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# PRINCE GEORGE'S COUNTY FY 2016-2020 SECTION 3 ACTION PLAN – FINAL



**AFFORDABLE  
HOUSING**



**HOUSING  
COUNSELING &  
HOMEOWNERSHIP  
ASSISTANCE**

**RENTAL  
&  
SPECIAL  
NEEDS  
HOUSING**



**NEIGHBORHOOD  
STABILIZATION &  
REVITALIZATION**



**HOUSING  
REHABILITATION**



**HOMELESSNESS  
PREVENTION  
SERVICES**



EQUAL HOUSING  
OPPORTUNITY

Prepared by: Prince George's County Department of Housing and Community Development

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## 1. EXECUTIVE SUMMARY

The Prince George's County Department of Housing and Community Development ("Department") is comprised of three (3) governmental agencies: the Department of Housing and Community Development (DHCD), the Housing Authority of Prince George's County (HAPGC), and the Redevelopment Authority of Prince George's County (RDA).

The DHCD uses federal funds to solicit partnerships with non-profit organizations, municipalities, local government agencies, and private investors to develop projects providing decent housing, a vibrant and suitable living environment, and expanding economic opportunities to meet the needs of low- and moderate-income residents.

The HAPGC administers federal rental assistance and public housing programs benefiting low- and very low-income residents.

The RDA receives federal, state, and local funds for neighborhood revitalization, infill development, and mixed-income housing activities.

The mission of the Department is to expand access to a broad range of quality affordable housing, and to create safe, well planned, attractive communities which enable families to become stable and self-sufficient.

Prince George's County qualifies as an urban county eligible to receive federal funds from the United States Department of Housing and Urban Development (HUD). The County's annual apportionment of HUD funds received each fiscal year is approximately \$80 million and provides housing and community development assistance to low- and moderate-income residents of the County. A significant portion of these funds are used to carry out construction, reconstruction, conversion or rehabilitation of housing, and other public construction activities which may require training, employment, contracting and other economic opportunities benefiting low- and very low-income residents and local businesses. These activities are defined by HUD as "Section 3" covered projects.<sup>1</sup>

Thus, the purpose of this document is to present the County's Section 3 Action Plan, ensuring that local low- and very low-income residents and local businesses, to the "greatest extent feasible," are beneficiaries of Section 3 covered projects administered by the County, specifically the Department of Housing and Community Development, the Housing Authority of Prince George's County and the Redevelopment Authority of Prince George's County.

The County may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the following HUD numerical goals:

1. Employ qualified Section 3 residents, as thirty percent (30%) of aggregate number of new hires resulting from contracts and subcontracts on a covered activity;

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<sup>1</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.5

2. Award to Section 3 business concerns at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work; and
3. Award to Section 3 business concerns at least three percent (3%) of the total dollar amount of all Section 3 covered contracts for non-construction work.

This document examines federal regulations, County legislation and policies and procedures as administered by various County departments, impacting its Section 3 compliance and performance measures.

Specifically, Subtitles 10A and 15A of the Prince George's County Code are intimately related to this Section 3 Action Plan. Subtitle 15A of the Prince George's County Code requires the Department to develop a Section 3 Action Plan within its 2016-2020 Consolidated Plan for Housing and Community Development.<sup>2</sup> Subtitle 10A of the Prince George's County Code, within the broad context of economic development and local employment establishes a First Source Hiring Program requiring "best efforts" for meeting a certain local hiring percentage goal for positions on certain procurement projects funded by the County.<sup>3</sup>

The Section 3 Action Plan outlines the Department's policies and procedures, ensuring that both low- and very low-income citizens and local businesses benefit from this resource. The enactment of a Section 3 Action Plan is not a requirement of Section 3 of the Housing and Urban Development Act of 1968, as amended; instead it is a tool to assist the Department with facilitating its implementation.

### **Development of the Section 3 Action Plan**

In July 2015, the Department partnered with other County agencies to assist with the development of the Section 3 Action Plan. These efforts go beyond the normal employment and contracting procedures by developing strategies that specifically target Section 3 residents and businesses. The strategies also help to strengthen the County's "best efforts" for meeting certain local preferences and hiring requirements. As part of the administration of this Section 3 Action Plan, the Department shall enter into a Memorandum of Understanding (MOU) with the following County agencies:

- Office of Central Services – Supplier Development and Diversity Division (OCS-SDDD), and
- Prince George's County Economic Development Corporation – Workforce Services Division (PGCEDC-WSD).

The Department's Section 3 Action Plan describes federal requirements (i.e., responsibilities, goals and objectives, monitoring and reporting, etc.) pertaining to local government agency the DHCD, HAPGC, and RDA. It also describes the action steps for

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<sup>2</sup> December 6, 2012, Prince George's County Maryland Code, Chapter No. 94, Subtitle 15A. Consolidated Housing and Community Development Plan

<sup>3</sup> November 15, 2011, Prince George's County Maryland Code, Chapter No. 37, Subtitle 10A. Purchasing, Sections 10A-157



implementing Section 3 requirements, local preferences, and participation for County-based businesses, County-based small businesses and local hiring requirements.

The Section 3 Action Plan serves as a guide for sub-recipients, contractors, and subcontractors awarded HUD funds to undertake Section 3 covered projects. It includes an economic opportunity toolkit to assist awardees to achieve their Section 3 hiring and contracting goals. The Section 3 Action Plan includes a performance measurement system to track the Department's performance in meeting its Section 3 and local goals. It also describes training opportunities for prospective entitlement program applicants who administer and implement Section 3 covered projects.

## **2. BACKGROUND ON SECTION 3**

### **Section 3 of the Housing and Urban Development Act of 1968, as amended**

Section 3 is a provision of the Housing and Urban Development Act of 1968, as amended that fosters local economic development, neighborhood improvement and individual self-sufficiency.

The purpose of Section 3 is to ensure training, employment, contracting and other economic opportunities generated by HUD financial assistance shall, to the "greatest extent feasible," 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.

As a jurisdiction in receipt of Federal funds, the County, under its Annual Action Plan (AAP) certifies it will comply with the Section 3 of the Housing and Urban Development Act of 1968, as amended.

### **Section 3 Interim Rule 24 C.F.R. § 135**

In 1994, the U.S. Department of Housing and Urban Development (HUD) established interim regulations in 24 C.F.R. § 135 to provide the standards and procedures to ensure the objectives of Section 3 are met.<sup>4</sup>

The Section 3 interim regulations are divided into two operational components:

- Public and Indian Housing programs and other HUD assisted housing and community development programs; and
- The identification of individuals and businesses that are the intended beneficiaries of the economic opportunities generated by HUD funds, and the establishment of the order of preference in which these individuals should be recruited for employment and other economic opportunities.

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<sup>4</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135

### **Section 3 Proposed Rule 24 C.F.R. § 135**

Since 1994, the Section 3 program has been governed by an interim regulation. In March 2015, HUD proposed a new rule that will expand opportunities for public housing residents and low- and very low-income workers and increase contracting opportunities for local businesses.<sup>5</sup>

The Section 3 proposed rule seeks to: (1) clarify obligations for public housing authorities and other grantees; (2) incorporate HUD programs that have been created since the publication of the current regulation; and (3) codifies “best practices” that have proved successful for providing employment and contracting opportunities.

The Department’s Section 3 Action Plan will be amended when HUD’s Section 3 proposed rule is finalized to reflect any revisions in the new regulation.

### **3. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (DHCD)**

The Department of Housing and Community Development (DHCD) is the County’s lead agency responsible for the administration of Federal entitlement programs on behalf of the United States Department of Housing and Urban Development (HUD).

As an entitlement jurisdiction and recipient and a requirement under Section 3, the County receives more than \$200,000 annually from housing and community development programs.<sup>6</sup> The following is a list of Section 3 covered entitlement programs administered by the County:

- Community Development Block Grant (CDBG),
- HOME Investment Partnerships (HOME),
- Emergency Solutions Grant (ESG),
- Housing Opportunities for Persons with AIDS (HOPWA),
- Neighborhood Stabilization Program Grants (NSP 1, 2, and 3),
- Section 108 Loan Guarantee Program,
- Lead-Based Paint Hazard Control Grant Program (LBPHC),
- Lead Hazard Reduction Demonstration Grant Program (LHRD), and
- CDBG Disaster Recovery Grant (CDBG-DR).

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<sup>5</sup> March 27, 2015, Section 3 Proposed Rule 24 C.F.R. § 135

<sup>6</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.3

Table 1 identifies the designated agencies and divisions responsible for implementing Section 3 requirements.

**Table 1 – Section 3 Covered Activities and Responsible Agencies and Divisions**

<b>DHCD Programs</b>	<b>Lead Department/Agency</b>
Community Development Block Grant (CDBG)	Department of Housing and Community Development/Community Planning and Development Division
HOME Investment Partnerships (HOME)	Department of Housing and Community Development/Housing Development Division
Emergency Solutions Grants (ESG)	Department of Housing and Community Development/Department of Social Services
Housing Opportunities for Persons with AIDS (HOPWA)	Department of Housing and Community Development/Community Planning and Development Division
Neighborhood Stabilization Program Round 3 (NSP3)	Department of Housing and Community Development/Redevelopment Authority of Prince George's County
Section 108 Loan Guarantee Program (Section 108)	Department of Housing and Community Development/Housing Development Division
Lead-Based Paint Hazard Control Grant Program (LBPHC) and Lead Hazard Reduction Demonstration Grant Program (LHRD)	Department of Housing and Community Development/Community Planning and Development Division
CDBG Disaster Recovery Grant (CDBG-DR)	Department of Housing and Community Development/Community Planning and Development Division

### **DHCD Program Descriptions**

The following is a general description of DHCD programs which includes Section 3 covered activities.

- Community Development Block Grant (CDBG) - the CDBG Program is used to fund local community development activities, notably affordable housing, economic development, infrastructure, and public services, including housing rehabilitation, and public construction (i.e., street repairs, water and sewer, etc.)<sup>7</sup>
- HOME Investment Partnerships (HOME) - the HOME Program is designed to create affordable housing for low-to-moderate (LMI) households, expand the capacity of non-profit housing providers, strengthen the ability of State and local governments to provide housing, and leverage private sector participation in housing projects.<sup>8</sup>
- Emergency Solutions Grants (ESG) – the ESG supports outreach to and shelters homeless individuals and families as well as provide supportive programs which prevent homelessness. ESG funds may also be used for renovating buildings to

<sup>7</sup> December 15, 2015, CDBG Interim Final Rule 24 C.F.R. § 570

<sup>8</sup> July 24, 2013, HOME Final Rule 24 C.F.R. § 92

be used as emergency shelter for homeless families and individuals, and operating emergency shelters.<sup>9</sup>

- Housing Opportunities for Persons with AIDS (HOPWA) - the HOPWA Program is used to provide tenant-based rental assistance and housing related short-term assistance to individuals and families living in shelters or who are in imminent danger of becoming homeless. HOPWA funds may also be used for construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities.<sup>10</sup>
- Neighborhood Stabilization Program Round 3 (NSP3) – the NSP3 Program is used to assist the County with the acquisition, rehabilitation, resale, rental and demolition of abandoned and foreclosed homes, residential and commercial properties.<sup>11</sup>
- Section 108 Loan Guarantee Program (Section 108) – the DHCD is currently exploring the application of the Section 108 Program, the loan guarantee component of the CDBG Program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. Local governments borrowing funds guaranteed by HUD through the Section 108 Program must pledge current and future CDBG allocations as security for the loan.<sup>12</sup>
- Lead-Based Paint Hazard Control Grant Program (LBPHC) and Lead Hazard Reduction Demonstration Grant Program (LHRD) – the LBPHC and LHRD programs identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing. Funds may be used for activities such as: renovation, remodeling, housing rehabilitation, property maintenance, and weatherization.<sup>13</sup>
- CDBG Disaster Recovery Grants (CDBG-DR) – the CDBG-DR appropriations are used for necessary expenses for activities related to disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas.<sup>14</sup>

### 3.1 General Policy Statement

DHCD implements its Section 3 Policy through the executing of contracts to sub-recipients, contractors, and subcontractors to create new employment and business

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<sup>9</sup> December 5, 2011, ESG Final Rule 24 C.F.R. § 576

<sup>10</sup> December 28, 1992, HOPWA Final Rule 24 C.F.R. 574

<sup>11</sup> December 15, 2015, CDBG Interim Final Rule 24 C.F.R. § 570

<sup>12</sup> December 15, 2015, CDBG Interim Final Rule 24 C.F.R. § 570

<sup>13</sup> June 21, 2004 Lead-Based Paint Poisoning Prevention in Certain Residential Structures Final Rule 24 C.F.R. § 35

<sup>14</sup> December 15, 2015, CDBG Interim Final Rule 24 C.F.R. § 570



opportunities for residents of the County and other qualified low- and very low-income persons residing in Prince George's County.

Section 3 Policy shall, to the “greatest extent feasible,” result in the recruitment, employment, and contracting opportunities for Section 3 residents and business concerns for Section 3 covered contracts partially or wholly funded with federal funds.

Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with HUD-funded Housing and Community Development (i.e., CDBG, HOME, ESG, HOPWA, NSP3, Section 108, LBPHC, LHRD, and CDBG-DR) projects related to housing rehabilitation, housing construction, and other public construction implemented with housing and community development assistance.

### **3.2 Economic Opportunities for Section 3 Residents and Businesses**

The Section 3 provision seeks to ensure employment and other economic opportunities generated by HUD financial assistance shall, to the “greatest extent feasible,” 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.<sup>15</sup>

This also means recipients of Section 3 covered financial assistance should make every effort possible to meet the regulatory requirements. This could mean that the effort may have to go beyond the normal employment and contracting procedures by developing strategies specifically targeting Section 3 residents and businesses for these types of economic opportunities.

Any employment or contracting opportunities generated by the expenditure of a Section 3 covered project, including administration, management, clerical support, and construction, are subject to compliance with Section 3. The chart below lists other examples of employment opportunities.

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<sup>15</sup> “Greatest Extent Feasible” means that every effort shall be made to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended which includes the original explanation of the phrase. In sum, when properly executed the “greatest extent feasible” provision will not force a contractor to disband an organization by replacing current employees with local workers or contractors. The original definition also rejects the application of anticipated hiring preferences that have historically excluded minorities from countless employment and business opportunities. National Housing Law Project, An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity, February 2009.

**Table 2. Examples of Employment and/or Contracting Opportunities**

Employment and Contracting Opportunities		
▪ Accounting	▪ Electrical	▪ Marketing
▪ Architecture	▪ Elevator Construction	▪ Painting
▪ Appliance Repair	▪ Engineering	▪ Payroll Photography
▪ Bookkeeping	▪ Fencing	▪ Plastering
▪ Bricklaying	▪ Florists	▪ Plumbing
▪ Carpentry	▪ Heating	▪ Printing Purchasing
▪ Catering	▪ Iron Works	▪ Research
▪ Cement/Masonry	▪ Janitorial	▪ Surveying
▪ Computer/Information	▪ Landscaping	▪ Tile Setting
▪ Demolition	▪ Machine Operation	▪ Transportation
▪ Drywall	▪ Manufacturing	▪ Word Processing

### Section 3 Residents and Section 3 Business Concerns

The application of the Section 3 provision is designed to benefit both local citizens and business concerns. The regulations define both groups as follows:

#### Section 3 Residents:

1. Individuals who reside in public housing in the County; or
2. Low- and very low-income persons who live in the County where a Section 3 covered project for housing or community development is located.

#### Section 3 Business Concerns:

1. County-based Businesses owned by fifty-one percent (51%) or more Section 3 residents; or
2. County-based Businesses with at least thirty percent (30%) permanent, full-time employees of whom are currently Section 3 residents, or within three (3) years of the date of first employment with the business concern were Section 3 residents; or
3. Businesses providing evidence of a commitment to subcontract in excess of twenty-five percent (25%) of the dollar award of all subcontracts to business concerns and meet qualifications in items (1) or (2).<sup>16</sup>

#### Evidence of Section 3 Certification:

Contractors or subcontractors seeking Section 3 preference in the awarding of a HUD-funded contract shall self-certify compliance with one of the regulatory definitions of a Section 3 business<sup>17</sup> by completing a HUD Section 3 Business Registry Form.<sup>18</sup> The

<sup>16</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.5

<sup>17</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.5

<sup>18</sup> This form is available online at: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>.

contractor or subcontractor shall provide adequate documentation as evidence of eligibility for preference under the Section 3 Program.

### **3.3 DHCD Responsibilities in Section 3 Administration and Compliance**

Prince George's County Department of Housing and Community Development (DHCD) is responsible for monitoring and enforcing Section 3 compliance requirements. The narrative below addresses: (1) the thresholds for Section 3 covered projects; (2) DHCD's and sub-recipient's responsibilities; and (3) the DHCD's Section 3 goals and strategies.

#### **Thresholds for Section 3 Covered Projects:**

Based on requirements under 24 Code of Federal Regulations (CFR) Section 135, Section 3 applies to "recipients" of HUD funds directly or through another entity where the amount of assistance exceeds \$200,000 from housing and community development programs such as:

- Community Development Block Grant (CDBG),
- HOME Investment Partnerships (HOME),
- Emergency Solutions Grants (ESG),
- Housing Opportunities for Persons with AIDS (HOPWA),
- Neighborhood Stabilization Program Grants (NSP 1,2, & 3),
- Section 108 Loan Guarantee Program (Section 108),
- Lead-Based Paint Hazard Control Grant Program (LBPHC)
- Lead Hazard Reduction Demonstration Grant Program (LHRD), and
- CDBG Disaster Recovery Grants (CDBG-DR).

The threshold applies to the recipient (Prince George's County) of HUD funds and not the amount of its HUD-funded projects. Therefore, since the County receives more than \$200,000 in HUD housing and community development assistance during a 12-month fiscal year, Section 3 applies to all construction related activities, fully or partially funded with HUD financial assistance, regardless of the size of any individual project.<sup>19</sup>

In addition to, the above threshold requirements, Section 3 applies to contractors or subcontractors with an agreement in excess of \$100,000 from HUD funds.<sup>20</sup>

#### **Responsibilities of DHCD and Sub-recipients:**

The DHCD and Sub-recipients (i.e., non-profit organizations, municipalities, local government agencies, or developers) that receive CDBG, HOME, ESG, HOPWA, NSP3 Section 108 funding, LBPHC, LHRD, or CDBG-DR bear the responsibility to comply with Section 3 covered assistance. Responsibilities include:

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<sup>19</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.3

<sup>20</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.3

1. Notifying Section 3 residents about employment and training opportunities and businesses regarding contracts generated by Section 3 covered assistance;
2. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
3. Notifying potential contractors and subcontractors of the Section 3 objectives and ways in which each contractor can assist the sub-recipient to meet its numerical goal;
4. Documenting the action(s) taken by the contractor or subcontractor to comply with the Section 3 requirements, the results of the actions, and impediments, if any; and
5. Advertise all contracting opportunities for Section 3 covered projects through the Office of Central Services' website utilization for advertising county government procurement opportunities.

The DHCD and Sub-recipients bear the responsibility to ensure compliance of contractors and subcontractors. The DHCD and sub-recipients shall:

1. Incorporate the Section 3 Clause into contract documents;
2. Provide additional technical assistance when needed;
3. Conduct compliance reviews consisting of detailed analysis and evaluation of the contractor's and subcontractor's compliance with Section 3 requirements;
4. Notify contractors and subcontractors of non-compliance and direct instructions to obtaining compliance of regulation 24 C.F.R. § 135;
5. Refrain from entering into contracts with contractors or subcontractors in violation of the regulations 24 C.F.R. § 135;
6. Respond to complaints alleging non-compliance of regulation 24 C.F.R. § 135 by Section 3 residents or business concerns; and
7. Fully comply with the Section 3 Action Plan.

#### **DHCD Goals and Objectives:**

In an effort to ensure the objectives of Section 3 are met in the use of applicable Federal funds in the County, including promoting local economic development, neighborhood economic development, local hiring and employment, local procurement opportunities and individual self-sufficiency, DHCD established the following goals and objectives. The goals and objectives are consistent with HUD's numeric goals and



Subtitle 10A of the Prince George's County Code, an act concerning economic development and local employment. (See Appendix B: CB-17-2011)

**Goal 1:** Contractors and Subcontractors Training and Employment Opportunities  
Goal of thirty percent (30%) for Section 3 Residents

It is DHCD's goal to ensure sub-recipients utilize Section 3 residents and other Section 3 eligible persons and businesses in contracts partially or wholly funded with Section 3 covered Federal funds from HUD. The sub-recipient, to the "greatest extent feasible," establishes employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. The numerical goal is thirty percent (30%) of the aggregate number of new hires in any fiscal year.<sup>21</sup>

**Strategy:** Provide justification for performance below thirty percent (30%) of the Section 3 resident target.

It is the responsibility of the sub-recipient to ensure contractors and subcontractors implement strategic efforts to attain Section 3 compliance. If the numerical goal is not met, the contractor and subcontractor shall demonstrate and document why meeting the goal was not feasible.

**Strategy:** Standardize Section 3 requirements in all written agreements with contractors and subcontractors.

The Section 3 Contract Clause specifies the requirements for contractors and subcontractors under Section 3 covered projects. The Section 3 Clause shall be included in all Section 3 covered project contracts. (See Exhibit A-1: Locally Based Business Preference Equal Opportunity Agreement)

**Strategy:** Provide entitlement funding to support Section 3 covered activities.

The DHCD shall continue to support and fund sub-recipients engaged in training, employment and other economic development activities.

**Goal 2:** Assisting Contractors to Achieve Section 3 Hiring and Contracting Goals

It is DHCD's goal to ensure Section 3 business concerns are awarded at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trade work and at least three percent (3%) of the total dollar amount for non-construction work.<sup>22</sup>

<sup>21</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.30

<sup>22</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.30

**Strategy:** Each sub-recipient shall develop a Section 3 Action Plan which follows Exhibits A-9: DHCD Section 3 Action Plan Template. The Section 3 Action Plan identifies the goals, objectives and actions that will be implemented to ensure compliance with the requirements of Section 3.

**Strategy:** DHCD shall provide annually an updated “DHCD Section 3 Economic Opportunity Tool Kit” for sub-recipients, contractors, and subcontractors. The DHCD Section 3 Economic Opportunity Tool Kit shall consist of the following forms which are used to assist awardees with how in their effort to achieve their Section 3 hiring and contracting goals.

**DHCD Section 3 Economic Opportunity Tool Kit:**

- Exhibit A-1: Locally Based Business Preference Equal Employment Opportunity Agreement
- Exhibit A-2: Assurance of Compliance with HUD Regulations for Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons
- Exhibit A-3: Estimated Project Work Force Breakdown
- Exhibit A-4: Proposed Contracts/Subcontracts Breakdown
- Exhibit A-5: Actual Project Workforce Breakdown
- Exhibit A-6: Section 3 Business Utilization
- Exhibit A-7: Section 3 Summary Report
- Exhibit A-8: Prince George's County, Maryland Income Limits

Failure to submit these documents shall constitute a breach of contract and may result in termination of the contract.

**Strategy:** DHCD shall provide the sub-recipients, contractors, and subcontractors with a list of additional Section 3 business concerns interested and qualified for all proposed Section 3 covered projects.<sup>23</sup>

**Strategy:** DHCD shall provide technical assistance workshops to inform sub-recipients, contractors, and subcontractors of solutions that might affect Section 3 residents while performing job related duties.

**Strategy:** DHCD shall review the new hire clause with sub-recipients, contractors and subcontractors.<sup>24</sup>

**Goal 3:** Local Procurement Opportunities Goal for Section 3 Business Concerns

<sup>23</sup> The Office of Central Services – Supplier Development and Diversity Division (OCS-SDDD) maintains the County's Section 3-based Business Concerns Directory for contractors and subcontractors seeking to do business in Prince George's County.

<sup>24</sup> It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other persons, when hiring additional employees needed to complete proposed work to be performed with HUD funds.

It is the County's goal to procure at least fifty percent (50%) of the dollar amount of its goods and services, including, but not limited to, construction goods and services, to County-based businesses and at least thirty percent (30%) to County-based small businesses.

**Strategy:** Encourage the Provision of Preference to Section 3 Business Concerns

When considering the award of contracts to business concerns, and when more than one Section 3 business concern is being considered, to the "greatest extent feasible," awards shall be made in the following order of priority:

1. Business owner is a resident in the neighborhood area(s) in which the contract shall be extended;
2. Business owner is a resident of government-assisted housing in other qualifying low-income areas in Prince George's County; and
3. Business owner is a resident of Prince George's County and meets the income guidelines for Section 3 preference.<sup>25</sup>

**Goal 4:** First Source and Local Hiring Goals for Section 3 Residents

It is the County's goal to ensure at least fifty-one percent (51%) of the annual hours (work hours), on both a total work hour and trade by trade basis, be worked by County residents.

**Strategy:** Encourage the Provision of Employment Preference of a Section 3 Resident

When considering the employment of a Section 3 resident, the following order of preference defined below will apply:

- **Category 1:** Section 3 resident who resides in one of the County's Transforming Neighborhoods Initiative (TNI) areas;
- **Category 2:** Section 3 resident utilizing a HUD Housing Choice Voucher residing in the vicinity of the covered project who meets the HUD income guideline limits; and
- **Category 3:** Section 3 resident who graduated or is participating in a HUD Youthbuild program or a construction skills program of the Prince George's Community College, or a local trade union apprenticeship program.

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<sup>25</sup> <https://www.huduser.gov/portal/datasets/il/il15/index.html>

In all cases, applicants should meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet the minimum requirements.

**Strategy:** All Section 3 covered sub-recipients shall utilize, maintain, and monitor contractors and subcontractors using required documents in the DHCD Section 3 Economic Opportunity Tool Kit.

The sub-recipient, contractors, and subcontractors are required to keep records as necessary to demonstrate Section 3 compliance and submit copies of these records to DHCD.

### **3.4 Requirements applicable to DHCD Notice of Funding Availabilities (NOFAs)**

All notices of funding availability (NOFAs) issued by DHCD announcing the availability of funding covered by Section 3 shall include a provision notifying applicants that Section 3 and the regulations in 24 C.F.R. § 135 are applicable to all funding awards.

For competitively awarded assistance involving housing rehabilitation, construction or other public construction, regardless of whether fully or partially funded with Federal funds, the NOFA shall include a statement that one of the purposes of the assistance is to give, to the “greatest extent feasible,” and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to Section 3 residents and Section 3 business concerns.

All competitively awarded assistance applications shall be reviewed for prior Section 3 compliance requirements.

Further, applicants that demonstrate efforts to train and employ Section 3 residents and contract with Section 3 business concerns for economic opportunities generated in connection with the assisted project or activity shall receive bonus points (See Exhibit A-9: DHCD Section 3 Action Plan Template), as appropriate.

### **Local and Minority Business Involvement**

The DHCD supports the County’s law “Jobs First Act,” which was created for the purpose of enhancing the County’s economic development. According to Subtitle 10A of the Prince George’s County Code, the “Jobs First Act” creates bidding preferences and participation requirements for County-based businesses and County-based small businesses on certain procurement contracts for goods and services with the County. The “Jobs First Act” also benefits both businesses and residents of Prince George’s County. County-based, County-based small, local Minority Business Enterprises’ (MBE’s) and out-of-county MBE’s may benefit from increased bonus factors. Residents will benefit mainly from the increase in jobs via the First Source Registry to be maintained by the Prince George’s County Economic Development Corporation’s Workforce Services Division.



The DHCD shall provide bonus points to sub-recipients registered as a County-based business or as a County-based Minority business.

### **3.5 Monitoring and Reporting**

#### **Monitoring**

Monitoring is an integral management control technique and a Government Accountability Office (GAO) standard. It is an ongoing process that assesses the quality of a program participant's performance. Monitoring provides information about program participants that is critical for making informed judgments about program effectiveness and management efficiency.

It is DHCD's responsibility to ensure that the sub-recipient meet all Section 3 requirements. If the requirements are not met, DHCD shall make a finding of noncompliance. A finding is a deficiency in program performance based on a statutory, regulatory program requirement for which sanctions or other corrective actions are authorized. Failure to comply could result in a recovery of HUD funds.<sup>26</sup>

#### **Reporting**

DHCD is required to submit a Section 3 Annual Summary Report (HUD Form 60002) to HUD's Economic Opportunity Division in Washington, DC. This report is submitted in October of each fiscal year. All submissions of the HUD Form 60002 must be completed electronically. See Exhibit A-11: FHEO Section 3 Performance Evaluation and Registry System (SPEARS) Guide.

The Section 3 Annual Summary Report (HUD Form 60002) corresponds to the covered projects and activities that received Federal funding (i.e., CDBG, HOME, ESG, NSP3, etc.), whether the requirements were triggered or not.

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<sup>26</sup> The following describes DHCD's Section 3 monitoring checklist:

- If the sub-recipient implemented procedures to notify Section 3 residents and business concerns about employment, training, and contracting opportunities generated by its agency or covered contractors;
- If the sub-recipient notified covered contractors and subcontractors about their responsibilities pursuant to Section 3;
- If the sub-recipient included the Section 3 Clause in covered contracts;
- If the sub-recipient monitored its covered contractors and subcontractors for compliance with Section 3 and imposed penalties for noncompliance as appropriate;
- If the sub-recipient or its contractors and subcontractors met the minimum numerical goals for employment and contracting opportunities;
- If the sub-recipient provided an explanation if the contractors and subcontractors failed to meet the minimum numerical goals for Section 3;
- If the sub-recipient's annual Section 3 reporting requirements were met on a timely basis;

Section 3 Annual Summary Reports (HUD Form 60002) are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3.

### **3.6 Section 3 Residents or Section 3 Business Complaints**

Any Section 3 residents or Section 3 businesses (or authorized representatives) may file a written complaint, official title "Complaint Register Under Section 3 of the HUD Act of 1968 form HUD-958," with the local HUD Field Office or mail it to:

The Assistant Secretary for Fair Housing and Equal Opportunity  
Attn: Office of Economic Opportunity  
U.S. Department of Housing and Urban Development  
451 Seventh Street, S.W., Room 5100  
Washington, D.C. 20410-2000

A written complaint should contain:

- Name and address of the person filing the complaint
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought (i.e., training, employment or contracts)

#### **Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to non-compliance through an internal process, DHCD encourages submittal of complaints to its Section 3 Coordinator. A written complaint should be mailed to:

DHCD Office of the Director  
Attention: Section 3 Coordinator  
Prince George's County Department of Housing and Community Development  
9200 Basil Court, Suite 500  
Largo, Maryland 20774  
(301) 883-5531

## **4. HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY (HAPGC)**

The Housing Authority of Prince George's County (HAPGC) was established in 1967 to provide Prince George's County residents with low- and very low incomes with safe, decent, and affordable housing. The HAPGC receives federal funds directly from HUD to administer the Housing Choice Voucher Program (HCV) and Public Housing Programs. Most of the affordable housing assistance is in the form of rental units that must meet rigorous housing standards. The HAPGC also provides its participant families with program services that encourage residents to become self-sufficient which may potentially lead to homeownership opportunities. The Housing Assistance Division

(HAD) and Rental Assistance Division (RAD) administers and implements the Federal rental assistance and public housing programs for the County.

Table 3 identifies the designated divisions responsible for implementing Section 3 requirements.

