

TOWN OF BEDFORD
PROCUREMENT POLICY



Chris Burdick, Town Supervisor
Lee V.A. Roberts, Deputy Supervisor
Donald B. Scott
MaryAnn Carr
Kate Galligan

Lisbeth Fumagalli, Town Clerk
Abraham J. Zambrano, Town Comptroller

Adopted
February 19, 2019

Subdivision 1 of Section 103 of the General Municipal Law as amended in 2011 increased bid limits from \$10,000 to \$20,000 for commodities and from \$20,000 to \$35,000 for public works projects. A new section, 104-b was added which requires that procedures for purchasing goods and services that fall below the new monetary bid limits must be established and approved by the governing board.

TOWN OF BEDFORD POLICY FOR PROCUREMENT NOT SUBJECT TO BIDDING REQUIREMENTS AS PER GENERAL MUNICIPAL LAW 104-B.

SECTION I

DETERMINATION OF WHICH PROCESS TO USE (BID OR QUOTE):

Purchases shall be evaluated with attention given to cumulative dollar amounts expected in a given fiscal year. When necessary, canvassing of departments will be done to determine yearly value of commodity. Past history can be taken into consideration when evaluating yearly costs associated with the purchase of a commodity. If the bid limit is expected to be exceeded, bidding shall take place. This decision shall be made in cooperation with the Department Head, Town Comptroller, and Town Supervisor.

If any purchases or projects are under the respective bid limits, but expected to exceed such limits in any one fiscal year, discretion shall be used and the bidding procedure may take effect.

SECTION II

EXCEPTIONS TO BIDDING

Emergency. When an emergency exists wherein the delay caused by soliciting bids would endanger the health, welfare or property of the municipality, and/or its residents, then the procurement of goods or services will be at the discretion of the proper department head in consultation with the Town Supervisor. Documentation as to the nature of the emergency must be sent to the Town Board or the Town Supervisor or his/her designee within five (5) working days of such procurement.

SECTION III

METHODS OF PROCUREMENTS NOT COVERED BY BIDDING:

Purchasing

The Town Supervisor at his/her discretion or upon obtaining consensus from the rest of the Town Board, in the interest of time and efficiency, may authorize the overriding of this policy as it pertains to the procurement of goods and services below the mandatory bid requirements.

In the process of procuring for commodities or services on behalf of the Town of Bedford, every effort must be made to adhere to the Town's Purchasing Procedures as described in "Exhibit B". Most purchases that fall under the Town's stated dollar categories as shown in "Exhibit A" will be obtained through quotes by one of the following methods:

Telephone Quotations. The telephone log or other record should document at a minimum: date, item or service desired, price quoted, name of vendor, name of vendor's representative.

Written Quotations. Vendors should provide at a minimum: date, description of item or details of service to be provided, price quoted, name of contact.

Due to past history, general knowledge, or urgent need, some purchases over \$2,499, but under \$20,000 may be placed directly without obtaining multiple quotes. Permission must first be obtained in writing by either the Town Supervisor or his/her designee or Town Comptroller. In addition, see Section VII, Emergency Purchases and Emergency Public Works Contracts.

Except as outlined in Section II – Exceptions to Bidding, under no circumstances will a quote that exceeds the bidding limits be awarded.

Public Works Contracts

Due to past history or general knowledge, some contracts may be awarded without obtaining multiple quotes. A department head may also deem, based on cost or other urgent need, to award a contract without obtaining multiple quotes. Permission must first be obtained in writing by either the Town Supervisor or his/her designee or Town Comptroller. In addition, see Section VII, Emergency Purchases and Public Works Contracts.

Except as outlined in Section II – Exceptions to Bidding, under no circumstances will a quote that exceeds the bidding limits be awarded.

Most public works contracts that fall under the Town's stated dollar categories as shown in "Exhibit A" will be obtained through quotes by one of the following methods:

Telephone Quotations. The telephone log or other record should record at a minimum: date, item or service desired, price quoted, name of vendor, name of vendor's representative.

Written Quotations. Vendors should provide at a minimum: date, description of item or details of service to be provided, price quoted, name of contact.

Requests for Proposals. An effective way to award Public Works contracts is to award them only after a minimum number of professionals are contacted and asked to submit written proposals.

Professional Services

Where applicable, the Town Supervisor, Comptroller, or Department Head will initiate one of several processes in order to acquire professional services at the best price and value for the Town. This includes request for proposals and request for qualifications. A minimum of three vendors will be solicited when possible.

Request for Proposals for Professional Services

Requests for proposals (RFPs) are traditionally used as a means of obtaining all types of professional services. RFPs are used to obtain the services of: architects, engineers, surveyors, planners, accountants, underwriters, fiscal consultants, and other professionals.

RFPs and evaluation of proposals can consider price plus other factors such as experience, staffing and suitability for needs and may include negotiations on a fair and equal basis.

The process involves making a request for proposals from various firms or professionals, and then evaluating the proposals received.

The overall process should consider the following:

1. A well planned solicitation effort is needed to identify a sufficient number of qualified firms. This may include, but is not limited to, the following: advertisements in trade journals, searching professional associations, and obtaining sources from other local governments. A good solicitation effort helps to ensure that these qualified firms are aware of the Town's needs and procurement procedures and are thereby able to participate in the proposal process.
2. A well planned solicitation effort helps encourage qualified firms to respond to RFPs. Preparing a response to an RFP can be costly. Qualified firms may be unwilling to go to the trouble and expense of preparing a proposal if critical details of the method used to select (i.e., quality versus price) are not made clear in the RFP.
3. A well planned solicitation effort can result in reduced costs through increased competition. Of course, if not properly managed, competition can produce unsatisfactory results. The Town may obtain a poor quality of service, for example, if only cost factors are considered in the selection of a firm. However, if a sufficient pool of qualified firms is identified through a sound solicitation effort, the Town can enjoy the economic benefits of competition without sacrificing quality.

There is no requirement in Section 104-b on the frequency of solicitation. Periodic solicitation can be made at reasonable intervals. For example, a professional could be

selected with the option of extending the contract in the second and third years before doing another RFP process.

Request for Qualifications

In certain cases the Town may solicit qualifications instead of proposals for various professional services. This is usually done when the scope of work has not been narrowly defined. The Town uses the process of its interviews with the selected firms to meet with the representatives of each firm in order to determine the most qualified company. The interviews also help Town staff to get input from the potential consultants on a possible scope of work for the project. RFQs can be used when soliciting the services of consultants, planners, architects, or attorneys.

