



CMHA
ENRICHING LIVES SINCE 1933
CUYAHOGA METROPOLITAN HOUSING AUTHORITY

SECTION 3 POLICY & PROGRAM

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SECTION 3 POLICY

It is the policy of CMHA that employment, contracting and other economic opportunities generated by HUD financial assistance, to the greatest extent feasible, and consistent with Federal, State and local laws and regulations, be directed to low- and very-low income persons, particularly those who are recipients of governmental assisted housing and to business concerns which provide economic opportunity to low- and very-low income persons.

To implement this Policy, the Chief Executive Officer, or his designee, is directed to develop a Section 3 Program which complies with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 107u), as amended, and the regulations promulgated pursuant to that statute, including 24 CFR Part 135, and to implement and apply such Program, as may be amended from time to time, so that low- and very-low income persons of Cuyahoga County, particularly those who are residents of housing developments receiving HUD financial assistance, are provided, to the greatest extent feasible, training, employment, contracting and other opportunities generated by expenditure of HUD financial assistance by CMHA.

CMHA shall use its best efforts, commensurate with funding levels, in implementing this Policy and the Section 3 Program to achieve and exceed the Program goals.

CMHA's Section 3 Program shall require its contractors and subcontractors to also provide training, employment, contracting and other economic opportunities, to the greatest extent feasible, to low- and very-low income persons of Cuyahoga County, particularly those who are residents of CMHA funded public housing.

It is in CMHA's best interest and the best interest of its residents, to foster the growth of economic opportunities for low- and very-low income persons of Cuyahoga County, and to promote business opportunities for Section 3 business concerns. Therefore the application of preferences for Section 3 Residents and Section 3 Business Concerns shall be deemed in CMHA's best interest.

Section 3 business concerns that are awarded a contract by application of a preference are none the less required to comply with CMHA's Section 3 Program and its hiring and contracting goals.

SECTION 3 PROGRAM

Section 1. STATEMENT OF PURPOSE

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. § 1701u), is to “ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed toward 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.

The Cuyahoga Metropolitan Housing Authority adopted its Section 3 Policy to implement this statutory intent. CMHA’s Section 3 Program is the process by which the Policy shall be implemented. The Program may periodically be amended by the Chief Executive Officer or his designee to insure that the statutory and policy requirements are being met or to bring about efficiencies in the implementation of the program.

SECTION 2

Section 2. APPLICABILITY AND GENERAL REQUIREMENTS

A. Applicability

This Section 3 Program applies to programs, activities and projects for which expenditures are fully or partially funded with the following HUD assistance (**“Section 3 covered assistance”**):

- i. Development assistance provided pursuant to Section 5 of the 1937 Act; or
 - ii. Operating Assistance provided pursuant to Section 9 of the 1937 Act; or
 - iii. Modernization assistance provided pursuant to Section 14 of the 1937 Act.
- a) The expenditure of housing and community development assistance, including assistance for Section 8 New Construction developments, used for housing rehabilitation, housing construction, or other public construction projects.
 - b) The requirements of this Section 3 Program apply to such programs, activities and projects, notwithstanding the amount of the assistance provided to the recipient, and apply to all contractors and subcontractors performing work in connection with such programs, activities and projects, regardless of the amount of the contract or subcontract. For example, where there is a management agent contract executed for a project that is funded with HUD operating assistance, the Section 3 requirements will apply to the Management Agent, regardless of the amount of the contract.
 - c) The requirements of this Section 3 Program do not apply to:
 - a. Housing Choice Voucher Program housing assistance payments to landlords.
 - b. Contracts for purchase of materials only, without services.

B. Requirements of other laws governing training, employment, and contracting

1. Nothing in this Section 3 Program prescribes specific methods of procurement. However, neither CMHA's Section 3 Policy nor this Section 3 Program supersedes the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner.
2. Nothing in this Section 3 Program supersedes the requirements of the Ohio Revised Code, including Sections 9.312 or 3735.36, or local laws and ordinances.
3. Nothing in this Section 3 Program supersedes the requirement to pay prevailing wages determined under the Davis Bacon Act and implementing regulations of the U.S Department of Labor, or, as the case may be, prevailing wage rates as determined or adopted by HUD to laborers and mechanics.
4. Nothing in this Section 3 Program supersedes requirements of certain apprenticeship and trainee programs that have been approved by various Federal agencies.
5. Nothing in this Section 3 Program supersedes compliance with civil rights acts, regulations and/or executive orders which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any or all phases of employment.

C. Definitions and Irreconcilable Conflicts

1. The definitions of terms found at 24 C.F.R. Section 135.5 shall apply to such terms when used in this Program.
2. To the extent that any irreconcilable conflict exists between this Program and 24 CFR Part 135, 24 CFR Part 135 shall govern.

