



# Aurora Housing Authority

## Section 3 Policy Manual

### A Guide to the Section 3 Policies and Procedure

#### I. Background on the Section 3 Program

Section 3 is a policy mandated by the United States Congress. It refers to the third section of the Housing Act of 1968, as amended by section 915 of the Housing and Community Development Act of 1992. 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 toward low and very low-income persons in the geographic area, 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.”

Consistent with 24 CFR Part 135, as a recipient of HUD Public Housing funding, the Aurora Housing Authority (AHA) requires fulfillment of Section 3 obligations on all contracts that make use of that assistance. These policies are implemented regardless of the contract amount or whether it is designated as construction. The AHA works to ensure the provision of employment, training, contracting, and other economic opportunities to its residents and other low-income persons. In doing so, the AHA utilizes Section 3 as a means of promoting its mission of promoting “educational, employment, economic development and self-sufficiency opportunities for the residents we serve.”

#### II. Statement of Purpose

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

#### III. General Policy Statement

It is the policy of the AHA 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, 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 AHA implements this policy through the awarding of contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the AHA and other qualified low and very low-income persons.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of AHA residents and other eligible persons and business by AHA contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The AHA shall examine and consider a contractor's or vendor's potential for success by providing employment and business opportunities to AHA residents prior to acting on any proposed contract award. However, the inability of a contractor or vendor to actually provide employment and business opportunities to Section 3 qualified persons shall not, in and of itself, constitute grounds for not accepting a qualified bid or sealed bid.

#### IV. Definitions

A) *Low-income person*: families (including single persons) whose incomes do not exceed 80% of the median income for the area.

B) *Very low-income person*: families (including single persons) whose incomes do not exceed 50% of the median family income for the area.

C) *Section 3 business concern*: a business entity formed in accordance with State law that is either a) 51% or more owned by Section 3 residents, b) employing full-time at least 30% Section 3 residents, or c) providing evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to businesses that meet the description of Section 3 business concern in sections *a* or *b* of this paragraph.

#### V. Goals of the Section 3 Program

The Section 3 program seeks to aid Section 3 residents to the greatest extent feasible in three ways, listed in order of preference:

A) Hiring low and very low-income workers

Attempt to hire at least 30% of the aggregate number of full-time new hires by the AHA and its contractors must be Section 3 residents, with a preference for residents at the development where the work is being performed.

B) Awarding contracts to Section 3 business concerns

Attempt to award at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction, must be awarded to Section 3 business concerns.

C) Providing other economic opportunities

If the two goals above cannot be met by the AHA or its contractor, other training and employment opportunities can be provided to substitute for goals A and B. These are described further in section VII below.

VI. AHA Responsibilities

The AHA, as the recipient of Public Housing funding, accepts the responsibility of not only enforcing the Section 3 requirements, but also pro-actively facilitating compliance with Section 3. The AHA fulfills this responsibility in the following ways:

- A) Notifying Section 3 residents of opportunities through posting job openings in the office lobby, the resident building where the AHA Resident Council resides and in local media;
- B) Notifying contractors in each pre-bid meeting of the Section 3 requirements;
- C) Incorporating the Section 3 clause in all contracts;
- D) *Providing applications for Section 3 employment at the AHA front desk and allowing ???* applications to be submitted at same location (for possible available Section 3 employment or training opportunities);
- E) Encouraging the training of Section 3 residents through support of the AHA Resident Council;
- F) Providing an employment application to interested Section 3 residents (upon admittance to public or section 8 housing) which is kept on file as a resource for the AHA and contractors when seeking to hire Section 3 workers;
- G) Documenting actions taken to comply with Section 3 requirements;
- H) Reporting annually on its efforts regarding Section 3 implementation (see form HUD-60002 Attachment B);
- I) Refusing to award contracts to businesses or persons in prior violation of Section 3 requirements.

VII. Contractor Responsibilities

The 30% hiring goal and 10% contracts awarded goal are the only safe harbors whereby a contractor will have complied with Section 3. If the two goals above cannot be met by the contractor, other training and employment opportunities can be provided to substitute for those goals, but documentation should be submitted explaining why those numerical goals could not be met. If a contractor substitutes economic opportunities for its achievement of the numerical goals, their efforts need to be equivalent to those that would be required to meet those goals. The acceptability of these efforts will be determined by the AHA, or in case of a complaint, by HUD.

Recommended activities to demonstrate these efforts are listed in the appendix to part 135 of the Code of Federal Regulations—24 CFR Part 135 (see Attachment C). Section I of this document applies to fulfilling the first goal of hiring 30% Section 3 residents, and section II applies to fulfilling the second goal of awarding 10% of contracts to Section 3 business concerns.

Examples include distributing or posting flyers advertising positions to be filled, contacting the AHA Resident Council about open positions, holding job informational meeting for residents, etc. Contractors must submit with any bid or proposal an action plan describing the

implementation of Section 3 (see Attachment D). Omission of this document with a bid or proposal makes that contractor non-responsive, and therefore ineligible to be awarded a contract.

### VIII. Preferences and Eligibility

- A) Regarding the hiring of Section 3 residents, preference shall be given to those residents who live in the complex where the covered assistance is expended. Next, Section 3 residents from other complexes shall be sought. If no Section 3 residents are available from the complexes, the AHA and the contractors shall give preference to any Section 3 resident.
- B) Regarding the contracting opportunities for Section 3 business concerns, preference shall be given to business concerns owned at least 51% by residents of the complex where the covered assistance is expended. Next, Section 3 business concerns that are owned at least 51% by residents of other complexes shall be sought. If no Section 3 business concern is available from the complexes, the AHA and the contractors shall give preference to any Section 3 business concern.
- C) Regarding eligibility, a Section 3 resident seeking employment must fulfill the requirements of the sought position and, if asked, must provide evidence of their Section 3 status (e.g., receipt of public assistance, tax return). A Section 3 business concern seeking to win a contract must fulfill the requirements of the contract and, if asked, provide evidence of their Section 3 status.

### IX. Complaints and Compliance

Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following address:

Assistant Secretary for Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
Washington, D.C. 20410

The complaint must be in writing and be received within 180 days from the date of the action upon which the complaint is based. It should include the complainant's name and address, the AHA or contractor's name and address, and a description of the acts in question. The complainant will receive a response from HUD within 10 days in which further investigation will be explained. See Filing and processing complaints below.

#### **24 CFR 135.76 Filing and processing complaints.**

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents;

(2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, DC, 20410.

(c) *Time of filing.* (1) A 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.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint* — (1) *Written complaints.* Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) *Amendment of complaint.* Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying

respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient.* (1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary* — (1) *Dismissal of complaint.* Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures

concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising there under.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

## X. Attachments???

- A) Section 3 Contract Clause
- B) 24 CFR Part 135 – Section 3 Regulations