**Table 3 – Section 3 Covered Activities and Responsible Divisions**

HAPGC Programs	Lead Department/Agency
Housing Choice Voucher (HCV) and Moderate Rehabilitation Program	Rental Assistance Division
Public Housing Capital Fund Program (CFP)	Housing Assistance Division
Conventional Public Housing Program	Housing Assistance Division

### HAPGC Program Descriptions

The following is a general description of HAPGC programs which includes Section 3 covered activities.

- Housing Choice Voucher (HCV) and Moderate Rehabilitation Program - Funding supports voucher programs wherein the participants pay a minimum of their adjusted gross income for rent and the Federal government, through the use of a voucher, pays the remainder. Participating families are able to select the housing of their choice, provided the rent is reasonable and falls within the program's limits.<sup>27</sup> The Moderate Rehabilitation Program allows moderate levels of rehabilitation to upgrade and preserve the project-based housing stock.<sup>28</sup>
- Public Housing Capital Fund Program (CFP) - Funding supports physical improvements and upgrades at public housing sites. These expenditures are non-routine and include costs such as modernizing heating and cooling equipment and/or improving parking lots at public housing facilities.<sup>29</sup>
- Conventional Public Housing Program - Funding supports the management and maintenance of the County's public housing sites: Owens Road, Marlborough Towne, Kimberly Gardens, and Cottage City.<sup>30</sup>

The following HAPGC Section 3 policies and procedures are consistent with existing Federal and local requirements.

#### 4.1 General Policy Statement

It is the policy of the Housing Authority of Prince George's County (HAPGC) to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability,

<sup>27</sup> November 14, 2005, Section 8 Project-Based Certificate Program Final Rule 24 C.F.R. § 983

<sup>28</sup> May 31, 1995, Section 8 Tenant-Based Assistance: Housing Choice Voucher Program Final Rule 24 C.F.R. § 882

<sup>29</sup> October 24, 2013, Public Housing Capital Fund Program Final Rule 24 C.F.R. § 903, 905, 941 *et. al.*

<sup>30</sup> October 24, 2013, Public Housing Capital Fund Program Final Rule 24 C.F.R. § 903, 905, 941 *et. al.*

veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment. The HAPGC implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the HAPGC and other qualified low- and very low-income persons residing in Prince George's County.<sup>31</sup>

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of HAPGC residents and businesses by HAPGC contractors working on contracts partially or wholly funded with the HUD funds. The HAPGC shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to HAPGC residents prior to acting on any proposed contract award.

**Threshold:** Section 3 applies to Public Housing Authorities (PHAs) regardless of size or number of units or funding thresholds for public housing assistance.

The Housing Authority of Prince George's County (HAPGC) receives Federal funds directly from HUD to administer the Housing Choice Voucher program (HCV) and Public Housing Programs. Therefore, HAPGC certifies each fiscal year that it will comply with the Section 3 of the Housing and Urban Development Act of 1968, as amended.

#### **4.2 Section 3 Contracting Policy and Procedure**

HAPGC incorporated Section 3 in its existing Procurement Policy and adopted a Section 3 Contracting Policy and Procedure which is included in all procurements generated for use with HUD funding. This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the HAPGC, complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form.

The existing Procurement Policy also contains goal requirements for awarding contracts to Small Disadvantaged Businesses, formerly Minority and Women Business Enterprises (M/WBE).

#### **4.3 Section 3 Employment and Training Goals**

It is the policy of the HAPGC to utilize HAPGC residents and Section 3 businesses in contracts partially or wholly funded with HUD funds. HAPGC has established employment and training goals that contractors and subcontractors

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<sup>31</sup> HAPGC Resolution No. LHA 1278



should meet in order to comply with Section 3 requirements. (Reference 24 C.F.R. § 135.30 – Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- **Thirty percent (30%) of the aggregate number of new hires in any fiscal year.**

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 the goals were not feasible. All contractors submitting bids or proposals to the HAPGC are required to certify compliance with Section 3 requirements.

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included under Section 4.10 of the Section 3 Action Plan.

#### **4.4 Resident Hiring Requirements**

The HAPGC has adopted the following scale for resident hiring for all construction contracts, service contracts and professional service contracts, containing a labor component. It is expected that an appropriate number of residents with particular qualifications or a willingness to hire unskilled labor will be able to participate in HAPGC's contracted labor efforts. A prime contractor may satisfy resident hiring requirements through its subcontractors.

**Table 4. Resident Hiring Scale**

<b>TOTAL LABOR DOLLARS*</b>	<b>RESIDENT EMPLOYMENT AS A PERCENTAGE OF TOTAL LABOR DOLLARS</b>
less than \$100,000	10% of the labor dollars
At least \$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least \$1 million, but less than \$2 million	4% of the labor dollars
At least \$2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1-1½% of the labor dollars

**\*Use total Contract Amount for Service Contracts**

With this sliding formula, it is expected that an appropriate number of public housing and neighborhood residents with particular qualifications or willingness to hire unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy HAPGC resident hiring requirement(s) set forth above in one of the following manners:

1. Subcontract or joint venture with a resident owned business. The business must be 51% or more owned by a qualifying low-income resident, or subcontract/joint venture with a business that employs full-time, 30% or more low and very-income individuals residing within Prince George's County.
2. Direct hiring of HAPGC's public housing residents and/or low- and very low-income neighborhood residents based on the Resident Hiring Scale.

#### **4.5 Assisting Contractors to Achieve Section 3 Goal Hiring and Contracting Goals**

The HAPGC will assist contractors in achieving Section 3 hiring and contracting goals by:

- Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.
- Section 3 Coordinator shall provide contractors with a list of interested and qualified Section 3 residents for construction projects.
- Section 3 Coordinator shall provide contractors with a list of Section 3 business concerns interested and qualified for construction projects.
- Section 3 Coordinator shall inform contractors of known issues that might affect Section 3 residents from performing job related duties.
- Section 3 Coordinator shall review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

#### **4.6 Preference for Contracting with Section 3 Business Concerns**

The HAPGC, in compliance with Section 3 regulations, shall require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following priority order:

- **Category 1:** County-based Business concerns that are 51% or more owned by residents of the housing development for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.

- **Category 2:** County-based Business concerns that are 51% or more owned by HAPGC residents other than the housing development where the work is to be performed; or whose full-time permanent workforce includes 30% of these persons as employees.
- **Category 3:** County-based Business concerns that are 51% or more owned by a Section 3 county resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents; or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by the HAPGC.

Evidence of Section 3 Certification:

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the HAPGC shall complete the Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability form, which can be obtained from the HAPGC Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program. (See Exhibit A-13: HAPGC Section 3 Business Concern)

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of the HAPGC prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid.

#### **4.7 Efforts to Award Contract Opportunities to Section 3 Business Concerns**

The HAPGC shall use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist.

Advertise contracting opportunities via HAPGC website newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.

Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.

Conduct workshops on HAPGC's contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.

Contact the Prince George's County Office of Central Services, business assistance agencies, Minority and Women's Business Enterprise (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.

Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.

#### **4.8 Section 3 Residents Recruitment, Training, and Employment**

HAPGC shall develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

Training opportunities shall be advertised by distributing flyers via mass mailings and posting in common areas of the housing developments as well as all HAPGC public housing management offices.

The resident councils as well as neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.

Section 3 employment opportunities shall be advertised by posting job vacancies in common areas of all of the HAPGC housing developments as well as contacting resident councils and neighborhood community organizations.

A database shall be developed of certified Section 3 residents of public housing.

A database shall be developed to maintain a skill assessment of all Section 3 residents.

A database shall be developed of eligible qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.

Relationships shall be developed with local area employers in an effort to solicit job vacancies to determine skills needed in their workforce, thereby providing training to HAPGC residents developing skills that will transfer into the external labor market.

A provision for a specific number of eligible HAPGC residents to be trained or employed by the contractor shall be incorporated into the contract.

#### 4.9 Contractor's Requirements in Employing Section 3 Participants

Under the HAPGC Section 3 Program, contractors and subcontractors are required to provide employment opportunities to Section 3 residents/participants in the priority order listed below:

- **Category 1: Section 3 Resident:** Residents of the housing development or developments for which the contract shall be expended
- **Category 2: Section 3 Resident:** Residents of other housing developments managed by the HAPGC
- **Category 3: Section 3 Resident:** Residents of Section 8 of the HAPGC as well as all other residents residing in Prince George's County who meet the income guidelines for Section 3 preference (See Exhibit A-14: HAPGC Eligibility for Preference).

After the award of contracts, the contractor shall, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:

- a) names of the Section 3 business concerns to be utilized,
- b) estimates of the number of employees to be utilized,
- c) projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon),
- d) efforts that will be utilized to seek Section 3 participants. (See Exhibit A-14: HAPGC Eligibility for Preference)

Contractors shall notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the HAPGC's legal counsel will be contacted to ensure that the individuals are not involved in any legal proceedings against/with the HAPGC.

Contractors shall submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award.

Contractors shall document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the HAPGC Section 3 Coordinator.

Contractors shall immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.

Contractors shall immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.

#### **4.10 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. 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 C.F.R. § 135, which implement Section 3. The parties further agree to fully comply with the county's most recently adopted Section 3 Action Plan. 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 24 C.F.R. § 135 regulations.
- C. The contractor agrees to send to each labor organization or representative or 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; 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. § 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. § 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

#### **4.11 Filing and Processing Complaints**

This section establishes procedures for handling complaints alleging non-compliance with the Section 3 Program. Complaints alleging non-compliance with the Section 3 Program may be filed with the U.S. Department of Housing and Urban Development's (HUD's) Fair Housing and Equal Opportunity Office or complaints may be filed internally with HAPGC's Section 3 Coordinator.

For purposes of this policy:

- Complaint means an allegation of non-compliance with regulations in the form described in 24 C.F.R. § 135.76(d).
- Complainant means the party, which files a complaint with the Assistant Secretary alleging that HAPGC or Contractor has failed or refused to comply with the regulations.
- Non-compliance with Section 3 means failure by HAPGC or its Contractor to comply with the requirements of this part.
- Respondent means HAPGC or its Contractor against which a complaint of non-compliance has been filed.

#### **Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to non-compliance through an internal process, HAPGC encourages submittal of such complaints to its Section 3 Coordinator as follows: Complaints of non-compliance should be filed in writing and shall contain the name of the complainant and brief description of the alleged violation of 24 C.F.R. § 135. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint. The Section 3 Coordinator shall provide written documentation detailing the findings of the investigation of the HAPGC. The HAPGC shall review the findings for accuracy and completeness before it is released to complainants. The findings shall be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the HAPGC, a complaint may be filed with:

The Assistant Secretary for Fair Housing and Equal Opportunity  
 Attn: Office of Economic Opportunity  
 U.S. Department of Housing and Urban Development  
 451 Seventh Street, S.W., Room 5100  
 Washington, D.C. 20410-2000

A written complaint should contain:

- Name and address of the person filing the complaint
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought (i.e., training, employment or contracts)

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

## 5. REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S COUNTY (RDA)

The Redevelopment Authority of Prince George's County (RDA) was chartered in 1996 to provide services in the areas of development, redevelopment, revitalization and preservation in targeted communities. The emphasis is on locations within the Capital Beltway in support of the County Executive's priorities of community development, Transit-Oriented Developments (TODs), and affordable housing.

The RDA uses Federal, State, and local funds for neighborhood revitalization, infill development, and mixed-income housing activities. These activities provide economic opportunities primarily for low- and moderate-income persons, businesses that provide economic opportunities for these persons, County-based businesses, and minority business enterprises.

### 5.1 Economic Opportunities for Section 3 Residents and Business Concerns

The Department of Housing and Community Development (DHCD) subcontracts to the RDA to carry out three (3) Section 3 covered activities.

**Table 5 – Section 3 Covered Activities and Responsible Agencies and Divisions**

RDA Programs	Lead Department/Agency
NSP3 - Neighborhood Stabilization/Blight Eradication	Department of Housing and Community Development/Redevelopment Authority of Prince George's County

RDA Programs	Lead Department/Agency
CDBG - Suitland Model Blocks and Sustainable Streets Program	Department of Housing and Community Development/Redevelopment Authority of Prince George's County
CDBG - Housing Rehabilitation Assistance Program	Department of Housing and Community Development/Redevelopment Authority of Prince George's County

### RDA Section 3 Covered Project Descriptions

The following is a general description of DHCD programs, subcontracted to the RDA to manage and implement which includes Section 3 covered activities.

- NSP3/Neighborhood Stabilization/Blight Eradication – The purpose of this program is to assist the County with the acquisition, rehabilitation, resale, rental and demolition of abandoned and foreclosed homes, residential and commercial properties.<sup>32</sup>
- CDBG/Suitland Model Blocks and Sustainable Streets Program – The Redevelopment Authority of Prince George's County uses Community Development Block Grant (CDBG) funds to provide eligible homeowners with resources to invest in exterior renovations, environmental and storm water management techniques, code compliance updates, landscaping and curb appeal improvements to their home.<sup>33</sup>
- CDBG/Housing Rehabilitation Assistance Program – The Redevelopment Authority of Prince George's County, in conjunction with a non-profit organization (Housing Initiative Partnership, Inc. (HIP)) uses CDBG funds to provide income eligible residents with an affordable rehabilitation loan for the purpose of upgrading the quality of deteriorated dwellings to contemporary minimum property standards, including the elimination of all housing code violations. The rehabilitation entails in most cases, roofing, plumbing, electrical, carpentry, window replacements, interior and exterior painting, doors, etc.<sup>34</sup>

### RDA Section 3 Administration and Compliance

The RDA is considered a sub-recipient of DHCD which receives Section 3 covered assistance (i.e., Neighborhood Stabilization Program Round 3 (NSP3) and Community Development Block Grant (CDBG).) The RDA is required to develop a Section 3 Action Plan which follows Exhibit A-9: DHCD Section 3 Action Plan Template. The RDA also bears the responsibility to comply with the following Section 3 requirements. The

<sup>32</sup> County Resolution (CR-29-2013) – CFY 2011 Annual Action Plan, as amended

<sup>33</sup> County Resolution (CR-9-2015) – CFY 2016 Annual Action Plan

<sup>34</sup> County Resolution (CR-9-2015) – CFY 2016 Annual Action Plan

narrative below addresses: (1) RDA's, contractors' and subcontractors' responsibilities; and (2) the RDA's Section 3 Programs goals and objectives.

### **Responsibilities of RDA, Contractors and Subcontractors**

RDA responsibilities shall include:

1. Notifying Section 3 residents about employment and training opportunities and businesses regarding contracts generated by Section 3 covered assistance;
2. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
3. Notifying potential contractors and subcontractors of the Section 3 objectives and ways in which each contractor or subcontractor can meet its numerical goal; and
4. Documenting the action(s) taken by the contractor or subcontractor to comply with the Section 3 requirements, the results of the actions, and impediments, if any.

The RDA bears the responsibility to ensure compliance of contractors and subcontractors. Thus the RDA shall:

1. Incorporate the Section 3 Clause into contract documents;
2. Provide additional technical assistance when needed;
3. Conduct compliance reviews consisting of detailed analysis and evaluation of the contractor's and subcontractor's compliance with Section 3 requirements;
4. Notify contractors and subcontractors of non-compliance and direct instructions to obtaining compliance of regulation 24 C.F.R. § 135;
5. Refrain from entering into contracts with contractors or subcontractors in violation of the regulations 24 C.F.R. § 135; and
6. Respond to complaints alleging non-compliance of regulation 24 C.F.R. § 135 by Section 3 residents or business concerns.

### **Evidence of Section 3 Certification**

Contractors or subcontractors seeking Section 3 preference in the awarding of a HUD-funded contract shall self-certify compliance with one of the regulatory definitions of a Section 3 business<sup>35</sup> by completing a HUD Section 3 Business Registry Form.<sup>36</sup> The

<sup>35</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.5

<sup>36</sup> <https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>

contractor or subcontractor shall provide adequate documentation as evidence of eligibility for preference under the Section 3 Program.

### **RDA Goals and Objectives**

The RDA's goals and objectives are consistent the DHCD's goals and objectives described under Section 3.3 of the Section 3 Action Plan.

**Goal 1:** Contractors and Subcontractors Training and Employment Opportunities  
Goal of thirty percent (30%) for County Section 3 Residents

It is RDA's goal to ensure contractors and subcontractors utilize Section 3 county residents and county-based businesses in contracts partially or wholly funded with Section 3 covered Federal funds from HUD. The RDA, to the "greatest extent feasible," establishes employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. The numerical goal is thirty percent (30%) of the aggregate number of new hires in any fiscal year.<sup>37</sup>

**Strategy:** Provide justification for performance below thirty percent (30%) of the Section 3 resident target.

It is the responsibility of the RDA to ensure contractors and subcontractors implement strategic efforts to attain Section 3 compliance. If the numerical goal is not met, the contractor and subcontractor shall demonstrate and document why meeting the goal was not feasible.

**Strategy:** Standardize Section 3 requirements in all contracts.

The Section 3 Contract Clause specifies the requirements for contractors under Section 3 covered projects. The Section 3 Clause shall be included in all Section 3 covered project contracts. (See Exhibit A-1: Locally Based Business Preference Equal Opportunity Agreement)

**Strategy:** Provide entitlement funding to support Section 3 covered activities.

RDA shall continue to support contractors and subcontractors engaged in training, employment and other economic development activities.

**Goal 2:** Assisting Contractors to Achieve Section 3 Hiring and Contracting Goals

It is RDA's goal to ensure Section 3 business concerns are awarded at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for

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<sup>37</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.3

building trade work and at least three percent (3%) of the total dollar amount for non-construction work.<sup>38</sup>

**Strategy:** Each contractor and subcontractor shall develop a Section 3 Action Plan which follows Exhibits A-9: DHCD Section 3 Action Plan Template. The Section 3 Action Plan identifies the goals, objectives and actions that will be implemented to ensure compliance with the requirements of Section 3.

**Strategy:** RDA shall provide annually an updated “DHCD Section 3 Economic Opportunity Tool Kit” for contractors and subcontractors. The DHCD Section 3 Economic Opportunity Tool Kit shall consist of the following forms which are used to assist awardees with their effort to achieve their Section 3 hiring and contracting goals.

**DHCD Section 3 Economic Opportunity Tool Kit:**

- Exhibit A-1: Locally Based Business Preference Equal Employment Opportunity Agreement
- Exhibit A-2: Assurance of Compliance with HUD Regulations for Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons
- Exhibit A-3: Estimated Project Work Force Breakdown
- Exhibit A-4: Proposed Contracts/Subcontracts Breakdown
- Exhibit A-5: Actual Project Workforce Breakdown
- Exhibit A-6: Section 3 Business Utilization
- Exhibit A-7: Section 3 Summary Report
- Exhibit A-8: Prince George's County, Maryland Income Limits

Failure to submit these documents shall constitute a breach of contract and may result in termination of the contract.

**Strategy:** The RDA shall provide contractors and subcontractors with a list of additional Section 3 business concerns interested and qualified for all proposed Section 3 covered projects.

**Strategy:** The RDA shall provide technical assistance workshops to inform contractors and subcontractors of solutions that might affect Section 3 residents while performing job related duties.

**Strategy:** The RDA shall review the new hire clause with contractors and subcontractors.<sup>39</sup>

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<sup>38</sup> June 30, 1994, Section 3 Interim Rule 24 C.F.R. § 135.3

<sup>39</sup> It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other persons, when hiring additional employees needed to complete proposed work to be performed with HUD funds.



**Goal 3:** Local Procurement Opportunities Goal for Section 3 Business Concerns

It is the County's goal to procure at least fifty percent (50%) of the dollar amount of its good and services, including, but not limited to, construction good and services, to County-based businesses and at least thirty percent (30%) to County-based small or County-based minority businesses.

**Strategy:** Encourage the Provision of Preference to County-based Section 3 Business Concerns

When considering the award of contracts to business concerns, and when more than one Section 3 business concern is being considered, to the "greatest extent feasible," awards shall be made in the following order of priority:

1. County-based Business owner is a resident in the neighborhood area(s) in which the contract shall be extended;
2. County-based Business owner is a resident of government-assisted housing in other qualifying low-income areas in Prince George's County; and
3. County-based Business owner is a resident of Prince George's County and meets the income guidelines for Section 3 preference.<sup>40</sup>

**Goal 4:** First Source and Local Hiring Goals for Section 3 Residents

It is the County's goal to ensure at least fifty-one percent (51%) of the annual hours (work hours), on both a total work hour and trade by trade basis, be worked by County residents.

**Strategy:** Encourage the Provision of Employment Preference of a Section 3 Resident

When considering the employment of a Section 3 resident, the following order of preference defined below will apply:

- **Category 1:** Section 3 county resident who resides in one of the County's Transforming Neighborhoods Initiative (TNI) areas;
- **Category 2:** Section 3 county resident utilizing a HUD Housing Choice Voucher residing in the vicinity of the covered project who meets the HUD income guideline limits; and

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<sup>40</sup> <https://www.huduser.gov/portal/datasets/il/il15/index.html>

- **Category 3:** Section 3 county resident who graduated or is participating in a HUD Youthbuild program or a construction skills program of the Prince George's Community College, or a local trade union apprentice program.

In all cases, applicants shall meet the minimum qualifications for the position. In no instance shall it be construed that preference is given to Section 3 residents who do not meet these minimum requirements.

**Strategy:** All covered contractors, and subcontractors shall utilize, maintain, and monitor applicants using DHCD required documents at Exhibit A-1 through A-8: DHCD Section 3 Economic Opportunity Tool Kit.

The RDA, contractors, and subcontractors are required to keep records as necessary to demonstrate Section 3 compliance and submit copies of these records to DHCD.

## **RDA Reporting**

The RDA is required to submit the contractor's and subcontractor's Section 3 Annual Summary Report (HUD Form 60002) to DHCD (See Exhibit A-7: Section 3 Summary Report.), corresponding to Section 3 covered projects that received Federal funding. The report is incorporated into DHCD's Section 3 Annual Summary Report and submitted in October of each fiscal year to HUD.

Section 3 Annual Summary Reports (HUD Form 60002) are intended to measure the contractor's and subcontractor's efforts to comply with the statutory and regulatory requirements of Section 3.

## **5.2 Economic Opportunities for County-based Businesses and Residents**

### **Prince George's County "Jobs First Act"**

Prince George's County enacted the "Jobs First Act", which was created for the purpose of enhancing the County's economic development. According to Subtitle 10A of the Prince George's County Code, the "Jobs First Act" creates bidding preferences and participation requirements for County-based businesses and County-based small businesses on certain procurement contracts for goods and services with the County. The "Jobs First Act" also benefits both businesses and residents in Prince George's County. County-based, County-based small, local Minority Business Enterprises' (MBE's) and out-of-county MBE's will benefit from increased bonus factors. Residents will benefit mainly from the increase in jobs via the First Source Registry maintained by the Prince George's County Economic Development Corporation's Workforce Services Division.

The RDA oversees and manages two (2) of the County's Capital Improvement Programs (CIPs), the Infill Redevelopment of Existing Properties and the Community

Impact Grants, that contribute to the creation of a diverse and vibrant economy and living environment for Prince George's County, using building techniques and providing responsible and responsive development and redevelopment, designed to enhance quality of life, balanced growth and job creation for diverse, sustainable communities.

**Table 6 – CIP-Funded Activities and Responsible Agencies**

<b>RDA Programs</b>	<b>Lead Department/Agency</b>
CIP - Infill Redevelopment of Existing Properties	Redevelopment Authority of Prince George's County
CIP - Community Impact Grants	Redevelopment Authority of Prince George's County/

- Infill Redevelopment of Existing Properties – The Redevelopment Authority utilizes its Capital Improvement Program funding (CIP), appropriated by the County, to decrease the number of blighted commercial and residential structures within a 1/2 mile radius of existing transit centers in an effort to improve the quality of life for area residents.

The strategies to accomplish this objective include:

1. Acquisition of vacant and underutilized commercial and residential properties for development in targeted areas;
2. Ensure that financing is secured for all projects;
3. Obtain required approvals for all development plans;
4. Partnering with non-profit and for-profit entities.

By facilitating catalytic economic development and expanding the County's tax base, the Redevelopment Authority partners with non-profit, for profit and other governmental entities in its efforts to preserve and stabilize neighborhoods.

- Community Impact Grants - The Community Impact Grant Program provides small, capital grants to community-based organizations to implement innovative projects within priority areas identified by the Redevelopment Authority, through the use of the County's Capital Improvement Program funding (CIP). The projects help to strengthen the community, while building organizational capacity. Applications are accepted from any incorporated 501(c)(3) civic/neighborhood association located within Prince George's County, which is in good standing with the State of Maryland. Applicable projects include neighborhood beautification, natural resources and sustainability projects.

## **Local Preferences for County-based Businesses and Residents**

### **Local and Minority Business Involvement**

The RDA seeks local and minority participation in their development projects. One of the criteria used in the evaluation of submitted requirements applicable to RDA Request

for Expressions of Interest and Qualifications (RFEI/RFQ) is the level of local and minority business involvement. Contractors are required to identify all team members and equity partners that are certified Minority Business Enterprises or local businesses. Contractors are also required to provide any plans for local and minority contracting and hiring. The contractor will receive a higher score in this category pending the level of local and minority business participation.

#### County, Small, Disadvantaged Business

The RDA seeks to have County-based businesses and County-based Minority business enterprise participation at all levels of the project, including design, development, contracting, marketing, sales and leasing. Contractors are required to identify all team members and equity partners that are certified Minority business enterprises or certified County-based businesses. Contractors are also required to provide any plans for County-based business and Minority business enterprise contracting and hiring. The contractor will receive a higher score in this category pending the level of local and minority business participation.

## **6. INTER-GOVERNMENTAL COORDINATION**

### **6.1 Memorandum of Understandings (MOUs)**

According to Subtitle 15A of the Prince George's County Code, the Five-Year Consolidated Plans and Annual Action Plans for Housing and Community Development must include a Section 3 Action Plan. The Section 3 Action Plan must also address Subtitle 10A of the Prince George's County Code; a law that requires "best efforts" for meeting certain local preferences and participation for County-based businesses, County-based small businesses and a certain local hiring requirements.

In an effort to ensure the Department of Housing and Community Development (DHCD), the Housing Authority of Prince George's County (HAPGC) and the Redevelopment Authority of Prince George's County (RDA) adhere to Section 3 and local requirements, each agency shall enter into a Memorandum of Understanding (MOU) with the following partners:

- Office of Central Services - Supplier Development and Diversity Division (OCS-SDDD), and
- Prince George's Economic Development Corporation – Workforce Services Division (PGCEDC-WSD).

The purpose of the agreements is to define the roles and responsibilities of each agency, the DHCD, the HAPGC, and the RDA and its partners in oversight and operation of the performance measurement system as described in the Section 3 Action Plan beginning June 1, 2016. (see Exhibit A18 – Sample MOU.)

The objective is to ensure that Section 3 goals are met in the use of applicable Federal funds, including increasing contracting and procurement opportunities for County-based businesses; requiring “best efforts” for hiring County residents; and fostering economic opportunities for local small businesses.

## **6.2 Performance Measurement System for Section 3 and Local Activities**

### **HUD Section 3 Numerical Goals**

The County to the “greatest extent feasible,” established employment and training goals that sub-recipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements. Each fiscal year, the County plans to accomplish the following HUD Section 3 numerical goals:

1. Employ qualified Section 3 residents, as thirty percent (30%) of aggregate number of new hires resulting from contracts and subcontracts on a covered activity;
2. Award to Section 3 business concerns at least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work; and
3. Award to Section 3 business concerns at least three percent (3%) of the total dollar amount of all Section 3 covered contracts for non-construction work.

DHCD and HAPGC formed a partnership with the Office of Central Services – Supplier Development and Diversity Division (OCS-SDDD) to track the County’s Section 3 “best efforts” in meeting its Section 3 numerical goals. OCS-SDDD will create a tracking system which incorporates DHCD’s and HAPGC’s Section 3 Annual Reports. The data will be entered into a performance measurement system which is intended to measure the agencies’ effort to meeting its numerical goals. In addition, OCS-SDDD will create a Section 3-based Business Concerns Directory for contractors and subcontractors seeking to do business in Prince George’s County.

OCS-SDDD and the Prince George’s County Economic Development Corporation - Workforce Services Division (PGCEDC-WSD) will also sponsor Section 3 Technical Assistance Pre-Award workshops on a rolling basis during the month of June through September of each year.

### **Local Procurement Goals for Section 3 Business Concerns**

Each County agency, including, but not limited to, each County agency that procures in whole or in part through the Office of Central Services, shall use its “best effort” to exercise its procurement authority so as to meet, on an annual basis, the goal of procuring at least fifty percent (50%) of the dollar volume of its goods and services, including, but not limited to, construction goods and services, to County-based businesses and at least thirty percent (30%) to County-based small businesses. (See Attachment B: Section 10A-160 of the Prince George’s County Code)

Through legislation from the County Council, the Office of Central Services – Supplier Development and Diversity Division (OCS-SDDD) maintains and recruits businesses to register for the County Based Business Certification (see Exhibit A-15: Certification of Contractors Best Efforts), which provides preferential opportunities for Local businesses that otherwise meet all other contract requirements. SDDD also provides education and training opportunities to ensure businesses have the competency and capacity to meet the demands of the procurement and strategic partnership opportunities.

### **First Source and Local Hiring Goals for Section 3 Residents**

The Prince George's County Economic Development Corporation - Workforce Services Division (PGCEDC-WSD) shall maintain a First Source Registry. The First Source Registry shall consist of the names of veterans, unemployed, low-to-moderate income (defined as being within three hundred percent (300%) of the federal poverty guidelines), and general job-seeking individuals who are County residents. The Registry shall be the first source for hiring all new hire positions on procurement projects funded by a County agency or the County government.

The Purchasing Agent shall require “best effort” to ensure at least fifty-one percent (51%) of the annual hours (work hours), on both a total work hour and trade by trade basis, be worked by County residents as a condition of any contract or agreement for a procurement funded by a County agency, including requiring “best efforts” to reach a minimum goal that at least fifty-one percent (51%) of the annual apprenticeship work hours on such contracts or agreements be worked by apprentices who are County residents. (See Attachment B: Section 10A-167 of the Prince George's County Code)

The PGCEDC-WSD submits quarterly First Source and Local Hiring Agreement Compliance reports (see Exhibit A-17: First Source and Local Hiring Agreement Compliance Report) to the County Auditor, the Purchasing Agent, and a compliance manager designated by the County Council verifying the requirements in Section 10A-167 of the Prince George's County Code. The reports shall also detail the number of government-assisted projects for which First Source and Local Hiring Agreements were executed, the number of jobs that result from the First Source and Local Hiring Agreements, the number of County residents actually employed in government-assisted projects, and the number of unemployed County residents on the First Source Registry.

### **Section 3 and County-based and Residents Technical Assistance Workshops**

The OCS-SDDD and PGCEDC-WSD will sponsor technical assistance workshops to prospective contractors, subcontractors, and applicants of HUD and/or County funds to carry out construction related activities or county residents interested in employment opportunities in HUD-funded project sites. The workshops will be held during June to September each fiscal year covering the following topics:

- Advertisement Tips in Prominent Places at HUD-funded Project Sites,
- Training and Employment Opportunities for Section 3 Residents,



- Reporting and Recordkeeping,
- Section 3 Business Concern and County-based Certifications,
- Good Strategies for Targeting Section 3 Residents and Businesses,
- How to Complete a First Source and Local Hiring Agreement Compliance Report
- How to Complete a HUD Section 3 Annual Report and
- How to Develop a Section 3 Action Plan for Sub-recipients, Contractors and Sub-contractors.