SECTION 3

SECTION 3. PROGRAM GOALS

The requirements of this Section 3 Program apply to CMHA, contractors and subcontractors performing work in connection with programs, activities and projects funded by Section 3 covered assistance, regardless of the amount of the contract or subcontract. This includes contracts for building trades work for maintenance, repair, modernization, or development of public housing, or for building trades work in connection with housing rehabilitation, housing construction, other public construction, and all other Section 3 covered contracts. The goals apply to new hires by CMHA as well as to its contractors and subcontractors awarded contracts that are funded by Section 3 covered assistance.

A. Training and Employment

1. As a minimum goal, CMHA commits to employ Section 3 Residents as 30% of the aggregate number of new hires in a calendar year period.
2. Best efforts will be made to employ Section 3 Residents to the greatest extent feasible, at all job levels.
3. The numerical goals reflect the aggregate hires in a calendar year period.
4. Make job training available to Section 3 Residents to the greatest extent feasible, commensurate with funding levels.

B. Contracts

1. As a minimum goal, CMHA commits to award to Section 3 Business Concerns
 - a. at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization, or development of public housing, or for building trades work in connection with housing rehabilitation, housing construction and other public construction; and,
 - b. at least 3% of the total dollar amount of all other section 3 covered contracts. The goals of this paragraph (B) apply to contracts awarded in connection with all Section 3 covered programs, activities and projects of CMHA and its contractors and subcontractors, without regard to a threshold dollar amount.
2. Best efforts will be made to award covered contracts to Section 3 Business Concerns to the greatest extent feasible.

C. Requirements applicable to Contractors and Subcontractors.

1. Contractors shall use and document best efforts not only to subcontract with Section 3 Business Concerns, but also to employ Section 3 residents, to the greatest extent feasible.
2. As a minimum goal, contractors shall commit to employ Section 3 Residents as 30% of the aggregate number of new hires in a calendar year period.
3. As a minimum goal, contractors and subcontractors shall commit to award to Section 3 Business Concerns
 - a. at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization, or development of public housing, or for building trades work in connection with housing rehabilitation, housing construction and other public construction; and,
 - b. at least 3% of the total dollar amount of all other section 3 covered contracts.
4. Contractors and subcontractors may demonstrate compliance with the “greatest extent feasible” requirement of Section 3 and this Program, by meeting the minimum goals set forth in this sub-Paragraph C.
5. Contractors who fail to commit to a minimum goal to the greatest extent feasible shall be deemed non-responsive to the bidding requirements.
6. Best efforts to achieve the minimum goals shall include the following:
For Hiring: performing at least four of the activities listed in D(1).
For Contracting and Subcontracting: performing at least four of the activities listed in D(2).
7. Contractors who fail to demonstrate best efforts to achieve minimum goal toward the hiring goals or the contracting goals shall be subject to a liquidated damages assessment of 1% of the contract amount for hiring and 1% for subcontracting (2% total).

D. Program Implementation

1. Hiring and Training

To demonstrate compliance with the “greatest extent feasible” requirements of Section 3 in employment and training, and to fulfill commitments to use best efforts, CMHA, its contractors and subcontractors will establish programs and procedures to facilitate the training and employment of CMHA residents and other low and very-low income residents, by undertaking activities such as:

- a. Providing training and assistance designed to enhance their employability through measures such as increasing computer skills; assisting with preparation of resumes; teaching interview skills; offering job preparation classes.

- b. Employ Section 3 residents as 30% of the aggregate of new hires.
- c. Publicize the availability of positions to Section 3 residents.
- d. Provide avenues for CMHA residents to obtain assistance and counseling for job placement, job interviews, job training and career choices.
- e. Contractors are required to participate in and attend job fairs and hiring halls hosted or supported by CMHA.
- f. Maintain compliance with the PAR program.
- g. Maintain compliance with the Fannie Lewis Law, where applicable.

2. Contract Opportunities

To demonstrate compliance with the “greatest extent feasible” requirements of Section 3 in contracting opportunities and to fulfill commitments to use best efforts, CMHA, its contractors and subcontractors will establish programs and procedures to facilitate the award of contracts to Section 3 Business Concerns, by undertaking activities such as:

- a. Contract directly with a Section 3 business Concern or contract with vendors that subcontract to a Section 3 Business Concern.
- b. Use best efforts to achieve the goals of this Program to ensure that contract opportunities are directed to low and very-low income persons and Section 3 Business Concerns. Notify Section 3 Business Concerns of contract opportunities.
- c. Encourage non-Section 3 businesses to utilize Section 3 Business Concerns.
- d. Assist newly formed Section 3 business concerns to become viable contractors which can compete in the open market.
- e. Apply the preferences of this Program to award contracts to Section 3 Business Concerns.
- f. Include the Section 3 clause when subcontracting for Section 3 covered work.

