POLICY STATEMENT

As set forth in the Procurement Policy of the Housing Authority of Baltimore City (HABC), it is the policy of HABC to comply with the requirements in Section 3 of the U.S. Housing and Urban Development (HUD) Act of 1968, as amended [12 U.S.C. 1701u and 24 CFR Part 135] (Section 3). HABC’s Section 3 policy and procedures will ensure that employment, training and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly to public housing residents and to businesses that substantially provide economic opportunities to low-and very low-income persons.

Section 3 requirements apply to all contractors and subcontractors performing work in connection with projects and activities funded by HUD financial assistance covered by Section 3, regardless of the amount of the contract. HABC has established numerical goals for hiring and contracting activities that will comply with the Section 3 requirements. There are also resident and business preferences that prescribe the order in which Section 3 Residents and business concerns are to be hired and awarded contracts. A business seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business qualifies as a Section 3 Business (Refer to What Is A Section 3 Business).

HABC affirms its commitment to maximize, to the greatest extent feasible, the creation of employment, training, and contracting opportunities for low and very low-income persons. To this end, HABC also provides assistance as needed to enable its vendors, residents and other stakeholders to achieve the goals of HABC’s Section 3 compliance requirements.

Failure to comply with Section 3 program requirements may lead to sanctions, which can include termination of the contract or default and suspension or debarment from future HUD-assisted contracts.
I. SECTION 3 COMPLIANCE REQUIREMENTS

A. Purpose.

(1) The purpose of Section 3 of the U.S. Housing and Urban Development (HUD) Act of 1968 [12 U.S.C. 1701u] (Section 3) is to ensure that employment and other economic opportunities generated by 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 that provide economic opportunities to low and very low-income persons.

(2) The purpose of these instructions is to establish the standards and procedures to be followed to ensure that contractors and subcontractors meet the objectives of Section 3.

B. Applicability.

(1) Section 3 applies to the following types of HUD assistance:

(i) Public Housing Assistance - Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following HUD assistance:

(a) Public Housing Operating Subsidies

(b) Public Housing Capital Funds for Development and Modernization

(c) HOPE VI Revitalization Grants

(d) Resident Opportunities and Self-Sufficiency (ROSS) Grants

(e) Family Self-Sufficiency (FSS) Grants

(f) Lead Hazard Control Grants; and

(g) Economic Stimulus Funding

(ii) Thresholds - There are no thresholds for Section 3 covered public housing assistance. The requirements apply to Section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements apply to all contractors and subcontractors performing work in connection
with projects and activities funded by public housing assistance covered by Section 3, regardless of the amount of the contract or subcontract.

C. **Definitions.**

The terms Department, HUD, Public Housing Agency (PHA), and Secretary are defined in 24 CFR Part 135.5.

**Annual Contributions Contract (ACC)** means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the HABC that contains the terms and conditions under which HUD assists the HABC in providing decent, safe, and sanitary housing for low-income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low-income housing project under the 1937 Act, and the HABC agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

**Applicant** means any entity, which makes an application for Section 3 covered assistance such as a public housing agency.

**Apprenticeship and Training Programs** means programs approved by the Bureau of Apprenticeship and Training of the U.S. Department of Labor, or a State Apprenticeship Agency, or an on the job training program approved by the Bureau of Apprenticeship and Training, or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable.

**Assistant Secretary** means the Assistant Secretary for Fair Housing and Equal Opportunity for HUD.

**Business Concern** means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed. For a business concern that provides economic opportunities for low- and very low-income persons see definition of “Section 3 Business Concern” in this section.

**Contractor** means any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** means all employment opportunities generated by the expenditure of Section 3 covered public housing assistance (i.e., operating assistance, development assistance, and modernization assistance, as described in Section 135.3 (a)(1)). With respect to
Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Part 135.3 (a)(2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs include architectural, engineering or related professional service required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**HABC** means the Housing Authority of Baltimore City.

