

**HOUSING AND URBAN DEVELOPMENT ACT OF
1968**

SECTION 3 POLICY

FOR

THE AKRON METROPOLITAN HOUSING AUTHORITY

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Section 3: Statement of Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701 u) requires the Akron Metropolitan Housing Authority to ensure employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income and very low income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

General Policy Statement

This policy shall result in a reasonable level of success in the recruitment, employment, and utilization of low-moderate income residents and other eligible persons and business by contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. This policy shall remain in effect for all covered activities so long as this policy remains consistent with Federal regulations or until changed by the Authority. This policy is subordinate to Section 3 and 24 CFR Part 135. In any case where it is found that any provision of this policy or of a procedure or program undertaken in furtherance of this policy is found to be inconsistent with Section 3 or 24 CFR Part 135, Section 3 or 24 CFR Part 135 shall prevail.

Section 3 Goal Statement

It is AMHA's policy to achieve Section 3 goals through the following means:

HIRING/TRAINING

- At least 30% of the aggregate number of full-time new hires/trainees must be Section 3 residents to the greatest extent feasible, with a preference for residents at the development where the work is performed.

CONTRACTS

- 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 arising in connection with housing rehabilitation, housing construction and other public construction.
- At least 3% of the total dollar amount of all other Section 3 covered contracts.

Note that Supply and Material Only contracts are exempt from these Section 3 Policy requirements.

OTHER ECONOMIC OPPORTUNITIES

- Contractors/Vendors will be encouraged to provide other economic opportunities through part-time work, internships, paid training opportunities for Section 3 Residents and mentoring opportunities assisting Section 3 Business Concerns or individuals who would like to build/create their own qualified business concerns.

Section 3 Employment & Training Goals

It is the policy of AMHA to utilize residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). Akron Metropolitan Housing Authority follows the employment and training goals that contractors and subcontractors, including those providing low to moderate income employment opportunities through economic development activities, should comply with Section 3 requirements. (Reference 24 CFR 135.30—Numerical Goal for meeting the greatest extent feasible requirement).

The employment and training goal is thirty percent (30%) of the aggregate number of new hires/trainees in any fiscal year, when newly created hiring/training opportunities are generated by section 3 covered contracts.

It is the responsibility of contractors, vendors, and suppliers to implement progressive efforts to attain Section 3 compliance. Any contractor that does not meet the Section 3 numerical goals must demonstrate why meeting these goals were not feasible. All contractors submitting bids or proposals to Akron Metropolitan Housing Authority are required to certify compliance with the requirements of Section 3.

Section 3 Contracting Policy and Procedure

Akron Metropolitan Housing Authority will incorporate Section 3 in all procurements generated for use with HUD funding and follow goal requirements set forth in 24 CFR Part 135.

Akron Metropolitan Housing Authority has adopted a goal of at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction; and at least (3%) of the total dollar amount of all other Section 3 covered contracts to be awarded to Section 3 Business Concerns. (Reference 24 CFR 135.30—Numerical goals for meeting the greatest extent feasible requirement).

Akron Metropolitan Housing Authority, in compliance with Section 3 regulations, will require contractors, vendors, and subcontractors to direct their efforts towards meeting

the Section 3 contracting goals should new contracting opportunities be generated upon the awarding of contracts to the greatest extent feasible.

Section 3 Preference Tiers Business Concerns

AMHA's preference is to ensure as many Section 3 Business Concerns as possible are afforded opportunities by contracting and/or subcontracting. In an effort to further our goal, AMHA has created the following preference priority category structure for Section 3 Business Concerns (Reference 24 CFR Part 135.36). Vendors are asked to comply with this priority preference to the greatest extent feasible. If the vendor cannot meet its Section 3 goal in this manner and needs to move onward to the next category, the vendor must document this inability to comply with the preference priority and the need to move onward to other categories.

Section 3 Business Concern Preference Priority Categories

- **Category 1-Section 3 Business Concern Priority Definition**
Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
- **Category 2-Section 3 Business Concern Priority Definition**
Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
- **Category 3-Section 3 Business Concern Priority Definition**
HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended.
- **Category 4-Section 3 Business Concern Priority Definition**
Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents; or that subcontract in excess of 25 percent of the total amount of subcontracts to section 3 business concerns.

Contracting Requirements

Section 3 Regulations, in 24 CFR Part 135, provide that AMHA, its contractors, vendors, and subcontractors may demonstrate compliance by awarding contracts to Section 3 Business Concerns or to contractors who subcontract with such firms.

