



**RESPONSES TO COMMENTS ON THE
HOUSING AUTHORITY OF THE CITY OF MILWAUKEE'S
PROPOSED SECTION 3 PLAN**

January 30, 2015

The Housing Authority of the City of Milwaukee (HACM)'s proposed Section 3 plan was available for public review and comment during the period from December 2, 2014 to January 2, 2015. In addition, HACM had four information and comment sessions for any interested parties on our proposed Section 3 Plan during the third week of December. One written comment was received by HACM during the comment period. The following are comments regarding the proposal that HACM received either in writing or verbally during the comment sessions, along with our responses:

Comment 1: The City of Milwaukee currently has a Residential Preference Program that would have the ability to verify that the individuals that are qualified for Section 3 are valid and have sworn under oath that they are residents of the place of domicile listed are their residents. As proposed in this agreement, there is not adequate accountability.

The Residential Preference Program (RPP) for the City of Milwaukee is a very specific certification program with requirements that are not the same as those for Section 3 residents. For example, income eligibility is different and much lower than Section 3 eligibility; the geographic area is limited to the City of Milwaukee; and RPP does not have a preference category for public housing residents over other residents. RPP eligibility itself cannot substitute for Section 3 eligibility, which is defined in HUD regulations.

The Voluntary Compliance Agreement (VCA) in Section III. B. 2.d. vi (page 9) and Section III. B. 5 (page 12-13) specifically describes the self-certification procedure to be used for both Section 3 residents and Section 3 business concerns. This self-certification procedure is allowed under Section 3 regulations and is used by most recipients and even by HUD in their online national Section 3 business registry. Any online process used to allow residents or businesses to register has to, by its nature, be a self-certification process. The HACM Section 3 Policy does state that any resident or business must provide evidence of their Section 3 status, if requested.

In addition, both the self-certification forms for Section 3 residents and for business concerns (Section 3 Form 2 on page 17 of the draft policy and Section 3 Form 4 on pages 24-25 of the draft policy) also include statements of penalties for falsifying information. For instance, the

Self-Certification form for residents states, “I attest under penalty of perjury that my total household income and household size is as shown above and that proof of this information may be requested in the future. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual which may be grounds for termination of training, employment or contracts that resulted from this certification. I also understand that failure to complete this form completely and accurately may result in other administrative remedies available to HUD.”

Comment 2: The city also has a database that can be populated of Section 3 businesses. The utilization of these systems would allow for easier tracking of the utilization of eligible persons and businesses.

We agree with the comment and would not want to duplicate efforts on a Milwaukee Section 3 registry. While not directly stated in the draft Section 3 Policy, HACM does plan on collaborating with the City of Milwaukee to use the current SBE directory database run by the Office of Small Business Development to be a joint Section 3 Business registry for both the City and HACM. HACM has included language that makes this more explicit in the final draft. HACM is also looking into the possibility to include an extra field to identify Category 1 or 2 Section 3 business concerns (those that are owned by residents of public housing and/or holders of Housing Choice Vouchers).

Comment 3: Contractors should be required to use the workforce development board as a first source in hiring. This brings some tracking and accountability as it relates to outreach and needs.

We agree that the local workforce investment board, as well as the comprehensive job centers in Milwaukee, is one of several important resources in assisting with outreach to potential Section 3 workers. In Section VII on page 11, we did include the workforce investment board as one source of outreach to ensure that employment opportunities are directed to low-income individuals. We have expanded our language in the Policy to include other methods of outreach that can be done by contractors.

However, we do not believe that the workforce investment board should be the first or only source for the following reasons:

- (1) The priority preference requirements for Section 3 state that qualified public housing residents should be given priority preference over other candidates, and we would not want to limit the methods or locations of outreach done to ensure public housing residents know about opportunities; and

(2) The VCA explicitly requires HACM to develop, expand and maintain a Section 3 resident listing within one year of the effective date of the VCA. In addition, the VCA requires that contractors must review and consider residents on this list prior to making new hires, and if those hired are not on said list, must explain in writing the reasons why each resident on the list was not hired. Thus, in effect, this Section 3 resident registry will become the first source in hiring, among all other outreach efforts.