**HABCo** means HABC’s construction management unit and in-house general contractor, which also provides construction-related training opportunities for HABC residents. HABCo employs contractors and vendors in order to accomplish its training and construction mission.

**Housing and Community Development Assistance** means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of Community Development Block Grants (CDBG), and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

**Housing Development** means low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

**HUD Youthbuild Programs** means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low and very low-income families.

**JTPA** means the Job Training Partnership Act (29 U.S.C. 1579(a)).

**Low-Income Person.** See the definition of “Section 3 Resident” in this section.

**Metropolitan Area** means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

**Neighborhood Area** means:
(1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographic designation.

(2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204 (c)(1).

**New Hires** means full-time employees for permanent, temporary or seasonal employment opportunities.

**Nonmetropolitan County** means any county outside of a metropolitan area.

**Other HUD Programs** means HUD programs, other than HUD public housing programs, that provide housing and community development assistance for “Section 3 Covered Projects”, as defined in this section.

**People Accessing Continued Employment (P.A.C.E.)** means the program under HABC’s Resident Services division that assists Baltimore City’s public housing residents in becoming successfully employed and helps them maintain employment. All public housing residents are eligible to receive P.A.C.E. services at no cost.

**PHA** means public housing agency.

**Pre-Apprentice Program** means a program of basic skills and occupational skills approved by PHA and the Private Industry Council that leads to an apprenticeship program.

**Public Housing Resident** means any individual who resides in public housing as a signatory on a public housing lease, or as a member of the family of the individual(s) who is the signatory on the public housing lease. 24 CFR 963.5

**Recipient** means any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Resident Services** means the HABC division that works to promote self-sufficiency through employment and job training and improve the overall quality...
of life for public housing and Housing Choice Voucher Program (formerly Section 8 Program) residents throughout Baltimore City.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business and Section 3 Business Concern** mean a business:

1. That is Fifty-one (51%) percent or more owned by Section 3 Residents; or

2. Whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 Residents or, within 3 years of first employment with the business concern, were Section 3 Residents; or

3. That provides evidence of a commitment to subcontract an excess of 25 percent or more of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 and 2 of this definition of “Section 3 Business Concern”.

**Section 3 Clause** means the contract provisions set forth in 24 CFR 135.38.

**Section 3 Coordinator** means the individual responsible for monitoring and enforcing HABC’s Section 3 program in accordance with the HABC Section 3 policy and procedures.

**Section 3 Covered Activity** means any activity, which is funded by Section 3 covered public housing assistance.

**Section 3 Covered Assistance** means:

1. Public housing development assistance provided pursuant to Section 5 of the 1937 Act;

2. Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;

3. Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;

4. Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

   (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
(ii) Housing construction; or

(iii) Other public construction projects (which includes other buildings or improvements, regardless of ownership).

**Section 3 Covered Contract** means 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 except, whenever a contract for materials includes the installation of the materials, or the contract constitutes a “Section 3 Covered Contract”.

**Section 3 Covered Project** means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction that includes buildings or improvements (regardless of ownership) receiving housing or community development financial assistance.

**Section 3 Joint Venture** means an association of business concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:

1. Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

2. Performs at least 25% of the work and is contractually entitled to compensation proportional to its work.

**Section 3 Resident** means:

1. A public housing resident; or

2. An individual who resides in the metropolitan area in which the Section 3 covered assistance is extended and who is:

   (i) A low-income family (including single persons) whose incomes do not exceed 80 per centum of the median income for the area;

   (ii) A very low-income family (including single persons) whose incomes do not exceed 50 per centum of the median income for the area.
Section 8 Assistance means assistance provided under Section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR Part 882, subpart G.

Service Area means the geographical area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

Subcontractor means any entity (other than a person who is an employee of the contractor), which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Very Low-Income Person See the definition of “Section 3 Resident” in this section.

Youthbuild Programs See the definition of “HUD Youthbuild Programs” in this section.