Written Quotes

When the project is considered small and not complex, Town staff may just solicit written quotes without going through the formal RFP or RFQ process. This would usually happen in the case of small surveys or limited engineering design plans for a small project.

SECTION IV

DOCUMENTATION

All quotes (written or telephone) shall be documented and attached to all requisitions using the Town's requisition order form, thus creating an audit trail. Requisitions will not be processed without this documentation.

All awards from quotes shall be made to the lowest responsible bidder if possible or by using the Best Value Procurement Method (see section V). Circumstances which will be documented in writing may indicate purchase from other than low bidder (i.e., delivery requirements, quantity requirements, store pickup, the location of vendor, known past experience of a vendor, etc.) This document must be approved in advance by either the Town Supervisor or his/her designee or the Town Comptroller.

SECTION V

BEST VALUE PROCUREMENT

In accordance with section 27 of the Municipal Home Rule Law and pursuant to NYS General Municipal Law §103, on May 16, 2017, the Town Board enacted Chapter 24 "Best Value Procurement" law to be incorporated into the Town's Procurement Policy. Best value is defined in New York State Finance Law § 163.

When awarding contracts under the best value standard, the Town must consider the overall combination of quality, price, and other elements of the required commodity or service that in total are optimal relative to the needs of the Town. Use of the best value

standard must rely, wherever possible, on objective and quantifiable analysis. The best value standard may identify as a quantitative factor whether offerors are small businesses or certified minority- or women-owned business enterprises as defined in New York Executive Law § 310. The best value standard may only be used for purchase contracts, which includes contracts for service work, but excludes any purchase contracts necessary for the completion of a public works contract pursuant to Article Eight of the Labor Law. The Town of Bedford will make every effort to notify bidders and include in bid documents whenever the Town intends on using “Best Value Procurement”.

SECTION VI

OTHER

Mandated Sources. Mandated procurement sources shall be investigated when possible. These sources include NYS OGS Procurement Group, Department of Correction, Industries for the Blind of New York State and the New York State Industries for the Disabled.

Insurance. All agreements for insurance coverage will be investigated by the Town Supervisor or his/her designee or the Town Comptroller. If competition is available in the market, RFPs will be requested, evaluated and an award made. If no competition is available, a contract will be negotiated between the Town and the respective carrier.

Sole Source. When there is only one possible source from which to procure goods and/or services, thus indicating there is no possibility of competition, the following will be documented in writing:

1. Unique benefits of item needed.
2. No other product/service can compare.
3. Cost is reasonable as compared to product offered.
4. There is no competition available.

True Lease. Prices will be negotiated between the Town of Bedford and Lessor.

SECTION VII

EMERGENCY PURCHASES AND EMERGENCY PUBLIC WORKS CONTRACTS

The term “Emergency Purchase” as defined in Section 4 of the General Municipal Law is as follows:

“... in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition, whereby circumstances affect public buildings, public property or the life, health, safety or property of the inhabitants of a political sub-division or district therein, require immediate action which cannot await competitive bidding, contracts for purchase or public work may be let without compliance without formal advertising requirements...”

Consequently, unless the situation threatens lives, health or public property, the purchase of services or products must go through normal channels.

In those cases of emergency, requiring immediate action, the department head responsible for that operation will assume charge for the operation. The following procedure will be used:

1. Contact the vendor immediately and arrange the purchase or service.
2. Notify the Town Supervisor or Comptroller in writing as soon as possible when the emergency purchases or services are necessary, and document what was required, and from whom the purchase was being made.

SECTION VIII

PIGGYBACKING

In addition to the procedures and guidelines stated herein, in accordance with General Municipal Law§ 103(16) effective November 13, 2013, New York State political subdivisions have the authority for “Piggybacking” to contracts awarded by other municipal entities. Based on the authority granted under Chapter 497 of the Laws of 2013, the Town will make purchases through the use of contracts awarded by other governmental entities as long as such contracts are awarded to either the lowest responsible bidder or based on the Best Value Purchase in a manner consistent with General Municipal Law.

SECTION VIII

MWBE & SECTION 3 PROCUREMENT

When awarding a contract for goods and or services that are funded with the financial assistance of HUD or other government grants and agreements, all efforts should be made to promote the employment of certified Minority and Women’s Business Enterprises (MWBE) and adhere to the provisions of Section 3, as outlined in Appendix C.

Adopted by the Bedford Town Board on February 19, 2019

APPENDIX A

TOWN'S STATED DOLLAR CATEGORIES

Purchase of materials

		Discretion of Town Supervisor or Dept. Head	Minimum 3 Quotes Telephone*	Minimum 3 Quotes Written*	Bid**
Up To	\$2,499	X			
\$2,500	\$4,999		X		
\$5,000	\$19,999			X	
\$20,000	Or Over				X

*Due to past history, general knowledge, or urgent need, some purchases over \$2,499 but under \$19,999 shall be placed directly without obtaining multiple quotes. The Town Supervisor based on cost, efficiency or urgent need may award a contract without obtaining multiple quotes. Permission must first be obtained in writing by either the Town Supervisor or his/her designee or the Town Comptroller. In addition, see Section VI, Emergency Purchases and Public Works Contracts.

**Except as outlined in Section II – Exceptions to Bidding, under no circumstances will a quote that exceeds the bidding limits be awarded.

Public Works Contracts

		Discretion of Town Supervisor or Dept. Head	Minimum 3 Quotes Telephone*	Minimum 3 Quotes Written or RFP*	Bid**
Up To	\$9,999	X			
\$10,000	\$19,999		X		
\$20,000	\$34,999			X	
\$35,000	Or Greater				X

*Due to past history or general knowledge, some contracts may be awarded without obtaining multiple quotes. The Town Supervisor or a department head may also deem, based on cost or other urgent need, to award a contract without obtaining multiple quotes. Permission must first be obtained in writing by either the Town Supervisor or his/her designee or the Town Comptroller. In addition, see Section VI, Emergency Purchases and Public Works Contracts.

**Except as outlined in Section II – Exceptions to Bidding, under no circumstances will a quote that exceeds the bidding limits be awarded.