## **ATTACHMENTS AND EXHIBITS**

### Attachment A and B: Council Bills and HAPGC Resolution

- Attachment A: CB-112-2012
- Attachment B: CB-17-2011
- Attachment C: HAPGC Resolution No. LHA 1278, 1279, and 1280

### Exhibits A-1 through A-20: Section 3 Action Plan

- Exhibit A-1: Locally Based Business Preference Equal Employment Opportunity Agreement
- Exhibit A-2: Assurance of Compliance with HUD Regulations for Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons
- Exhibit A-3: Estimated Project Work Force Breakdown
- Exhibit A-4: Proposed Contracts/Subcontracts Breakdown
- Exhibit A-5: Actual Project Workforce Breakdown
- Exhibit A-6: Section 3 Business Utilization
- Exhibit A-7: Section 3 Summary Report
- Exhibit A-8: Prince George's County, Maryland Income Limits
- Exhibit A-9: DHCD Section 3 Action Plan Template
- Exhibit A-10: Complaint Register Under Section 3 HUD Act of 1968 form HUD-958
- Exhibit A-11: How to Use HUD's Section 3 Business Registry Webpage
- Exhibit A-12: FHEO Section 3 Performance Evaluation and Registry System (SPEARS) Guide
- Exhibit A-13: HAPGC Section 3 Business Concern
- Exhibit A-14: HAPGC Eligibility for Preference
- Exhibit A-15: Certification of Contractors Best Efforts
- Exhibit A-16: MWE Job Order Form
- Exhibit A-17: First Source and Local Hiring Agreement Compliance Reports
- Exhibit A-18: Sample Memorandum of Understanding
- Exhibit A-19: "Frequently Asked Questions"
- Exhibit A-20: Regulatory Definitions

Note: DHCD Section 3 Economic Opportunity Tool Kit includes Exhibits A-1 through A-8.

## **Acknowledgements**

The Department of Housing and Community Development and the Housing Authority of Prince George's County would like to extend its gratitude to the following inter-government agencies for their cooperation and contribution to the development of the Section 3 Action Plan and Implementation Strategy.

- **Office of Central Services – Supplier Development & Diversity Division**
- **Prince George's County Economic Development Corporation – Workforce Services Division**
- **Prince George's County Council Administrator's Office**

### **DHCD Section 3 Plan Contact Information**

Questions or comments regarding the DHCD Section 3 Plan may be directed to:

DHCD Section 3 Coordinator  
Prince George's County – Department of Housing and Community Development  
9200 Basil Court, Suite 500  
Largo, Maryland 20774  
(301) 883-5531

Some of the components included in DHCD's Section 3 Action Plan were derived from the following sources:

- City of Houston Section 3 Plan (2013),
- HUD Section 3 Plan for the Housing Authority Template,
- City of Virginia Beach Section 3 Compliance Policy Handbook (2013), and
- Section 3 Plan for City of Richmond, VA.

### **HAPGC Section 3 Plan Contact Information**

Questions or comments regarding the HAPGC Section 3 Plan may be directed to:

HAPGC Section 3 Coordinator  
Housing Authority of Prince George's County  
9200 Basil Court, Suite 500  
Largo, Maryland 20774  
(301) 883-5531

### **RDA Section 3 Plan Contact Information**

Questions or comments regarding the RDA Section 3 Plan may be directed to:

RDA Section 3 Coordinator  
Redevelopment Authority of Prince George's County  
9200 Basil Court, Suite 504  
Largo, Maryland 20774  
(301) 883-5300



Department of Housing and Community Development  
Community Planning and Development Division

Housing Authority of Prince George's County

Redevelopment Authority of Prince George's County

Eric C. Brown, Director  
Estella Alexander, Deputy Director  
Sharon R. Land, CGFM, Deputy Director  
Howard Ways, AICP, Executive Director

9200 Basil Court, Suite 500  
Largo, Maryland 20774  
Telephone: 301-883-5570 or TDD: 301-883-5428



Prince George's County affirmatively promotes equal opportunity and does not discriminate on the basis of race, color, gender, religion, ethnic or national origin, disability, or familial status in admissions or access to benefits in programs or activities.

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2012 Legislative Session**

Bill No. CB-112-2012  
Chapter No. 94  
Proposed and Presented by Council Member Franklin  
Introduced by Council Member Franklin  
Co-Sponsors \_\_\_\_\_  
Date of Introduction October 23, 2012

**BILL**

1 AN ACT concerning

2 Five-Year Consolidated Housing and Community Development Plan

3 For the purpose of amending the provisions of the County's Five-Year Consolidated Housing  
4 and Community Development and Annual Action Plans by adding requirements under Section 3  
5 of the Housing and Urban Development Act of 1968, as amended; and generally relating to  
6 housing and community development in the County.

7 BY repealing and reenacting:

8 SUBTITLE 15A. CONSOLIDATED HOUSING

9 AND COMMUNITY DEVELOPMENT PLAN.

10 Sections 15A-103, 15A-104, 15A-105 and 15A-106

11 The Prince George's County Code

12 (2007 Edition, 2010 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
14 Maryland, that Section 15A-103, 15A-104, 15A-105 and 15A-106 of the Prince George's County  
15 Code be and the same is hereby repealed and reenacted:

16 SUBTITLE 15A. CONSOLIDATED HOUSING

17 AND COMMUNITY DEVELOPMENT PLAN.

18 \* \* \* \* \*



**Sec. 15A-103. Five-Year Consolidated Housing and Community Development Plan, [and]  
Annual Action Plan and Section 3 Action Plan.**

(a) Pursuant to applicable Federal regulations the County Executive shall prepare on behalf of Prince George's County and submit to the County Council for approval:

(1) A Five-Year Consolidated Housing and Community Development Plan, commencing in July 1995 and each fifth year thereafter; and

(2) An annual Action Plan and Statement of Community Development Objectives and Projected Use of Funds, which shall constitute the County's Housing and Community Development Program and activities to address the needs of the homeless, and applications for securing federal funds under the terms of the Housing and Community Development Act of 1974, as amended, the Cranston-Gonzalez National Affordable Housing Act of 1990, and the Stewart B. McKinney Homeless Assistance Act of 1988.

(3) A Section 3 Action Plan, to implement Section 3 of the Housing and Urban Development Act of 1968 as amended, (12 U.S.C. 1701u and implementing regulations at 24 CFR 135), which shall establish the strategies and goals to be followed to ensure that the objectives of Section 3 are met in the use of applicable federal funds in the County, including the objectives of promoting local economic development, neighborhood economic development, local hiring and employment, local procurement opportunities and individual self-sufficiency. The purpose of Section 3 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 very low, low and moderate income persons living in Prince George's County, particularly those who are (1) recipient of government assistance for housing, and (2) to business concerns which provide economic opportunities to very low and low income persons. The mission of Section 3 is to utilize existing federal programs to maximize economic for very low, low and moderate income persons. A Section 3 Action Plan when properly crafted at the grantee level can help address unemployment, underemployment, and economic poverty. Section 3 as national policy addresses issues such as housing affordability, employment status, and individual earnings. Section 3 requirements apply to HUD grantees and applies to all contractors and subcontractors performing work in connection with projects and activities funded by federal community development assistance covered by Section 3. The enactment of a Section 3 Action Plan is not a requirement



1 of Section 3 of the Housing and Urban Development Act of 1968, but is a tool to assist  
2 jurisdictions in facilitating its implementation.

3 **Sec. 15A-104. Consolidated Housing and Community Development Plan -- content.**

4 (a) The Five-Year Consolidated Housing and Community Development Plan shall include,  
5 but is not limited to, the following:

6 (1) A comprehensive assessment of housing and community development needs  
7 within appropriate subareas of the County (such as neighborhoods, census tracts, or other  
8 convenient statistical areas), including consideration of such factors as the distribution of  
9 residents with limited incomes (as defined by Federal regulations), over-crowded housing  
10 conditions, and substandard housing units, as well as areas of racial and ethnic concentration;  
11 and

12 (2) A comprehensive strategy for meeting the neighborhood revitalization, housing,  
13 and economic development needs including:

14 (A) A housing and homeless needs assessment that addresses the needs of  
15 households that are of low and moderate income, and homeless households and individuals with  
16 special needs;

17 (B) A housing market analysis that describes the number and type of housing  
18 units available to persons of limited income, as well as the homeless and special needs  
19 populations;

20 (C) Strategic plans for adequate housing, homeless households, persons with  
21 special needs, persons living in public housing;

22 (D) Strategic plans for community development including criteria for  
23 establishing priority needs and rationale for selecting priority projects in the areas of public  
24 facilities improvements, economic development, and public service activities; and

25 (E) The priorities for the use of federal entitlement funds under such programs  
26 as Community Development Block Grant, HOME Investment Partnerships, Emergency  
27 Solutions Grant, Housing Opportunities for Persons with Aids, Neighborhood Stabilization  
28 Grant Program, and HUD Section 108 Loan Guarantee Program.

29 (3) An identification, by name and geographical boundaries, of the areas  
30 recommended for concentrated improvement efforts, together with statements of justification for  
31 each of the areas recommended for improvement;

(4) Legible maps that shall show such information as:

(A) The distribution of low and moderate income households;

(B) Extent and location of households experiencing housing cost burdens;

(C) The location of all [proposed block grant funded] federal community development assistance projects and other federally-funded projects which show a coordinated use of federal funds;

(D) Geographic targeting of federal funds in neighborhood strategy areas.

(b) Beginning in 2015 the Five-Year Consolidated Housing and Community Development Plan shall include a Section 3 Action Plan that addresses policies and procedures for all HUD covered activities such as: (1) programs that may include multiple contracts, contacts with parts of HUD funding of public or residential construction projects; (2) services and professional services activities generated by construction, such as roads, sewers, sidewalks, community centers, etc; and (3) all public housing authority covered activities such as maintenance, development, modernization, and operations.

**Sec. 15A-105. Annual Housing and Community Development Action Plan -- content.**

(a) The annual Housing and Community Development Action Plan shall be generally consistent with the Strategic Plans contained in the Five-Year Consolidated Housing and Community Development Plan and the Annual Statement of Community Development Objectives and shall include:

(1) A detailed description of recommended housing and community development activities proposed for implementation during the succeeding program year;

(2) The estimated cost of each project proposed in the subject program year, and the total cost to bring the project to completion if it is a multiyear project, together with an identification of the sources of such funds;

(3) The geographical boundaries, locations, and targeting where applicable;

(4) Identification of the agency or combination of agencies responsible for administering and/or implementing the recommended activities;

(5) Identification of priority housing activities and federal resources to address the needs of low and moderate income households, as well as special needs populations;

(6) Identification of priority activities in areas that address underserved housing needs which include, but are not limited to: maintaining adequate housing; removing barriers to



adequate housing; evaluating and reducing lead-based paint hazards; reducing the number of poverty level families; developing institutional structures; enhancing coordination between public and private housing, and social services agencies; and fostering public housing improvements and resident initiatives; and

(7) Submission of a combined application for use of federal entitlement funds for programs such as Community Development Block Grant, HOME Investment Partnerships, and Emergency Shelter Grant, Neighborhood Stabilization Grant Program, and HUD Section 108 Loan Guarantee Program.

**Sec. 15A-106. Review and approval of the Five-Year Consolidated Housing and Community Development Plan and Annual Action Plan.**

(a) The County Executive shall forward each proposed Five-Year Consolidated Housing and Community Development Objectives Plan, the Section 3 Action Plan, and each Annual Action Plan and Statement of Community Development Objectives to the County Council on or before March 15. Upon receipt, the County Council shall cause to be published, in the county newspapers of record, notice of one or more public hearings to be held on the proposed Consolidated Housing and Community Development Plan and each Annual Action and Section 3 Action Plan. After the public hearing(s), the County Council may amend any part of the Consolidated Housing and Community Development Plan or Annual Action Plan and the Section 3 Action Plan and shall act by resolution on each Consolidated Housing and Community Development Plan, each Annual Action Plan and the Section 3 Action Plan not later than sixty (60) calendar days after receipt thereof. Following approval, the County Council shall forward each approved Consolidated Housing and Community Development Plan and each approved Annual Action Plan and the Section 3 Action Plan to the County Executive who shall furnish copies thereof to all agencies of government having responsibility for administering and/or implementing activities identified therein. In submitting the annual expense budget, capital budget, and capital program to the County Council for the succeeding fiscal year following the date of approval of each Annual Action Plan, the County Executive shall state to what extent said documents implement each approved annual plan and shall identify related budgetary and capital program items.

(b) Upon approval of each five-year plan, each Annual Action Plan and the Section 3 Action Plan, the County Executive shall transmit them to the designated federal and state agencies for review and approval together with other necessary documentation and certifications.

\* \* \* \* \*

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 20th day of November, 2012.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: Andrea C. Harrison  
Andrea C. Harrison  
Chair

ATTEST:

Redis C. Floyd  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: 12-6-2012 BY: Rushern L. Baker, III  
Rushern L. Baker, III  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged



## Prince George's County Council

### Agenda Item Summary

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**Meeting Date:** 11/20/2012  
**Reference No.:** CB-112-2012  
**Draft No.:** 2  
**Proposer(s):** Franklin  
**Sponsor(s):** Franklin  
**Item Title:** An Act concerning the Five-Year Consolidated Housing and Community Development Plan for the purpose of amending the provisions of the County's Five-Year Consolidated Housing and Community Development and Annual Action Plans by adding requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended; and generally relating to housing and community development in the County.

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**Drafter:** Todd M. Turner, Legislative Officer  
**Resource Personnel:** Brendon Laster, Legislative Aide District 9

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#### LEGISLATIVE HISTORY:

<b>Date Presented:</b>		<b>Executive Action:</b>	12/6/2012 S
<b>Committee Referral:</b>	10/23/2012 - THE	<b>Effective Date:</b>	1/22/2013
<b>Committee Action:</b>	11/8/2012 - NR		
<b>Date Introduced:</b>	10/23/2012		
<b>Public Hearing:</b>	11/20/2012 - 10:00 AM		
<b>Council Action (1)</b>	11/20/2012 - ENACTED		
<b>Council Votes:</b>	WC:A, DLD:A, MRF:A, AH:A, ML:A, EO:A, OP:A, IT:A, KT:A		
<b>Pass/Fail:</b>	P		
<b>Remarks:</b>			

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#### AFFECTED CODE SECTIONS:

15A-103, 15A-104, 15A-105, 15A-106

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#### COMMITTEE REPORTS:

##### THE Committee Report

November 8, 2012

**Date 11/8/2012**

Committee Vote: No Recommendation, 5-0 (Council Members Olson, Toles, Davis, Lehman and Patterson)

The Legislative Officer provided a summary of the bill and referral comments that were received. CB-112-2012 concerns the Five-Year Consolidated Housing and Community Development Plan ("Five-Year Con Plan") for the purpose of amending the provisions of the County's Five-Year Consolidated Housing and Community Development and Annual Action Plans by adding requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended; and generally relating to housing and community development in the County.

The Legislative Officer review of CB-112-2012, which would amend Article 15A of the County Code to require a Section 3 Plan as part of the Five-Year Con Plan and each Annual Action Plan goals and strategies for compliance



with the requirement of Federal Law for low and very-low income persons for employment and businesses in the County that receive federal funding. The Legislative Officer and staff provided additional information to the Committee and in response to questions by members.

Council Member Franklin, bill sponsor, provided the rationale for the legislation and reviewed a Proposed Draft 2 with amendments discussed with the County Executive and the Department of Housing and Community Development (DHCD). The Legislative Officer advised that the Committee could not vote on any proposed amendments prior to the scheduled public hearing and any non-substantive amendments could be considered prior to enactment.

DHCD Director Eric Brown and Deputy Director Estella Alexander provided comments and answered questions by the members of the Committee regarding the bill. With several amendments discussed and proposed by the bill sponsor, they were supportive of the bill.

The Office of Law determined that CB-112-2012 was in proper legislative form but provided additional information and clarification on the legislative intent of the bill to be effective upon the adoption of the next Five-Year Con Plan expected in FY 2015.

The Office of Audits and Investigation indicated there should be a minimal negative fiscal impact on the County as a result of adopting CB-112-2012 because of the administrative and operational requirements for compliance.

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**BACKGROUND INFORMATION/FISCAL IMPACT:**

(Includes reason for proposal, as well as any unique statutory requirements)

This legislation seeks to amend provisions of the County's Five-Year Consolidated Housing and Community Development and Annual Action Plans by adding requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended.

11/20/2012: CB-112-2012 was amended on the floor; CB-112-2012 (DR-2) was enacted.

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**CODE INDEX TOPICS:**

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**INCLUSION FILES:**

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**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND****2011 Legislative Session**Bill No. CB-17-2011Chapter No. 37Proposed and Presented by Council Members Franklin and HarrisonIntroduced by Council Members Franklin, Harrison, Turner, Patterson, Olson and Lehman

Co-Sponsors \_\_\_\_\_

Date of Introduction October 18, 2011**BILL**

1 AN ACT concerning

2 Economic Development and Local Employment

3 For the purpose of enhancing the County's economic development by creating bidding  
4 preferences and participation requirements for County-based businesses and County-based small  
5 businesses on certain procurement contracts for goods and services with the County; establishing  
6 a First Source Hiring Program; requiring "best efforts" for meeting a certain local hiring  
7 percentage goal for positions on certain procurement projects funded by the County, requiring  
8 submission of quarterly audit reports, maintaining a first source registry, providing for penalties  
9 and exemptions to the program; authorizing the use of Community Benefit Agreements on  
10 County assisted developments that receive a public benefit of a value greater than \$3,000,000  
11 with certain exceptions; authorizing Labor Peace Agreements for developments receiving a  
12 public benefit of a value greater than \$1,000,000 with certain exceptions; giving priority to  
13 County-based Minority Business Enterprises in all Minority Business Enterprise goals for  
14 minority contracting and purchasing; requiring subcontracting plans for certain contracts and  
15 generally relating to economic development in the County.

16 BY repealing and reenacting with amendments:

17 SUBTITLE 10A. PURCHASING.

18 Sections 10A-101, 10A-136,

19 The Prince George's County Code

20 (2007 Edition, 2010 Supplement).

21 BY adding:

SUBTITLE 10. FINANCE AND TAXATION.

Sections 10-283, 10-284, 10-285, 10-286,

The Prince George's County Code

(2007 Edition, 2010 Supplement).

BY adding:

SUBTITLE 10A. PURCHASING.

Sections 10A-157, 10A-158, 10A-159, 10A-160, 10A-

161, 10A-162, 10A-163, 10A-164, 10A-165, 10A-

166, 10A-167, 10A-168, 10A-169, and 10A-170

The Prince George's County Code

(2007 Edition, 2010 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10A-101 and 10A-136 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

**SUBTITLE 10A. PURCHASING.**

**DIVISION 1. ADMINISTRATIVE PROCEDURES.**

**Sec. 10A-101. Definitions.**

(a) The words defined in this Section shall have the meanings set forth below whenever they appear in this Subtitle unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

\* \* \* \* \*

(4.1) **Certified County-based business participation** means the percentage of the total contract dollars paid to businesses certified as County-based businesses.

(4.2) **Certified County-based small business participation** means the percentage of total contract dollars paid to businesses certified as County-based small businesses.

(4.3) **Certified sheltered workshop** means an agency that is:

(A) Organized under the laws of the United States or the State of Maryland;

(B) Certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor;



(C) Accredited by the Division of Vocational Rehabilitation of the Maryland Department of Education;

(D) Operated in the interest of individuals who have a mental or physical disability, including blindness, that constitutes a substantial handicap to employment and prevents the individual from engaging in normal competitive employment; and

(E) The net income of which does not inure wholly or partially to the benefit of any shareholder or other non-disabled individual.

\* \* \* \* \*

(13) **County-based business** means a business whose principal place of operation is located within Prince George's County, that meets the requirements of Section 10A-161(a), and whose application for certification as a County-based business is approved by the Purchasing Agent. Principal place of operation shall be determined by factors as set forth in the regulations.

(13.1) **County-based business preference** means a business preference given to a bid or proposal pursuant to Section 10A-158.

(13.2) **County-based small business** means a business that meets the requirements of Section 10A-161(b) and whose application for certification as a County-based small business is approved by the Purchasing Agent.

(13.3) **County or The County** means Prince George's County, Maryland.

(13.4) **County agency** means any department, office, division, administrative unit, or agency of the Prince George's County government or any other entity created or authorized to be created, whether expressed or implied, by the Charter or the Code, including any council, board, bureau, commission, institution, tribunal, government corporation, public authority, or other instrumentality thereof or thereunder.

\* \* \* \* \*

(14.1) **County resident** means a person whose domicile is located in Prince George's County, Maryland, as determined by standards set forth by the Purchasing Agent, and who either:

(A) Filed a Maryland state income tax return that establishes a Prince George's County domicile for the most recent full calendar year;

(B) Is claimed as a dependent on a Maryland state income tax return that establishes

1 a Prince George's County domicile for the most recent full calendar year filed by the person's  
 2 parent, legal guardian, or spouse; or

3 (C) Was not required to file a federal or Maryland state income tax return for the  
 4 most recent calendar year because the person was not legally liable for income tax pursuant to  
 5 Section 10-809, Tax-General Article, Annotated Code of Maryland, but was legally domiciled in  
 6 Prince George's County for the most recent full calendar year, and signs an attestation under oath  
 7 to this effect on a form provided by the Purchasing Agent.

8 The County Executive, the County Executive's designee, and the Purchasing Agent  
 9 are authorized to verify a person's County residency status pursuant to this definition in relation  
 10 to Division 7 of this Subtitle.

11 \* \* \* \* \*

12 (16.2) **Domicile** means the place of a person's true, fixed, permanent home, without any  
 13 present intention of completely abandoning that home, and to which the person has the intention  
 14 of returning whenever absent. **Domicile** does not include a temporary dwelling unless there is a  
 15 present intention to abandon permanently or indefinitely the former domicile.

16 \* \* \* \* \*

17 (30) **Procure** means to buy, rent, lease, lease-purchase, or otherwise obtain any supplies,  
 18 services, or construction. **Procurement** (or a **procurement**) is the noun form of this term. It  
 19 includes all functions that pertain to the obtaining of any public procurement, including  
 20 description of requirements, selection and solicitation of sources, and preparation, [and] award  
 21 and execution of contract. The term does not include the making of any grant or donation.

22 \* \* \* \* \*

23 (32.1) **Public benefit** means contracts, grants, conditional loans, tax abatements, land  
 24 transfers for public redevelopment, or tax increment financing from a County agency or the  
 25 County government. This definition also includes grants or conditional loans from a third party  
 26 that receives more than 50% of its annual budget in the most recent fiscal year from funds  
 27 received from or administered by a County agency or the County government and indirect grants  
 28 or conditional loans from a County agency or the County government that are facilitated by a  
 29 third party. This definition does not include funds from the Community Development Block  
 30 Grant ("CDBG") program or tax credits awarded under Subtitle 10 of the Code. The application  
 31 of this definition is subject to the restrictions of federal and state law.



(35) **Purchasing Agent** means the Director of Central Services or the Director of Central Services' designee.

## **DIVISION 6. SPECIAL PROVISIONS.**

### **Subdivision 1. Minority Business Opportunities Program.**

#### **Sec. 10A-136. Assistance to minority business enterprises; certification and decertification.**

(a) The Purchasing Agent shall structure the procurement procedures and activities of the County to facilitate and encourage the award of at least thirty percent (30%) of the total dollar value of all County contracts awarded, directly or indirectly, to County-based minority business enterprises or minority business enterprises. The value of subcontracts with County-based minority business enterprises or minority business enterprises shall be included in the computation of the above total dollar value.

(b) In all bids for the construction of public works, if the work is to be subcontracted by the bidder, every bidder, in order to be considered a responsive bidder, shall be required to subcontract with County-based minority business enterprises or minority business enterprises for at least twenty percent (20%) of the total dollar volume of the contract price unless such bidder is itself a minority business enterprise or County-based minority business enterprise.

(c) In determining the lowest responsible and responsive bidder, for contracts valued at One Million Dollars (\$1,000,000) or less, the Purchasing Agent shall adjust the bid price(s) submitted by a County-based Minority Business Enterprise or a minority business enterprise, for the purposes of evaluation and award only, by reducing the bid price(s) of such firm by the application of bonus factors according to the following schedule:

<b>BID OF LOWEST RESPONSIVE BIDDER</b>	<b>MINORITY BUSINESS ENTERPRISE</b>	<b>PRINCE GEORGE'S BASED MINORITY BUSINESS ENTERPRISE BONUS FACTOR</b>
Factored by:	.05	[.10] .15

(d) For contracts valued greater than One Million Dollars (\$1,000,000), the Purchasing Agent shall adjust the bid price submitted by a County-based Minority Business Enterprise or a Minority Business Enterprise for the purpose of evaluation and award only by reducing the bid price(s) of such firm by the application of an Evaluation Bonus according to the following schedule:

	MINORITY BUSINESS ENTERPRISE	PRINCE GEORGE'S BASED MINORITY BUSINESS ENTERPRISE BONUS FACTOR
Bid Price Subtracted by:	\$50,000.00	[\$100,000.00] <u>\$150,000.00</u>

(e) Bids or proposals are entitled to receive the greater of the preference points or percentages allowed under either this Section or Section 10A-158, as applicable. The preferences allowed under this Section and Section 10A-158 shall not be applied cumulatively.

(f) [(e)] The Purchasing Agent shall, for all contracts, consult with the Minority Business Development Division in order to determine whether subcontracting is appropriate. If subcontracting is determined to be appropriate, the Purchasing Agent [may] shall include a mandatory minority business enterprise and County-based minority business enterprise subcontract clause that requires up to twenty percent (20%) of the contract's total value be performed by one or more minority business enterprises[.] or County-based minority business enterprises. A contract with a total value of \$500,000 or greater that includes a mandatory minority business enterprise and County-based minority business enterprise subcontract clause shall also include compliance with a mandatory subcontracting plan as a condition of the contract, the requirements of which shall be determined by the Purchasing Agent, and which applies for the full term of the contract. The Purchasing Agent shall require that the mandatory subcontracting plan, at a minimum, provides verification of the percentage of the contract's total value that is subcontracted to County-based minority business enterprises or minority business enterprises throughout the full term of the contract. Any change to the mandatory subcontracting plan must be approved by the Purchasing Agent and notice of such a change shall be given by the Purchasing Agent to the MBE Compliance Officer of the County Council within seven (7) calendar days after the date the change is approved. The Purchasing Agent may include a mandatory minority business enterprise and County-based minority business enterprise subcontracting goal that is less than (20%) of the contract's total value only:

(1) After consultation with the Minority Business Development Division;

(2) Upon a determination that a twenty percent (20%) mandatory minority business enterprise and County-based minority business enterprise subcontracting goal is not able to be obtained at a reasonable price; and



(3) Upon a determination that the public interest is served.

(g)[(f)] In making the determinations that the public interest is served, under Subsection [(e)] (f), the Purchasing agent shall obtain the concurrence of the Executive Director and may consider engineering estimates, the general market availability of minority business enterprises to provide the services requested, other bids and offers, the cost of the contract, and any other relevant factor.

(h)[(g)] If, for any reason, a bidder is unable to achieve a subcontract goal for Minority Business Enterprise and County-based Minority Business Enterprise participation as required by the Purchasing Agent, the bidder may request, in writing, a waiver of the goal with justification to include the following:

(1) A detailed statement of the efforts made to select portions of the work proposed to be performed by minority business enterprises and County-based minority business enterprises in order to increase the likelihood of achieving the stated goal;

(2) A detailed statement of the efforts made to contact and negotiate with minority business enterprises and County-based minority business enterprises including:

(A) The names, addresses, and telephone numbers of minority business enterprises and County-based minority business enterprises and the dates such minority businesses and County-based minority business enterprises were contacted, and

(B) A description of the information provided to minority business enterprises and County-based minority business enterprises regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;

(3) As to each Minority Business Enterprise or County-based Minority Business Enterprise that placed a subcontract quotation or offer which the bidder considered not to be acceptable, a detailed statement of the reasons for this conclusion; and

(4) A list of Minority Business Enterprise and County-based Minority Business Enterprise subcontractors found to be unavailable to perform under the contract.

The Purchasing Agent may grant the waiver only upon a reasonable demonstration by the bidder that the Minority Business Enterprise or County-based Minority Business Enterprise participation goal is unable to be obtained at a reasonable price and if the Purchasing Agent determines that the public interest will be served.

(i)[(h)] Whenever the County procures goods or services in accordance with Section 10A-113 of this Code and weighted evaluation points are used, up to 15% of the total scored evaluation points shall be [awarded] given for Minority Business Enterprise[s] or County-based Minority Business Enterprise participation unless the Purchasing Agent elects to restrict the procurement pursuant to Subsection (i) of this Section. [below.]

(j)[(i)] The Purchasing Agent may, after consultation with the Minority Business Development Division, require that the competitive bidding of contracts be restricted to minority business enterprises or County-based minority business enterprises owned by minority individuals as defined in Section 10A-101(a), provided there are at least three (3) minority business enterprises or County-based minority business enterprises that are providers in the trade of goods or services for which the contract is advertised. No contract shall be awarded pursuant to this provision if the resultant low bid exceeds by fifteen percent (15%) the most recent unit price for the same or most recently comparable goods or services, unless the Minority Business Development Division determines that prices in the relevant market have increased for all vendors without regard to minority status beyond fifteen percent (15%) since the last time similar goods or services were procured.

(k)[(j)] The Purchasing agent shall consider the following criteria in determining whether to utilize a procurement method authorized by either Subsections (c), (d), (h)[(g)], (i)[(h)], and (j)[(i)] of this Section or Section 10A-113:

(1) Whether the procedure selected is likely to increase the number of minority business enterprises or County-based minority business enterprises responding to the County's procurement requirements;

(2) Whether the procedure selected is likely to increase the dollar value of procurement awards to minority business enterprises or County-based minority business enterprises;

(3) Whether the procedure selected is likely to further the County's goals under this Division 6 of the Code without unnecessarily interfering with the efficient operation of the County government; and

(4) Whether the procedure selected is the most effective alternative available which will further the goals stated in this Section.



(1) The Purchasing Agent shall require that a bidder uses its “best efforts” to first use County-based minority business enterprises to fulfill any of the minority business enterprise goals and requirements of this Section. If not enough County-based minority business enterprises are demonstrated to be available after “best efforts” are exercised in the judgment of the Purchasing Agent, the Purchasing Agent may then allow the bidder to meet any of the minority business enterprise goals and requirements of this Section with minority business enterprises, if available. In this Section, the term “best efforts” means efforts to the maximum extent practicable have been made to meet the goal or requirement.

\* \* \* \* \*

SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10-283, 10-284, 10-285, and 10-286 of the Prince George's County Code be and the same are hereby added:

#### **SUBTITLE 10. FINANCE AND TAXATION.**

#### **DIVISION 16. COMMUNITY BENEFIT REQUIREMENTS.**

##### **Sec. 10-283. Definitions.**

(a) The words defined in this Section shall have the meanings set forth below whenever they appear in this Division unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

(1) **Community Benefit Agreement** means a project-specific, negotiated agreement between one or more developers and a community coalition selected pursuant to Section 10-284 that outlines the project's “community benefits” or commitments to the community.

(2) **Community Coalition** means a group of stakeholder representatives selected by eligible community stakeholders pursuant to Section 10-284.