II. RESPONSIBILITY OF THE HOUSING AUTHORITY OF BALTIMORE CITY (HABC)

HABC has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its Contractors and Subcontractors. This responsibility includes but may not be limited to:

A. Implementing procedures designed to notify Section 3 Residents about training and employment opportunities generated by Section 3 assistance and Section 3 Business Concerns and about contracting opportunities generated by Section 3 Covered Assistance;

B. Notifying potential Contractors about Section 3 and incorporating the Section 3 Clause set forth in 24 CFR Part 135.38 in all solicitations and contracts;

C. Facilitating the training and employment of Section 3 Residents and the award of contracts to Section 3 Business Concerns by undertaking activities, as appropriate, to reach the goals set forth in 24 CFR Part 135.30. HABC, at its own discretion, may establish reasonable numerical goals for the training and employment of Section 3 Residents and contract award to Section 3 Business Concerns that exceed those specified in 24 CFR Part 135.30; and

D. Assisting and actively cooperating with HUD in obtaining the compliance of Contractors and Subcontractors with Section 3 requirements, and refraining from entering into any contract with any Contractor where HABC has notice or knowledge that the Contractor has been found in violation of the regulations in 24 CFR Part 135.
III. PROVIDING OTHER ECONOMIC OPPORTUNITIES

A. General - In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering Low-income Persons, a Recipient is encouraged to undertake efforts to provide to Low-income Persons economic opportunities other than training, employment, and contract awards, in connection with Section 3 Covered Assistance.

B. Other Training and Employment Related Opportunities - Other economic opportunities to train and employ Section 3 Residents include, but are not limited to, use of “upward mobility”, “bridge” and trainee positions to fill vacancies; hiring Section 3 Residents in management and maintenance positions within other Housing Developments; and hiring Section 3 Residents in part-time positions.

C. Other Business Related Economic Opportunities:

(1) A Recipient or Contractor may provide economic opportunities to establish, stabilize or expand Section 3 Business Concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of Section 3 Joint Ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from HABC resident owned businesses and use of procedures under 24 CFR part 963 regarding HABC contracts to HABC resident-owned businesses. A Recipient or Contractor may employ these methods directly or may provide incentives to non-Section 3 businesses to utilize such methods to provide other economic opportunities to Low-income Persons.

(2) A Section 3 Joint Venture means an association of business concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.
IV. COOPERATION IN ACHIEVING COMPLIANCE

A. HABC shall cooperate fully and promptly with the Assistant Secretary in Section 3 compliance reviews, in investigations of allegations of non-compliance made under 24 CFR Part 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of Section 3.

B. HABC shall refrain from entering into a contract with any Contractor after notification by HUD that the Contractor has been found in violation of the regulations. The provisions of 24 CFR Part 24 applies to the employment, engagement of services, awarding of contracts or funding of any Contractors or Subcontractors during any period of debarment, suspension or otherwise ineligible status.

V. SECTION 3 COMPLIANCE REVIEW PROCEDURES

A. HABC shall comply with HUD’s Section 3 compliance review procedures set forth in 24 CFR Part 135.74.

B. HABC shall have access to all records, reports, and other documents or items of the Contractor and/or Subcontractor that are maintained to demonstrate compliance with Section 3.

VI. PREFERENCE FOR SECTION 3 RESIDENTS

A. HABC, its Contractors and Subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 Covered Assistance to Section 3 Residents in the order of priority provided in paragraph (A) of 24 of CFR 135.34.

Efforts shall be directed to provide training and employment opportunities to Section 3 Residents in the following order of priority:

(1) Residents of the HABC Housing Developments for which the Section 3 Covered Assistance is expended (category 1 residents);

(2) Residents other Housing Developments owned or managed by HABC other than that for which HABC is expending the Section 3 covered housing assistance, including Recipients of certificates or vouchers under the Section 8 housing assistance program (category 2 residents);
(3) Participants in HUD Youthbuild Programs being carried out in the Metropolitan Area (or Nonmetropolitan County) in which the Section 3 Covered Assistance is expended (category 3 residents);

(4) Other Section 3 Residents in the Baltimore Metropolitan Area (category 4 residents).