SECTION 3

SECTION 4. PREFERENCE TIERS AND COMPLIANCE REQUIREMENTS

To assure that employment, training, contracting and other economic opportunities are directed to low and very-low income persons and to Section 3 Business Concerns to the greatest extent feasible, CMHA adopts the following preferences, tiers, and compliance requirements:

I. Preference for Section 3 Residents in Training and Employment

A. Preference for Section 3 residents in Training and Employment

1. CMHA, its contractors and subcontractors, shall direct their efforts to provide training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 Residents in the following order of priority:
 - a. Residents of the housing development(s) for which the Section 3 covered assistance is expended (Category 1 Residents)
 - b. Residents of other housing developments managed by CMHA (Category 2 Residents), including Section 8 New Construction developments;
 - c. Participants in HUD Youthbuild programs being carried out in Cuyahoga County (Category 3 residents);
 - d. Other Section 3 residents of Cuyahoga County (Category 4 residents)
2. CMHA may at its own discretion, provide preference to residents of the housing developments receiving Section 3 covered assistance within the service area or neighborhood where the Section 3 covered project is located.
3. A Section 3 Resident seeking the preference in training and employment provided in this section shall certify, or submit evidence to CMHA, the contractor or subcontractor, if requested, that the person is a Section 3 Resident, including evidence of the receipt of housing assistance, the location of their residence, and if requested, their income.
4. A contractor or subcontractor is not required to hire additional workers to perform a contract or project, but if it does, the hiring goals apply. In the event no new hires are made, contractors and subcontractors must pursue other avenues of compliance described in this Program.
5. Nothing in this section shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

II. Preference for Section 3 Business Concerns in Contracting Opportunities

A. Preference for Section 3 Business Concerns in contracting opportunities

Bids shall be solicited from all businesses (Section 3 Business Concerns and non-section 3 business concerns). An award shall be made to the lowest and best responsive bid from a responsible bidder. Where CMHA determines that it will award a Section 3 covered contract based on factors other than price, CHMA will issue a request for quotations by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 5% to 10% of the total number of available rating points to be set aside as the provision of preference for Section 3 Business Concerns. The contract shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

1. CMHA, contractors and subcontractors shall direct their efforts to award Section 3 covered contracts, to the greatest extent feasible, in the following order of priority:
 - a. Business concerns that are 51% or more owned by residents of the housing development(s) for which the Section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30% of these persons as employees (Category 1 Business);

- b. Business concerns that are 51% or more owned by residents of other housing development(s) managed by CMHA, or whose full-time, permanent workforce includes 30% of these persons as employees (Category 2 Business);
 - c. HUD Youthbuild programs being carried out in Cuyahoga County (Category 3 business);
 - d. Business concerns that are 51% or more owned by a Section 3 resident, or whose permanent, full-time workforce includes no less that 30% Section 3 residents, or that contract in excess of 25% of the total amount of the subcontracts to business concerns identified as Category 1 or Category 2 business concerns.
- 2. In the event of a tie in the bid amount or a proposal between a Section 3 Business Concern and one or more non-Section3 business concerns, the contract shall be awarded by preference to the Section 3 Business Concern.
- 3. In the event of a tie in the bid amount or a proposal between two or more Section 3 Business Concerns or between two or more non-Section 3 Businesses, the tie shall be broken by application of a preference among the tie bids/proposals in the following priority:
 - a. To the lowest category Section 3 business concern (Category 1 over 2,3, or 4, Category 2 over 3 or 4, etc.); if still tied,
 - b. To the business concern that commits to hire the greater percentage of Section 3 residents; if still tied,
 - c. To the business that commits to subcontract a greater dollar amount to Section 3 Business Concerns; and if still tied,
 - d. The winning bid or proposal shall be selected by random drawing among those still tied.
- B. A Section 3 business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, at bid submission, that the business concern is a Section 3 Business Concern.
- C. A Section 3 Business Concern seeking a contract or a subcontract shall submit evidence to CMHA, contractor or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the Business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms of the terms and conditions of the contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 and CMHA's procurement policy.) This section 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.