(3) **County assisted development** means a development or project that is awarded a public benefit of a value greater than One Million Dollars (\$1,000,000) in any twelve (12) month period.

(4) **Eligible community stakeholder** means

(a) a homeowners or civic organization registered with the Maryland-National Capital Park and Planning Commission;

(b) a tax-exempt entity under Section 501(c) of the United States Internal

1 Revenue Code;

2 (c) a parent teacher organization (“PTO”), parent-teacher association  
 3 (“PTA”), or parent-teacher-student association (“PTSA”) affiliated with the Prince George’s  
 4 County Public Schools (“PGCPS”); or

5 (d) an incorporated municipal government.

6 An eligible community stakeholder under 4(a) or 4(b) of this Section must be  
 7 incorporated at an address or represent homeowners or tenants living at an address that is within  
 8 a three (3) mile distance of the County assisted development (as measured from the outer  
 9 boundary of the development site in any direction) for at least twelve (12) consecutive months  
 10 immediately prior to the County Council’s selection of the eligible stakeholders by resolution  
 11 under Section 10-284. An eligible community stakeholder under 4(c) of this Section must be  
 12 affiliated at a school that is within a three (3) mile distance of the County assisted development  
 13 (as measured from the outer boundary of the development site in any direction).

14 (5) **Labor Peace Agreement** means an agreement as defined by Section 10-285(c)(1).

15 (6) **Public benefit** means contracts, grants, conditional loans, tax abatements, land  
 16 transfers for public redevelopment, or tax increment financing from a County agency or the  
 17 County government. This definition also includes grants or conditional loans from a third party  
 18 that receives more than 50% of its annual budget in the most recent fiscal year from funds  
 19 received from or administered by a County agency or the County government and indirect grants  
 20 or conditional loans from a County agency or the County government that are facilitated by a  
 21 third party. This definition does not include funds from the Community Development Block  
 22 Grant (“CDBG”) program or tax credits awarded under Subtitle 10 of the Code. The application  
 23 of this definition is subject to the restrictions of federal and state law.

24 (7) **Stakeholder representative** means a person selected by an eligible community  
 25 stakeholder to represent the stakeholder in the community coalition.

26 **Sec. 10-284. Community Benefit Agreements authorized.**

27 (a) On a case by case basis, as a condition of a public benefit, the County Executive may  
 28 require the developer(s) of a County assisted development that is awarded a total public benefit  
 29 of a value greater than Three Million Dollars (\$3,000,000) to enter into a Community Benefit  
 30 Agreement with the County.

31 (b) A community coalition, comprised of stakeholder representatives of eligible



1 community stakeholders selected by a resolution proposed by the County Executive to the  
 2 County Council, shall negotiate a recommendation to the County Council for a Community  
 3 Benefit Agreement with the developer(s) of a County assisted development. A recommended  
 4 Community Benefit Agreement may be amended and must be approved by resolution of the  
 5 County Council, signed by the County Executive, and signed by the developer(s) of a County  
 6 assisted development in order to become a legally binding Community Benefit Agreement  
 7 between the County and the developer(s).

8 (1) An eligible community stakeholder selected by County Council resolution under  
 9 this Subsection is entitled to select only one (1) individual to be a stakeholder representative and  
 10 member of the community coalition on its behalf. The eligible community stakeholder may  
 11 replace or remove this stakeholder representative from the community coalition at any time.

12 (2) A stakeholder representative shall only have one vote on any decision or action  
 13 made by a community coalition.

14 (3) Any vote or other action taken by a community coalition must be made at a public  
 15 meeting of the community coalition, which shall not occur unless public notice of the meeting  
 16 has been posted for at least five (5) calendar days.

17 (4) An agreement between the developer(s) of the County assisted development and a  
 18 majority of the community coalition shall be required in order to make a recommendation for a  
 19 Community Benefit Agreement to the County Council.

20 (5) A community coalition is a public body under the applicable laws of Prince  
 21 George's County, Maryland.

22 (6) Other procedures for the operation and function of a community coalition, including  
 23 the selection and authority of officers of the community coalition, may be set forth in regulations  
 24 as authorized in Section 10-286.

25 (c) A community coalition and the developer(s) with whom the coalition is negotiating  
 26 under this Section shall recommend a Community Benefit Agreement within ninety (90) days of  
 27 the effective date of the County Council resolution establishing the coalition's community  
 28 stakeholders pursuant to Subsection (b) of this Section. In the event a community coalition and  
 29 the developer(s) of a County assisted development subject to this Section do not recommend a  
 30 Community Benefit Agreement to the County Council within this ninety (90) day period, the  
 31 County Council may adopt a resolution establishing and approving the terms of the Community

1 Benefit Agreement. Such an agreement must be signed by the County Executive and signed by  
 2 the developer(s) of the County assisted development subject to this Section in order to become a  
 3 legally binding Community Benefit Agreement between the County and the developer(s).

4 (d) The aggregate monetary value of the community benefits required to be proffered in a  
 5 Community Benefit Agreement by the developer(s) of a County assisted development subject to  
 6 this Section shall be no greater than ten percent (10%) of the total value of the public benefit  
 7 awarded to the developer(s) for the County assisted development, as valued by the County's  
 8 Office of Management and Budget.

9 (e) A violation of a Community Benefit Agreement by the developer(s) of a County  
 10 assisted development subject to this Section may result in a fine of up to five percent (5%) of the  
 11 monetary value of the received public benefit for each violation or, for repeated violations, a  
 12 complete refund of the value of the received public benefit and cancellation of the remaining  
 13 public benefit award, as determined by the County Executive or the County Executive's  
 14 designee. Compliance with this Section shall be included as a condition of the Community  
 15 Benefit Agreement or the agreement shall be void.

16 (f) Nothing in this Section shall be interpreted to preclude the inclusion of a Community  
 17 Benefit Agreement for a development or project not covered by the requirements of this  
 18 Division.

19 (g) Any County Council resolution enacted to establish a Community Benefit Agreement  
 20 under this Section shall be proposed and adopted on the public record at a public hearing in  
 21 compliance with Section 15-807 of the State Government Article of the Annotated Code of  
 22 Maryland.

23 **Sec. 10-285. Labor Peace Agreements authorized.**

24 (a) Legislative findings and policy.

25 (1) In the course of managing real property that it owns or in otherwise carrying out its  
 26 functions in the public interest, the County may participate in real property developments as a  
 27 property owner, lessor, proprietor, lender, or guarantor, facing similar risks and liabilities as  
 28 other business entities participating in such ventures. As a result, the County has an ongoing  
 29 proprietary interest in these developments and a direct interest in their financial performance.

30 (2) The County must make prudent management decisions, similar to any private  
 31 business entity, to ensure efficient management of its business concerns and to maximize



1 benefits and minimize risks. One risk is the possibility of labor-management conflict.

2 (3) A major potential outcome of labor-management conflict is economic action by  
 3 labor unions against employers. Experience of municipal and other investors demonstrates, for  
 4 example, that organizing drives pursuant to the formal and adversarial union certification process  
 5 often deteriorate into protracted and acrimonious labor-management conflict. Labor-  
 6 management conflict can result in construction delays, work stoppages, picketing, strikes,  
 7 consumer boycotts, and other forms of adverse economic pressure. Such conflict may adversely  
 8 affect the County's financial or other proprietary business interests by causing delay in the  
 9 completion of a project, reducing the revenues or increasing the costs of the project, and by  
 10 generating negative publicity.

11 (4) One method of reducing the risk to the County's proprietary interests is to require,  
 12 when reasonable and prudent, as a condition of the County's investment or other economic  
 13 participation in a development project, that employers taking part in the development project  
 14 seek agreements with labor organizations in which the labor organizations agree to forbear from  
 15 adverse economic action against the employers' operations.

16 (b) Determination of need for labor peace agreement.

17 (1) For each development project, the County Executive shall determine whether  
 18 Prince George's County has a proprietary interest in the development project and whether a  
 19 Labor Peace Agreement would be appropriate. The factors to be taken into account when  
 20 determining the existence of a proprietary interest will include:

21 (A) Through a lease of real property that is owned by Prince George's County  
 22 and used for the development project, receives ongoing revenue, excluding government fees, tax  
 23 revenue, or assessment revenue, or similar fees and revenues, except for tax revenue under the  
 24 circumstances specified in Subparagraphs (B) and (C) of this Paragraph;

25 (B) Receives ongoing revenue from the project to repay loans provided by the  
 26 County to assist in the development of the project, including incremental tax revenues generated  
 27 by the project;

28 (C) Receives ongoing revenue from the project to pay debt service on bonds  
 29 provided by the County to assist in the development of the project, including incremental tax  
 30 revenues generated by the project;

31 (D) Has significant assets at risk because it has agreed to underwrite or guarantee

1 the development of the project or loans related to the project; or

2 (E) Has a significant ongoing economic and nonregulatory interest at risk in the  
 3 financial success of a project which is likely to be adversely affected by labor-management  
 4 conflict, except that no interest shall be considered economic and nonregulatory if it arises from  
 5 the exercise of regulatory or police powers such as taxation (except as set forth in Subparagraphs  
 6 (B) and (C) of this Paragraph), zoning, or the issuance of permits or licenses.

7 (2) (A) If the County Executive determines that the County has a proprietary interest  
 8 at risk in a development, the County Executive shall require that the developer(s) of the project,  
 9 including the developer(s)' tenants, subtenants, contractors, or subcontractors, demonstrate that  
 10 they have entered into a labor peace agreement with the labor organization(s) which seek to  
 11 represent, or might seek to represent, workers on the project, prior to, and as a condition  
 12 precedent of, the County's award of a public benefit to the development project.

13 (B) For the purposes of this Section:

14 (i) **Contract** means a written agreement, including a management  
 15 agreement, service agreement, loan, bond, guarantee, or other similar agreement, to which the  
 16 County is a party and in which the County has a proprietary interest;

17 (ii) **Employer** means any person, corporation, company, association,  
 18 limited or general partnership, joint venture, contractor, subcontractor, or other entity that  
 19 employs individuals at the site of a development project; provided, that the term "employer"  
 20 shall not include the United States, Prince George's County, a wholly owned government  
 21 corporation, a Federal Reserve Bank, or a state or other political subdivision;

22 (iii) **Labor organization** shall have the same meaning as under 29 U.S.C.  
 23 §152(5).

24 (iv) **Labor peace agreement** means a written agreement between an  
 25 Employer and a Labor Organization, enforceable under Section 301 of the Labor Management  
 26 Relations Act, 29 U.S.C. § 185, that contains, at a minimum, (1) a provision prohibiting the  
 27 Labor Organization and its members from engaging in any picketing, work stoppage, boycott, or  
 28 other economic interference with the employer's operations in which the County has a  
 29 proprietary interest, for the duration of the interest; and (2) provides that any services to be  
 30 performed by employees of the employer's tenants, subtenants, contractors, or subcontractors  
 31 will also be done under agreements containing the same labor peace assurance.



(v) Services means construction, janitorial, security (but not national security), building and grounds maintenance, warehousing and distribution, mechanics and truck services, hotel (and any restaurant connected thereto), and grocery sales.

(c) Exceptions.

The requirements to enter into a labor peace agreement shall not apply to:

(1) An employer at the development project that meets the definition of a "small business" pursuant to the Code of Maryland Regulations ("COMAR") 21.01.02.01(80);

(2) A development project that is not awarded a total public benefit of a value greater than One Million Dollars (\$1,000,000);

(3) A residential development project;

(4) A development project that receives only conduit bond financing from the County, in which the County does not retain a proprietary interest; or

(5) A development project involving a historically designated building.

(e) Limitations.

(1) Nothing in this Section requires an employer to recognize a particular labor organization.

(2) Nothing in this Section requires an employer to enter into a collective bargaining agreement establishing the substantive terms and conditions of employment.

(3) This Section is not intended to, and shall not be interpreted to, enact or express any generally applicable policy regarding labor-management relations or to regulate those relations in any way.

(4) This Section is not intended to favor any particular outcome in the determination of employee preference regarding union representation.

(5) Nothing in this Section permits or requires the County or any employer to enter into any agreement in violation of the National Labor Relations Act of 1935, approved July 5, 1935 (49 Stat. 449; 29 U.S.C.S. § 151 et seq.).

(f) Requirement of County notice.

A request for proposals or invitation to bid or similar document regarding a development project subject to this Section shall include a summary description of and reference to the requirements of this Section. Failure to include a description or reference to this Section in the document shall not exempt an employer otherwise subject to the requirements of this Section.

**Sec. 10-286. Regulations authorized.**

The County Executive may promulgate regulations to govern the implementation of this Division, provided that such regulations are consistent with the provisions of this Division. Any such regulations must be approved by the County Council.

SECTION 3. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10A-157, 10A-158, 10A-159, 10A-160, 10A-161, 10A-162, 10A-163, 10A-164, 10A-165, 10A-166, 10A-167, 10A-168, 10A-169, and 10A-170 of the Prince George's County Code be and the same are hereby added:

**SUBTITLE 10A. PURCHASING.****DIVISION 7. ECONOMIC DEVELOPMENT.****Sec. 10A-157. Legislative findings and policy.**

(a) The County government finds that the public interest will be served by encouraging businesses to locate and remain in Prince George's County through the provision of local bid and proposal preferences and participation requirements for County-based businesses and County-based small businesses in the award of contracts in direct government procurement.

(b) The County government finds that the local bid and proposal preferences and local participation requirements in direct government procurement prescribed in Subdivision 1 of this Division will serve the public interest because the resulting growth and development of County-based businesses and County-based small businesses will have a significant, positive impact on the economic health of the County by, among other things, increasing the County's commercial tax revenue and improving access to good paying careers for local residents. This will help achieve the public interest objective of diversifying and enlarging the County's tax base that funds vital public services, which is currently overly reliant on residential property taxes.

(c) The County government finds that the local bid and proposal preferences and local participation requirements in direct government procurement prescribed in Subdivision 1 of this Division will serve the public interest objective of rewarding those businesses which contribute the most to the County's economy, especially County-based small businesses, which are the most likely businesses to create jobs for County residents.

(d) The County government finds that because of the lack of local career opportunities for County residents, only forty percent (40%) of the jobs in the County are held by County residents (sixty percent (60%) are held by non-County residents) and approximately sixty percent



(60%) of the County's resident workforce works outside of the County on a daily basis, the highest percentage of out-migration of a local workforce of any jurisdiction in the Washington DC Metropolitan Statistical Area (MSA), which:

(1) Leads to insufficient and inconsistent daytime consumer spending in local businesses, including retail and professional services, which hurts the County's commercial tax base; and

(2) Causes longer commute times for local residents and contributes to worsening traffic congestion, which is among the worst in the nation; expensive road repair and maintenance costs to county taxpayers; and reduced time for parental supervision of county school-aged children by working parents.

(e) The County government finds that the lack of local career opportunities for County residents contributes to the County having the highest poverty and unemployment rates among suburban jurisdictions in the Washington DC MSA and having the highest foreclosure and uninsured rates of any jurisdiction in the State of Maryland. The lack of nearby career opportunities limits access to employment for low-to-moderate income County residents who have more limited transportation options.

(f) The County government finds that too few of the existing career and business opportunities related to government funded projects benefit County residents, which contributes in part to the overall lack of employment and business opportunities in the County for County residents, particularly low-to-moderate income residents, County-based businesses, and County-based small businesses. Further, the County government finds that from 2000 to 2011, there was little to no new net job creation in the County, despite nearly an 8% increase in the County's population.

(g) The County government finds a substantial reason and basis for the County resident hiring goals prescribed in Subdivision 2 of this Division, including the goal that at least fifty-one percent (51%) of the work hours on direct government procurement, be worked by County residents, because the County resident hiring goals will serve the County's public and proprietary interest by:

(1) Reducing the out-migration of the local workforce, which will increase local consumer spending in county businesses and increase the County's commercial tax base;

(2) Helping reduce the County's worsening traffic congestion, road repair costs, and

1 commute times for working parents; and

2 (3) Increasing access to nearby career opportunities for County residents with jobs  
 3 paying a prevailing wage and likely to include health and other benefits, which will reduce the  
 4 County's unemployment, uninsured, foreclosure, and poverty rates and assist County residents in  
 5 affording the high cost of living in the Washington DC MSA.

6 (h) The County government finds that the County resident hiring goals prescribed in  
 7 Subdivision 2 of this Division, including the goal that at least fifty-one percent (51%) of the  
 8 work hours on direct government procurements be worked by County residents, will not unduly  
 9 burden or unreasonably restrict access to employment in the County for out of state residents.  
 10 Because Subdivision 2 of this Division only requires a demonstration of "best efforts" to meet  
 11 the local hiring goals (rather than requiring employers to meet the local hiring percentages  
 12 themselves), in addition to including the appropriate exceptions, the provisions of Subdivision 2  
 13 of this Division are not unnecessarily broad and are sufficiently flexible and tailored to achieve  
 14 the public interest objectives outlined in this Section.

15 **Subdivision 1. County-Based Business Assistance.**

16 **Sec. 10A-158. County-based business preferences.**

17 (a) On any procurement for which a County agency or the County government secures  
 18 competitive bids or proposals, including, but not limited to, competitive bids secured pursuant to  
 19 Section 10A-112 or competitive proposals pursuant to Section 10A-113, the Purchasing Agent  
 20 shall:

21 (1) Apply a bid or proposal preference of ten percent (10%) to any County-based  
 22 business that submits an approved certification as set forth in Section 10A-161(a) and fifteen  
 23 (15%) percent to any County-based small business that submits an approved certification as set  
 24 forth in Section 10A-161(b).

25 (2) For bids or proposals that are not made entirely by County-based businesses,  
 26 apply a bid or proposal preference at an increasing rate of one percent (1%) for every ten percent  
 27 (10%) increment of certified County-based business participation. Bids or proposals with one  
 28 hundred percent (100%) certified County-based business participation shall receive the  
 29 maximum ten percent (10%) bid preference.

30 (3) For bids or proposals that are not made entirely by County-based small  
 31 businesses, apply a bid or proposal preference at an increasing rate of one and a half percent



1 (1.5%) for every ten percent (10%) increment of certified County-based small business  
 2 participation. Bids or proposals with one hundred percent (100%) certified County-based small  
 3 business participation shall receive the maximum fifteen percent (15%) bid preference.

4 (4) Bids or proposals are entitled to receive the greater of the preference points or  
 5 percentages allowed under either this Section or Section 10A-136, as applicable. The  
 6 preferences allowed under this Section and Section 10A-136 shall not be applied cumulatively.

7 (b) The Purchasing Agent may determine not to apply a bid or proposal preference under  
 8 this Section if the Purchasing Agent certifies that such a preference would result in the loss of  
 9 federal or state funds, subject to the approval of the County Executive. The Purchasing Agent  
 10 shall transmit a copy of any such determination to the County Council no later than thirty (30)  
 11 calendar days following the date of the procurement award.

12 (c) The requirements of this Section shall apply to the procurement of vendors retained  
 13 by a County agency or the County government to assist in the financing and sale of County  
 14 government debt. The requirements of this Section shall also apply to the procurement of  
 15 brokerage firms, investment banking firms, investment management firms, consultants, and other  
 16 vendors retained to manage or invest funds controlled or administered by a County agency or the  
 17 County government. The application of this Subsection is subject to the requirements and  
 18 restrictions of federal and state law.

19 (d) A business may opt to not receive a County-based preference under this Section.

20 (e) For the purposes of this Division, the term "competitive bids or proposals" means any  
 21 bids or proposals for procurement funded or administered by a County agency or the County  
 22 government except for procurement awards made pursuant to Section 10A-114.

23 **Sec. 10A-159. County-based business participation requirements.**

24 (a) For any procurement that is greater than One Hundred Thousand Dollars (\$100,000)  
 25 in total value for which a County agency or the County government secures competitive bids or  
 26 proposals, including, but not limited to, competitive bids secured pursuant to Section 10A-112 or  
 27 competitive proposals pursuant to Section 10A-113, the Purchasing Agent shall require the  
 28 following:

29 (1) At least forty percent (40%) certified County-based business participation;  
 30 provided, that the costs of materials, goods, and supplies shall not be counted towards the 40%  
 31 participation requirement, unless such materials, goods, and supplies are purchased from County-

1 based businesses; and

2 (2) A bid or proposal responding to a solicitation shall be deemed nonresponsive  
3 and shall be rejected by the Purchasing Agent if it fails to meet the forty percent (40%) minimum  
4 certified County-based business participation requirement in Paragraph (1) of this Subsection,  
5 unless the participation requirement is waived and adjusted pursuant to Subsection (b) of this  
6 Section.

7 (3) Any existing procurement contract or agreement for which a County agency or  
8 the County government secured competitive bids or proposals, including, but not limited to, any  
9 procurement contract that was awarded pursuant to Section 10A-112 or Section 10A-113, and  
10 including any existing multiyear contract or extended contract, which does not include at least  
11 forty percent (40%) certified County-based business participation as prescribed in this  
12 Subsection at the time of any contemplated exercise of an option, extension, or renewal,  
13 including automatic extensions or renewals (e. g. "evergreen" contracts or agreements), shall not  
14 be renewed or extended.

15 (b) If the Purchasing Agent determines that there are insufficient responsible County-  
16 based businesses to completely fulfill the requirement of Paragraph (1) of Subsection (a) for a  
17 particular procurement or if the requirement would result in the loss of federal or state funds or  
18 grants, the Purchasing Agent may waive the requirement and adjust the minimum participation  
19 percentage, subject to the approval of the County Executive. For procurement contracts or  
20 agreements subject to approval by legislative act under Section 819 of the Charter, a waiver  
21 and/or percentage adjustment authorized by this Subsection must also be approved by the County  
22 Council. For procurement contracts or agreements not subject to approval by legislative act  
23 under Section 819 of the Charter, notice of a waiver and/or percentage adjustment authorized by  
24 this Subsection must be sent to the County Council by the Purchasing Agent by no less than  
25 fourteen (14) calendar days prior to the decision being made to waive the requirement and adjust  
26 the minimum participation percentage in Paragraph (1) of Subsection (a).

27 (c) Failure to apply the applicable provisions of Section 10A-158 and this Section to a  
28 procurement award, subject to the waivers and adjustments authorized by this Division, shall  
29 render the procurement award and/or contract or agreement void.

30 (d) On a case by case basis, for any procurement subject to the requirements of  
31 Subsection (a) of this Section, the Purchasing Agent may require more than forty percent (40%)



1 certified County-based business participation if the Purchasing Agent determines that there is a  
2 sufficient number of County-based businesses to justify a higher certified County-based business  
3 participation requirement.

4 **Sec. 10A-160. County agency local procurement goals**

5 (a) Each County agency, including, but not limited to, each County agency that procures  
6 in whole or in part through the Office of Central Services, shall use its “best efforts” to exercise  
7 its procurement authority so as to meet, on an annual basis, the goal of procuring at least fifty  
8 percent (50%) of the dollar volume of its goods and services, including, but not limited to,  
9 construction goods and services, to County-based businesses and at least thirty percent (30%) to  
10 County-based small businesses; and

11 (b) The dollar volume referenced in Subsection (a) of this Section shall be based on the  
12 expendable budget of the County agency.

13 (c) For any procurement with a total value equal to or less than One Hundred Thousand  
14 Dollars (\$100,000) for which a County agency secures competitive bids or proposals, including,  
15 but not limited to, competitive bids pursuant to Section 10A-112 or competitive proposals  
16 pursuant to Section 10A-113, each County agency shall set-aside the procurement only for bids  
17 or proposals from County-based small businesses, subject to Paragraphs (1) – (4) of this  
18 Subsection.

19 (1) A County agency shall not be required to set aside a procurement for County-  
20 based small businesses under this Subsection if there are not at least two (2) County-based small  
21 businesses that can sufficiently provide the services or goods which are the subject of the  
22 procurement. A County agency may also refuse to set aside a procurement for County-based  
23 small businesses under this Subsection if the agency determines, after applying any applicable  
24 preferences, that the lowest County-based small business bid or proposal price is believed to be  
25 twelve percent (12%) or more above the likely price on the open market. An agency shall not  
26 make such a determination unless the County-based small business with the lowest bid or  
27 proposal price has been given the opportunity to win the procurement by offering a bid or  
28 proposal price less than twelve percent (12%) higher than the likely price on the open market  
29 identified by the agency. If the County agency makes a determination under this Paragraph not  
30 to set aside a procurement for County-based small businesses, then the County agency must  
31 adhere to the requirements of Paragraph (2) of this Subsection.



1       (2) If there are not at least two (2) County-based small businesses that can  
2       sufficiently provide the services or goods which are the subject of a procurement under  
3       Paragraph (1) of this Subsection, the County agency shall set-aside the procurement only for bids  
4       or proposals from County-based businesses, unless there are not at least two (2) County-based  
5       businesses that can sufficiently provide the services or goods which are the subject of the  
6       procurement. A County agency may also refuse to set aside a procurement for County-based  
7       businesses under this Paragraph if the agency determines, after applying any applicable  
8       preferences, that the lowest County-based business bid or proposal price is believed to be twelve  
9       percent (12%) or more above the likely price on the open market. A County agency shall not  
10       make such a determination unless the County-based business with the lowest bid or proposal  
11       price has been given the opportunity to win the procurement by offering a bid or proposal price  
12       less than twelve percent (12%) higher than the likely price on the open market identified by the  
13       agency.

14       (3) Only if a County agency satisfies the requirements of both Paragraphs (1) and (2)  
15       of this Subsection and receives approval from the Purchasing Agent may the County agency  
16       thereafter issue the procurement in the open market, subject to all of the other applicable  
17       preferences and participation requirements prescribed in this Subdivision. If a County agency,  
18       after receiving approval of the Purchasing Agent, makes a determination not to set aside a  
19       procurement under either Paragraphs (1) and (2) of this Subsection and opts to issue the  
20       procurement in the open market, the County agency must transmit in writing its determination  
21       and the reasons for the determination to the County Executive and County Council no later than  
22       fourteen (14) calendar days after the date of the determination's approval by the Purchasing  
23       Agent.

24       (4) Any existing contract or agreement, including any existing multiyear contract or  
25       extended contract, for a procurement funded by a County agency or the County government with  
26       a total value equal to or less than One Hundred Thousand Dollars (\$100,000) that was not set-  
27       aside for County-based small businesses or County-based businesses pursuant to the  
28       requirements of this Section, and for which a County agency or the County government secured  
29       competitive bids or proposals, including, but not limited to, any procurement contract that was  
30       awarded pursuant to Section 10A-112 or Section 10A-113, at the time of any contemplated  
31       exercise of an option, extension, or renewal, including automatic extensions or renewals (e. g.

1 “evergreen” contracts or agreements), shall not be renewed or extended. This Paragraph shall  
2 not apply to a contract or agreement for a procurement with fifty percent (50%) or greater  
3 certified County-based business participation.

4 (d) The Purchasing Agent may waive the requirements of Subsection (c) of this Section  
5 for a procurement if the Purchasing Agent certifies that such a requirement would result in the  
6 loss of federal or state funds, subject to the approval of the County Executive. The Purchasing  
7 Agent shall transmit a copy of any such determination to the County Council no later than seven  
8 (7) calendar days following the date of the procurement award.

9 (e) Each County agency shall submit a written report to the Purchasing Agent and to the  
10 County Auditor within thirty (30) calendar days after the end of each quarter after the beginning  
11 of the fiscal year that provides:

12 (1) The percentage and U.S. dollar value of certified County-based business  
13 participation and certified County-based small business participation in the most recent three (3)  
14 month period from the County agency’s procurements, including reporting the percentage and  
15 U.S. dollar value of certified County-based business participation and certified County-based  
16 small business participation for the period from the beginning of the fiscal year to the reporting  
17 date;

18 (2) The name and principal place of operation of each business receiving payment  
19 under a procurement from the County agency in the most recent three (3) month period,  
20 including the U.S. dollar value and percentage of the total procurement dollars paid in the most  
21 recent three (3) month period to each business; and

22 (3) For the 4th Quarter of the fiscal year only, the expected percentage and U.S.  
23 dollar value of certified County-based business participation and certified County-based small  
24 business participation in the next twelve (12) month period.

25 (f) If a County agency fails to meet any of the goals set forth in Subsection (a) of this  
26 Section, the County Executive, or the County Council by resolution, may require that a portion  
27 of the agency's procurements be made part of a set-aside program for County-based businesses  
28 and/or County-based small businesses.

29 (g) As a condition of receiving funding from the County government, a non-County  
30 agency or entity that receives more than fifty percent (50%) of its annual budget in the most  
31 recent fiscal year from funds received from or administered by a County agency or the County



1 government shall comply with the same goals and requirements as a County agency under  
 2 Subsections (a), (b), (e), and (f) of this Section, unless the non-County agency or entity certifies  
 3 in writing to the County Council and the County Executive that such compliance would violate  
 4 federal or state law.

5 **Sec. 10A-161. County-based business certification requirements.**

6 (a) A business that seeks to be certified as a County-based business shall make  
 7 application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an  
 8 application shall not be approved by the Purchasing Agent unless the business:

9 (1) Requires that its chief executive officer and the highest level managerial  
 10 employees of the business maintain their offices and perform their managerial functions in the  
 11 County;

12 (2) Files a written certificate that the business is not delinquent in the payment of  
 13 any County taxes, charges, fees, rents or claims;

14 (3) Files a tax return filed with the State of Maryland establishing that the business  
 15 has operated within the County within the preceding twelve (12) months;

16 (4) Files documentation showing that during the preceding twelve (12) months the  
 17 business has continuously maintained a valid business license or permit;

18 (5) Files documentation showing that during the preceding twelve (12) months the  
 19 business has continuously occupied an office within the County, as its principal place of  
 20 operation; and

21 (6) Files documentation showing that:

22 (i) More than fifty percent (50%) of the business' full-time employees are  
 23 County residents; or

24 (ii) The owners of more than fifty percent (50%) of the business are County  
 25 residents; or

26 (iii) More than (fifty percent) 50% of the assets of the business, excluding  
 27 bank accounts, are located in the County; or

28 (iv) More than (fifty percent) 50% of the total sales or other revenues of the  
 29 business are derived from transactions of the business in the County.

30 (b) A business that seeks to be certified as a County-based small business shall make an  
 31 application to the Purchasing Agent on a form provided by the Purchasing Agent. Such an

1 application shall not be approved by the Purchasing Agent unless:

2 (1) The business meets the requirements of Section 10A-161(a); and

3 (2) The business meets the definition of “small business” pursuant to the Code of  
4 Maryland Regulations (“COMAR”) 21.01.02.01(80); or

5 (3) For a business classified as being in the construction industry by Sector 23 of  
6 the current edition of the NAICS, the business meets the federal definition of “small business  
7 concern” in Part 121 of Title 13 of the Code of Federal Regulations.

8 (c) Once an application for certification is approved under this Section by the Purchasing  
9 Agent, a copy of the approved application shall be expeditiously transmitted to the County  
10 Auditor.

11 (d) A business whose application is approved for certification as a County-based small  
12 business is automatically certified as a County-based business.

13 (e) Nonprofit entities that satisfy the applicable requirements of this Section are eligible  
14 to be certified as County-based businesses and County-based small businesses.

15 (f) A business that is certified as a County-based business or County-based small  
16 business shall meet the requirements of certification under this Section continuously after the  
17 date the business’s application for certification is approved by the Purchasing Agent or the  
18 business’s certification shall be void. In such instances, the business must re-apply pursuant to  
19 the requirements of this Section to be certified as a County-based business or a County-based  
20 small business.