HABC’s Office of Resident Services, P.A.C.E. Program is the recruitment and referral resource used by HABC to help bidders and responders comply with the Section 3 Resident hiring preferences. For a listing of available Section 3 Residents, contact the Office of Resident Services, P.A.C.E. Program.

B. A Section 3 Resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the Contractor or Subcontractor, if requested, that the person is a Section 3 Resident. (Note: All HABC residents are Section 3 Residents).

VII. PREFERENCE FOR SECTION 3 BUSINESS CONCERNS

A. HABC, its Contractors and Subcontractors shall direct their efforts to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 Business Concerns, in the order of priority provided in paragraph B of this section.

B. Efforts shall be directed toward contracts to Section 3 Business Concerns in the following order or priority:

(1) Category 1. Business Concerns that are 51 percent or more owned by residents of the Housing Development or developments for which the Section 3 Covered Assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees; or

(2) Category 2. Business Concerns that are 51 percent or more owned by residents of other HABC Housing Developments or developments managed by HABC or whose full-time, permanent workforce includes 30 percent of these persons as employees; or

(3) Category 3. HUD Youthbuild Programs being carried out in the Metropolitan Area (or Nonmetropolitan County) in which the Section 3 Covered Assistance is expended; or

(4) Category 4. Business Concerns that are 51 percent or more owned by owned by Section 3 Residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 Residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to Business Concerns identified in paragraphs B (1) and B (2) of this section.
VIII. SECTION 3 CLAUSE

All Section 3 Covered Contracts shall include the following Section 3 Clause, which consists of Sections “A” through “G” below:

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to Low and Very Low-income Persons, particularly persons who are Recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidence by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the Contractor’s commitments under this Section 3 Clause, and will post copies of the notice in conspicuous places at the work site where both employees and Applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The Contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 Clause, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any Subcontractor where the Contractor has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The Contractor will certify that any vacant employment positions, including training positions, that are filled:

(1) After the Contractor is selected but before the contract is executed; and
(2) With persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor’s obligations under 24 CFR Part 135.

F. Non-compliance with HUD’s regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible:

(i) Preference and opportunities for training and employment shall be given to Indians, and

(ii) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

IX. NUMERICAL GOALS

A. General.

(1) HABC and covered Contractors may demonstrate compliance with the “greatest extent feasible” requirement of Section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to Section 3 Residents and Section 3 Business Concerns.

(2) The goals established in this section apply to the entire amount of Section 3 Covered Assistance awarded to HABC in any Federal Fiscal Year (FY).

(3) If HABC does not engage in training, or hiring, but awards contracts to Contractors that will engage in training, hiring, and subcontracting, HABC must ensure that, to the greatest extent feasible, Contractors will provide training, employment, and contracting opportunities to Section 3 Residents and Section 3 Business Concerns.

B. Training, Employment and Contracting Opportunity Goals.

(1) The numerical goals established in section IX (B) (2) represent minimum numerical HABC goals. The numerical goals set forth below apply to the training and employment of New Hires. The numerical goals reflect the
aggregate hires. Efforts to employ Section 3 Residents, to the greatest extent feasible, should be made at all job levels.

(2) HABC considers its Contractors to be in compliance with Section 3 if they meet the minimum numerical goals set forth below:

(i) 50% of the aggregate number of New Hires shall be Section 3 Residents;

(ii) 15% of the total dollar amount of all covered construction contracts shall be awarded to Section 3 Business Concerns; and

(iii) 5% of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 Business Concerns.