Professional Services

		Discretion of Town Supervisor or Dept. Head	Minimum 3 Quotes Telephone*	Minimum 3 Quotes Written or RFP*	RFP or RFQ
Up To	\$4,999	X			
\$5,000	\$34,999	X	X	X	
\$35,000	Or Over	X			X

*Due to past history or general knowledge, some contracts may be awarded without obtaining multiple quotes. The Town Supervisor at his/her discretion or upon obtaining consensus from the rest of the Town Board, in the interest of time efficiency, may authorize the procurement of professional services by overriding this policy. A department head may also deem, based on cost or other urgent need, to award a contract without obtaining multiple quotes. Permission must first be obtained in writing by either the Town Supervisor or his/her designee or Town Comptroller. In addition, see Section VI, Emergency Purchases and Public Works Contracts.

APPENDIX B

PURCHASING PROCEDURES

SECTION I

GREEN PURCHASING POLICY

Recognizing the responsibility of local governments to take effective measures to reduce or limit the environmental impacts of their operations and conserve our resources, the Town of Bedford hereby adopts the following general policy on purchasing:

Energy Use: Priority shall be given to products which consume the least amount of energy in their manufacture, use and disposal. Where possible, Energy Star qualification and/or an equivalent elevated measure of efficiency should be a minimum requirement in any energy consuming equipment, device, vehicle or appliance purchase.

Sustainability of Materials: Priority shall be given to products which are made from sustainable materials, and/or contain a significant level of recycled or reprocessed material and which are manufactured locally, and/or which are packaged to reduce transportation costs.

Packaging: Priority shall be given to products which are minimally packaged using recycled, recyclable or biodegradable packaging materials.

Environmental Impacts: Priority shall be given to products which reduce impacts on the environment during manufacture, use or disposal.

Health Impacts: Priority shall be given to products which reduce or eliminate health risks to employees and/or citizens in their manufacture, use or disposal. In particular, products that contain Chlorine, PVC, and/or emit unhealthy levels of chemical emissions during use should be avoided.

SECTION II

PURCHASE REQUISITIONS

No purchases for goods or services shall be made without first completing a Purchase Requisition. This is done electronically through the Town's financial software system. Department Heads will approve requisitions submitted by their staff. Department Heads will be responsible for their respective budgets and should keep this in mind as they review requisitions for approval. Requisitions cannot be entered once a budget line is negative (over-spent)

BUDGET TRANSFERS

When a budget line is over-spent, the Department Head must determine if the purchase is necessary. If so, all department budget lines must be reviewed by the Department Head or their designee to see where funds are available. A Budget Transfer Request form (attached) should be completed as to what code to increase and what code to decrease. An explanation of the transfer should be included. There should be a net zero effect (no budget impact). The Department Head must sign the form and forward to the Comptroller's Office. The Comptroller's Office will review the request and determine whether Town Board Approval is required. For transfers under \$5,000 the Town Supervisor is authorized to approve the transfer. This is not meant to suggest that multiple transfers of \$4,999 should be initiated either. For transfers of \$5,000 and above, the Town Comptroller will submit the request to the Town Board for approval at their next scheduled public meeting. A majority vote of the Board is required to carry the motion.

Until approvals are obtained and the transfers are made by the Comptroller's Office, requisitions cannot be entered and purchases cannot be submitted to vendors.

PURCHASE ORDERS

Once a requisition is successfully entered into the Town's financial software system, the Comptroller's Office will produce a Purchase Order (PO). The PO will be sent to the appropriate department for execution of the purchase (send to vendor). This will be the cover page when an invoice is submitted for payment.

RECEIVING PURCHASED ITEMS

When items are received, a packing slip or delivery ticket should accompany the items. Employees should review that this matches the items delivered and sign that they received the item(s). This signed document will be necessary to pay the invoice.

SECTION III

PAYMENT OF INVOICE (CLAIMS)

Once items are received, the signed packing slip should be matched up to the PO. This packet must be included with the vendor invoice and sent to the Comptroller's Office for payment. Invoices cannot exceed 10% of the approved PO if the PO is for a single purchase. In the case of Blanket POs, the exceeding 10% applies to the remaining available balance on the PO, not the original Purchase Order amount. Invoices that exceed 10% of the PO or the available balance on the Blanket PO will be returned to the Department Head. In these cases, a new PO must be generated and accompany the original PO to cover the overage. Completed claim packets will be processed in accordance with the Town Board meeting schedule. Departments must indicate if

invoices are required to be paid by specific dates. The Comptroller's Office will take advantage of all payment terms and discounts unless otherwise stated.

AUDIT AND REVIEW PROCESS

All invoice claim packets will be reviewed by the Comptroller's Office staff, initialed and entered into the Town's financial software system to create checks and a warrant. All claims will then be reviewed by the Comptroller for completeness and accuracy. The Comptroller will initial all PO's upon review. All claims and the claims warrant will be reviewed and initialed by the Board Member designated by the Town Board during the annual Organizational meeting. Said Board member will present an abstract of the claims to the Board for approval. A majority vote of the Board is necessary to approve the claims submitted.

ISSUANCE OF CHECKS

Once the Town Board has approved the claims submitted, payment checks can be issued by the Comptroller's office. These checks are issued by the Senior Bookkeeper and signed (electronically) by the Town Supervisor.

DUAL SIGNATURE

The Town of Bedford does not require dual signatures on accounts payable checks under \$10,000. For checks \$10,000 and above, a second "Live" signature is required. The Town supervisor is the first signature, the second signature, signed in blue ink, is the Town Comptroller. In the absence of the Town Comptroller, the Deputy Town Supervisor would be the second signer.

Town of Bedford

Budget Transfer Request

Date: _____

<i>From Account</i>	<i>To Account</i>	<i>Amount Transferred</i>	<i>Reason</i>

Department Head Approval: _____

Finance Approval: _____

Town Supervisor Approval: _____
(Items under \$5,000 each, per quarter.)

Note: Transfers of items over \$5,000 each, per quarter, will be subject to Town Board approval.

APPENDIX C

PROCUREMENT POLICY IN COMPLIANCE WITH SECTION 3 REQUIREMENTS

I. OVERVIEW

“Section 3” refers to a provision of the Housing and Urban Development Act of 1968. It is a means by which the United States Department of Housing and Urban Development (HUD) fosters neighborhood economic development and individual self-sufficiency.

More specifically, 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 or local laws and regulations, be directed to Low-and-Very Low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very-low income persons.