21 **Sec. 10A-162. Enforcement of County-based business assistance.**

22 (a) For the entire duration of the procurement contract or agreement, any vendor given a  
23 County-based business preference under Section 10A-158 or subject to the County-based  
24 business participation requirements under Section 10A-159 shall maintain no less than the  
25 percentage of certified County-based business participation or certified County-based small  
26 business participation stated in the winning bid or proposal. At the discretion of the Purchasing  
27 Agent, failure to comply with this Section may subject any vendor given a business preference  
28 under Section 10A-158 or subject to the County-based business participation requirements under  
29 Section 10A-159 to a penalty, to include monetary fines of up to five percent (5%) of the value  
30 of the contract for each violation, or a cancellation of the contract or agreement.

31 (1) A vendor may request a waiver of the requirements of this Subsection by the



1 Purchasing Agent. On a case by case basis, such a waiver request may be granted by the  
2 Purchasing Agent with the approval of the County Executive, if “best efforts” by the vendor to  
3 comply have been demonstrated as prescribed in Subsection (e) of this Section.

4 (2) For procurement contracts or agreements subject to approval by legislative act  
5 under Section 819 of the Charter, a waiver and/or percentage adjustment authorized by this  
6 Subsection must be approved by the County Council. For procurement contracts or agreements  
7 not subject to approval by legislative act under Section 819 of the Charter, notice of such a  
8 waiver and/ or percentage adjustment, including the information provided to the Purchasing  
9 Agent pursuant to Paragraphs (1) – (4) of Subsection (e) of this Section, must be sent to the  
10 County Council by the Purchasing Agent by no less than fourteen (14) calendar days prior to the  
11 date of the County Executive’s approval of the Purchasing Agent’s decision.

12 (b) Any vendor given a County-based business preference under Section 10A-158 or  
13 subject to the County-based business participation requirements of Section 10A-159 shall submit  
14 a quarterly report within thirty (30) calendar days after the end of each quarter to the Purchasing  
15 Agent, the County Auditor, and a compliance manager designated by the County Council that  
16 provides:

17 (1) The percentage and U.S. dollar value of certified County-based business  
18 participation and certified County-based small business participation in the most recent 3 month  
19 period, including reporting the percentage and U.S. dollar value of certified County-based  
20 business participation and certified County-based small business participation for the period  
21 from the beginning of the calendar year to the reporting date;

22 (2) The name and principal place of operation of each business receiving payment  
23 under the procurement in the most recent 3 month period, including the U.S. dollar value and  
24 percentage of the total contract dollars paid in the most recent 3 month period to each business;  
25 and

26 (3) The expected percentage and U.S. dollar value of certified County-based  
27 business participation and certified County-based small business participation in the next 12  
28 month period.

29 (c) At the discretion of the Purchasing Agent or the County Auditor, any vendor given a  
30 County-based business preference under Section 10A-158 or subject to the County-based  
31 business participation requirements of Section 10A-159 shall be subject to an audit of documents



1 or other information deemed necessary by the Purchasing Agent or the County Auditor to verify  
2 compliance with this Section upon thirty (30) calendar days written notice, including, but not  
3 limited to, copies of any contracts with subcontractors or other vendors.

4 (d) The Purchasing Agent shall make compliance with this Subdivision a condition of  
5 any contract or agreement for a procurement funded by a County agency or the County  
6 government or any such contract or agreement shall be void. This requirement does not apply to  
7 procurements awarded pursuant to Section 10A-114.

8 (e) In this Subdivision, the term "best efforts" means efforts to the maximum extent  
9 practicable have been made to meet the requirement. A vendor given a County-based business  
10 preference under Section 10A-158 or subject to the County-based business participation  
11 requirements under Section 10A-159 shall not be deemed to have demonstrated "best efforts"  
12 under Subsection (a) of this Section where there is a sufficient number of County-based  
13 businesses or County-based small businesses to enable the vendor to meet the requirements of  
14 Subsection (a) of this Section. The Purchasing Agent shall not grant a waiver authorized by  
15 Paragraph (1) of Subsection (a) of this Section unless the vendor seeking the waiver:

16 (1) Provides a detailed written statement of the reasons the vendor is unable to  
17 maintain its percentages of County-based business or County-based small business participation;

18 (2) Provides a detailed written statement of its efforts to maintain its percentages of  
19 County-based business or County-based small business participation, including its efforts to  
20 contact and negotiate with County-based businesses or County-based small businesses including:

21 (A) The names, addresses, and telephone numbers of the County-based  
22 businesses or County-based small businesses that were contacted and the dates such County-  
23 based businesses were contacted, and

24 (B) A description of the information provided to County-based businesses or  
25 County-based small businesses regarding the descriptions of services or goods sought for the  
26 procurement, including plans, specifications and anticipated time schedule for any portions of the  
27 work to be performed, where applicable;

28 (3) As to each County-based business or County-based small businesses that placed a  
29 subcontract or other quotation or offer which the vendor considered not to be acceptable, a  
30 detailed written statement that includes sufficient reasons for this conclusion; and

1       (4) A written list of County-based businesses or County-based small businesses found  
 2       to be unavailable to perform under the procurement.

3       Based on an analysis of the information provided by the vendor seeking a waiver  
 4       authorized by Paragraph (1) of Subsection (a) of this Section and an analysis by the Purchasing  
 5       Agent of the availability of County-based businesses or County-based small businesses that  
 6       provide services or goods that are the subject of the procurement, the Purchasing Agent shall  
 7       determine whether “best efforts” to comply have been demonstrated by the vendor and whether  
 8       to grant the vendor’s request for a waiver authorized by Paragraph (1) of Subsection (a) of this  
 9       Section, subject to the approvals and notice required by this Section. If the Purchasing Agent  
 10       does grant a waiver authorized by Paragraph (1) of Subsection (a) of this Section, the Purchasing  
 11       Agent shall select a new minimum percentage requirement for County-based business  
 12       participation or County-based small business participation for the vendor’s procurement based  
 13       on the availability of County-based businesses or County-based small businesses that provide  
 14       services or goods that are the subject of the procurement, subject to the approvals and notice  
 15       required by this Section.

16       **Sec. 10A-163 Unbundling required.**

17       The County Executive or the County Executive’s designee shall establish procedures to  
 18       ensure that solicitations are subdivided and unbundled and that smaller procurements are created  
 19       to the extent feasible and fiscally prudent.

20       **Sec. 10A-164 Compliance of Existing Contracts at Renewal or Extension**

21       At the time of any contemplated exercise of an option, extension, or renewal, including  
 22       automatic extensions or renewals (e. g. “evergreen” contracts or agreements), the Purchasing  
 23       Agent shall require that any existing contract or agreement for a procurement funded by a  
 24       County agency or the County government, including any existing multiyear contract or extended  
 25       contract, be amended to comply with the requirements of this Subdivision or the contract or  
 26       agreement shall not be renewed or extended by the County government or County agency. This  
 27       requirement does not apply to procurements awarded pursuant to Section 10A-114.

28       **Sec. 10A-165. Regulations authorized.**

29       The County Executive may promulgate regulations to govern the implementation of this  
 30       Subdivision, provided that such regulations are consistent with the provisions of this  
 31       Subdivision. Any such regulations must be approved by the County Council.



**Subdivision 2. First Source Hiring Program and Local Hiring Requirements.**

**Sec. 10A-166. First Source Registry created.**

(a) The Prince George's County Economic Development Corporation's Workforce Services Division shall maintain a First Source Registry. The First Source Registry shall consist of the names of veterans, unemployed, low-to-moderate income (defined as being within three hundred percent (300%) of federal poverty guidelines), and general job-seeking individuals who are County residents. The Registry shall be the first source for hiring all new hire positions on procurement projects funded by a County agency or the County government. The Prince George's County Economic Development Corporation's Workforce Services Division may require from residents seeking to be listed in the First Source Registry such documentation that it deems necessary to verify unemployment, income, veteran-status, and residency information (pursuant to the requirements set forth in Section 10A-101(14.1)) for the purposes of this Subdivision. The Prince George's County Economic Development Corporation's Workforce Services Division shall give the Purchasing Agent constant access to the information in the First Source Registry and access upon request to any information provided by residents pursuant to this Subsection.

(b) In compiling and maintaining the First Source Registry, the Prince George's County Economic Development Corporation's Workforce Services Division shall contact community organizations, organized labor locals, civic and citizens associations, and nonprofit institutions for names and other relevant contact information of unemployed, low-to-moderate income, and general job seeking County residents. Only County residents are eligible to be listed or included in the First Source Registry.

**Sec. 10A-167. First Source and Local Hiring Agreements required; local hiring requirement.**

(a) The Purchasing Agent shall include for every government-assisted project, including as a condition of any contracts or agreements for procurements funded by a County agency or the County government, at the time of initial contract execution or, effective as of January 1, 2014, at the time of any exercise of contract renewal, option, or extension (including automatic renewal or extension), a requirement that the business enter into a First Source and Local Hiring Agreement with the County which states that:

(1) The first source for finding employees to fill all jobs created by the government-

1 assisted project shall be the First Source Registry;

2 (2) The first source for finding employees to fill any vacancy occurring in all jobs  
 3 covered by a First Source and Local Hiring Agreement will be the First Source Registry; and

4 (3) Compliance with this Section is a condition of the First Source and Local Hiring  
 5 Agreement.

6 (b) In selecting qualified County residents from the First Source Registry for interviews or  
 7 other consideration for employment for all jobs covered by each First Source and Local Hiring  
 8 Agreement, the Prince George's County Economic Development Corporation's Workforce  
 9 Services Division shall give first priority to referring veterans who are County residents, second  
 10 priority to referring unemployed County residents, third priority to referring County residents  
 11 within three hundred percent (300%) of federal poverty guidelines, and then fourth priority to  
 12 referring other job-seeking County residents.

13 (c) Each business that is a signatory to a First Source and Local Hiring Agreement under a  
 14 procurement contract shall submit to the Prince George's County Economic Development  
 15 Corporation's Workforce Services Division and the Purchasing Agent, by the fifth business day  
 16 of every month following the execution of the First Source and Local Hiring Agreement, an  
 17 agreement compliance report for the project that includes the:

18 (1) Number of employees needed;

19 (2) Number of current employees transferred;

20 (3) Number of new job openings created;

21 (4) Number of jobs openings listed with the Prince George's County Economic  
 22 Development Corporation's Workforce Services Division;

23 (5) (A) For the reporting period (during the previous calendar month), the total  
 24 number of County residents employed, including new County resident hires, and total hours  
 25 worked by County residents, and

26 (B) For the calendar year, the cumulative total number of County residents  
 27 employed, including cumulative new County resident hires, and cumulative work hours by  
 28 County residents; and

29 (6) (A) For the reporting period (during the previous calendar month), the total  
 30 number of employees employed, including new hires, and total employee hours worked, and

31 (B) For the calendar year, the cumulative total number of employees hired,



1 including cumulative new hires, and cumulative employee hours worked, including, for each  
 2 employee:

3 (A) Name;

4 (B) Job title;

5 (C) Hire date;

6 (D) Residence; and

7 (E) Referral source for all new hires.

8 (d) At least ten (10) calendar days prior to announcing an employment position, a business  
 9 that is a signatory to a First Source and Local Hiring Agreement under a procurement contract  
 10 shall notify the Prince George's County Economic Development Corporation's Workforce  
 11 Services Division of the available positions. If the County resident interviewed or otherwise  
 12 considered for the position is not hired, the business shall provide reasons why the referred  
 13 County resident was not hired. A good faith effort is required to hire the referred County  
 14 resident, if sufficiently qualified for the available position.

15 (e) The requirements of Section 10A-166 and Subsections (a) through (d) of this Section,  
 16 except for the reporting requirements of Paragraphs (5) and (6) of Subsection (c) of this Section  
 17 on a form provided by the Purchasing Agent, shall not apply to procurement contracts in the  
 18 construction industry, as defined by Sector 23 of the current edition of the North American  
 19 Industry Classification System ("NAICS"), for procurements funded by a County agency or the  
 20 County government if the procurement contract or agreement is governed by a project labor  
 21 agreement. The remaining requirements of this Subdivision shall apply to such procurement  
 22 contracts, agreements, or awards.

23 (f) The Purchasing Agent shall require "best efforts" to reach a minimum goal that at least  
 24 fifty-one percent (51%) of the annual man/woman hours (work hours), on both a total work hour  
 25 and trade by trade basis, be worked by County residents as a condition of any contract or  
 26 agreement for a procurement funded by a County agency, including requiring "best efforts" to  
 27 reach a minimum goal that at least fifty-one percent (51%) of the annual apprenticeship work  
 28 hours on such contracts or agreements be worked by apprentices who are County residents. The  
 29 requirements of this Subsection extend to hiring by contractors and subcontractors on  
 30 procurements funded by a County agency under the supervision or control of the contractors and  
 31 subcontractors.

1       (1) In procurements funded by a County agency or the County government,  
2       competitive bids or proposals responding to a bid or proposal solicitation, including, but not  
3       limited to, competitive bids pursuant to Section 10A-112 or competitive proposals pursuant to  
4       Section 10A-113, may be deemed nonresponsive and rejected by the Purchasing Agent if the bid  
5       or proposal fails to demonstrate adequate capacity to meet the annual County resident hiring  
6       goals of this Subsection in the judgment of the Purchasing Agent.

7       (2) If a procurement subject to this Subsection fails to reach the minimum goal that at  
8       least fifty-one percent (51%) of the annual man/woman hours (work hours) or fifty-one percent  
9       (51%) of the annual apprenticeship work hours be worked by County residents, a waiver must be  
10       granted pursuant to Subsection (h) of this Section or the procurement is subject to the penalties  
11       of Subsection (i) of this Section.

12       (3) In order to meet the “best efforts” requirements of this Subsection, an employer  
13       required to comply with the annual County resident hiring goals of this Subsection shall require  
14       any worker it employs that it deems to be a County resident for the purposes of meeting the  
15       annual County resident hiring goals to submit documentation by the end of the calendar year to  
16       the employer necessary to establish the worker’s County residency pursuant to the requirements  
17       set forth in Section 10A-101(14.1), including a copy of a filed Maryland state income tax return  
18       as prescribed in Section 10A-101(14.1)(A) – (B) or an attestation as prescribed in Section 10A-  
19       101(14.1)(C) establishing a Prince George’s County domicile for the worker for the most recent  
20       full calendar year, unless the worker has already submitted such documentation during the  
21       calendar year to the Prince George’s County Workforce Services Division pursuant to Section  
22       10A-166(a). The employer shall transmit the documentation required by this Paragraph  
23       submitted by its workers during the calendar year to the Prince George’s County Workforce  
24       Services Division and the Purchasing Agent by the tenth (10<sup>th</sup>) business day of the subsequent  
25       calendar year or the employer shall be in noncompliance with the “best efforts” requirements of  
26       this Subsection and subject to the penalties of Subsection (i) of this Section.

27       (g) For procurements funded by a County agency or the County government, including,  
28       but not limited to, procurements awarded pursuant to Section 10A-112 or Section 10A-113, the  
29       Purchasing Agent shall require compliance with this Subdivision as a condition of the  
30       procurement contract or agreement or any such contract or agreement shall be void.

31       (h) On a case by case basis, at the request of an employer required to comply with



1 Subsection (f) of this Section, the Purchasing Agent may waive the annual County resident  
 2 hiring goals of Subsection (f) of this Section if the Purchasing Agent finds that “best efforts” to  
 3 comply with the annual County resident hiring goals by the employer requesting the waiver have  
 4 been demonstrated as prescribed in Paragraph (2) of this Subsection. An employer is only  
 5 allowed to request and the Purchasing Agent is only allowed to grant a waiver authorized by this  
 6 Subsection after the end of the calendar year for which the employer seeks the waiver and the  
 7 waiver, if granted, shall only apply for that calendar year.

8 (1) For procurement contracts or agreements subject to approval by legislative act  
 9 under Section 819 of the Charter, a waiver authorized by this Subsection must be approved by  
 10 the County Council. For procurement contracts or agreements not subject to approval by  
 11 legislative act under Section 819 of the Charter, notice of such a waiver, including the  
 12 information provided to the Purchasing Agent pursuant to Subparagraphs (A) – (D) of Paragraph  
 13 (2) of this Subsection, shall be sent to the County Council by the Purchasing Agent by no less  
 14 than fourteen (14) calendar days prior to the date of the County Executive’s approval of the  
 15 Purchasing Agent’s decision to waive the provisions of Subsection (f) of this Section.

16 (2) The term “best efforts” in this Subdivision means efforts to the maximum extent  
 17 practicable have been made to meet the requirement. “Best efforts” by an employer required to  
 18 comply with Subsection (f) of this Section shall not be found and a waiver authorized by this  
 19 Subsection shall not be granted unless the employer provides written documentation to the  
 20 Purchasing Agent demonstrating that:

21 (A) Whenever employment opportunities became available during the calendar  
 22 year, the employer made good faith efforts to hire each County resident who applied or was  
 23 referred for employment;

24 (B) The employer sent written notifications during the calendar year to the  
 25 Prince George’s County Workforce Services Division and community, labor, and workforce-  
 26 related organizations and institutions identified by the County Executive or the County  
 27 Executive’s designee whenever employment opportunities became available;

28 (C) For each County resident who applied or was referred for employment  
 29 during the calendar year, but was not hired, the employer maintained written documentation that  
 30 includes a sufficient explanation of the reason(s) the County resident was not hired; and

31 (D) The employer met other requirements during the calendar year determined



1 by the Purchasing Agent.

2 Based on an analysis of the information provided by the employer seeking a  
 3 waiver authorized by this Subsection and an analysis by the Purchasing Agent of the sufficiency  
 4 of the County's labor market, the Purchasing Agent shall determine whether "best efforts" to  
 5 comply have been demonstrated by the employer and whether to grant the employer's request for  
 6 a waiver authorized by this Subsection, subject to the approvals and notice required by this  
 7 Subsection. An employer must be in compliance with Paragraph (3) of Subsection (f) of this  
 8 Section in order to receive a waiver authorized by this Subsection. A waiver decision by the  
 9 Purchasing Agent authorized by this Subsection must be approved by the County Executive.

10 (i) Failure to comply with this Section, for a procurement funded by a County agency or  
 11 the County government, may subject a signatory to a First Source and Local Hiring Agreement  
 12 or any other entity required to comply with this Subdivision to a penalty, to include monetary  
 13 finances of up to twenty percent (20%) of the value of the direct and indirect labor costs of the  
 14 contract, as determined by the Purchasing Agent. For repeated violations of this Section, a  
 15 signatory to a First Source and Local Hiring Agreement or any other entity required to comply  
 16 with this Subdivision may be subject to a cancellation of the procurement contract or agreement,  
 17 as determined by the Purchasing Agent.

18 (j) At the discretion of the Purchasing Agent or the County Auditor, any business that is a  
 19 signatory to a First Source and Local Hiring Agreement or any other entity required to comply  
 20 with this Subdivision shall be subject to an audit of documents or other information deemed  
 21 necessary by the Purchasing Agent or the County Auditor to verify compliance with this Section  
 22 upon thirty (30) calendar days written notice.

23 (k) Immediately upon execution, the Purchasing Agent shall expeditiously transmit a paper  
 24 or electronic copy of any signed First Source and Local Hiring Agreement to the Prince George's  
 25 County Economic Development Corporation's Workforce Services Division.

26 **Sec. 10A-168. Compliance of existing contracts at renewal or extension.**

27 For any existing contract or agreement for a procurement funded by a County agency or the  
 28 County government, including any existing multiyear contract or extended contract, the  
 29 Purchasing Agent shall require the inclusion of a condition in the contract or agreement requiring  
 30 best efforts to meet the annual County resident hiring goals of Subsection (f) of Section 10A-167  
 31 and requiring compliance with the other applicable provisions of this Subdivision, at the time of

1 any contemplated exercise of an option, extension, or renewal, including automatic extensions or  
 2 renewals (e. g. “evergreen” contracts or agreements), or the contract or agreement shall not be  
 3 renewed or extended by the County government or County agency.

4 **Sec. 10A-169. Reports.**

5 The Prince George’s County Economic Development Corporation’s Workforce Services  
 6 Division shall submit quarterly reports to the County Auditor, the Purchasing Agent, and a  
 7 compliance manager designated by the County Council verifying the requirements in Section  
 8 10A-167. The reports shall also detail the number of government-assisted projects for which  
 9 First Source and Local Hiring Agreements were executed, the number of jobs that result from the  
 10 First Source and Local Hiring Agreements, the number of County residents actually employed in  
 11 government-assisted projects, and the number of unemployed County residents on the First  
 12 Source Registry. The format of the reporting under this Section shall be determined by the  
 13 County Executive or the County Executive’s designee.

14 **Sec. 10A-170. Regulations authorized.**

15 The County Executive may promulgate regulations to govern the implementation of this  
 16 Subdivision, provided that such regulations are consistent with the provisions of this  
 17 Subdivision. Any such regulations must be approved by the County Council.

18 SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
 19 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
 20 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
 21 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
 22 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
 23 Act, since the same would have been enacted without the incorporation in this Act of any such  
 24 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.  
 25

1 SECTION 5. BE IT FURTHER ENACTED that Sections 10-283, 10-284, 10-285, 10-286,  
2 10A-101, and 10A-161 of this Act shall take effect on January 1, 2013, with the remainder of  
3 this Act taking effect on July 1, 2013, except for Sections 10A-159(a)(3), 10A-160(a) and (b),  
4 10A-160(c)(4), 10A-164, and 10A-168, which shall take effect on January 1, 2014.

Adopted this 15th day of November, 2011.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: Ingrid M. Turner  
Ingrid M. Turner  
Chair

ATTEST:

Redis C. Floyd  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: December 7, 2011 BY: Rushern L. Baker, III  
Rushern L. Baker, III  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.



## Prince George's County Council

### Agenda Item Summary

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**Meeting Date:** 11/15/2011  
**Reference No.:** CB-017-2011  
**Draft No.:** 4  
**Proposer(s):** Franklin, Harrison  
**Sponsor(s):** Franklin, Harrison, Turner, Patterson, Olson, Lehman  
**Item Title:** An Act concerning Economic Development and Local Employment enhancing the County's economic development by creating bidding preferences and participation requirements for County-based businesses and County-based small businesses on certain procurement contracts for goods and services with the County; establishing a First Source Hiring Program; requiring "best efforts" for meeting a certain local hiring percentage goal for positions on certain procurement projects funded by the County, requiring submission of quarterly audit reports, maintaining a first source registry, providing for penalties and exemptions to the program; authorizing the use of Community Benefit Agreements on County assisted developments that receive a public benefit of a value greater than \$3,000,000 with certain exceptions; authorizing Labor Peace Agreements for developments receiving a public benefit of a value greater than \$1,000,000 with certain exceptions; giving priority to County-based Minority Business Enterprises in all Minority Business Enterprise goals for minority contracting and purchasing; requiring subcontracting plans for certain contracts and generally relating to economic development in the County.

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**Drafter:** Colette R. Gresham, Legislative Officer  
**Resource Personnel:** Brendon Laster, Legislative Aide District 9

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#### LEGISLATIVE HISTORY:

<b>Date Presented:</b> 5/17/2011	<b>Executive Action:</b> 12/7/2011 S
<b>Committee Referral:</b> 5/17/2011 - PSFM	<b>Effective Date:</b> 1/1/2013

**Committee Action:** 10/12/2011 - FAV(A)

**Date Introduced:** 10/18/2011

**Public Hearing:** 11/15/2011 - 10:00 AM

**Council Action (1)** 11/15/2011 - ENACTED

**Council Votes:** WC:A, DLD:A, MRF:A, AH:A, LJ:-, ML:A, EO:A, OP:A, IT:A, KT:A

**Pass/Fail:** P

**Remarks:** Secs. 10-283, 284, 185, 286, 10A-101, 161 effective 1/1/2013  
Secs. 10A-136, 157, 158, 160(c)(1)(2)(3)(d)(e)(f), 162, 163, 165, 166, 167, 169, 170 effective 7/1/2013  
Secs. 10A-159 (a)(3), 160(a)(b), 160(c)(4), 164 effective 1/1/2014

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#### AFFECTED CODE SECTIONS:

10-283, 10-284, 10-285, 10-286, 10A-101, 10A-136, 10A-157, 10A-158, 10A-159, 10A-160, 10A-161, 10A-162, 10A-163, 10A-164, 10A-165, 10A-166, 10A-167, 10A-168, 10A-169, 10A-170, 10A-171, 10A-172, 10A-173, 16-102, 16-150.01, 16-150.02

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**COMMITTEE REPORTS:****Public Safety and Fiscal Management****Date 10/12/2011**

Committee Vote: Favorable as amended 3-0 (In Favor: Council Members Campos, Franklin, and Patterson)

This bill will create new County-based procurement assistance by establishing a 10% preference for County-based businesses and a 15% preference for County-based small businesses; an escalating 1% preference (10% maximum) for bids or proposals for each additional 10% increment of County-based business participation; and an 1.5% preference (15% maximum) for bids or proposals for each additional 10% increment of County-based small business participation. The legislation increases County-based business participation by requiring a 40% minimum for bids or proposals on procurements above \$100,000 and a 50% minimum goal for each County Agency for annual procurement awards. The bill would also increase County-based small business participation by creating a Local Small Business Reserve Program; require new County resident hiring goals for County funded projects; establish a First Source Hiring Program; require a community benefit agreement between developers and community stakeholders as a condition of any development receiving \$1 million or more in County assistance; require labor peace agreements to prohibit work stoppages; and strengthen the County Minority Business Enterprise (MBE) Program by utilizing County-based MBEs with goals increased from 30% to 35% and per contract goal from 20% to 25%.

The Committee met on July 6th and was given a brief overview of the legislation. During the worksession the sponsor of the bill noted that there would be amendments forthcoming and requested the bill be held. The Committee met again on October 5th and October 12th to discuss possible amendments to the bill based on public input and conversations with the County Executive's Office. The amendments discussed consisted of the following: the meaning of and process for determining "best efforts" to meet local hiring and procurement goals; strengthening the definition of "County resident"; ensuring that requirements apply at the time of any renewal or extension; incorporating a "Significant Economic Opportunities" clause that allows, on a case by case basis, the County Executive, with Council approval, to waive or adjust requirements; removal of County assisted development; more attention to how the Community Benefit Agreement process works and incorporating municipalities; and revising bill effective dates for certain Sections. During the worksession there was testimony in support of the bill including representatives from the United Food Workers and the Human Services Coalition. A representative from Associated Builders and Contractors spoke in opposition. Brad Frome from the County Executive's Office stated the Administration supports the bill as amended.

The Office of Law has reviewed this legislation and finds it to be in proper legislative form with no legal impediments to its enactment.

There should be an overall positive fiscal impact on the County as a result of enacting CB-17-2011 by providing opportunities for County business expansion and employment for County residents. County commercial base revenues and personal income tax revenues should increase with these opportunities. The overall positive fiscal impact cannot be determined at this time due to unknown factors regarding business expansion, the number of residents gaining employment and the level of any penalties imposed from non-compliance.

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**BACKGROUND INFORMATION/FISCAL IMPACT:**

(Includes reason for proposal, as well as any unique statutory requirements)



The proposed legislation will enhance job creation in the County and put in place incentives over the long-term that would utilize County tax dollars as an economic engine for wealth creation. The legislation would create a local hiring preference, a first source hiring program, an apprenticeship program, require community benefit agreements, require County agency local hiring goals, and require County-based MBE goals for minority contracting and purchasing.

11/15/2011: CB-17-2011 (DR-3) was amended on the floor as follows:

1. On page 4, line 30 and page 10, line 22, after "credits" delete "or benefits".
  2. On page 19, line 21, after "funded" insert "or administered"
  3. On page 29, line 27, delete "July 1, 2013" and insert "January 1, 2014"
  4. On page 35, delete lines 25 through 28 and insert "SECTION 5. BE IT FURTHER ENACTED that Sections 10-283, 10-284, 10-285, 10-286, 10A-101, and 10A-161 of this Act shall take effect on January 1, 2013, with the remainder of this Act taking effect on July 1, 2013, except for Sections 10A-159(a)(3), 10A-160(a) and (b), 10A-160(c)(4), 10A-164, and 10A-168, which shall take effect on January 1, 2014."
- CB-17-2011 (DR-4) was subsequently enacted.

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**CODE INDEX TOPICS:**

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**INCLUSION FILES:**

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**HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY  
RESOLUTION NO. LHA 1278**

**A Resolution Amending Chapter 4 of the Housing Choice Voucher Administrative Plan**

**WHEREAS**, The Housing Authority of Prince George's County (the "Authority") is a Housing Authority (HA) created pursuant to §17-104 of the Housing Authorities Law of the Annotated Code of the State of Maryland, and has designated as one of its primary functions the operation of the Housing Choice Voucher Program; and

**WHEREAS**, the Authority has previously adopted an Administrative Plan to give guidance in the operation of the Housing Choice Voucher program; and

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) periodically revises regulations and the Authority revises its policies governing the Housing Choice Voucher Program to conform to said regulatory changes; and

**WHEREAS**, the Administrative Plan is being revised to include regulatory changes when an applicant applies for assistance and is placed on the HA waitlist; and

**WHEREAS**, the Authority did solicit public comments on the proposed changes for a period of thirty days; and

**WHEREAS**, the Authority did conduct a public hearing where members of the public were able to provide comment on the proposed changes; and

**WHEREAS**, the Authority did review and consider all oral and written prior to finalizing the proposed changes to Chapter 4 of the Administrative Plan; and

**WHEREAS**, after reviewing and considering all oral and written comments, the HA found that the comments did not compel a need to modify the proposed changes to Chapter 4 of the Housing Choice Voucher Administrative Plan.

**NOW THEREFORE**, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of Prince George's County hereby adopt and approve the changes to Chapter 4 of the Housing Choice Voucher Administrative Plan as set forth in **Attachment A**.

**BE IT FURTHER RESOLVED** that the changes to Chapter 4 shall become effective immediately.

RATIFIED this 5<sup>th</sup> day of October 2015.

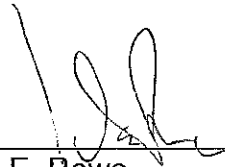
(Seal)

ATTEST



Eric C. Brown  
Executive Director

HOUSING AUTHORITY OF PRINCE  
GEORGE'S COUNTY, MARYLAND



Paul E. Rowe  
Chairman



## **ATTACHMENT A**

### **APPLYING FOR ASSISTANCE**

#### **First Step**

When the waiting list is opened to place families in the lottery, the family may obtain preliminary applications online only. Families are allowed to submit only one preliminary application, submitting duplicates will cause the family to be disqualified for placement in the lottery.

Families are allowed to submit only one preliminary application, submitting duplicates will cause the family to be disqualified for placement in the lottery.

HCVP Administrative Plan CH. 4 Pg. 4-3

#### **Second Step**

Once the lottery process is completed all families who were entered in the lottery will be able to view their status online at our designated web site.

HCVP Administrative Plan CH. 4 Pg. 4-3

#### **Third Step**

When the family reaches the top of a waiting list they will be required to provide the necessary documentation to determine eligibility and proof of the preference being claimed.

HCVP Administrative Plan CH. 4 Pg. 4-3

### **Placement on the Waitlist**

#### **Eligible for Placement on the Waiting List**

The applicant will be able to check their preliminary eligibility determination online or by phone as soon as all the lottery winners are reviewed.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list. Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and their lottery number as assigned by the PHA.