III Other Requirements

- 1. As part of each bid or proposal submitted, any respondent must document their workforce by position utilizing the form (Core Employees List) provided by CMHA. Such information will be re-verified at the commencement of the contract.
- 2. CMHA will include the Section 3 Clause requirement in all requests for proposals and invitations for bid. Respondents who fail to address Section 3 requirements, including the Section 3 Clause, will be deemed non-responsive and their response will not be considered for award. This requirement means that in the proposal or bid documents submitted to CMHA, the Section 3 Clause must be signed and the response must include the applicable attachments and supporting documentation to support claims of compliance by hiring, contracting, or the provision of other economic opportunities.
- 3. As part of each bid or proposal, contractors and subcontractors must submit a plan for reaching the Section 3 Program goals. The plan shall include the efforts to be taken to reach both hiring and

contracting goals, and a statement of the bidder's commitment to reach such goals. The plan will include workforce projections identifying projected new hires; the strategy for ensuring, to the greatest extent feasible, that at least 30% of those new hires are qualified Section 3 residents. The plan will also identify how the contractor plans to subcontract 10% of the contract to certified CMHA Section 3 construction contractors and 3% to certified CMHA Section 3 contractors for other services needed under the contract.

4. Contractors and subcontractors of Section 3 covered projects are required to submit quarterly workforce and business utilization reports that clearly identify the Section 3 hires throughout the life of the contract. CMHA will periodically audit this information. Failure to submit reports shall result in the delay of payment.
5. CHMA recognizes that due to the nature of some contracts, i.e. those contracts not lending themselves to subcontracting the work, there may be a hardship for contractors to meet the Section 3 hiring and contracting goals. Therefore, CMHA will allow such contractors to propose alternative economic opportunities instead of committing to meeting the numerical goals for Section 3 hiring and contracting in their proposals, bids and responses.
6. If CMHA, its contractor(s) or subcontractor(s) do not meet the numerical goals set forth in this Policy, they must document the actions taken to implement these goals and the impediments encountered despite those actions taken.
7. CMHA, its contractor(s) and subcontractor(s) will also provide other economic opportunities to Section 3 residents, and document the provision of such economic opportunities to comply with this Policy and the Section 3 requirements.
8. Businesses claiming Section 3 business status based on ownership must meet that status at the time of the bid or proposal submitted to CMHA. Any business concern claiming to be a Section 3 business concern shall be required, as set forth by procedure, to provide evidence of such status, including documentation regarding income, ownership interests of Section 3 residents in a business concern, certified payrolls, etc., as applicable. If a business concern claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to CMHA 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. CMHA may, but is not required to, provide written notice specifying any compliance issues with respect to submittals claiming Section 3 status. If CMHA chooses to provide such notice with regard to responses for a particular situation or bid, vendors will be given no more than 3 business days to complete the forms and provide corrected documentation. Failure to respond within the time allowed will result in CMHA deeming the bidder non-responsive. The contract or bid will then be awarded to the next lowest bidder or to the respondent with the next highest evaluation.
9. A business concern (including joint-ventures) seeking to qualify for a Section 3 preference shall certify and submit evidence that they are entitled to the applicable Section 3 preference and that they are a Section 3 business concern as defined in 24 CFR, Part 135 and by CMHA's policy. Prime or subcontractors must submit documentation (including workforce composition data) as part of any bid, quote, or proposal that is submitted to CMHA. Additional documentation is required for joint-ventures.

10. Firms that claim Section 3 business status by subcontracting (25% the total amount of subcontracts) to other Section 3 businesses must require that the subcontractor(s) provide ownership or workforce documentation as applicable. The prime contractors must keep such records on file and have available for review by CMHA. Such documentation must also be submitted as part of any bid, quote, or proposal.
11. Subcontractors identified by any prime contractor claiming Section 3 status based on ownership must be a Section 3 business by ownership and/or workforce as defined in this policy. Subcontractors used by prime contractors to comply with Section 3 subcontracting requirements cannot claim Section 3 status by further subcontracting.

IV. Other Economic Opportunities

While CMHA's primary Section 3 goals are to train and employ Section 3 residents and contract with Section 3 business concerns as provided in this policy, CMHA is also committed to providing other economic opportunities to Section 3 residents and businesses through CMHA's actions, and the actions. These economic opportunities include, but are not limited to:

1. Provide ongoing outreach to Section 3 residents regarding employment and training opportunities.
2. Seek training opportunities for Section 3 residents and businesses.
3. Outreach to Section 3 businesses and encourage them to apply for certification and provide access to contracting opportunities.
4. Assist contractors with identifying Section 3 residents for training and hiring opportunities.
5. Provide technical assistance to contractors regarding the Section 3 Program.
6. Refer eligible Section 3 residents to employment opportunities available at CMHA and in the community and Employment Connection.
7. Maintain a current list of available and qualified Section 3 residents and Section 3 business concerns.
8. Require contractors and subcontractors to direct their efforts, to the greatest extent feasible, to hire Section 3 residents, including requiring the 30% of new hires on HUD funded projects be low- or very-low income persons.
9. Accept certifications of Section 3 Business Concerns issued by other certifying agencies of subject to verification.
10. Coordinate Section 3 activities to the greatest extent possible with other local governments and political subdivisions and participate in regional activities that promote inclusion.