations shall require that respondents convey prior compliance with Section 3 on any HUD funded contract. **If the contractor has not complied on any contract issued since January 2011, they should be considered non-responsive** and not eligible for award unless they are certifying as a current Section 3 Concern or committing to hire at least one (1) Tier I Resident for the life of the contract to be awarded.

**Step 10** All solicitations must include a Certification of prior compliance with HUD Section 3 as a requirement for participation in the current solicitation. The respondent should be required to list any HUD funded contracts they worked on in the past three years and list how they complied with Section 3. See the attached form titled: **"Previous Compliance Certification"**.

### **Section 3 - Contracting**

**Step 1** The following language is to be added to all new contracts effective immediately:

*"All contractors claiming a preference in contracting by meeting any of the three qualifications including; a Resident Owned Business, Hiring 30% of New Hires and/or Sub-contracting at least 25% of total award to a Section 3 Concern shall maintain that status throughout the life of the contract. Failure to meet this requirement will result in penalties up to and including contract termination."*

The Authority, its sub-recipients and contractors shall execute these remedies to achieve compliance in this order:

- A. Based on the first observation or report of non-compliance with Section 3, the contractor will be sent an e-mail by the compliance management contractor notifying them of their non-compliance issue. The contractor will have until the next payroll or 14 calendar days, whichever is lesser to bring the contract into compliance.
- B. If at any time a contractor fails to bring the contract into compliance, the Authority must withhold all future payments until the contract is in compliance.
- C. The contractor shall have up to 15 business days from the most recent notice of non-compliance to meet compliance as a final cure period or justify in writing to the Authority why it can not meet compliance. The Authority must render a response to the contractor within 10 business days of receipt of its letter of reason for non-compliance. If the Authority deems the cause to be unacceptable, at its option, can extend the cause period one time for up to 5 days to allow the contractor to identify and secure other compliance options, or
- D. If the contractor fails to take any corrective action to bring the contract into compliance within 7 business days from the most recent notice of non-compliance, or the Authority does not accept any of their corrective plans and justifications for non-compliance, the Authority must terminate the contract immediately. **All funds due to the contractor shall be held** and a financial workout of the agreement shall proceed within 24 hours of termination.

**Step 2** Any contractor claiming to meet Section 3 compliance by committing to hire residents or fund training itself **shall meet compliance within seven (7) calendar days of contract start** or the Authority shall halt all work related to the agreement and the actions listed in steps 1-4 in this section shall apply.

## **Section 4 – Compliance Management**

The Authority will self-manage its compliance through the monitoring of all contractors payrolls to ensure no new hires occur without proper notice to Section 3 residents. They will also monitor all pay applications of contracts to ensure no new hire of contractors have occurred without proper notice being provided to other Section 3 or potential Section 3 contractors.

## **Section 5 – Solicitation Package and Certification Documents**

The following compliance package includes all the required forms that meet the Section 3 regulation and should be included in ALL solicitations despite the contract value.

### **Procedural Q and A for Residents and Contractors**

- Q1 How do contractors trigger the regulation?  
A1 Section 3 requirements are triggered by a “need” to hire (whether employees, contractors or subcontractors)
- Q2 Does Section 3 require contractors to hire residents on every contract?  
A2 No. If the regulation is not triggered the contractor has no obligation to hire.
- Q3 If the contractor triggers the regulation what are they required to do?  
A3 The contractor is required to do all three of the following:
- To give extra or greater **NOTICE** to residents of the opportunity for employment, training or contracting which ever they have available
  - They must do something to **ENCOURAGE** the resident to apply for the opportunity
  - The must do something toward **FACILITATING** the employment of contract being awarded to the resident
- Q4 What if the contractor cannot find any qualified residents for the opportunity?  
A4 The contractor can then look outside the resident base for other Section 3 persons or contractors and finally non-Section 3 qualified persons or contractors. But the contractor **MUST** be able to demonstrate by proof of actions that they tried and what the results were.
- Q5 How long and by what methods does the contractor have to notify residents?  
A5 Depending on the opportunity, the search and notice periods will vary. As a rule, we recommend one week. The methods employed will vary and may include: flyers, lists of LCHA interested or trained residents/clients, workforce investment initiatives, classified ads, posting at LCHA job sites, posting notices in LCHA management and central offices, web postings, and more.

## **End of Section 3 Procedures**