HCVP Administrative Plan CH. 4 Pg. 4-6

**HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY**

**RESOLUTION NO. LHA 1279**

**A Resolution Amending the Housing Authority of Prince George's County  
Procurement Policy to include a comprehensive Section 3 Plan**

**WHEREAS**, The Housing Authority of Prince George's County (the "Authority") is a Housing Authority (HA) created pursuant to §17-104 of the Housing Authorities Law of the Annotated Code of the State of Maryland, and

**WHEREAS**, the Department of Housing and Urban Development requires Authorities to have a written Section 3 Policy that complies with the Uniform Standard Code 1701u and Federal Regulations at 24 CFR Part 135 (Section 3) and,

**WHEREAS**; The Housing Authority Section 3 policy plan will ensure that employment, training and other economic opportunities, to the greatest extent feasible, be directed to low and very low-income persons, particularly to public housing residents and to businesses that substantially provide economic opportunities to low-and very low-income persons and,

**WHEREAS**; Section 3 requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by HUD financial assistance covered by Section 3, regardless of the amount of the contract.

**NOW THEREFORE**, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of Prince George's County hereby approve to amend the Procurement Policy to adopt a comprehensive Section 3 Plan changes to as set forth in Attachment A.

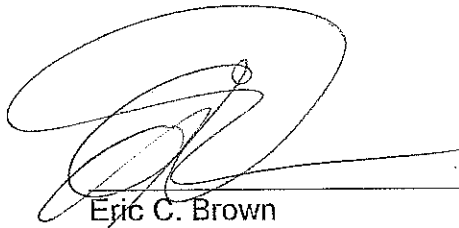

**BE IT FURTHER RESOLVED** that the Section 3 Plan shall become effective immediately.

RESOLVED this 28<sup>th</sup> day of September 2015.

(Seal)

ATTEST

HOUSING AUTHORITY OF PRINCE  
GEORGE'S COUNTY, MARYLAND

  
\_\_\_\_\_  
Eric C. Brown  
Executive Director  
\_\_\_\_\_  
Paul E. Rowe  
Chairman



**HOUSING AUTHORITY OF PRINCE GEORGE'S COUNTY**

**RESOLUTION NO. LHA 1280**

**A Resolution Authorizing the Staff to apply for and accept a Rental Allowance Program Grant from Maryland Department of Housing and Community Development**

**WHEREAS,** The Housing Authority of Prince George's County (the "Authority") is a Housing Authority (HA) created pursuant to §17-104 of the Housing Authorities Law of the Annotated Code of the State of Maryland, and has designated as one of its primary functions the provision of decent and safe housing opportunities for low and moderate income families and individuals; and

**WHEREAS,** The Maryland Department of Housing and Community Development administers the Rental Allowance Program pursuant to Section 4-1401 through 4-1406 of the Housing and Community Development Article of the Annotated Code of Maryland, as amended; and

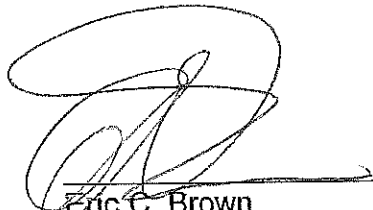
**WHEREAS,** The Housing Authority of Prince George's County desires to apply for funding under the Rental Allowance Program and accept a grant

**NOW THEREFORE,** BE IT RESOLVED that the Board of Commissioners of the Housing Authority of Prince George's County that the staff is hereby authorized to apply for and accept a Rental Allowance Program Grant from Maryland Department of Housing and Community Development.


RESOLVED this 28<sup>th</sup> day of September 2015.

(Seal)

ATTEST

  
\_\_\_\_\_  
Eric C. Brown  
Executive Director

HOUSING AUTHORITY OF PRINCE  
GEORGE'S COUNTY, MARYLAND

  
\_\_\_\_\_  
Paul E. Rowe  
Chairman

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**PRINCE GEORGE'S COUNTY  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
LOCALLY BASED BUSINESS PREFERENCE  
EQUAL EMPLOYMENT OPPORTUNITY AGREEMENT**

On behalf of \_\_\_\_\_, I hereby commit to offering equal opportunity in providing training opportunities, hiring, contracting and purchasing to all qualified job applicants, contractors, subcontractors, vendors, suppliers and other business related providers of goods and services without regard to race, age, color, sex, religion, national origin, physical disability or mental disability. The practice of non-discrimination will include, but not be limited to assuring equal opportunity in contracting, recruitment, training, hiring, placement, promotion, rate of pay and other compensation and termination.

I/we will comply with all relevant federal, state, and local regulations, administrative and executive orders requiring non-discrimination including but not limited to:

- (1) Federal Executive Order 11246 "Goals and Timetables for Females and Minority Participation in the Construction Industry".
- (2) The Civil Rights Act of 1964 as amended.
- (3) The Americans with Disabilities Act ("ADA") of 1990.
- (4) The Equal Employment Opportunities Act of 1992 as it relates to employment opportunities for local, small and disadvantaged businesses.
- (5) Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992. ("Section 3")

In compliance with Section 3 of the Department of Housing and Urban Development Act of 1968 (as amended), I will use my best efforts to assure that "County-based businesses," as defined under Section 10A-101 of the Prince George's County Code, including County-based small and County-based minority businesses, receive at least 30% of total dollar amounts of all contracts on construction and construction related work as well as any businesses created, business services and commercial/retail opportunities that result from the construction work funded in whole or in part by the project development assistance provided by Prince George's County Department of Housing and Community Development. I will also use my best efforts to maintain a minimum goal of 30 percent of the work hours for construction related employment be worked by Prince George's County ("County residents" as defined under Section 10A-101 of the Prince George's County Code) as well as 30 percent non-construction permanent and/or temporary employment created by this project to County residents.

(A) COMPLIANCE

- (1) I understand that all contracts and subcontracts, which are entered into under this agreement, are to contain the Assurance of Compliance form.
- (2) My firm will require all contractors and/or subcontractors to exert their best efforts to provide low/and very low income persons with employment and training opportunities and to provide businesses which are owned in part or wholly by persons living within the project area and whom employ low and very low income persons with contract opportunities.

constitute a breach of contract and may result in termination of the contract/funding.

- (4) My firm will fulfill our obligations to utilize Section 3 business concerns by developing and implementing an affirmative action plan.
- (5) My firm will incorporate the following "Section 3 clause" in all contracts for work on this covered project:

"The Section 3 Clause"

- (a). The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing the area of the Section 3 covered project.
- (b). The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- (c). The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- (d). The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal Financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (e). Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project,

binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

(B) RECORDS AND REPORTS

- (1) My firm will keep such records as are necessary to demonstrate its compliance with the requirements of Section 3.
- (2) My firm will maintain records and submit copies of these records, which document actions taken, and the results of those actions.

I/we will faithfully and forthrightly implement all necessary and practicable steps, procedures and plans to assure achievement of the stated goals. On-going communication and solicitation of local businesses and job applicants will continue prior to, during and after completion of the project or contract work in order to achieve the stated goals. Continuous and on-going coordination prior to, during and throughout lease-up and hiring will be carried out in cooperation with the Prince George's Minority Business Opportunities Commission, the Economic Development Corporation, the Peoples Industry Council, the Office of the County Executive, the Department of Housing and Community Development and other organizations and institutions that would be useful in achieving the goals and commitments stated herein. I/we will advertise employment, business and contractor opportunities in local and community newspapers, trade journals and other publications on a regular basis in order to assure wide distribution and knowledge of available opportunities.

The undersigned by their signatures certify that they have the authority necessary and requisite to legally bind the corporation to this agreement:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

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PRINCE GEORGE'S COUNTY COMMUNITY DEVELOPMENT PROGRAM  
ASSURANCE OF COMPLIANCE  
WITH DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGULATIONS  
FOR TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR  
BUSINESSES AND LOWER INCOME PERSONS

Project Title:

- A. The project assisted 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 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.
- B. Notwithstanding any other provision of this contract, the contractor shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this contract. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulation to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the project. The contractor certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.
- C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this contract shall be a condition of the Federal financial assistance provided to the project, binding upon the contractor, its successors and assigns. Failure to fulfill these requirements shall subject the contractor and his subcontractors, its successors, and assigns to the sanctions specified by this contract, and to such sanctions as are specified by 24 CFR Section 135.135.

Dated \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

BY \_\_\_\_\_  
(Authorized Official)

(Contractor's Mailing Address)

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**ESTIMATED PROJECT WORK FORCE BREAKDOWN**

JOB CATEGORY	TOTAL ESTIMATED POSITIONS NEEDED FOR PROJECT	NUMBER POSITIONS OCCUPIED BY PERMANENT EMPLOYEES	NUMBER OF POSITIONS NOT OCCUPIED	NUMBER OF POSITIONS TO BE FILLED WITH SECTION 3 RESIDENTS
Officer/Supervisor				
Professionals				
Technical				
Hsg. Sales/Rental Management				
Office/Clerical				
Service Workers				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Trainees				
Others				
TRADE:				
Journeyman				
Helpers				
Apprentices				
Trainees				
Others				

Section 3 Resident

Individual residing within the Section 3 area whose family income does not exceed 90% of the median income in the Metropolitan Statistical Area or the County if not within a MSA in which the Section 3 covered project is located.

---

 Company

---

 Project Name

---

 Project Number

---

 Person Completing Form

---

 Date

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**PROPOSED CONTRACTS/SUBCONTRACTS BREAKDOWN**

TYPE OF CONTRACT (Business or Professional)	TOTAL NO.	TOTAL APPROX. DOLLAR AMOUNT	ESTIMATED NO. OF CONTRACTS TO SECTION 3 BUSINESSES	ESTIMATED DOLLAR AMOUNT TO SECTION 3 BUSINESSES

---

Company

---

Project Name

---

Project Number

---

Person Completing Form

---

Date

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**ACTUAL PROJECT WORKFORCE BREAKDOWN**

TYPE OF CONTRACT (Business or Professional)	TOTAL NO.	TOTAL APPROX. DOLLAR AMOUNT	ESTIMATED NO. OF CONTRACTS TO SECTION 3 BUSINESSES	ESTIMATED DOLLAR AMOUNT TO SECTION 3 BUSINESSES

---

Company

---

Project Name

---

Project Number

---

Person Completing Form

---

Date

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SECTION 3 BUSINESS UTILIZATION

Project Number: \_\_\_\_\_ Total Dollar Amount of Contract: \_\_\_\_\_

Name of Prime Contractor: \_\_\_\_\_ Address: \_\_\_\_\_ Federal Identification No.: \_\_\_\_\_  
\_\_\_\_\_

NAME OF SUBCONTRACTOR	SECT. 3 BANK*	ADDRESS AND PHONE NO.	TRADE/SERVICE OR SUPPLY	CONTRACT AMOUNT	AWARD DATE	COMPETITIVE OR NEGOTIATED NO.	FEDERAL IDENTIFICATION NO.

*\*Check if a Section 3 business concern*

TOTAL DOLLAR AMOUNT AWARDED TO SECTION 3 BUSINESS \$\_\_\_\_\_

Section 3 Business Concern

A business concern which is located in or owned in substantial part (at least 81%) by persons residing in the same metropolitan area or non-metropolitan county as the project.

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Section 3 Summary Report  
Economic Opportunities for  
Low – and Very Low-Income Persons

U.S. Department of Housing  
and Urban Development  
Office of Fair Housing  
And Equal Opportunity

OMB Approval No: 2529-0043  
(exp. 8/31/2007)

Hud Field Office:

See page 2 for Public Reporting Burden statement

1. Recipient Name & Address: (street, city, state, zip)	2. Federal Identification: (contract/award no.)	3. Dollar Amount of Award:
	4. Contact Person	5. Phone: (Include area code)
	6. Reporting Period:	7. Date Report Submitted:
8. Program Code * <div></div> <div>(Use a separate sheet for each program code)</div>	9. Program Name:	

Part I: Employment and Training (\*\* Include New Hires in columns E & F.)

A Job Category	B Number of New Hires	C Number of New Hires that are Sec. 3 Residents	D % of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	E** % of Total Staff Hours for Section 3 Employees and Trainees	F** Number of Section 3 Employees and Trainees
Professionals					
Technicians					
Office/Clerical					
Construction by Trade (List Trade					
Trade					
Trade					
Trade					
Trade					
Other (List)					
				!!	
Total					

\* Program Codes  
1 = Flexible Subsidy  
2 = Section 202/811

3 = Public/Indian Housing  
A = Development,  
B = Operation  
C = Modernization

4 = Homeless Assistance  
5 = HOME  
6 = HOME State Administered  
7 = CDBG Entitlement

8 = CDBG State Administered  
9 = Other CD Programs  
10 = Other Housing Programs

## Part II: Contracts Awarded

### 1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

### 2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

## Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- ☐ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- ☐ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ☐ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ☐ Other; describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, Searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs as directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.



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**Prince George's County, Maryland Income Limits****FY 2015 Median Family Income: \$109,200**

<b>Household Size</b>	<b>EXTREMELY LOW INCOME (30% AMI)</b>	<b>VERY LOW INCOME (50% AMI)</b>	<b>60% AMI</b>	<b>LOW INCOME (80% AMI)</b>	<b>2015 Uncapped Income Limits</b>
1	\$22,950	\$38,250	\$45,900	\$47,600	\$61,150
2	\$26,200	\$43,700	\$52,440	\$54,400	\$69,900
3	\$29,500	\$49,150	\$58,980	\$61,200	\$78,650
4	\$32,750	\$54,600	\$65,520	\$68,000	\$87,350
5	\$35,400	\$59,000	\$70,800	\$73,450	\$94,350
6	\$38,000	\$63,350	\$76,020	\$78,900	\$101,350
7	\$40,650	\$67,750	\$81,300	\$84,350	\$108,350
8	\$43,250	\$72,100	\$86,520	\$89,800	\$115,350

**Source:** U.S. Department of Housing and Urban Development (<http://www.huduser.org>)

Prince George's County uses the "uncapped" income limits to determine applicant eligibility to participate in the County's homeowner rehabilitation and homebuyer assistance programs administered with CDBG and/or HOME funds.

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## **Department of Housing and Community Development Section 3 Action Plan for Sub-recipients, Contractors and Subcontractors**

The Section 3 Action Plan identifies the goals, objectives, and actions that will be implemented to ensure compliance with the requirements of Section 3. Provide detailed information on the following items below which describes how you will achieve your Section 3 goals.

1. With how many Section 3 businesses does your company anticipate working? What strategies will your company use for contracting with Section 3 business concerns? (specify the efforts to be taken, and dates, etc.)
2. How many Section 3 new hires does your company anticipate making? What strategies will your company use for reaching out to and hiring Section 3 residents? (specify the efforts to be taken and dates, how effective have these strategies been in the past?)
3. What efforts will your company use to conduct aggressive outreach and notification to Potential Section 3 residents and businesses of contracting and employment opportunities? (how effective have these strategies been in the past?)



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**Complaint Register**Under Section 3 of the Housing  
And Urban Development Act of 1968**U.S. Department of Housing  
and Urban Development**Office of Fair Housing  
and Equal Opportunity

OMB Approval No. 2529-0043 (revised)

(Expires 8/31/2015)

**Instructions:** This form is to be used to report allegations of noncompliance with Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations at 24 CFR Part 135.

<b>1. Complainant Information:</b>	
Name of Complainant (Person or organization)	Home Phone
Street Address	Work Phone
City, State, Zip code	
Email Address:	

<b>2. You are: (check all that apply)</b>	
<input type="checkbox"/> Low/Very Low Income Person  <input type="checkbox"/> Public Housing Resident  <input type="checkbox"/> HUD Youthbuild Participant  <input type="checkbox"/> A Representative of any of the above listed Individuals (Such as: a Low-Income Person or Public Housing Resident)	<input type="checkbox"/> Section 3 Business  <input type="checkbox"/> A Representative of a Section 3 Business  <input type="checkbox"/> Other: _____

<b>3. Basis for alleged noncompliance with Section 3:</b>	
<input type="checkbox"/> Denied Training <input type="checkbox"/> Denied Employment <input type="checkbox"/> Denied Contracting <input type="checkbox"/> Other (see below in item 6)	

<b>4. Complaint is against: (check one or more boxes)</b>	
<input type="checkbox"/> Recipient of HUD Funds (Such: as a PHA, city/county agency, etc.)	<input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Other (please specify): _____

<b>5. Who is this complaint being filed against?</b>	
Name of agency, organization, or company:	Business Phone
Street Address	
City, State, Zip code	
Name and identify others (if any) who allegedly violated Section 3 in this case:	

**6. How did the HUD recipient, contractor, or subcontractor violate the requirements of Section 3?**  
(Check all that apply – provide documentation, if available)

HUD Recipient	Contractor and/or Subcontractor
<input type="checkbox"/> Failed to notify Section 3 businesses about contracting opportunities  <input type="checkbox"/> Failed to incorporate the Section 3 Clause into covered Section 3 bid solicitations or contracts  <input type="checkbox"/> Failed to provide priority consideration to Section 3 businesses for covered contracting opportunities  <input type="checkbox"/> Failed to select Section 3 businesses in accordance with the order of priority consideration as set forth in 24 CFR 135.36  <input type="checkbox"/> Failed to award contracts to Section 3 businesses  <input type="checkbox"/> Failed to ensure that its contractors/ subcontractors complied with Section 3 requirements  <input type="checkbox"/> Knowingly entered into contracts with contractors/ subcontractors that failed to comply with Section 3 requirements  <input type="checkbox"/> Failed to notify Section 3 residents about training and/or employment opportunities  <input type="checkbox"/> Failed to provide priority consideration to Section 3 residents for employment or training opportunities  <input type="checkbox"/> Failed to select Section 3 residents for training or employment opportunities in accordance with the order of priority consideration set forth in 24 CFR 135.34  <input type="checkbox"/> Failed to hire Section 3 residents for new employment opportunities  <input type="checkbox"/> Retaliated against the complainant because complainant sought to enforce Section 3 requirements or participated in an investigation or proceeding regarding Section 3  <input type="checkbox"/> Other <hr/>	<input type="checkbox"/> Failed to certify that all employment vacancies filled prior to contract execution were not filled to circumvent Section 3  <input type="checkbox"/> Failed to notify potential subcontractors about Section 3 requirements  <input type="checkbox"/> Failed to post notices at the work site regarding Section 3 requirements in accordance with the Section 3 Clause  <input type="checkbox"/> Failed to send to each labor organization or representative of workers a notice of Section 3 obligations in accordance with the Section 3 Clause  <input type="checkbox"/> Failed to ensure that its subcontractors complied with Section 3  <input type="checkbox"/> Failed to train and/or hire Section 3 residents for new employment opportunities  <input type="checkbox"/> Failed to provide priority consideration to Section 3 residents for employment or training opportunities in accordance with 24 CFR Part 135.34  <input type="checkbox"/> Failed to ensure that contracts awarded to subcontractors included the Section 3 Clause  <input type="checkbox"/> Failed to award subcontracts to Section 3 businesses  <input type="checkbox"/> Failed to award subcontracts to Section 3 businesses in accordance with the order of priority consideration set forth in 24 CFR 135.34  <input type="checkbox"/> Retaliated against the complainant because complainant sought to enforce Section 3 requirements or participated in an investigation or proceeding regarding Section 3  <input type="checkbox"/> Other <hr/>

7. **When did the act(s) checked above occur?** (Include the most recent date if several dates are involved):

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Month Day Year

\* The date of the last alleged violation or occurrence must be less than 180 days from the date of submission to HUD.

8. **Project name or location where alleged violation occurred?** (If applicable):

Project Name (if applicable): \_\_\_\_\_ Project Number: \_\_\_\_\_

Project Location: \_\_\_\_\_

Local Contracting Agency (LCA): \_\_\_\_\_

9. **Identify the type of HUD funding used by the HUD funding recipient, organization, or contractor that this complaint is filed against:** (Check all that apply)

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> PIH Operating Subsidy                | <input type="checkbox"/> Other PIH Assistance                      | <input type="checkbox"/> Neighborhood Stabilization Program (NSP) Assistance | <input type="checkbox"/> Section 811 Supportive Housing for the Disabled |
| <input type="checkbox"/> PIH Capital Fund Subsidy             | <input type="checkbox"/> Community Development Block Grants (CDBG) | <input type="checkbox"/> Other Community Development Assistance              | <input type="checkbox"/> Project Based Housing Vouchers                  |
| <input type="checkbox"/> Choice Neighborhood Initiative Grant | <input type="checkbox"/> HOME Investment Partnership Funding       | <input type="checkbox"/> Lead-Based Paint                                    | <input type="checkbox"/> Other HUD Housing Assistance                    |
| <input type="checkbox"/> HOPE VI Grant                        | <input type="checkbox"/> McKinney Homeless Assistance              | <input type="checkbox"/> Section 202 Supportive Housing for the Elderly      | <input type="checkbox"/> Other Covered HUD Funding                       |



**10. Description of act(s) or incident(s) involving alleged violation of Section 3:**

Summarize what happened? Attach additional information if necessary

**11. Declaration Statement**

**I declare under penalty of perjury that I have read this complaint (including any attachments) and that all information is accurate and correct.**

Signature

Date

## Section 3 of the Housing and Urban Development Act of 1968

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

The information is given voluntarily and provides the basis for HUD's investigation of the complaint to determine if the allegations of noncompliance are valid. The Department will use the information provided as the basis for its determination of jurisdiction over a complainant's allegations. All information collected complies with the Privacy Act of 1974 and OMB Circular A-108. The information is unique to the processing of complaints alleging noncompliance with the Section 3 statute or implementing regulations. The information collected on this form will only be used by HUD during the investigation and resolution of complaints and will not be shared with persons or parties that are not directly involved with the complaint.

### What is Section 3 of the Housing and Urban Development Act of 1968?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 requirements ensure that **when** new jobs or contracts are created during the usage of certain HUD funds, priority consideration is given to low- and very low-income persons residing in the community in which the funds are spent (regardless of race or gender), and to the businesses that substantially employ these persons.

### Who are Section 3 residents and businesses?

Section 3 residents are:

- Public housing residents; or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below HUD's income limits for low- and very low-income.

Please visit: <http://www.huduser.org/portal/datasets/il.html> to determine the income limits for residents of your community.

A Section 3 business is one that meets one of the following criteria:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

### What HUD funding does Section 3 cover?

Section 3 applies to any of the following:

- A. Public and Indian Housing programs that receive: (1) Annual contributions for low income housing projects provided pursuant to section 5 of the U.S. Housing Act of 1937, as amended by the Quality Housing and Work Responsibility Act of 1998 (QWHRA); (2) Capital Fund Project assistance provided pursuant to Section 9 of QHWRRA; (3) Operating Subsidy assistance provided pursuant to Section 9 of QHWRRA.
- B. Housing and community development assistance extended for: (1) housing rehabilitation (including reduction and abatement of lead based paint hazards); (2) housing construction or (3) other public construction projects; and for which the contract and subcontract exceeds \$100,000; and
- C. Certain competitive HUD grant funding, such as: HOPE VI, Choice Neighborhoods, etc.).

## **What can you do about violations of the Law?**

Remember, Section 3 applies to the awarding of jobs, training programs, and contracts, generated from projects receiving HUD financial assistance. If you believe that, as a low-income person or a Section 3 business concern, the responsibilities to provide economic opportunities under Section 3 have been violated, you have a right to file a complaint within **180 days** of the last alleged occurrences of noncompliance.

Complaints alleging violations of the Section 3 regulatory requirements must be submitted to the appropriate HUD Regional Office of Fair Housing and Equal Opportunity listed below. Please be certain to sign and date this form, where indicated, to ensure prompt complaint processing.

HUD will send the complaint to the appropriate HUD recipient for resolution. If resolution by the recipient fails, HUD will investigate. If HUD finds that the complaint has merit, it will try to end the violation by informal resolution. If conciliation fails, HUD may initiate other steps to enforce the law, including but not limited to suspension and debarment of the recipient or contractors as applicable.

You can obtain assistance in learning about more Section 3 by visiting [www.hud.gov/section3](http://www.hud.gov/section3) or by contacting one of the HUD's Regional Offices of Fair Housing and Equal Opportunity.

**Authority:** Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1968, as amended by the Housing and Community Development Act of 1992, U.S.C. 1701u and implementing regulations at 24 CFR Part 135.

**Purpose:** The information requested on this form is to be used to investigate and process Section 3 complaints.

**Use:** The information requested will be used to process a complaint filed under Part 135. HUD may disclose certain information for Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.

**Penalty:** Failure to provide some or all of the requested information will result in delayed processing or rejection of this complaint for investigation.

### **Privacy Act of 1974 (P.L.93-579)**

All information collected is provided voluntarily and complies with the Privacy Act of 1974 and OMB Circular A-108. The information is unique to the processing of complaints alleging noncompliance with the Section 3 statute or implementing regulations. The information collected on this form will only be used by HUD during the investigation and resolution of complaints and will not be shared with persons or parties that are not directly involved with the complaint.

## Instructions for completing the Section 3 Complaint Register

- Box 1:** Enter the requested information for the person that is filing the complaint (i.e., the complainant). This person must meet the definition of a Section 3 resident or business.
- Box 2:** Select the appropriate statement that describes your status as a Section 3 resident, businesses, or representative of either.
- Box 3:** Select the appropriate basis for the complaint which you are filing.
- Box 4:** Select the appropriate option that best describes the person or entity that you are filing this complaint against.
- Box 5:** Provide the name, address, and contact information for the person or entity that you are filing this complaint against.
- Box 6:** Select the statement(s) that best describe the alleged actions or omissions undertaken by the person or entity that you are filing this complaint against that are in violation of the requirements of Section 3. If you select "other", please briefly describe the alleged violation on the appropriate line.
- Box 7:** Provide the date that the alleged violation or action occurred. If the alleged act or violation is continuing in nature, please provide the date of the most recent occurrence.
- Box 8:** If this complaint is based upon acts or omissions that occurred at a specific job site, project, or location, please provide information that will allow HUD to identify the specific project that is the subject of the complaint that you are filing.
- Box 9:** Select the appropriate type of covered HUD funding that the recipient, organization, contractor/subcontractor received or administered.  
**NOTE:** In order for the complaint to be jurisdictional, covered HUD funding must be administered by the recipient, organization, contractor/subcontractor.
- Box 10:** Provide a detailed description of the acts or omissions undertaken by the person or entity that you filing this complaint against. Provide enough specific information to enable HUD to clearly understand the alleged violation and whether it demonstrates noncompliance with the requirements of Section 3.
- Box 11:** Please sign the complaint and enter the current date.  
**NOTE:** By signing and dating this complaint you are affirming that your statements and allegations are true and accurate by penalty of perjury. Complaints **must** be signed and dated prior to acceptance by HUD for investigation.



**Where to file your complaint:**

Please fax or mail your complaint to the appropriate HUD Regional Office of Fair Housing and Equal Opportunity that has jurisdiction over the state for which you are located or where the alleged violation occurred. Inquiries regarding the status of your complaint should be directed to the appropriate Regional office of FHEO by telephone or email.

<b>BOSTON REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development New England Office 10 Causeway Street, Suite 308 Boston, MA 02222 (617) 994-8300 (800) 827-5005 Fax: (617) 565-7313 Email: <a href="mailto:complaints_office_01@hud.gov">complaints_office_01@hud.gov</a>  *Covers the following states: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	<b>FORT WORTH REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development Southwest Office 801 Cherry St., Unit 45, Suite 2500 Fort Worth, TX 76102 (817) 978-5900 (888) 560-8913 Fax: (817) 978-5876 Email: <a href="mailto:complaints_office_06@hud.gov">complaints_office_06@hud.gov</a>  *Covers the following states: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
<b>NEW YORK REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development New York and New Jersey Office 26 Federal Plaza New York, NY 10278 (212) 264-1290 (800) 496-4294 Fax: (212) 264-9829 Email: <a href="mailto:complaints_office_02@hud.gov">complaints_office_02@hud.gov</a>  *Covers the following states: New Jersey and New York	<b>KANSAS CITY REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development Great Plains Office 400 State Avenue Kansas City, KS 66101 (913) 551-6958 (800) 743-5323 Fax: (913) 551-6856 Email: <a href="mailto:complaints_office_07@hud.gov">complaints_office_07@hud.gov</a>  *Covers the following states: Iowa, Kansas, Missouri, and Nebraska
<b>PHILADELPHIA REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development Mid-Atlantic Office 100 Penn Square East, 12 <sup>th</sup> Floor Philadelphia, PA 19107 (215) 861-7646 (888) 799-2085 Fax: (215) 656-3449 Email: <a href="mailto:complaints_office_03@hud.gov">complaints_office_03@hud.gov</a>  *Covers the following states: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	<b>DENVER REGIONAL OFFICE</b> U.S. Department of Housing and Urban Development Rocky Mountain Office 1670 Broadway Denver, CO 80202 (303) 672-5437 (800) 877-7353 Fax: (303) 672-5026 Email: <a href="mailto:complaints_office_08@hud.gov">complaints_office_08@hud.gov</a>  *Covers the following states: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming

<p><b>ATLANTA REGIONAL OFFICE</b>  U.S. Department of Housing and Urban Development  Southeast Office  40 Marietta Street  Atlanta, GA 30303  (404) 331-5140  (800) 440-8091  Fax: (404) 331-1021  Email: <a href="mailto:complaints_office_04@hud.gov">complaints_office_04@hud.gov</a></p> <p>*Covers the following states: Alabama, Puerto Rico, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and the Virgin Islands</p>	<p><b>SAN FRANCISCO REGIONAL OFFICE</b>  U.S. Department of Housing and Urban Development  Pacific/Hawaii Office  600 Harrison Street  Third Floor  San Francisco, CA 94107  (415) 489-6536  (800) 347-3739  Fax: (415) 489-6560  Email: <a href="mailto:complaints_office_09@hud.gov">complaints_office_09@hud.gov</a></p> <p>*Covers the following states: Arizona, California, Guam, Hawaii, and Nevada</p>
<p><b>CHICAGO REGIONAL OFFICE</b>  U.S. Department of Housing and Urban Development  Midwest Office  77 W. Jackson Boulevard, Suite 2101  Chicago, IL 60604  (312) 353-7776  (800) 765-9372  Fax: (312) 886-2837  Email: <a href="mailto:complaints_office_05@hud.gov">complaints_office_05@hud.gov</a></p> <p>*Covers the following states: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin</p>	<p><b>SEATTLE REGIONAL OFFICE</b>  U.S. Department of Housing and Urban Development  Northwest/Alaska Office  909 First Avenue  Seattle, WA 98104  (206) 220-5170  (800)877-0246  Fax: (206) 220-5447  Email: <a href="mailto:complaints_office_03@hud.gov">complaints_office_03@hud.gov</a></p> <p>*Covers the following states: Alaska, Idaho, Oregon, and Washington</p>

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## How to Use HUD's Section 3 Business Registry Webpage

The Section 3 Business Registry is a listing of firms that have self-certified that they meet one of the regulatory definitions of a Section 3 business and are included in a searchable online database that can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of certain HUD-funded contracts. The database can also be used by Section 3 residents to identify businesses that may have HUD-funded employment opportunities.

This registry is a helpful tool to locate Section 3 businesses in their community. It also enables HUD grantees to meet their Section 3 obligations by reducing some of the burden associated with locating eligible businesses.