Comment 4: It would be beneficial for contracts to be broken down to accommodate the capacity of Section 3 business concerns.

We agree and HACM has done this in the past to improve the ability of Section 3 business concerns and/or emerging business enterprises (MBEs/WBEs/EBEs) to bid on jobs. We will include language suggesting this as a procedure that may assist a contractor in meeting the subcontracting goals, both in the procedures for HACM and in the policy guidance for contractors.

Comment 5: Some assistance in bonding could be created with the utilization of the Section 3 fund.

One of the items that the Section 3 fund will be used for will be to provide trainings for Section 3 business concerns or for residents interested in forming Section 3 business concerns. Included in this training will be technical advice for Section 3 business concerns as to where they may seek assistance to overcome limitations such as an inability to obtain bonding, lines of credit, financing, or insurance.

Comment 6: Contractors willing to assist Section 3 businesses should be given additional points in the bidding process for their willingness to achieve Section 3 compliance.

Section 3 compliance is required of all contractors. The majority of HACM's procurements are done under the Invitation for Bid (IFB) process in which award is to the lowest responsive, responsible bid, while other procurements are done through a competitive proposal method, Request for Proposal (RFP), where award is to the highest ranked proposal based on specific weighted evaluation criteria. There are some alternative procedures described in the Section 3 regulations (Appendix III to 24 CFR Part 135) that allow extra consideration for Section 3 business concerns. At this time, HACM believes that it will meet the numerical goals for Section 3 business concerns without having to implement such alternative procedures. The VCA does state that if HACM fails to meet numerical goals after the first year of the VCA, then HACM will revise its policies consistent with the Appendix to the regulations.

Comment 7: To further pursue compliance, the Fund could be funded with the unmet dollar amount of the Section 3 requirement from the contractor to be in noncompliance.

This is already addressed in the draft policy under Section VIII.v (Section 3 Fund).

“A contractor that can demonstrate that it was not feasible to meet the Section 3 contracting goal may provide other economic opportunities as described above or may contribute the difference between 10% of the covered contract amount (3% for non-construction related contracts) and the amount provided to Section 3 business concerns to HACM's Section 3 Fund. The amount contributed shall not exceed one hundred thousand dollars (\$100,000) for any one contract. “

“A contractor that can demonstrate that it was not feasible to meet the Section 3 hiring goal may contribute an amount of 3% of the total dollar amount of the contract for building trades work or 1% for other types of contracts to the Section 3 Fund. The amount contributed shall not exceed twenty thousand dollars (\$20,000) for any one contract.”

Comment 8: Monitoring should be done in real time during the period covering the VCA to ensure adequate measures are in place to ensure the VCA is effective (month to month or quarterly)

While reporting to HUD will be periodic, there will be ongoing monitoring by HACM done in real time. We are also in the process of implementing compliance software to assist us in monitoring contractors' and subcontractors' performance.

Comment 9: The terms “every effort within the contractor’s disposal” and “to the greatest extent feasible” are a bit loose. Can these be toughened?

The terms “best efforts” and “to the greatest extent feasible” were included in the law as passed by Congress, in the regulations as put forth by HUD, and are in most guidance regarding Section 3. They are also included in the VCA between HUD and HACM. While they are strong terms, they are also difficult to define. “Every effort” and “to the greatest extent feasible” are difficult to prove or disprove. However, we have put in our Policy requirements and procedures that we believe will hold contractors, subcontractors and HACM responsible for meeting overall Section 3 goals.

Comment 10: The language is fairly bureaucratic and hard to plow through. I realize that this is probably related to HUD regulatory language and the need to adequately explain the rules. However, is there any way to do some sort of a simplified snapshot of the Section 3 requirements, perhaps in a question and answer format?

We agree with the overall comment. However, the Section 3 regulations are somewhat complicated and it is necessary to be thorough in our Policy. We will, however, try to simplify the explanation of the requirements in our outreach materials, including a question and answer format.