X. **APPLICABLE PROCUREMENT POLICIES**

This Section provides specific procedures that shall be followed by HABC for implementing the Section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

A. Procurement Procedures that provide Preference for Section 3 Business Concerns are as follows:

(1) **Small Purchase Procedures.** For any Section 3 Covered Contracts aggregating no more than $100,000.00, the methods set forth in section IV.A of the Procurement Policy of HABC may be utilized.

(2) **Solicitation.** At the time of solicitation, the parties must be informed of:

(i) The Section 3 Covered Contract to be awarded with sufficient specificity;

(ii) The time within which quotations must be submitted; and

(iii) The information that must be submitted with each quotation.

(a) If the method described in paragraph (2) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the
contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(iv) Award.

(a) Where the Section 3 Covered Contract is to be awarded based upon the lowest price, the contract shall be awarded to the responsible qualified Section 3 Business Concern with the lowest responsive quotation, if it is reasonable and is within the applicable percentage outlined in the table below. If none of the responding qualified Section 3 Business Concerns meet these requirements, the award shall be made to the non-Section 3 Business Concern with the lowest responsive and responsible quotation.

(b) Where the Section 3 Covered Contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for 25 percent of the total number of available rating points to be reserved for Section 3 requirements and preferences. The contract shall be awarded to the responsible firm whose quotation is the most advantageous considering price and all other factors specified in the rating system.

(3) Procurement by sealed bids (Invitations for Bids). Preference in the award of Section 3 Covered Contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (Section 3 Business Concerns, and non-section 3 business concerns). An award shall be made to the qualified Section 3 Business Concern with the highest priority ranking and with the lowest responsive bid if that bid:

(a) Is within the maximum total contract price established in the contracting party’s budget for the specific project for which bids are being taken, and

(b) Is not higher than the applicable percentage outlined in the table below of the total bid price of the lowest responsive bid from any responsible bidder.
When the lowest responsive bid is less than $100,000 -- 10% of that bid or $9,000.

When the lowest responsive bid is:

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

(ii) If no responsive bid by a Section 3 Business Concern meets the requirements of paragraph (3) (i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(4) Procurement under the competitive proposals method of procurement Request for Proposals (RFP):

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

(ii) One of the evaluation factors shall address the acceptability of the strategy for meeting the greatest extent feasible requirement (Section 3 strategy), as disclosed in proposals submitted by all business concerns (Section 3 and non-Section 3 Business Concerns). This factor shall provide for 5 percent of the total number of available points to be set aside for the evaluation of this component. With respect to this component (the acceptability of the Section 3 strategy), the RFP shall require the disclosure of the Contractor’s Section 3 strategy to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the Contractor’s responsibility will include the submission of an acceptable Section 3 strategy.

(iii) Section 3 preference points shall only be available to responders determined to be in the competitive range. The award shall be made to the responsible firm (either Section 3 or non-Section 3 Business Concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.
(iv) The total number of points available for the Section 3 Business Concern preference shall not exceed 20 points based on the table below:

(a) **Category 1.** Business Concerns that are 51 percent or more owned by residents of the Housing Developments for which the Section 3 Covered Assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees **(20 Points).**

(b) **Category 2.** Business Concerns that are 51 percent or more owned by residents of other HABC housing developments or developments managed by HABC or whose full-time, permanent workforce includes 30 percent of these persons as employees **(15 Points).**

(c) **Category 3.** HUD Youthbuild Programs being carried out in the Metropolitan Area (or Nonmetropolitan County) in which the Section 3 Covered Assistance is expended **(10 Points).**

(d) **Category 4.** Business Concerns that are 51 percent or more owned by Section 3 Residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 Residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns **(5 Points).**

(iv) The contract award shall be made to the responsible firm (either Section 3 or non-Section 3 Business Concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

(vi) The component of the evaluation factor designed to address the preference for Section 3 Business Concerns must establish a preference for these Business Concerns in the order of priority ranking as described in 24 CFR 135.36.