### Am I a Section 3 Business?

This feature allows businesses that potentially meet one of the three regulatory definitions of a Section 3 Business Concern to determine whether they meet one (or more) of the qualifications.

#### **Option 1: Determine if the Business Meets the Definition of a Section 3 Business Based on Ownership**

1. Enter the Number of Owners that Meet the Definition of a Section 3 Resident for the Metropolitan Area or Non-Metropolitan County Where the Project is Located
2. Enter the Total Number of All Other Owners of the Business
3. Percentage is Automatically Calculated

If percentage is less than 51% the business does not meet the definition of a Section 3 Business

#### **Option 2: Determine if the Business Meets the Definition of a Section 3 Business Based Percentage of Full Time Employees**

1. Enter the Total Number of Full-Time Employees in all Job Categories
2. Enter the Number of Full-Time Employees that Currently Meet the Definition of a Section 3 Resident for the Metropolitan Area or Non-Metropolitan County Where the Project is Located
3. Enter the Number of Full-Time Employees that Met the Definition of a Section 3 Resident for the Metropolitan Area or Non-Metropolitan County Where the Project is Located Within Three Years From the Date of First Employment with the Business
4. Percentage is Automatically Calculated

If percentage is less than 30% the business does not meet the definition of a Section 3 Business

#### **Option 3: Determine if the Business Meets the Definition of a Section 3 Business Based the Award of Subcontracts to Businesses that Meet the Requirements of Option 2 or 3 Above.**

1. Enter the Total Dollar Amount of Sub-Contracts to Be Awarded on Covered Activities
2. Enter the Total Dollar Amount of Sub-Contracts to be Awarded to Businesses that Meet One of the Definitions of a Section 3 Business for the Metropolitan Area or Non-Metropolitan County Where the Project is Located that will Receive Contracts for Covered Activities
3. Percentage is Automatically Calculated

If percentage is less than 25% the business does not meet the definition of a Section 3 Business

**Businesses that meet one of the preceding definitions of a Section 3 Business may proceed to self-certify their eligibility to HUD and HUD-funded grantees.**



### Register A Business

This feature allows businesses that meet one of the regulatory definitions of a Section 3 Business Concern to self-certify they status to HUD.

Section 3 Businesses are defined as: Section 3 business concerns are businesses that can provide evidence that they meet one of the following criteria:

- a) 51 percent or more owned by [Section 3 residents](#); or
- b) At least 30 percent of its full time employees include persons that are currently [Section 3 residents](#), or were Section 3 residents within three years of the date of first hire\*; or
- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications above.

**All box fields with \* are required fields that must be filled with information regarding that box before an application can be submitted.**

### **Select the Location of the Section 3 Business \***

- 1. Select the drop down box to choose the State where the business is located.
- 2. Select the drop down for county's which will automatically populate the counties from the state selected previously.
- 3. Select your city from the next drop down tab which will automatically populate the cities from the county you selected.
- 4. Select the zip code for the selected city.

Once the above steps have been taken your selected state, county, city, and zip code be automatically generated in the application and you can now begin entering in your business detail information.

Box 1:	<b>Business Name</b> <b>REQUIRED FIELD (*)</b>	Enter the name of your business as it appears in your state's registered business database, DBA (Doing Business As), LLC, or Corporation.
Box 2:	<b>Business Street Address</b> <b>REQUIRED FIELD (*)</b>	Enter the address as it appears in your state's registered business database, DBA (Doing Business As), LLC, or Corporation. <b>(PO Boxes accepted)</b>
Box 3:	<b>Business City</b> <b>REQUIRED FIELD (*)</b>	<b>Automatically Populated</b>
Box 4:	<b>County</b> <b>REQUIRED FIELD (*)</b>	<b>Automatically Populated</b>
Box 5:	<b>State</b> <b>REQUIRED FIELD (*)</b>	<b>Automatically Populated</b>
Box 6:	<b>Zip Code</b> <b>REQUIRED FIELD (*)</b>	<b>Automatically Populated</b>
Box 7:	<b>Business Telephone Number</b> <b>REQUIRED FIELD (*)</b>	Enter the business contact number
Box 8:	<b>Business Website Address</b>	Enter the business website address/URL
Box 9:	<b>Business Point of Contact</b> <b>REQUIRED FIELD (*)</b>	Enter the name of the primary contact person
Box 10:	<b>Business Email</b> <b>REQUIRED FIELD (*)</b>	Enter the name of the primary contact person's email address
Box 11:	<b>Contact Phone Number</b>	Enter the number of the primary contact person
Box 12:	<b>Number of Employees</b> <b>REQUIRED FIELD (*)</b>	Enter the total number of currently employed staff, including yourself and partners if any
Box 13:	<b>Business License</b>	Enter your businesses license number. Virtually every business needs some form of license or permit to operate legally. However, licensing and permit requirements vary depending on the type of business you are operating, where it's located, and what government rules apply. In most cases, there is a fee charged to obtain a business license. Requirements for a business license vary by state and municipality. Please visit: <a href="http://www.sba.gov/content/search-business-licenses-and-permits">http://www.sba.gov/content/search-business-licenses-and-permits</a> to learn more about obtaining a business license. <b>If</b>

		a business license number is not required please enter "Not Applicable"
Box 14:	NAICS	North American Industry Classification System (NAICS). NAICS is a system used to classify establishments by industry
Box 15:	Year Business Established REQUIRED FIELD (*)	Enter the year the business was established
Box 16:	Duns Number	Duns is a unique 9 digit universal numbering system that's used by businesses and the federal government to keep track of more than 70 million businesses world-wide. D-U-N-S Number assignment is free for all businesses required to register with the federal government for contracts or grants. For more information on DUNS numbers go to SBA.gov
Box 17:	EIN	An Employer Identification Number (EIN) is also known as a Federal Tax Identification Number, and is used to identify a business entity. Generally, businesses need an EIN. You can apply through the IRS. This is a free service offered by the Internal Revenue Service. You must check with <a href="#">your state</a> to make sure you need a state number or charter.
Box 18:	Business Capabilities Narrative	Capability Narrative is a summary of a company's ability to perform. What services does my business provide relative to my primary NAICS code? <b>Your narrative must be less than 4,000 characters.</b>
Box 19:	Please note any locations within the County and/or City Area that your business is NOT willing to serve.	Enter any County and/or City Area that your business is NOT willing to serve. <b>MUST BE LESS THAN 200 CHARACTERS.</b>
Box 20:	Section 3 Business Criteria: REQUIRED FIELD (*)	At least one of the criteria's must be checked. Click here <a href="#">Am I a Section 3 Business</a> to determine if you or your business is eligible to receive preference as a Section 3 business
<p><b>NEXT</b></p> <p>* Type of services that your business provides: Please check at least one box. If other please provide description. REQUIRED FIELD (*)</p>		
Box 21:	Other	Give a brief description of your company and what services it provides.
Is your Business Currently Hiring New Employees: Check either Yes or No		
<p>After Reading disclaimer tap the "Register Business" tab. The next page will ask you to verify your information and allow you the opportunity to make any necessary corrections. Once you have verified your information you can then select 'Submit Registration' to continue or 'Cancel' to return to the form to make any corrections. Once submitted your business will be added to the registry.</p>		

### How to Search For A Section 3 Business

This feature allows users to search for Section 3 businesses in their community based on the criteria entered into the system.

<b>Step 1:</b>	<b>Select the Location That You Are Searching for Section 3 Businesses*</b> <ol style="list-style-type: none"><li>1. Select the drop down box to choose the State where you are searching for Section 3 businesses.</li><li>2. Select the drop down for the county that you are searching for Section 3 businesses. The list will be automatically populated with counties from the state selected previously.</li><li>3. Select the city that you are searching for Section 3 businesses in. The list will be automatically populated with the cities from the county you selected.</li><li>4. Select the zip code for the selected city.</li></ol>
<b>Step 2:</b>	<b>Select the Type of Section 3 Businesses That You Are Seeking:</b> <ul style="list-style-type: none"><li>▪ Brick Masonry</li><li>▪ Carpentry</li><li>▪ Electrical</li><li>▪ General Contractor</li><li>▪ HVAC</li><li>▪ IT</li><li>▪ Janitorial</li><li>▪ Landscaping</li><li>▪ Lead Hazard Control</li><li>▪ Maintenance</li><li>▪ Painting/Drywall</li><li>▪ Plumbing</li><li>▪ Security</li><li>▪ Other</li></ul>
<b>Step 3:</b>	<b>Click "Search for a Business"</b>
<b>Step 4:</b>	<b>Search Results Will Be Generated for the Criteria Entered</b>
<b>Step 5:</b>	<b>Search results can be exported to an Excel spreadsheet to allow users to send group emails or send mass mailings.</b>

#### **Disclaimer:**

HUD has not verified the information submitted by businesses listed in this registry and does not endorse the services that they provide. Users of this database are strongly encouraged to perform due diligence by verifying Section 3 eligibility before providing preference or awarding contracts to firms that have self-certified their Section 3 status with the Department.

#### **How Do I Notify HUD if I Suspect that a Business in this Registry Does Not Meet Section 3 Eligibility Criteria?**

If you believe that a firm has misrepresented itself as a Section 3 Business, please submit an email to the U.S. Department of Housing and Urban Development by clicking here: [Sec3biz@hud.gov](mailto:Sec3biz@hud.gov)

#### **Your email should contain the following:**

- Your name, telephone number, and email address (this information will not be shared outside of HUD)
- Name, city, and state of firm that has allegedly misrepresented their status as a Section 3 business.
- Any narrative explanations describing why you believe that this firm does not meet the Section 3 Business eligibility criteria.

\*Red asterisk indicates a required field.

## We Need Your Help!!

HUD's [Section 3 Business Registry](#) contains contract information for Section 3 businesses across the country. Its purpose is to increase the amount of contracts that are awarded Section 3 Businesses and their overall exposure to HUD-funded agencies and their subrecipients, contractors, and developers—all of who have Section 3 obligations.

Its success depends on the number of businesses that self-certify and recipients, contractors, etc. that use it!!

Please encourage Section 3 Businesses that you have worked with previously, or that you think may meet one of the regulatory definitions, to self-certify with HUD's Section 3 Business Registry. Doing so will make other local agencies and contractors with Section 3 obligations aware of their status and the services they provide, which will ultimately strengthen your local economy and promote self-sufficiency.

We also encourage PHAs and other covered grantees to use the registry as a tool for locating Section 3 businesses in your local area to be notified about HUD-funded contracting opportunities that you or your subrecipients, contractors, developers, etc. may have available, as stipulated in the Section 3 regulations.

Please [click here](#) to access Section 3 Outreach Materials.

Additional information about Section 3 obligations can be obtained by visiting:  
[www.hud.gov/section3](http://www.hud.gov/section3)

Thank you for your assistance!



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# **FHEO Section 3 Performance Evaluation and Registry System (SPEARS)**

## **60002 Component**

## **User Registration Guide**

**U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity (FHEO)**

**October 2015**

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# 1 Introduction

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and the implementing regulation at 24 CFR § 135, which recognizes that HUD funds are typically one of the largest sources of federal funding invested in communities in the form of grants, loans, entitlement allocations and other sources of financial assistance.

Section 3 is intended to ensure that when employment and economic opportunities are generated by certain HUD financial assistance for housing and community development programs, preference must be given, to the greatest extent feasible, to low-and very low-income persons in the community where the project is located, particularly those who are recipients of government assistance for housing.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) is charged with oversight and monitoring of Section 3 compliance for approximately 5,000 direct recipients of covered funding. In accordance with Section 3 guidelines at 24 CFR § 135.90, all recipients of HUD financial assistance covered by Section 3 are required to submit Section 3 Summary Reports (Form HUD 60002) annually.

The Section 3 Performance Evaluation and Registry System (SPEARS) is comprised of two web-based applications. First, the Section 3 reporting component provides a means for recipients of HUD financial assistance covered by Section 3 to submit Form HUD 60002 to HUD electronically. The second component, the Section 3 Business Registry, is a platform that allows Section 3 businesses to self-certify their status with the Department so that local recipients can notify them about the availability of HUD-funded contracting opportunities.

## 2 Purpose of the Section 3 Reporting Component of SPEARS

All submissions of Form HUD 60002 must be completed electronically. This guide provides an overview of the Registration Steps for access to SPEARS through HUD's Secure Systems portal - Web Access Secure System (WASS) and to submit Form HUD 60002. It is intended to be used by direct recipients of Section 3 covered HUD financial assistance. A link to an accompanying videotaped training on using the Section 3 Reporting component of SPEARS can be found at: [www.hud.gov/section3](http://www.hud.gov/section3).

## 3 HUD Secure Systems

SPEARS is accessed through the HUD Secure Systems portal. Secure Systems supports many other HUD applications such as REAC NASS, PASS, FASS and Multifamily Housing's APPS, TRACS, and iREMS. Secure Systems requires Social Security Numbers and other personal information from users to identify those who have been granted access to its secure system. Secure Systems users are individuals who work with trusted partners, HUD employees, or are contractors who work with HUD. Those who work with trusted partners are called Coordinators and external users. HUD employees and contractors are individuals who help administer and provide support to the Coordinators and external users. These individuals may be System Administrators, Technical Assistance Center (TAC) Users, or other HUD program staff. Others are internal users who access the system through the HUD Intranet. For general information on Secure Systems, please see the WASS User Guide at: [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_24911.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_24911.pdf).

## User Registration Quick Reference

The following elements are required to access SPEARS:

- ✓ Organization needs to be recognized by HUD either as a Public Housing Authority (PHA) or as a Multifamily Housing Entity\*
- ✓ Active Secure Systems ID with association with a PHA HA Code or Multifamily Organization Tax ID
- ✓ COR action assignment in Secure Systems (for System Coordinators only)
- ✓ S3P role assignment in Secure Systems by a System Coordinator

\*All non-PHAs are referred to as Multifamily Housing Entity because system limitations. This would include entitlement communities, States and NOFA grantees

## 4 SPEARS Registration

### Step 1 – Business Partner Registration

SPEARS recognizes 2 types of business partner organizations - Public Housing Authority by PHA HA Code and Multifamily Housing Entity by Tax ID number. The Business Partner organization must be recognized by HUD Secure Systems.

Public Housing Authority participants are already registered in the PIH Inventory Management System (PIC) and can skip to **Step 2 – HUD Secure Systems Registration**.

Multifamily Housing Entities must be registered via the HUD Multifamily Business Partner Registration System (APPS). To register your organization:

1. Go to [https://hudapps2.hud.gov/apps/part\\_reg/apps040.cfm](https://hudapps2.hud.gov/apps/part_reg/apps040.cfm)
2. Enter your organization's Tax Identification Number (TIN) and click **Submit**.

The screenshot shows a web form titled "Business Partner Registration HUD Multifamily". Below the title, there is instructional text: "If the participant you are about to register has done business with HUD before, you do not need to complete the Business Partner Registration HUD Multifamily below. Go to the [Secure Systems Registration page](#) to obtain a Coordinator or User ID if you have not already done so." The form contains two input fields: "TIN: [text box] (no dashes)" and "or SSN: [text box] (no dashes)". Below these fields is a checkbox labeled "Check if SSN is used as TIN for Sole Proprietor". At the bottom right of the form is a "Submit" button.

3. If the following screen is displayed stating that the Participant **(TIN) had been processed**, the organization's TIN is already registered in SECURE SYSTEMS. Proceed to **Step 2 – HUD Secure Systems Registration**.



***Business Partner Registration  
HUD Multifamily***

**Participant (123456789) had been processed.**

**If you registered a participant in the past 24 hours or previously registered and you cannot find the participant in APPS or Business Partner Maintenance or Participant Assignment Maintenance on Secure System, contact PPSD staff.**

4. If you receive a blank form, complete it and click **Save**.

***Business Partner Registration  
HUD Multifamily***

All fields marked with an asterisk(\*) are mandatory

\* Company Name:

TIN:

\* Legal Structure:

\* Type of Ownership:

5. Business Partner Registrations are processed nightly so check the system the following day by re-entering the organization's TIN as described above to ensure the business is successfully registered.

## Step 2 – HUD Secure Systems User and Coordinator Registration

Users can be registered as a **User** or a **System Coordinator**. Coordinators and Users have different permissions. A System Coordinator will be required for granting access to SPEARS Users. See **Step 4 — SPEARS User Management by System Coordinator**.

### System Coordinator Registration

System Coordinators must register in SECURE SYSTEMS and be associated with a PHA HA Code or Business Partner Tax ID number (TIN) that is required to comply with Section 3 requirements. The Coordinator serves as the PHA or Business Partner's system administrator and grants SPEARS application access to their organization's designated users. Each Business Partner organization or PHA must have at least one Coordinator but may have up to eight.

#### *New Coordinator Registration*

1. Go to:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac/online/online\\_registration](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/online/online_registration)
2. Select **Public Housing Agency** if you are a PHA. All other business types should select **Multifamily Housing Entity** from the list of registration options. DO NOT select Independent User or Reverse Program (RAP) User. The SPEARS system will use either your registered PHA HA Code or Tax TIN to to pre-populate disbursement data or draw down amounts on Form HUD 60002.

### Need a User ID?

Complete **registration instructions** are available, or go directly to the appropriate secure connection registration form.

- ▶ Multifamily Housing Entity
- ▶ Public Housing Agency
- ▶ Independent User
- ▶ Reverse Auction Program (RAP) User

**NOTE:** If you are in the process of becoming a UPCS certified inspector, you should not apply for this user ID.

1. Select **Coordinator** and enter the information as requested.

Application Type

Coordinator
User

First Name:

Middle Initial:

Last Name:

Social Security Number:

2. For **Multifamily Housing Entities**, complete the following fields:

Organization Information:

- Provide the name of the HUD-registered Organization or Individual you represent
- Provide the Tax Identification Number or Social Security Number of the HUD-registered Organization or Individual you represent. Do not enter dashes.
- Specify whether the HUD-registered entity you represent is an Organization or an Individual

Organization/Individual Name::

TIN/SSN:

Organization

Individual

3. For **PHAs**, complete the following fields:

Organization Information:

- Provide the name of the Public Housing Authority you represent
- Provide the Number of the Public Housing Authority you represent

Organization Name:

Organization ID:

4. Complete the rest of the requested fields and Select **Submit Application**.
5. A letter containing the Secure System Coordinator’s ID will be mailed to the organization’s CEO/ED/Principal Officer within 7-10 business days. If you have not received your Secure Systems Coordinator’s credentials, contact REAC Technical Assistance to inquire about the status of your request at **1-888-245-4860**.
6. Once the Secure Systems Coordinator has received their credentials, they must assign themselves the SPEARS ‘COR’ Action by proceeding to **Step 3 — SPEARS Coordinator Assignment by System Coordinator**.

### Existing Coordinators Registration

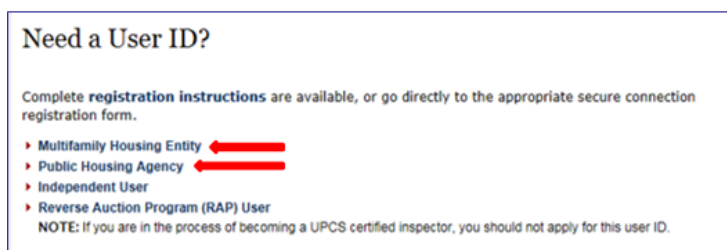
If you are already identified as a **System Coordinator** in Secure Systems as a PHA or as a Multifamily Housing Entity, you will need to create an additional Business Partner relationship, referred to as a new “BPR relationship.” Additional relationships are managed through the Secure Systems Business Partners Maintenance screens. Please refer to the [WASS User Manual – Section 4.3](#) for instructions on how to complete this process. Once this BPR Association process has been completed (which can take up to 7-10

business days for delivery of the Activation key by mail), you can proceed to **Step 3 — SPEARS Coordinator Assignment by System Coordinator**. Contact the REAC Technical Assistance Center (REAC-TAC) if you have questions about this process at **1-888-245-4860**.

## User Registration

Users must register in SECURE SYSTEMS and be associated with a Business Partner (PHA or Multifamily Housing Entity) that is required to comply with Section 3 requirements.

1. Go to [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac/online/online\\_registration](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/online/online_registration)
2. Select **Public Housing Agency** if you are a PHA. All other business types should select **Multifamily Housing Entity** from the list of registration options. DO NOT select Independent User or Reverse Program (RAP) User. The SPEARS system will use either your PHA HA Code or Tax ID number to pre-populate disbursement data or draw down amounts on Form HUD 60002.



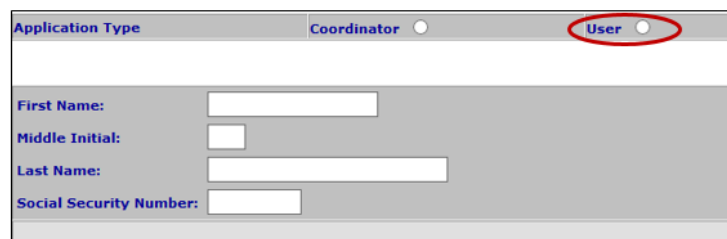
**Need a User ID?**

Complete **registration instructions** are available, or go directly to the appropriate secure connection registration form.

- ▶ Multifamily Housing Entity
- ▶ Public Housing Agency
- ▶ Independent User
- ▶ Reverse Auction Program (RAP) User

**NOTE:** If you are in the process of becoming a UPCS certified inspector, you should not apply for this user ID.

3. Select **User** and enter the information as requested.



**Application Type**

Coordinator ☐ User ☒

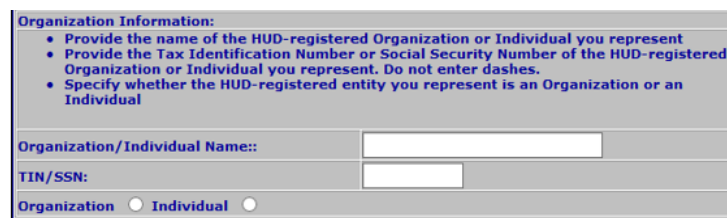
First Name:

Middle Initial:

Last Name:

Social Security Number:

7. For **Multifamily Housing Entities**, complete the following fields:



**Organization Information:**

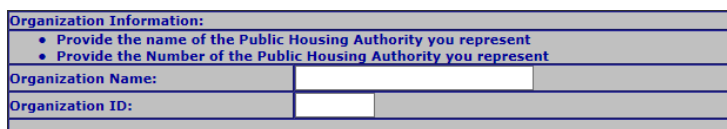
- Provide the name of the HUD-registered Organization or Individual you represent
- Provide the Tax Identification Number or Social Security Number of the HUD-registered Organization or Individual you represent. Do not enter dashes.
- Specify whether the HUD-registered entity you represent is an Organization or an Individual

Organization/Individual Name:

TIN/SSN:

Organization ☐ Individual ☐

8. For **PHAs**, complete the following fields:



**Organization Information:**

- Provide the name of the Public Housing Authority you represent
- Provide the Number of the Public Housing Authority you represent

Organization Name:

Organization ID:

4. Complete the rest of the requested fields and Select **Submit Application**.

5. After submitting the form, **wait 24 hours**, then contact your organization's Systems Coordinator to inform them you have requested access to Secure Systems and request they retrieve your User ID and assign the 'S3P' role to you. This will establish the SPEARS link on your individual Secure Systems menu.

For assistance with Secure Systems registration, you can view the (Secure Systems User's Manual at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/reac/products/wass/wass\\_user\\_manual](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/products/wass/wass_user_manual)).

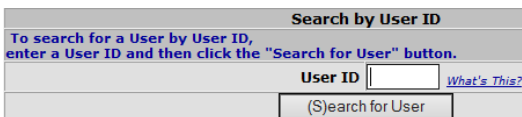
### Step 3 — SPEARS Coordinator Assignment by System Coordinator

The Coordinator must assign themselves the SPEARS 'COR' Action in Secure Systems to serve in an administrative capacity for their organization in SPEARS.

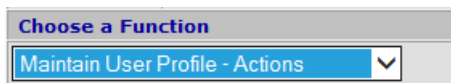
1. Go to [https://hudapps.hud.gov/HUD\\_Systems](https://hudapps.hud.gov/HUD_Systems)
2. Log in with your Secure Systems Coordinator credentials, click **Accept** on the **Legal Warnings** page to display the **Main Menu**.
3. From the Secure Systems Coordinator **Main Menu**, Select **User Maintenance**.



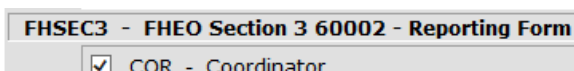
4. Enter your Secure Systems Coordinator User ID in the **Search by User ID** field and click **(S)earch for User**.

A screenshot of the 'Search by User ID' form. It includes a text box for 'User ID' with a 'What's This?' link, and a button labeled '(S)earch for User'.

5. On the Maintain User Profile select Maintain User Profile – Actions for Choose a Function and click Submit.

A screenshot of the 'Choose a Function' dropdown menu. The selected option is 'Maintain User Profile - Actions'.

6. From the **Assign/Unassign Actions** page under FHSEC3 – FHEO Section 3 60002 Reporting Form, check the **COR – Coordinator** checkbox and click **Assign/Unassign Actions**.

A screenshot of the 'FHSEC3 - FHEO Section 3 60002 - Reporting Form'. The 'COR - Coordinator' checkbox is checked.

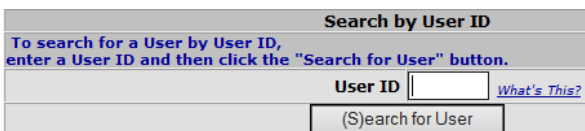
## Step 4 — SPEARS User Management by System Coordinator

System Coordinators grant access to SPEARS to their organization's Users by assignment of the 'S3P' role. If the Secure Systems Coordinator will be a User for SPEARS they will assign the 'S3P' role to themselves as well.

1. Go to [https://hudapps.hud.gov/HUD\\_Systems](https://hudapps.hud.gov/HUD_Systems)
2. Log in with your Secure Systems Coordinator credentials, read the **Legal Warnings** page to and click **Accept** to display the **Main Menu**.
3. From the Secure Systems Coordinator **Main Menu**, Select **User Maintenance**.



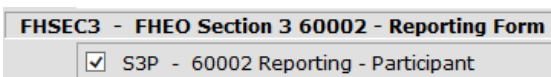
4. Enter the User ID you wish to grant SPEARS access to in the **Search by User ID** field and click **Search for User**.

A screenshot of a web form titled "Search by User ID". It contains a text input field labeled "User ID" with a "What's This?" link to its right. Below the input field is a button labeled "(S)earch for User". Above the input field, there is a line of text: "To search for a User by User ID, enter a User ID and then click the 'Search for User' button."

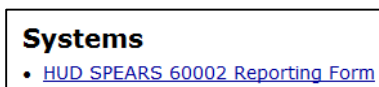
5. On the Maintain User Profile page, select Maintain User Profile – Roles for Choose a Function and click Submit.

A screenshot of a web form titled "Choose a Function". It contains a dropdown menu with "Maintain User Profile - Roles" selected. There is a small downward arrow icon to the right of the dropdown.

6. From the Assign/Unassign Roles page select the **FHSEC3 S3P – 60002 Reporting - Participant** checkbox and click Assign/Unassign Roles.

A screenshot of a web form titled "FHSEC3 - FHEO Section 3 60002 - Reporting Form". It contains a checkbox labeled "S3P - 60002 Reporting - Participant" which is checked.

7. After the Secure Systems Coordinator grants access to SPEARS to their organization Users, the User will see the application on their Main Menu the next time they log in to Secure Systems.





## 5 Registration Assistance/Support

The **REAC Technical Assistance Center** ([REAC\\_TAC@hud.gov](mailto:REAC_TAC@hud.gov)) at **(888) 245-4860** can provide assistance for the following questions or issues:

- I am having troubling logging in to Secure Systems.
- I do not see the HUD SPEARS 60002 Reporting Form in my list of Systems when I log in to Secure Systems.
- I have accessed the HUD SPEARS 60002 Reporting form but do not see my agency in the Agency drop down menu.
- I am currently registered in Secure Systems as a User but want to now be a System Coordinator.
- I have registered for System Coordinator credentials and have not received them.
- I mistakenly registered for User credentials instead of System Coordinator credentials.
- I may have registered for Secure Systems credentials in the past, but I'm not sure and/or do not know my user ID.
- I have registered previously in Secure Systems but do not know my password.
- I don't know who the System Coordinator(s) are for my organization.
- I am a System Coordinator and need assistance in assigning roles to Users.
- I am a System Coordinator and need assistance with the Secure Systems Business Partner Maintenance process.
- I am a System Coordinator and when trying to assign the SPEARS role for a user, I do not see the system.
- I am a System Coordinator and trying to assign myself an additional Business Partner Relationship but I do not see the menu option to do so.

Please contact your System Coordinator for the following issues:

- I have registered for a User ID and have not received it.
- I do not see the HUD SPEARS 60002 Reporting Form in my list of Systems when I log in to Secure Systems.

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FORM S-3B  
8/2015

### SECTION 3 BUSINESS CONCERN 30%+ WORKFORCE

A business can be certified as a Section 3 business concern if at least 30% of its permanent, full-time employees are currently Section 3 residents or were Section 3 residents within three years of the date of employment with the business.

For your firm to be eligible UNDER THIS CRITERIA, you must provide the following information for all permanent FT employees.