Section 3 applies to the following HUD assistance:

- (1) Public and Indian housing assistance – Training, employment, contracting and other economic opportunities arising from the expenditures of the following public and Indian housing assistance: development assistance, operating assistance, and modernization assistance.
- (2) Housing and community development assistance – Training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects: housing rehabilitation (excluding routine maintenance), housing construction, and public construction.¹

Therefore, any HUD assistance deriving from the following programs may be subject to Section 3’s provisions:

- Community Development Block Grants (CDBG) & Community Development Block Grants – Disaster Recover (CDBG-DR)
- Home Investment Partnership
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (ED)

¹ Housing and community development assistance used for acquisition, routine maintenance, operations, administrative costs, and project rental assistance contracts (PRAC) are exempt from compliance with Section 3 because these activities are not considered “construction” or rehabilitation” activities.

- Brownfield Economic Development Initiative (BED)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUG Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled

II. SECTION 3 THRESHOLDS AND TRIGGERS

The requirements of Section 3 apply to recipients of HUD funding for Section 3 covered project(s) in which the amount of the assistance is in excess of **\$200,000**.²

Contractors and Subcontractors are also subject to Section 3's requirements when performing **any** type of activity on Section 3 covered projects for which the amount of funding is in excess of \$200,000 and the contract or subcontract exceeds **\$100,000**.³

If a recipient receives Section 3 covered housing construction or public infrastructure or community development assistance in excess of \$200,000, but no individual contract exceeds \$100,000, Section 3 requirements will only apply to the recipient (e.g. hiring and training goals).

III. SECTION 3 GOALS

When Section 3 is triggered by the thresholds above, the Town of Bedford must attempt, to the “greatest extent feasible,” to meet the minimum numerical goals as follows:

- At least **30%** of all new hires must be Section 3 Residents⁴; and
- At least **10%** of the total dollar amount of all Section 3 covered contracts for housing rehabilitation, construction, and other public construction should be awarded to eligible Section 3 Business Concerns⁵; and

² See 24 CFR 135.3 9a) (3) (ii)

³ 24 CFR 135.3 at 135 (3) (ii) (B)

⁴ A “new hire” is defined as full-time employees for permanent, temporary, or seasonal employment as a direct result of the expenditure of Section 3 covered financial assistance. A “resident” is defined as

⁵ A Section 3 Business Concern is a Business Concern that meets the following criteria:

1. 51% or more owned by Section 3 resident(s), or
2. Whose permanent, full-time employees included persons, at least 30 percent of whom are currently Section 3 residents, or during the three years of the date of first employment with the business concern were Section 3 residents, or

- At least **3%** of the total dollar amount of all Section 3 covered non-construction (e.g., professional services) contracts should be awarded to eligible Section 3 Business Concerns.

Section 3 requirements apply to the entire project regardless of whether the project is fully or partially funded with Section 3 assistance. For example, assume Contractor X's total project cost is \$1 million. HCR awards Contractor X \$250,000 from HUD's CDBG Program. However, the remaining \$750,00 is funded from non-HUD resources. Because Contractor X accepted \$250,000 of Section 3 covered assistance, it is now responsible for meeting the minimum Section 3 employment and contract goals for the entire \$1 million allocation – not just the \$250,000 HUD grant.

IV. CONTRACTING WITH SECTION 3 BUSINESS CONCERNS PROCUREMENT

Numerous activities should be undertaken by Awardees, Contractors and Subcontractors to assist in directing opportunities towards Section 3 Business Concerns as a part of their selection and procurement process. It is the responsibility of Awardees, Contractors and Subcontractors to make active efforts to comply with Section 3.

These procurement responsibilities include, but are not limited to:

- The inclusion of Section 3 language in all RFPs, procurement documents, and offerings and contracts;
- Notifying HCR's Section 3 Coordinator prior to the release of solicitations or procurements so that feedback can be provided with regards to Section 3 activities; and
- When feasible, the participation of HCR's Section 3 Coordinator or her/his designee at pre-bid meetings to explain and answer questions related to the Section 3 policy.

Each bidder/proposer must include a Section 3 Participation which indicates its commitment to meet resident hiring and Business Concerns contracting requirements. It is the policy of HCR that it will not provide a funding commitment for any funding source that triggers Section 3 requirements until there is an approved Section 3 Participation Plan in place. For all applicable assistance, HCR will require the submission of a completed Section 3 Plan as a schedule to a funding agreement. Required Section 3 Plans will be reviewed and approved by FEHO Section 3 Coordinator or designee for completeness at the time of submission, prior to contract execution.

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3. Any Business Concern that commits to subcontract over 25% of the total dollar award for all their subcontracts to Section 3 Business Concerns that meet the qualifications set forth in (1) or (2) of this paragraph.

V. OTHER REQUIREMENTS

Attached as an addendum to this Policy is the NYS Home and Community Renewal Section 3 Policies and Procedures Manual. Please refer to this Manual for additional requirements and information relating to Section 3 compliance.

PROCEDURE FOR COMPLIANCE WITH M/WBE

Premise: State award terms and condition may include the provision that Contractors, in this case, Nazareth College of Rochester, engage M/WBE certified businesses for 20% of eligible expenses. The amount is determined by completing the M/WBE Goal Calculation Worksheet. Principal Investigators, Program Directors or similar (PI/PD) are encouraged to plan ahead in an effort to avoid delays in obtaining goods and services.

Additional State Resources: <http://esd.ny.gov/MWBE.html>

Good Faith Effort: Evidence may be requested at any time by the NY State Funding Agency and must be readily available. Documentation, as listed on M/WBE form 105, may include:

1. Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;
2. If responses to the contractor's solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;
3. Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;
4. Copies of any solicitations of certified minority- and/or women-owned business enterprises listed in the directory of certified businesses;
5. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;
6. Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.
7. Describe any other action undertaken by the bidder to document its good faith efforts to retain certified minority - and women- owned business enterprises for this procurement.

Procedure: The procedure outlined below puts protections in place that ensure a "good faith effort" by requiring documentation of a plan for compliance and of efforts to solicit services from M/WBE certified entities *prior to* any purchase of goods or services.

Utilization Plan Requirement

1. Prior to the expenditure of any funds the PI/PD must complete the NYS M/WBE Utilization Plan, form 100, outlining how the award will manage to comply with M/WBE Policy.
2. A copy of the M/WBE Utilization will be kept in the Program File maintained by OSPFR.
3. OSPFR will track the amounts paid to M/WBE Entities to allow for fulfillment of reporting requirements.