1. Each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall develop and implement a Section 3 Plan/Strategy (Reference S3 Procedure). Failure to submit the Section 3 Policy may jeopardize the proposal/bid up to and including the possibility of said proposal/bid being deemed non-responsive.
2. Requirements apply to the entire amount of Section 3 covered assistance awarded to a recipient in any calendar year or federal budget year, January 1st through December 31st. Supplies and material contracts only with no installation or labor involved would be exempt from these requirements, so long as no labor is involved.
3. Recipients who award contracts to contractors must ensure any newly created hiring/training/contracting opportunities be provided to Section 3 residents and Section 3 Business Concerns to the greatest extent feasible to meet Section 3 goals.
4. Efforts shall be directed to award contracts to Section 3 Business Concerns in the following order of priority to the greatest extent feasible:
 - a. Category 1-Section 3 Business Concern
Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
 - b. Category 2-Section 3 Business Concern
Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by AMHA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees.
 - c. Category 3-Section 3 Business Concern
HUD Youthbuild programs carried out in the metropolitan area (or non-metropolitan county) in which the section 3 covered assistance is expended.
 - d. Category 4-Section 3 Business Concern
Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents; or that subcontract in excess of 25 percent of the total amount of subcontracts to section 3 business concerns.
5. If a Business Concern claims Section 3 status by virtue of workforce composition, documentation stating such must be submitted to AMHA via the Section 3 Compliance Coordinator 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. If the contractor fails to comply with the regulation and this policy, a cure notice will be sent and continued non-compliance will result in contract termination after proper notice of breach of contract has been sent by AMHA.
6. 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 AMHA pursuant to this policy.
7. Firms that claim Section 3 business status by subcontracting (25% of the total contract) to other Section 3 businesses must require the subcontractor(s) provide ownership or workforce composition as applicable. The prime contractors must keep such records on file and available for review by AMHA.
 8. Section 3 Joint Ventures—to meet Section 3 contracting goals AMHA is permitted to contract with an association of firms at least one of whom meets Section 3 Business Concern categorical definition, categories 1-4. A definition of a joint-venture is provided in the definition section of this policy. Compliance requirements for joint-ventures are discussed below.
 9. Joint-ventures are subject to the following documentation requirements:
 - a. The joint-venture agreement must be in writing and must be submitted as part of the response to any bid or proposal solicited by AMHA. In order for AMHA to evaluate the “adequacy” and “capacity”, the agreement must describe in sufficient detail the area(s) of work assigned to each member of the joint-venture.
 - b. The joint-venture agreement must reference a completed and fully executed joint-venture certification, as provided by AMHA, which must also be attached to the joint venture agreement as an exhibit.
 - c. AMHA requires that the Section 3 joint-venture partner is a bona-fide Section 3 business, therefore the joint-venture shall provide documentation that shows the Section 3 partner meets the ownership and or workforce requirements established in this policy. Section 3 joint-venture partners cannot use subcontracting to establish their status as a Section 3 Business Concern.
 - d. Section 3 requires that the joint-venture partner be responsible for a clearly defined portion of the work. Proposals or bids must specify the labor hours assigned to and the compensation to be received by the Section 3 joint-venture firm.
 - e. Section 3 firms in the joint-venture must be qualified to perform the scope of work and have the capability to complete the work assigned under the joint-venture agreement (see item b above).

Contracting Compliance

1. Section 3 Business Concerns claiming Section 3 preference status must meet that status at the time the bid or proposal is submitted to AMHA.
2. Anyone claiming to be a Section 3 Resident or Business concern shall be required; as set forth by procedure, to provide evidence of such status.
3. Pursuant to 24 CFR 135.36(c) any firm, prime or subcontractor claiming Section 3 status must demonstrate to AMHA’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, AMHA will examine:
 - a. the work history and prior performance of the firm
 - b. the requirements of the job versus the skills evidenced by the firm through its own owners, officers, principals, and key staff

- c. technical and logistical capability to complete the work considering contracts already awarded to the firm by AMHA or others;
 - d. bonding capability and ability to obtain the required insurance (with allowances for disadvantaged or start-up firms);
 - e. evidence of past sanctions imposed by AMHA or others; and
 - f. 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. A Section 3 Business Concern need not hire new employees to be considered a Section 3 Business Concern provided that:
- a. the business concern is 51% or more owned and operated by a Section 3 Resident(s); or
 - b. the Business Concern's workforce consists of 30% of Section 3 Residents to qualify the contractor as a Section 3 Business Concern; or
 - c. the business subcontracts 25% or more of the total amount of the contract (including modifications) to Section 3 Business Concern(s); or

After award of a contract, if a Business Concern must hire to maintain the Section 3 workforce percentage, new hiring efforts must be made in accordance with AMHA's Section 3 Resident preference categories (1-4) for hiring Section 3 Residents.

5. AMHA will also schedule "hiring halls", as necessary, at or near the construction location to provide opportunities for the prime contractor, subcontractors and AMHA Section 3 Residents to coordinate interviews. This is a resource offered to the contractors/subcontractors, but they may also choose to recruit new employees independently that would satisfy Section 3 requirements.

Section 3 Contracting Preference Factors for Business Concerns

Akron Metropolitan Housing Authority has implemented preference factors regarding Section 3 Business Concerns when evaluating the following:

- Sealed Bids
- Request For Proposals

Sealed Bids:

1. Preference in the award of Section 3 covered contracts that are awarded under a Sealed Bid (IFB) process may be provided as follows:
- Bids shall be solicited from all businesses (Section 3 business concerns and Non-Section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—
 - (A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

- (B) is not more than “X” higher than the total bid price of the lowest responsive bid from any responsible bidder. “X” is determined as follows:

	x=lesser of:
When the lowest responsive bid is less than \$100,000	10% of that bid or \$9,000.
When the lowest responsive bid is:	
At least \$100,000, but less than \$200,000	9% of that bid, or \$16,000.
At least \$200,000, but less than \$300,000	8% of that bid, or \$21,000.
At least \$300,000, but less than \$400,000	7% of that bid, or \$24,000.
At least \$400,000, but less than \$500,000	6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million	5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million	2% of that bid, or \$105,000.
\$7 million or more	1.5% of the lowest responsive bid, with no dollar limit.

If no responsive bid by a section 3 business concern meets the requirements of paragraph (1) (A) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

Request for Proposals:

1. For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(A) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 policy/strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(B) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(C) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor’s section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor’s responsibility will include the submission of an acceptable section 3 policy/strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concerns) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Section 3 Reporting

Monthly Reporting

General contractors and sub-contractors are required to submit to AMHA a new hires Section 3 Compliance form on a monthly basis to the Section 3 Compliance Coordinator.

Annual Reporting

AMHA will report to HUD annual accomplishments regarding employment, training and contracting opportunities provided to low and very-low income persons under Section 3. Form HUD-60002 is currently being utilized for reporting accomplishments. This form may be changed, revised, or updated from time to time as required by HUD and 24 CFR 135.