**XI. FILING AND PROCESSING COMPLAINTS**

A. **General.**

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

(2) For purposes of this subpart:

(i) Complaint means an allegation of non-compliance with regulations in the form described in 24 CFR Part 135.76(d).

(ii) Complainant means the party, which files a complaint with the Assistant Secretary alleging that HABC or Contractor has failed or refused to comply with the regulations.

(iii) Non-compliance with Section 3 means failure by HABC or its Contractor to comply with the requirements of this part.

(iv) Respondent means HABC or its Contractor against which a complaint of non-compliance has been filed.

(3) Filing of a complaint with HABC’s FH&EO Office is not the same as filing a complaint with HUD and does not change the deadline within which a complaint must be filed with HUD in order to be considered timely.

(4) Entities wishing to protest the award of a contract to another entity based on allegations of non-compliance with the Section 3 requirements must follow the procedures and deadlines set forth in Section X of the HABC Procurement Policy (Protest, Contract Claims, Appeals and Remedies).

B. Who may file a complaint with HUD?

The following individuals and Business Concerns may, personally or through an authorized representative, file a complaint alleging non-compliance 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 HABC or its 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 HABC or its Contractor, or by an individual representative of Section 3 Business Concerns.

C. **Where to file a complaint with HUD?**

A complaint of Section 3 non-compliance may be filed with the HUD Assistant Secretary for Fair Housing & Equal Opportunity (FH&EO), U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 5235, Washington, D.C. 20410 in accordance with 24 CFR Part 135.76(b). The Housing and Urban Development Office may also be contacted at 202-275-6305 for information about how and when to file a complaint with HUD.

D. **HABC’s Internal Complaint Process:**

HABC has established an internal process to investigate allegations of non-compliance. The Fair Housing and Equal Opportunity (FH&EO) Office shall investigate complaints filed through the internal process.

E. **Who may file an Internal Complaint?**

The following individuals and Business Concerns may, personally or through an authorized representative, use the internal process to file a complaint alleging non-compliance with the Section 3 regulations.

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 HABC or a Contractor; or

2. Any Section 3 Subcontractor 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 HABC or its Contractor.

F. **Where to file an Internal Complaint with HABC.**

1. A complaint of Section 3 non-compliance may be filed with HABC’s FH&EO Office by contacting the Housing Authority of Baltimore City, Fair Housing and Equal Opportunity Office, 417 E. Fayette Street, Suite 922, Baltimore, MD 21202. The Fair Housing and Equal Opportunity Office may also be contacted at 410-396-3246.
G. **Internal Complaint Procedures.**

(1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.

(2) A complaint must be received no later then one hundred and eighty (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 Director of the Fair Housing Office for good cause shown.

(3) An investigation will be conducted to determine if the allegation is valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties an opportunity to submit testimony and/or evidence pertinent to the complaint.

(4) The Section 3 Coordinator will provide written results of the investigation. The Director for the Fair Housing and Equal Opportunity Office will review the written investigation results for accuracy and completeness before releasing them to the complainant, the respondent, the HABC division that awarded the contract and HABC’s Procurement Office. The written investigation results will be made available to the complainant and to the Contracting Officer no later then ninety (90) days after the filing of the complaint.

(5) If it is determined that a Contractor has failed to comply with Section 3 requirements, this information may be considered in future bids and procurements in assessing whether the Contractor is responsible. Additionally, non-compliance with 24 CFR Part 135 may result in sanctions, termination of contract for default, and debarment or suspension from future HUD assisted contracts.

**XII. ADDITIONAL SECTION 3 GUIDANCE AND TECHNICAL ASSISTANCE**

HABC’s Fair Housing & Equal Opportunity (FH&EO) office is committed to providing Contractor’s guidance and technical assistance for compliance with the requirements of Section 3.