M/WBE Contractor is unavailable:

1. PD/PI must complete the M/WBE Contractor Unavailable Certification form and submit the unsigned form to OSPFR with all available Good Faith Documentation.
2. OSPFR will review the documentation for completeness and may request additional documentation to support certification.
3. Once OSPFR review is complete a representative of the OSPFR will route for signature.
4. A copy of the signed certification form will be maintained in the OSPFR Program File, with the original being returned to the PI/PD for submission to the state.

Please note: No services or goods may be purchased until after the certification form is signed, submitted and accepted.



**Homes and
Community Renewal**

SECTION 3

Policies and Procedures Manual

Andrew M. Cuomo, Governor of New York State
RuthAnne Visnaukas, Commissioner

November 2017

This manual represents the current version of the New York State Homes and Community Renewal's guidance for the operation of its Section 3 Program. This Policies and Procedures Manual will be reviewed periodically and will be updated as needed. HCR will use its best efforts to keep all of its Manual current. Therefore, you are strongly urged to visit our website <http://www.nyshcr.org> to ensure that this is the latest version, as there may be times when a policy or procedure will change before the Manual can be revised.

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SECTION 3 DEFINITIONS

Awardee - The recipient of an HCR award subject to the provisions of Section 3.

Category 1 & 2 Residents – In Public and Indian Housing programs, all efforts shall be directed to provide training and employment opportunities to Section 3 residents in the following order of priority:(i) Residents of the housing development or developments for which the Section 3 covered assistance is expended (category 1 residents); or (ii) Residents of other housing developments managed by the Housing Authority that is expending the Section 3 covered housing assistance (category 2 residents).

Contractor - Any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or work in connection with a Section 3 covered contract.

First Source Hiring - First source hiring ordinances, contract clauses, and related agreements seek to provide meaningful employment opportunities to residents living within communities most directly impacted by local development projects. First source hiring initiatives seek to ensure that local residents receive a fair share of the economic benefits of public development projects.

HUD –United States Department of Housing and Urban Development.

Low- Income – Individuals and families whose incomes do not exceed 80 per cent of the median income for the area. The HUD Secretary can make adjustments for smaller and larger families, or make exceptions to the income ceilings that are either higher or lower than 80 percent of the median for the area. Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

New Hire – Full-time employees for permanent, temporary or seasonal employment created as a direct result of the expenditure of Section 3 covered financial assistance.

Section 3 - Section 3 of the Housing and Urban Development Act of 1968 as found at 12 U.S.C. 1701u.

Section 3 Business Concern – A Business Concern that meets the following criteria:

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

3. Any Business Concern that commits to subcontract over 25% of the total dollar award of all their subcontracts to Section 3 Business Concerns that meet the qualifications set forth in (1) or (2) of this paragraph.

Section 3 Contract Clause – The contract provisions that bind parties to make the “greatest extent feasible” efforts to adhere to the Section 3 program as set forth in Section 24 CFR 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 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 Plan – A comprehensive document that identifies the goals, objectives, and actions that will be implemented by Awardees and/or Contractors to ensure compliance with the requirements of Section 3. The plan identifies a list of strategies to be adopted for compliance with the stated employment, training and contracting goals.

Section 3 Resident - A public housing resident, a “low-income” individual, or a “very-low income” individual as defined herein.

Step-Up Employment Program – A “Step-Up” employment program is a new national program developed by HUD with the cooperation of the Department of Labor and the National Association of Housing and Redevelopment Officials (NAHRO) to provide job and job training opportunities on HUD-assisted construction to residents of public housing and other low-income people.

Subcontractor - Any entity 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 - Families (including single persons) whose incomes do not exceed 50 per cent of the median income for the area. The HUD Secretary can make adjustments for smaller and larger families, or may establish income ceilings that are higher or lower than 50 percent of the median for the area. Local income levels can be obtained online at:

<http://www.huduser.org/DATASETS/il.html>.

HCR SECTION 3 POLICIES

OVERVIEW

“Section 3” refers to a provision of the Housing and Urban Development Act of 1968.¹ It is a means by which the United States Department of Housing and Urban Development (HUD) fosters neighborhood economic development and individual self-sufficiency.

More specifically, 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 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.

Section 3 is the LAW, it is not an option.

Section 3 applies to the following HUD assistance:

(1) Public and Indian housing assistance - Training, employment, contracting and other economic opportunities arising from the expenditures of the following public and Indian housing assistance: development assistance, operating assistance, and modernization assistance.

(2) Housing and community development assistance - Training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects: housing rehabilitation (excluding routine maintenance), housing construction, and public construction.^{2 3}

Therefore, any HUD assistance deriving from the following programs may be subject to Section 3’s provisions:

- Community Development Block Grants (CDBG) & Community Development Block Grants – Disaster Recovery (CDBG-DR)
- Home Investment Partnership
- Housing Opportunities for Persons with Aids (HOPWA)

¹ 12 U.S.C. 1701u. Implementing regulations can be found at 24 CFR 135 et al.

² 24 CFR 135 (a) (2) (i) – (iii).

³ Housing and community development assistance used for acquisition, routine maintenance, operations, administrative costs, and project rental assistance contracts (PRAC) are exempt from compliance with Section 3 because these activities are not considered “construction” or “rehabilitation” activities.

- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled

SECTION 3 THRESHOLDS AND TRIGGERS

The requirements of Section 3 apply to recipients of HUD funding for Section 3 covered project(s) in which the amount of the assistance is in excess of **\$200,000**.⁴

Contractors and Subcontractors are also subject to Section 3's requirements when performing **any** type of activity on Section 3 covered projects for which the amount of funding is in excess of \$200,000 and the contract or subcontract exceeds **\$100,000**.⁵

If a recipient receives Section 3 covered housing construction or public infrastructure or community development assistance in excess of \$200,000, but no individual contract exceeds \$100,000, Section 3 requirements will only apply to the recipient (e.g. hiring and training goals).