**Copy this form if necessary.**

<b>LIST ALL EMPLOYEES NAME &amp; ADDRESS</b>	<b>DATE HIRED (MM/DD/YYYY)</b>	<b>CHECK IF SECTION 3 RESIDENT</b>	<b>JOB TITLE/TRADE</b>
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Name: Address: City/Zip:		<input type="checkbox"/>	
Total Number of Employees:			
Number of Section 3 Residents:			
% of Total Workforce:			

**I certify that the above statements are true, complete, and correct to the best of my knowledge and belief.**

<b>Print Name:</b> <b>Title:</b> <b>Company Name:</b> <b>Date:</b> <b>Signature:</b> _____
--

Business Name:																							
D.B.A. (if different from above):																							
Address:	City:	State/Zip:																					
Business Phone: (       )	Fax: (       )																						
E-Mail:	Business Website:																						
Employer Identification Number:	Owners Social Security Number (if no EIN):																						
Contact Person & Title:	Contact Phone:																						
<p>Trade Description:</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Carpentry</td> <td><input type="checkbox"/> Heating (HVAC)</td> <td><input type="checkbox"/> Electrical</td> </tr> <tr> <td><input type="checkbox"/> Painting</td> <td><input type="checkbox"/> Masonry Restoration</td> <td><input type="checkbox"/> Asbestos</td> </tr> <tr> <td><input type="checkbox"/> Plumbing</td> <td><input type="checkbox"/> Roofing</td> <td><input type="checkbox"/> Lead Abatement</td> </tr> <tr> <td><input type="checkbox"/> GC</td> <td><input type="checkbox"/> Exterminating</td> <td><input type="checkbox"/> Carpet/Flooring</td> </tr> <tr> <td><input type="checkbox"/> Boiler/Burner Replacement</td> <td><input type="checkbox"/> Rubbish Removal</td> <td><input type="checkbox"/> Ironwork</td> </tr> <tr> <td><input type="checkbox"/> Accountant Services</td> <td><input type="checkbox"/> Legal Services</td> <td><input type="checkbox"/> Demolition</td> </tr> <tr> <td colspan="3"><input type="checkbox"/> Other _____</td> </tr> </table>			<input type="checkbox"/> Carpentry	<input type="checkbox"/> Heating (HVAC)	<input type="checkbox"/> Electrical	<input type="checkbox"/> Painting	<input type="checkbox"/> Masonry Restoration	<input type="checkbox"/> Asbestos	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Roofing	<input type="checkbox"/> Lead Abatement	<input type="checkbox"/> GC	<input type="checkbox"/> Exterminating	<input type="checkbox"/> Carpet/Flooring	<input type="checkbox"/> Boiler/Burner Replacement	<input type="checkbox"/> Rubbish Removal	<input type="checkbox"/> Ironwork	<input type="checkbox"/> Accountant Services	<input type="checkbox"/> Legal Services	<input type="checkbox"/> Demolition	<input type="checkbox"/> Other _____		
<input type="checkbox"/> Carpentry	<input type="checkbox"/> Heating (HVAC)	<input type="checkbox"/> Electrical																					
<input type="checkbox"/> Painting	<input type="checkbox"/> Masonry Restoration	<input type="checkbox"/> Asbestos																					
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<input type="checkbox"/> GC	<input type="checkbox"/> Exterminating	<input type="checkbox"/> Carpet/Flooring																					
<input type="checkbox"/> Boiler/Burner Replacement	<input type="checkbox"/> Rubbish Removal	<input type="checkbox"/> Ironwork																					
<input type="checkbox"/> Accountant Services	<input type="checkbox"/> Legal Services	<input type="checkbox"/> Demolition																					
<input type="checkbox"/> Other _____																							
<p>Date Business was established:</p> <p>____/____/____  <span style="margin-left: 100px;">Month</span> <span style="margin-left: 100px;">Day</span> <span style="margin-left: 100px;">Year</span></p>																							
<p>Type of Business Entity (check one):</p> <p> <input type="checkbox"/> Corporation                             <input type="checkbox"/> Partnership                             <input type="checkbox"/> Sole Proprietorship       </p> <p> <input type="checkbox"/> Limited Liability Corporation (LLC)                             <input type="checkbox"/> Limited Liability Partnership (LLP)       </p> <p> <input type="checkbox"/> Joint Venture                             Other (Describe): _____       </p>																							
<p>Number of employees:      Full-time: _____      Part-time: _____      Contract: _____</p> <p>Total: _____</p>																							
<p>Section 3 employees:      Full-time: _____      Part-time: _____      Contract: _____</p> <p>Total: _____</p>																							

Has Business worked with Prince George's County in the past? ☐ YES ☐ NO

Is yes, please provide Vendor Number:

Does Business have any special designation(s)? ☐ YES ☐ NO

If YES, check all that apply: ☐ MBE ☐ WBE ☐ Other \_\_\_\_\_

DRAFT



### SECTION 3 BUSINESS CONCERN Resident Business Owner(s)

Name of Owner: \_\_\_\_\_

Home Address: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Percentage of Ownership: \_\_\_\_\_ %

Check the appropriate box for your family size and income:

Check Box	# of Persons in Household	Gross Household Income Max.
<input type="checkbox"/>	1 Person	\$47,600
<input type="checkbox"/>	2 Persons	\$54,400
<input type="checkbox"/>	3 Persons	\$61,200
<input type="checkbox"/>	4 Persons	\$68,000
<input type="checkbox"/>	5 Persons	\$73,000
<input type="checkbox"/>	6 Persons	\$78,900
<input type="checkbox"/>	7 Persons	\$84,350
<input type="checkbox"/>	8 Persons	\$89,800

I certify that I am a resident of Prince George's County and my **Total Household Income** last year was less than the amount shown above for my family size.

*If the business is owned by more than one Section 3 resident, each should submit a separate Resident Business Owner Verification Form. List each owner below:*

I certify that the other Section 3 residents listed below collectively own at least 51% of the business.

Name	Position	Percentage of Ownership

I certify that the information provided is true and accurate.

Print Name:	Date:
Signature:	

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### Housing Authority of Prince George's County Eligibility for Preference

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

#### Certification for Resident Seeking Section 3 Preference for Employment

I, \_\_\_\_\_ am a legal resident of Prince George's County and satisfy one or more of the following criteria:

- ☐ Reside in government-assisted housing; or  
☐ Meet the income eligibility guidelines for a low- or very low-income person as published by the U.S. Department of Housing and Urban Development

My permanent address is:

\_\_\_\_\_

I have attached the following documentation as evidence of my status:

\_\_\_ Copy of lease      \_\_\_ Documentation of income      \_\_\_ Other documentation

A picture identification card and proof of current residency is also required.

Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

#### Income Eligibility Guideline

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
<b>Very Low (50%) Income Limits</b>	\$38,250	\$43,700	\$49,150	\$54,600	\$59,000	\$63,350	\$67,750	\$72,100
<b>Low (80%) Income Limits</b>	\$47,600	\$54,400	\$61,200	\$68,000	\$73,000	\$78,900	\$84,350	\$89,800

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# PRINCE GEORGE'S COUNTY GOVERNMENT

## Office of Central Services

### Supplier Development & Diversity Division

#### CERTIFICATION OF CONTRACTORS BEST EFFORTS

##### General

The information requested in this certificate is the minimum information required by the Supplier Development and Diversity Division ("SDDD") to evaluate the Borrower or Contractor's Best Efforts. SDDD reserves the right to request further documentation from the Subcontractor(s) to support and validate actions undertaken to secure Local Small Minority Business Enterprise ("LSMBE") participation and meet the goals for the contract/task order.

##### Purpose

This Certification documents the Best Efforts undertaken by the Contractors or Borrowers (hereafter referred to as the "Contractor") in soliciting and utilizing Prince George's County-Based and Minority Business Enterprise firms (hereafter referred to as "LSMBE") to meet the local goals and participation requirements for this contract/project. The completed certificate will assist the Purchasing Agent in determining if the Contractor performed its due diligence, took all necessary and reasonable steps to secure supplier participation for the referenced contract/project. Contractor agrees that the Purchasing Agent will determine if the Contractor made put forth their "Best Efforts" to secure sufficient supplier participation to meet the County Based Business and Minority Business Enterprise goals. The burden of proof rests with the Contractor. A determination by the Purchasing Agent that the Contractor failed to make their "Best Efforts" to achieve the LSMBE goals and participation requirements for this contract/project may result in **Contractor/Borrower being subject to the clawback or default provisions contained in the loan/contract documents**. However, the Purchasing Agent will reconsider and/or renegotiate the participation goals if the Contractor has adequately and sufficiently documented below its "Best Efforts" in obtaining LSMBE participation goals.

##### Definition

"Best Efforts" means the efforts that a reasonable commercial enterprise undertaking an economic development project would use in exercising good faith endeavors to meet its LSMBE utilization goals and participation requirements specified in the loan documents and/or efforts made by entities entering into public agreements/solicitations with the County attempting to meet LSMBE requirements.

##### Attestation

I. (Name) \_\_\_\_\_, do hereby acknowledge that I am the (Title) \_\_\_\_\_ of (Name of Contractor) \_\_\_\_\_ and the Subcontractor selected for the Prince George's County project listed below:

Contract/Task Order No.	Project Name	Estimated Contract Amt.	LSMBE Goals	
			County	MBE

Note: Contacting SDDD (301-883-6480) for assistance in identifying certified LSMBEs that can perform work on a contract or task order is also considered a strong factor in making "Best Efforts."



**Best Effort Activities**

1. List all LSMBE firms assigned to this contract and their associated tasks:

<b>LSMBE Firms Name and Address</b>	<b>NAICS / NIGP Code</b>	<b>Has subcontract agreement been provided to the County (SDDD)?</b>

2. List all organizations (i.e. NMSDC, WSSC, MDOT, SDDD, etc.) that have received notifications from the Contractor regarding participation on the contract/project in question, date published/sent and provide follow-up activity details. Provide explanation if no follow-up activities were performed. SDDD reserves the right to request copies of all announcements or notifications listed.

<b>Notification (Provide brief description)</b>	<b>Date Sent</b>	<b>Association/Organization</b>	<b>Contact Person</b>	<b>Date of Follow-Up Activities</b>

3. Was SDDD contacted at (301)883-6480 to request assistance in the recruitment of LSMBE firms?

☐ **YES**

Name of individual who contacted SDDD: \_\_\_\_\_

Date Contacted: \_\_\_\_\_

SDDD Representative contacted: \_\_\_\_\_

Written correspondence attached: Yes \_\_\_\_\_ No \_\_\_\_\_

☐ **NO**

**Explain Below**

Explain:

4. Is there a LSMBE firm(s) currently on the contract/project team able to perform the Scope of Work above capable of meeting the Prince George's County LSMBE criteria? Yes \_\_\_\_\_ NO \_\_\_\_\_

Name of firm: \_\_\_\_\_

5. Explain any efforts undertaken to provide LSMBE firms with assistance and/or adequate information about contract/task order Scope of Work and requirements of the contract (i.e. Work Scope, bonding assistance, etc.)

6. Contractor shall solicit services in good faith with all interested LSMBE firms. Proposals from interested LSMBE firms shall not be rejected by Contractor/Borrowers without sound business justification.

Provide the firm name, contact information and work proposed of all LSMBE firms that submitted a proposal for the contract/task order that were not selected. The reason for rejection must be provided for SDDD to determine the Contractor/Borrower's satisfactory "Best Efforts". If no LSMBE proposals were rejected, state "NONE".

LSMBE Firm and Contact Person	Work Proposed	Explanation for Rejecting Proposal

7. Please provide summary or other information to be considered by SDDD as part of your "Best Efforts" towards meeting the LSMBE participation goals on the contract/task order. Also provide your proposed alternative LSMBE participation plan and why you believe this alternative should be considered by SDDD and the Purchasing Agent. Attach additional pages if necessary.

--

**SWORN AFFIDAVIT OF CONTRACTOR**

The Affidavit shall be signed by an authorized signatory for the Contractor/Borrower(s) and shall be notarized.

The undersigned, (Name) \_\_\_\_\_, having been first duly sworn, solemnly affirm under the penalties of perjury and personal knowledge that the contents of the foregoing paper are true.

\_\_\_\_\_  
Signature:

Contractor/Borrower/Authorized Representative

STATE OF MARYLAND

COUNTY OF ( \_\_\_\_\_ )

I HEREBY CERTIFY THAT on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before the undersigned Notary Public, personally appeared (Name) \_\_\_\_\_, and being first duly sworn, upon his/her oath says that the statements contained in the foregoing notice are true to the best of his/her personal knowledge.

\_\_\_\_\_  
[Affix notary seal here]

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

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# Let Your Maryland One-Stop Career Center Help You Find the Employees You Need!

Post your job orders online on the Maryland Workforce Exchange at [www.mwejobs.maryland.gov](http://www.mwejobs.maryland.gov)



Federal Employer Identification Number (FEIN): \_\_\_\_\_ NAICS (if known): \_\_\_\_\_

Company Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Street: \_\_\_\_\_ Fax: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ County: \_\_\_\_\_

Contact Person (Last name, first name): \_\_\_\_\_ E-mail: \_\_\_\_\_

Contact Person's Job Title: \_\_\_\_\_ Web site URL: \_\_\_\_\_

Do you want your company name displayed to the public? \_\_\_\_ Yes \_\_\_\_ No Are you a federal contractor? \_\_\_\_ Yes \_\_\_\_ No

Job Title: \_\_\_\_\_ Closing date: \_\_\_\_\_ Company reference #: \_\_\_\_\_

Job location if different than above: \_\_\_\_\_

Job summary: \_\_\_\_\_

Salary? \_\_\_\_\_ per \_\_\_\_\_ Do you want this salary displayed to job seekers? \_\_\_\_ Yes \_\_\_\_ No

Commission? \_\_\_\_ Yes \_\_\_\_ No Is this subsidized employment? \_\_\_\_ Yes \_\_\_\_ No

Number of openings? \_\_\_\_ Number of referrals requested? \_\_\_\_ Experience required? \_\_\_\_\_

Education required? \_\_\_\_\_ License or certification? \_\_\_\_\_

Tools required? \_\_\_\_ Yes \_\_\_\_ No Testing required? \_\_\_\_ Yes \_\_\_\_ No Type of testing? \_\_\_\_\_

Hours per week? \_\_\_\_\_ Hours to be worked? \_\_\_\_\_ Days to be worked? \_\_\_\_\_

\_\_\_\_ Full time? \_\_\_\_ Part time? Shift? \_\_\_\_ Day shift \_\_\_\_ Evening shift \_\_\_\_ Night shift \_\_\_\_ Rotation shift

Is public transportation available to the job site? \_\_\_\_ Yes \_\_\_\_ No

How to Apply: \_\_\_\_ Résumé \_\_\_\_ Job Application

Contact method: \_\_\_\_\_ Email: \_\_\_\_\_  
 \_\_\_\_\_ Web Site URL  
 \_\_\_\_\_ In person at \_\_\_\_\_ company address or \_\_\_\_\_ job location address  
 \_\_\_\_\_ At One-Stop Career Center  
 \_\_\_\_\_ Mail \_\_\_\_\_ Phone \_\_\_\_\_ Fax

*Auxiliary aids and services are available upon request to individuals with disabilities.*



DEPARTMENT OF LABOR, LICENSING AND REGULATION

Martin O'Malley, Governor

Anthony G. Brown, Lt. Governor

Leonard J. Howie III, Secretary

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## FIRST SOURCE AND LOCAL HIRING AGREEMENT COMPLIANCE REPORT

### Instructions:

This report must be submitted to the Prince George's County Economic Development Corporation's Workforce Services Division (EDC Workforce Services Division) and the Purchasing Agent by the fifth business day of every month following the execution of the First Source and Local Hiring Agreement.

### Part I

Number of employees needed	Number of current employees transferred	Number of new job openings created	Number of job openings listed with the EDC Workforce Services Division

### PART II

For the reporting period (during the previous calendar month) please indicate the following:

Total number of County residents employed, including new County resident hires.	Total hours worked by County residents

### PART III

For the calendar year, the cumulative total number of County residents employed, including:

Cumulative new County resident hires	Cumulative work hours by County residents

### PART IV

For the reporting period (during the previous calendar month) the total number of employees employed, including

New Hires	Total Employee Hours Worked

### PART V

For the calendar year, the cumulative total number of employees hired, include the cumulative new hires, and cumulative employee hours worked for each employee. (Please complete Attachment "A")

Cumulative Total Number of Employees Hired	Cumulative Employee Hours Worked

**Please complete Attachment "A" and send to the following addresses:**

Roland L Jones, Purchasing Agent  
Office of Central Services  
1400 McCormick Drive, Suite 336  
Largo, Maryland 20774

Jeffrey Swilley, Acting Executive Director  
PGCEDC Workforce Services Division  
1801 McCormick Drive, Suite 400  
Largo, Maryland 20774

**ATTACHMENT A**

Employee Name	Job Title	Date of Hire	Hours Worked	Residence	Referral Source

## ATTACHMENT A

Employee Name	Job Title	Date of Hire	Hours Worked	Residence	Referral Source

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Bid Number: \_\_\_\_\_ Bid Name: \_\_\_\_\_



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## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** (“Agreement”) is entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between Prince George’s County, Maryland, a body corporate and politic (the “County”) and *[Insert Party Name]*, *[Insert party description, e.g. a Maryland limited liability company or an individual residing at . . . ]* (the “*Insert Defined Name*”).

### RECITALS

**WHEREAS**, *[Insert background using however many WHEREAS clauses necessary];*

and

**WHEREAS**, *[insert final WHEREAS clause]*.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1) **[Insert Defined Name] Responsibilities:** *[Insert Party Name]* shall *[Insert Party Obligations. If obligations are better listed out, use list below. Otherwise, delete list]*.
  - a)
  - b)
  - c)
- 2) **County Responsibilities:** The County shall *[Insert County Obligations. If obligations are better listed out, use list below. Otherwise, delete list]*.
  - a)
  - b)
- 3) **Compensation:** The total amount of compensation payable by the County to the *[Insert Party Name]* shall be *[Insert payment in words and numbers]*, subject to the availability of County funding. Invoices for services rendered by the *[Insert Party Name]* shall be submitted to *[Insert invoicing instructions i.e., the Administrator on a monthly basis]*. The invoice shall include the following: (1) *[Insert Party Name]*'s name and remittance address; (2) *[Insert Party Name]*'s tax identification number; (3) reference to contract number; and (4) documentation as to resultant product or task completed during the period of time covering the invoice.
- 4) *[If out-of-pocket expenses will be paid, include this section]* **Expenses:** The *[Insert Party Name]* shall be compensated for the reasonable and customary out-of-pocket expenses incurred by the *[Insert Party Name]* and required for the performance of the services as described herein. The payment of expenses under this Section is limited to the extent that the *[Insert Party Name]* furnishes to the Administrator documentation of such expenses. The

## MEMORANDUM OF UNDERSTANDING

total sum for all out-of-pocket expenses for the *[Insert Party Name]* under this Agreement shall not exceed *[Insert amount in words and numbers]*.

- 5) **Term:** This Agreement shall be effective as of the Effective Date and shall continue in effect through *[insert date]*. This Agreement may be renewed upon mutual agreement of the parties. The continuation of this Agreement beyond the end of the fiscal year in which it is executed, and any subsequent fiscal years during which this Agreement is in effect, shall be contingent upon the availability of funding for the applicable fiscal year.
- 6) **Termination for Convenience.** The performance of work under this Agreement, in whole or in part, may be terminated by the County upon thirty (30) days prior written notice, or such time as mutually agreeable to the parties, in accordance with this clause whenever the County shall determine that such termination is in the best interest of the County. In the event of such termination, the County shall pay for all services provided up to the date of termination. However, *[Insert Party Name]* shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination or paid any damages or costs arising from such termination.
- 7) **Termination for Default.** If *[Insert Party Name]* fails to fulfill its obligations under this Agreement properly and on time or otherwise violates any provision of this Agreement, the County may terminate this Agreement by providing written notice to the *[Insert Party Name]*. The written notice shall specify the acts or omissions relied on as cause for termination. The County shall pay the *[Insert Party Name]* fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the breach. If the damages are more than the compensation payable to the *[Insert Party Name]*, the *[Insert Party Name]* will remain liable after termination and the County can affirmatively collect damages or deduct from monies due the *[Insert Party Name]* on this or other County Agreements. Damages may include excess procurement costs.
- 8) **Notices:** All notices, requests, reports, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (i) immediately upon receipt if hand-delivered in accordance with the notice provisions of this Agreement; (ii) on the day after delivery to a nationally recognized overnight courier service, or (iii) on the fifth day after mailing, if mailed to the party to whom such notice is to be given, by registered or certified U.S. mail, return receipt requested, and, in all cases, if prepaid and properly addressed as follows:

To County: Purchasing Agent  
Office of Central Services  
1400 McCormick Drive  
Suite 336  
Largo, Maryland 20774

With Copies to: County Attorney  
Office of Law, Room 5121

## MEMORANDUM OF UNDERSTANDING

14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

To *[Insert Name]*: *[Insert contact information]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 9) **Insurance:** *[Insert Insurance Provisions if applicable]*
- 10) **Indemnification:** *[Insert Party Name]* shall indemnify, defend, and hold harmless the County, its officers, directors, agents and employees (each, including the County, a “Covered Person”) from and against any and all pending or threatened claims, losses, liabilities, litigation, damage, penalty, expense and demands of every kind and nature whatsoever (any of the foregoing a “Loss”), including, without limitation, the costs as and when incurred of defending any such Loss, and including, without limitation, reasonable attorneys’ fees and disbursements therefore, incurred by a Covered Person resulting from or arising in connection with the performance of this Agreement, caused in part or in whole by any negligent or willful act or omission of *[Insert Party Name]*, its officers, agents, employees or representatives. The *[Insert Party Name]* expressly understands and agrees that any performance bond or insurance protection required by this Agreement or otherwise provided shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided. The County does not waive any right or defense, or forebear any action, in connection herewith. The indemnification provisions set forth in this Section shall survive termination or expiration of this Agreement.
- 11) **No Waivers:** No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.
- 12) **Non-Assignability:** This Agreement shall be deemed personal to the parties hereto and shall not be assigned, delegated or subcontracted without the prior written consent of the County.
- 13) **Contract Dispute Resolution:** All claims and disputes arising under this Agreement shall be handled in accordance with Sections 10A-104 and 10A-107 of the Prince George’s County Code.
- 14) **Status of Parties:** The relationship of the parties to this Agreement is one of independent contractors and no partnership or joint venture is intended to be created. No party shall represent itself as the agent or employee of any other party.

## MEMORANDUM OF UNDERSTANDING

- 15) **Compliance with Law:** The *[Insert Party Name]* shall comply with all applicable laws, orders and codes of the federal, state and local governments as they pertain to this Agreement.
- 16) **Findings Confidential:** Unless otherwise required by law, all of the reports, information, data, materials, etc., prepared or assembled under this Agreement are owned by the County, confidential, and the same shall not be made available to any individual or organization without the prior written approval of the County.
- 17) **Governing Law\Venue\Severability:** This Agreement and the rights and obligations of the parties shall be governed by and construed in accordance with the laws of Prince George's County and the State of Maryland, without regard to its conflicts of law principles. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in any federal or state court located in the State of Maryland, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.
- 18) **Construction:** This Agreement shall not be construed against the party preparing it, but shall be construed as if the parties jointly prepared it and any uncertainty or ambiguity shall not be interpreted against any party. If any term or other provision herein is found to be unenforceable, invalid or illegal, such term or provision shall be deemed deleted from this Agreement, and the remainder of this Agreement shall not be affected or impaired thereby.
- 19) **Authority:** Each party represents and warrants that it is fully authorized to enter into the terms and conditions of, and to execute and be bound by, this Agreement. The parties agree to use their best efforts promptly to execute and to effectuate the terms provided for herein. In addition, each person whose signature appears hereon warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement.
- 20) **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
- 21) **Recitals:** The Recitals are expressly incorporated herein by reference.
- 22) **Entire Agreement:** This Agreement incorporates the entire understanding of the parties hereto, and supersedes any and all prior agreements or understandings (written or oral) relating to the subject matter hereof. This Agreement can only be modified in a writing signed by duly authorized representatives of both parties hereto.
- 23) **Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.



## **MEMORANDUM OF UNDERSTANDING**

*[Signature Page Follows]*

**MEMORANDUM OF UNDERSTANDING**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed and executed on the Effective Date written below.

**WITNESS**

***[INSERT CONTRACTOR NAME]***

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESS**

**PRINCE GEORGE'S COUNTY,  
MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_  
*[Insert Signatory Name]*  
*[Insert Signatory Title]*

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## **Frequently Asked Questions About HUD's Section 3 Business Registry**

### **1. What is Section 3?**

Section 3 is a provision of the Housing and Urban Development Act of 1968. The intent of Section 3 is to ensure that preference for employment, training and contracting opportunities generated from the expenditure of certain HUD funds, is given to local low- and very low-income persons, particularly those who receive federal housing assistance, and businesses that are owned by or substantially employ such persons.

### **2. What does the term "Section 3 resident" mean?**

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County where the Section 3 covered assistance is expended.

### **3. What does the term "Section 3 Business" mean?**

Section 3 businesses are businesses that can provide evidence that they meet one of the following criteria:

- a) 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire\* ; or
- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to businesses that meet the qualifications of a) or b) above.

\*Example: John is a Section 3 resident that is unemployed. He is hired by XYZ Construction Company at a salary of \$37,500 per year. The local low-income limit for a one-person household is \$35,000. John can be counted as a Section 3 resident by XYZ Construction Company for up to three years towards their efforts to meet the Section 3 business criterion under definition "B" as described above.

**4. How are the terms “low-income” and very low-income determined?**

Low- and very-low-household income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or the number of people residing in one house. HUD income limits may be obtained from:

<http://www.huduser.org/portal/datasets/il.html>

**5. What is HUD’s Section 3 Business Registry?**

The Section 3 Business Registry is a registry of firms that have self-certified their status as Section 3 Businesses. Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses. Section 3 residents are also encouraged to use the registry to identify businesses that may have HUD-funded employment opportunities.

**6. How does my firm submit a self-certification application if it meets the definition of a Section 3 Business?**

Businesses can submit an online application for inclusion in the Section 3 registry at: [www.hud.gov/Sec3Biz](http://www.hud.gov/Sec3Biz).

**7. When does a business certification expire?**

A certified business must recertify after 3 years.

**8. Where do I find the database of firms that have self-certified that they meet the definition of a Section 3 Business?**

To search the database for businesses please visit: [www.hud.gov/Sec3Biz](http://www.hud.gov/Sec3Biz).

**9. What documentation is required from firms that meet the definition of a Section 3 Business?**

For inclusion in the registry, businesses must submit the online application and are not initially required to submit any additional documentation to HUD. Additional documentation may be requested if HUD receives complaints alleging that any business in its registry has misrepresented their firm’s status to the Department. Businesses may also be required to submit supporting documentation as evidence of their eligibility to recipients prior to the award of the HUD-funded contract.



**10. What is a business license?**

A business license is a type of legal authorization to operate a business in a city, county, or state. A license may even be required on a federal level. Typically issued in document form, a business license gives a business owner the right to conduct entrepreneurial activities as set forth in the license application. In most cases, there is a fee charged to obtain a business license. Requirements for a business license vary by state and municipality. Please visit: <http://www.sba.gov/content/search-business-licenses-and-permits> to learn more about obtaining a business license.

**11. Has HUD verified the authenticity of firms that have submitted self-certification applications and does HUD endorse the quality of services provided by such firms?**

While the Department maintains the Business Registry database, it has not verified the information submitted by the businesses and does not endorse the services they provide. Accordingly, it is recommended that users perform due diligence before awarding contracts to firms that have self-certified their status as a Section 3 business.

The Department will periodically conduct random audits of a percentage of the Section 3 businesses in its registry.

**12. Does being self-certified as a Section 3 Business mean that a firm is automatically entitled to HUD-funded contracts?**

A Section 3 business is not entitled to a contract simply by being listed in the HUD Section 3 Business Registry database. Section 3 businesses may need to demonstrate to the satisfaction of the recipient agency (i.e., Public Housing Authority, local government agency, developer, etc.) that they are a responsible bidder with the ability to perform successfully under the terms and conditions of prospective contracts.

The Section 3 regulation at 24 CFR Part 135.36 provides preference to Section 3 businesses that submit responsible bids for contracts and subcontracts, but does not guarantee the award of contracts.

**13. What if I believe that HUD has accepted the self-certification of a firm that does not meet the definition of a Section 3 Business?**

The Department strongly encourages anyone that believes that a firm in this registry does not meet the eligibility criteria of a Section 3 Business to notify the HUD Office of Inspector General at <http://www.hudoig.gov/report-fraud>. HUD's office of Inspector General is responsible for investigating claims of fraudulence. In such situations, the HUD Office of Inspector General may request documentation and additional information from the business to verify that they qualify for inclusion in the database. Businesses found to have misrepresented themselves will be removed

from the database and penalized as appropriate by the HUD Office of Inspector General.

**14. What if my firm is listed on HUD's Section 3 Business Self-Certification Database and I need to change or update my contact information?**

If your firm needs to change or update your contact information, please submit a detailed request via email to: [Sec3biz@hud.gov](mailto:Sec3biz@hud.gov).

**15. How can I find recipients or agencies that are required to provide preferences to Section 3 residents and businesses in my area?**

To find local recipients, contact your local HUD office. To find your closest office, visit: [www.hud.gov/localoffices](http://www.hud.gov/localoffices).

**16. Are agencies that receive covered HUD funding (i.e., PHAs, cities, states, property owners, and other agencies) required to use this database?**

Recipient agencies that receive Section 3 covered assistance will be informed about the database and encouraged but not required, to contact Section 3 firms in the registry prior to awarding covered contracts.

**17. Are General Contractors required to use this database?**

General Contractors and other developers that receive contracts from recipient agencies may be informed about the database by local recipients and instructed to contract Section 3 firms in the registry prior to the award of subcontracts.

**18. How will HUD monitor success under the Section 3 Business Registry Program?**

The Department will survey Section 3 Businesses and recipient agencies to determine outcomes and challenges associated with the implementation of the Section 3 Business Registry. The Department will monitor the usage of the database by businesses and recipients, and other feedback as a part of its assessment.

**19. Where can I find more information on the requirements of Section 3?**

For more information on the requirements of Section 3, please visit [www.hud.gov/Section3](http://www.hud.gov/Section3).

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## **Regulatory Definitions**

Section 3 covered activities - means any activity which is funded by Section 3 covered public and Indian housing assistance, as well as housing and community development and public housing program assistance.

**Applicant** – any entity which makes an application for Section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency or other public body, public or private non-profit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. The selected vehicle is referred to as the “recipient” for purposes of Section 3.

**Assistant Secretary** – the Assistant Secretary for HUD’s Fair Housing and Equal Opportunity (FHEO).

**Business Concern** – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** – any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a)(1).) With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135 (a)(2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Extremely low-income person** – families (including single persons) with income at 30 percent of the annual Area Median Income (AMI) or lower; including the homeless and public housing residents.

**“Greatest Extent Feasible”** - means that every effort must be made to comply with the requirements of Section 3. This also means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements.

**Housing Authority** – Public Housing Agency (PHA).

**Housing Development** – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD's public housing program regulations codified in 24 CFR Chapter IX.

**Low-income person** – families (including single persons) with income at 80 percent (80%) of the Area Median Income (AMI) or lower.

**Metropolitan Area** – a metropolitan statistical area (MSA).

**Numerical Goals** - means to focus on a result approach to accomplish following Section 3 minimum targets:

1. Employ qualified Section 3 residents, as 30% of aggregate number of new hires resulting from contracts and subcontracts on a covered activity.
2. Award to Section 3 business concerns at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work.
3. Award to Section 3 business concerns at least 3% of the total dollar amount of all Section 3 covered contracts for non-construction work.

**Neighborhood Area** - a geographical location(s) within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation, or meets HUD community development programs meets the definition at 24 C.F.R. § 570.204 (c)(1).

**New Hires** – full-time employees for permanent, temporary or seasonal employment opportunities.

**Order of Providing Preference** - Order of preference for meeting the Section 3 employment opportunities generated by covered assistance is as follows:

- Category 1: Section 3 resident in the County Transforming Neighborhoods Initiative (TNI) living in a housing development or developments for which covered funds will be expended
- Category 2: Section 3 resident utilizing a HUD Housing Choice Voucher residing in the vicinity of the covered project who meets the HUD/County AMI income guideline limits
- Category 3: Section 3 resident who graduated or is participating in a HUD Youthbuild program or a construction skills program of the Prince George's Community College, or a local trade union apprentice program.

**Public Housing Resident** – person meeting the requirement at 24 C.F.R. § 963.

**Recipient or Sub-recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private non-profit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Secretary** - the Secretary of the U.S. Department of Housing and Urban Development (HUD).

**Section 3** – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business Concern – a business concern:**

1. That is 51 percent or more owned by Section 3 resident: or
2. 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. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance –**

1. Public housing development assistance provided pursuant to Section 5 of the 1937 Act;
2. Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
3. Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
4. Assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership.)

**Section 3 Clause** – the contract provisions set forth in 24 C.F.R. § 135.38.

**Section 3 Covered Contracts** – a contract or subcontract (including a professional service contract) 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 awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation (FAR). Section 3 covered contracts also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract.

**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 housing or community development assistance.

**Section 3 Resident** – public housing resident or an individual who resides in the metropolitan area or a nonmetropolitan county in which Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – families (including single persons) with income at 50 percent of the AMI or lower.