SECTION 3 GOALS

When Section 3 is triggered by the thresholds above, all parties must attempt, to the "greatest extent feasible," to meet the minimum numerical goals as follows:

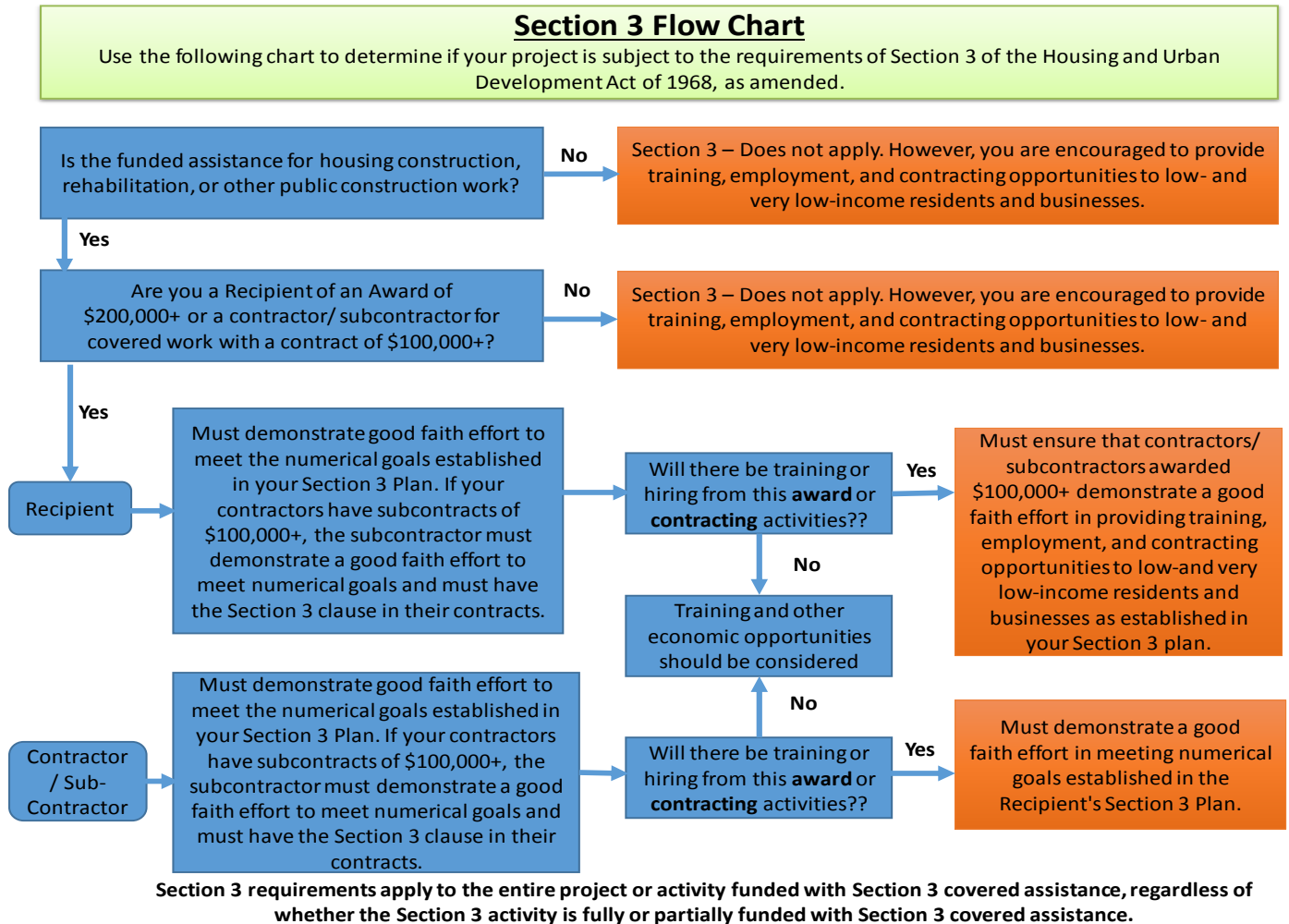
- ▶ At least **30%** of all **new** hires must be Section 3 Residents; and
- ▶ At least **10%** of the total dollar amount of all Section 3 covered contracts for housing rehabilitation, construction, and other public construction should be awarded to eligible Section 3 Business Concerns; and,
- ▶ At least **3%** of the total dollar amount of all Section 3 covered non-construction (e.g., professional services) contracts should be awarded to eligible Section 3 Business Concerns.⁶

⁴ See 24 CFR 135.3 (a) (3) (ii).

⁵ 24 CFR 135.3 at 135 (3) (ii) (B).

⁶ *Id.* at 135.30 (b) (1).

The following “Section 3 Flowchart”, as found at <https://www.hudexchange.info/resources/documents/Section3FlowChart.pdf>, is provided to guide HCR Awardees, Contractors, and Subcontractors in determining whether their projects are subject to Section 3 requirements:



As previously noted, Section 3 requirements apply to the entire project regardless of whether the project is fully or partially funded with Section 3 assistance. For example, assume Contractor X's total project cost is \$1 million. HCR awards Contractor X \$250,000 from HUD's CDBG Program. However, the remaining \$750,000 is funded from non-HUD resources. Because Contractor X accepted \$250,000 of Section 3 covered assistance, it is now responsible for meeting the minimum Section 3 employment and contract goals for the entire \$1 million allocation – not just the \$250,000 HUD grant.

SECTION 3 ELIGIBILITY & CERTIFICATIONS

Any resident or business seeking consideration for training, employment or contracting opportunities generated by Section 3 funds must be eligible for and certify that it meets the criteria of a Section 3 Resident or Section 3 Business Concern. Section 3 Business Concerns can apply for certification if they meet the criteria as defined in the HUD Section 3 portal which can be accessed at the following website url: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/AmISection3>.

SECTION 3 RESIDENT

Section 3 Residents are defined as:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the Metropolitan Area or Nonmetropolitan County in which the Section 3 covered assistance is expended and meet the criteria of low- or very low-income.⁷ Local income levels can be obtained online at: <http://www.huduser.org/DATASETS/il.html>.

A resident who meets the eligibility requirements and seeks the Section 3 preference in training and employment opportunities shall certify, or submit evidence (if requested) to HCR, its Awardees, Contractors or Subcontractors that he or she qualifies as a Section 3 resident.⁸

An example of evidence of eligibility for the preference is a receipt of public assistance, or evidence of participation in a public assistance program. A sample Section 3 Certification Form for Section 3 Residents is available at the following website url: [http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Downloads/Exhibit2\(2\).pdf](http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Downloads/Exhibit2(2).pdf)

⁷ What constitutes "Low" and "Very Low" Income is defined in the "Definition" Section above.

⁸ *Id.* at 135.34 (b).

SECTION 3 BUSINESS CONCERNS

Section 3 Business Concerns are one of the following:

1. Businesses that are 51 percent or more owned by Section 3 residents; or
2. Businesses 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 firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

Similar to Section 3 Residents, businesses that seek Section 3 preference shall certify, or submit evidence (if requested) to HCR, its Awardees, Contractors or Subcontractors verifying that they meet the definitions provided in the above.

HCR SECTION 3 PROCEDURES

PROCUREMENT

All Requests for Proposal (RFP)/Notice of Funding Availability (NOFA) issued by HCR will include general information regarding Section 3 and if applicable, the HUD Section 3 clause, and a Section 3 brochure.

HCR SECTION 3 COORDINATOR

The Section 3 Coordinator may be able to assist Section 3 recipients by:

- Encouraging Awardees to utilize the HUD Business Concern Registry as a means of identifying certified Section 3 Business Concerns throughout the State of New York;
- Facilitating contact with local housing authorities, social service agencies, etc. to assist Contractors, Subcontractors and Awardees with identifying Section 3 Residents;
- Raising awareness among Section 3 Residents about their eligibility for training and employment opportunities;
- Raising the awareness among Section 3 Business Concerns about their eligibility for contracting opportunities;
- Providing technical assistance to Contractors, Subcontractors and Awardees during the process of developing a Section 3 Plan;

- Reviewing Awardee, Contractor and Subcontractor Section 3 Plans for sufficiency;
- Overseeing the implementation of all Section 3 Plans;
- Managing education and outreach efforts in order to ensure that all parties meet their Section 3 obligations; and,
- Collecting and aggregating data to properly report HCR's progress to HUD.

The Section 3 Coordinator will review the Section 3 Plans and advise program staff upon approval of the submitted plan.

SECTION 3 MONITORING & COMPLIANCE

HCR maintains documentation to demonstrate compliance by the agency, Awardees, Contractors and Subcontractors with Section 3 requirements. In order to ensure compliance, HCR will periodically evaluate the activities and performance of its partners. Evaluation criteria will include:

- Actual hiring, in relation to goals;
- Actual contracting (in terms of numbers of contracts and contract value), in relation to goals;
- Efforts to meet the Section 3 requirements;
- Whether the dollar amount of the contract exceeds the threshold requirements of Section 3;
- Whether the contract is likely to generate jobs or business contract opportunities; and
- Whether or not complaints have been raised.

If an Awardee, Contractor and/or Subcontractor fails to meet the goals established in their Section 3 Plan, the Section 3 Coordinator will promptly send written notice of non-compliance. Parties will be given an opportunity to respond to findings or concerns identified and must take corrective action as needed.

If the non-compliant party does not cooperate with the Section 3 Coordinator, "failure to comply" proceedings may take place.

AWARDEE, CONTRACTOR AND SUBCONTRACTOR SECTION 3 PROCEDURES

Awardees are responsible for their Contractors and Subcontractors' activities.⁹ It is therefore critical that all stakeholders comply with the requirements of Section 3. When an LPA is unable to meet the required Section 3 goals they must document all good faith efforts to direct employment and other economic opportunities toward low- and very low-income persons and provide a narrative of the outcome.

TRAINING AND EMPLOYMENT OPPORTUNITIES FOR SECTION 3 RESIDENTS

Awardees, Contractors and Subcontractors must make "greatest extent feasible" efforts to train and employ Section 3 residents. This includes, but is not limited to:

- (1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- (3) Establishing training programs, that are consistent with the requirements of the New York State Department of Labor (DOL), for public and Indian housing residents and other Section 3 residents in the building trades.
- (4) Advertising the training and employment positions by posting opportunities with the public employment system, such as DOLs New York State Job Bank and Jobs Express.
- (5) Advertising the training and employment positions by distributing flyers (identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where Category 1 or 2 Residents live.
- (6) Advertising the training and employment positions by posting flyers (identifying the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For housing authorities (HA), post such advertising in the housing development or developments where Category 1 or 2 Residents live; for all other recipients, post such advertising in the housing

⁹ 24 CFR § 135.32.

development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.

(7) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where Category 1 or 2 Residents live, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(8) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a HA or contractor representative or representatives at a location in the housing development or developments where Category 1 or 2 Residents live or in the neighborhood or service area of the Section 3 covered project.

(9) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where Category 1 or 2 Residents live and in the neighborhood or service area in which a Section 3 project is located.

(10) Arranging for a location in the housing development or developments where category 1 or 2 Residents live, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative(s).

(11) Conducting job interviews at the housing development or developments where low- and very-low income individuals reside, or at a location within the neighborhood or service area of the Section 3 covered project.

(12) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(13) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

(14) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement, that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(16) For a HA, employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as “force account labor” in HUD’s Indian housing regulations. See 24 CFR 905.102, and §905.201(a)(6).)

(17) Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.

(18) Partnering with local educational institutions who are conducting job counseling, education and related programs.

(19) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

(20) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.

(21) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

SECTION 3 OUTREACH BEST PRACTICES

Awardees, Contractors and Subcontractors must, as stated throughout this Section 3 Policy and Procedure Manual, exert “greatest extent feasible” efforts to identify and provide opportunities to Section 3 Residents and Business Concerns.

Best practices to provide training and employment opportunities to Section 3 Residents include:

- Clearly indicate on all job applications and websites for job postings that the position is “A Section 3 eligible job opportunity.”

- Request current list of Section 3 eligible applicants and certified Section 3 businesses from housing authorities and other HUD funded agencies.
- Advertise job and subcontracting opportunities in local, community papers and job boards in impacted areas and communities.
- Partner with the NYS Department of Labor's Division of Employment and Workforce Solutions (<http://labor.ny.gov/dews-index.shtm>) to promote special advertisement of Section 3 job postings and opportunities.
- Contact local community organizations (e.g. faith-based organizations, community centers, organizations that serve adult special needs population, etc.) and provide them with job postings for Section 3 eligible applicants.
- Word-of-Mouth – ask others to refer qualified applicants to your firm.
- Through the usage of social media including Facebook, Twitter, etc.

Best practices to recruit and award Section 3 Business Concerns include:

- Advertise contracting opportunities via newspaper, mailings, and/or post 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 should be provided in sufficient time to enable Business Concerns the opportunity to respond to the bid invitation.
- Coordinate pre-bid meetings at which the Section 3 Business Concerns would be informed of upcoming contracting opportunities in advance.
- Conduct workshops on 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 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 Business Concerns.

- Establish relationships with the United States Small Business Administration (SBA), Community Development Corporations, and other sources as necessary to assist with educating and mentoring residents with a desire to start their own businesses.
- Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training and mentoring so residents may obtain necessary skills that will transfer into the external labor market.
- Develop resources or seek out training to assist residents interested in starting their own Business Concerns to learn to prepare contracts, prepare taxes, and obtain licenses, bonding, and insurance.

CONTRACTING WITH SECTION 3 BUSINESS CONCERNS

PROCUREMENT

Numerous activities should be undertaken by Awardees, Contractors and Subcontractors to assist in directing opportunities towards Section 3 Business Concerns as a part of their selection and procurement process. It is the responsibility of Awardees, Contractors and Subcontractors to make active efforts to comply with Section 3.

These procurement responsibilities include, but are not limited to:

- The inclusion of Section 3 language in all RFPs, procurement documents, bid offerings and contracts;
- Notifying HCR's Section 3 Coordinator prior to the release of solicitations or procurements so that feedback can be provided with regards to Section 3 activities; and
- When feasible, the participation of HCR's Section 3 Coordinator or her/his designee at pre-bid meetings to explain and answer questions related to the Section 3 policy.

Each bidder/proposer must include a Section 3 Participation Plan which indicates its commitment to meet resident hiring and Business Concerns contracting requirements. It is the policy of HCR that it will not provide a funding commitment for any funding source that triggers Section 3 requirements until there is an approved Section 3 Participation Plan in place. For all applicable assistance, HCR will require the submission of a completed Section 3 Plan as a schedule to a funding agreement. Required Section 3 Plans will be reviewed and approved by FEHO Section 3 Coordinator or designee for completeness at the time of submission, prior to contract execution.

CONTRACT EXECUTION

The “Section 3 Contract Clause” specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Contract Clause must be included in all Section 3 covered project contracts whether those of HCR, its Awardees, Contractors or Subcontractors.

Regardless of the method of procurement used, the solicitation of bids/proposals and the final contract documents must include notice of Section 3 obligations. The Awardee, Contractor and Subcontractor must develop and grant preferences to those contractors that provide economic opportunities to Section 3 Residents and Business Concerns.

THE SECTION 3 PARTICIPATION PLAN

Awardees, Contractors and Subcontractors must develop a Section 3 Participation Plan. The Participation Plan states how the awardee intends to comply with Section 3. The plan identifies the goals, objectives and actions that will be implemented. The Section 3 Plan also pinpoints a list of strategies to be adopted for compliance with employment, training and contracting goals’ will also provide training to assist with the development and execution of Section 3 Plans.

Awardees, Contractors and Subcontractors may develop their own participation plan for FEHO approval or use the program template provided at:

http://www.nyshcr.org/AboutUs/Offices/FairHousing/Sec3/Section3_reference.htm.

AWARDEES SECTION 3 COORDINATOR

Awardees, Contractors and Subcontractors must designate their own Section 3 Coordinator to serve as a point of contact for HCR. This individual is responsible for ensuring compliance with the requirements of Section 3 for their portion of the contract.

QUARTERLY REPORTING

All Awardees, Contractors and Subcontractors must submit to HCR a quarterly report capturing their efforts to comply with the provisions of Section 3.

These reports must be submitted to HCR in the format and timeframe provided. More specifically, the Awardee, Contractor or Subcontractor must track and report the following:

1. The efforts made to direct employment and other economic opportunities generated to Section 3 Residents and Business Concerns;
2. The total number of employees working on the project;
3. The total number of employees working on the project that meet Section 3 requirements;

4. The total number of new hires/trainees hired to work on the project;
5. The total number of new hires/trainees hired that meet Section 3 requirements listed by trade/profession;
6. The number of hours worked on the project by all employees; and,
7. The number of hours worked on by new hires/trainees.

Recipients that fail to meet the numerical goals above bear the burden of demonstrating why it was not possible. This includes describing the efforts that were taken, barriers encountered, and any other relevant information that will allow HCR to make a determination regarding compliance. It is important to note that there is no waiver for compliance, or a lack thereof, with Section 3 mandates.

In some cases, meeting the goals may not be possible. In such cases the reporting party must also submit a description of their efforts to comply with the Section 3 goals to demonstrate progress. In addition to outreach and training efforts, Awardees, Contractors, and Subcontractors may also consider providing documentation of programs undertaken which provide additional economic opportunities to Section 3 Business Concerns and Section 3 Residents.

HCRs Section 3 Coordinator can provide technical assistance to its Awardees, Contractors and Subcontractors in completing the quarterly report. It is important to document all efforts and activities related to Section 3 compliance and demonstrated efforts to achieve the hiring and contracting goals.

CONTRACT CLOSE-OUT

After the contract scope has been completed, the HCR Section 3 Coordinator will conduct an exit interview with all parties that have not met the goals as prescribed herein. During this meeting, the Awardee, Contractor or Subcontractor will discuss and provide documentation of efforts to meet the hiring and contracting goals.

As part of this process, the HCR Section 3 Coordinator will collect and record “proof” of proactive steps taken by the party to meet the Section 3 requirement goals. Such documentation is collected in order to determine whether the Awardee, Contractor or Subcontractor actually exerted “greatest extent feasible” efforts as required by law. If a determination is made that the efforts exerted were insufficient and/or the party acted in bad faith, such Awardee, Contractor or Subcontractor may be found to be in violation of the regulations in 24 CFR part 135. Such violations may result in sanctions or other penalties, as applicable.

SECTION 3 GRIEVANCE PROCESS

Any Section 3 Resident or Business Concern may file a complaint alleging noncompliance with Section 3 by an Awardee, Contractor or Subcontractor.

A written complaint must contain:

- Name and address of the person filing the complaint;
- Name and address of the subject of complaint (HCR, Awardees, Contractors or Subcontractors);
- Description of acts or omissions in alleged violation of Section 3; and
- Statement of corrective actions sought.

Upon receipt of a written complaint, HCR will investigate the specific allegations of the complaint and render a finding. Complaints will be investigated and appropriate measures will be sought. In certain instances, relief will be granted.

The complainant shall have appeal rights to the Secretary of HUD concerning any HCR decision. Appeals must be submitted to HUD within one hundred and eighty (180) days of the action or omission upon which the complaint is based.

Written complaints against HCR Awardees, Contractors or Subcontractors shall be filed with:

New York State Homes & Community Renewal
Fair and Equitable Housing Office, Section 3 Coordinator
38-40 State St., Hampton Plaza, Albany, NY 12207
(518) 473-3089 | feho@nyshcr.org

In addition to the venues above, Section 3 Residents and Business Concerns may also seek judicial relief.