The FH&EO Office may be contacted at 410-396-3246, or please visit the office at 417 E. Fayette Street, Suite 922, Baltimore, MD 21202. Additional information is also available at HUD’s Section 3 website at [www.hud.gov/section3](http://www.hud.gov/section3).
FORMS AND INSTRUCTIONS FOR COMPLETION
SECTION 3 BUSINESS SELF-CERTIFICATION FORM

This form must be completed, signed by an authorized official and notarized ONLY IF CERTIFYING as a Section 3 Business.

The Contractor represents and certifies that it:

( ) is a Section 3 business as indicated below (check applicable category and subcategory):

( ) Category 1 Business
   ( ) Fifty-one percent (51%) or more owned by residents of the specific community or communities for which the Section 3 Covered Assistance is expended; or
   ( ) Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.

( ) Category 2 Business
   ( ) Fifty-one percent (51%) or more owned by residents of another specific community or communities managed by the Housing Authority that is expending the Section 3 Covered Assistance; or
   ( ) Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.

( ) Category 3 Business
   ( ) An entity selected to carry out a HUD Youthbuild Program in the Metropolitan Area or non-metropolitan County in which the Section 3 Covered Assistance is expended.

( ) Category 4 Business
   ( ) Fifty-one percent (51%) or more owned by Section 3 Residents; or
   ( ) Full-time, permanent workforce includes no less than thirty percent (30%) of Section 3 Residents; or
   ( ) Will subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to business concerns identified above.

Subscribed and sworn to before me this _______ day of __________, 20__. 

Notary __________________________________________

My commission expires: __________________________________

_________________________________________  __________________________________________
Date                                      Company Name

_________________________________________  __________________________________________
Title                                     Principal

_________________________________________  __________________________________________
Project Name                             Project Number
The following requirements apply to all business concerns claiming Section 3 status:

1. Business Concerns claiming Section 3 status based on ownership and workforce or workforce only (as applicable) must meet the Section 3 Business status at the time the bid or proposal is submitted to HABC.

2. Anyone claiming to be a Section 3 Resident or a Section 3 Business Concern shall be required to provide evidence of such status.

3. If a Business Concern claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to the HABC as part of the response to the bid, quote, or proposal. Further, the firm must maintain the Section 3 workforce percentage throughout the life of the contract. Workforce composition is subject to audit.

4. A Business Concern (including joint-ventures) seeking to qualify for a Section 3 preference shall certify and submit evidence that they are entitled to the applicable Section 3 preference and that they are a Section 3 Business Concern as defined in 24 CFR, Part 135 and by the HABC pursuant to this policy. Prime Contractors and Subcontractors must submit documentation (including work force composition data) as part of any bid, quote, or proposal submitted to the HABC. Additional documentation is required for joint-ventures.

5. Firms that claim Section 3 Business status by subcontracting 25% of the total contract to other Section 3 Businesses must require that the Subcontractor(s) provide ownership or workforce documentation as applicable. Such documents must also be submitted as part of any bid, quote or proposal.

6. Subcontractors identified by any prime Contractor claiming Section 3 status per item 3 must be a Section 3 Business by ownership and/or workforce as defined in this policy. Subcontractors used by prime Contractors to comply with item 3 cannot claim Section 3 status by further subcontracting.

7. Joint-ventures are subject to the following documentation requirements:
   
a. The joint-venture agreement must be in writing and must be submitted as part of the response to any bid or proposal solicited by the HABC. In order for HABC to evaluate the adequacy and capacity of the joint venture, the agreement must describe in sufficient detail the area(s) of work assigned to each member of the joint-venture.
b. The joint-venture agreement must reference a completed and fully executed joint venture certification which must also be attached to the joint-venture agreement as an exhibit.

c. HABC requires that the Section 3 joint-venture partner is a bona-fide Section 3 Business, therefore the joint-venture shall provide documentation that shows that the Section 3 partner meets the ownership and workforce, or workforce requirements established in this policy. Section 3 joint-venture partners cannot use subcontracting to establish their status as a Section 3 Business Concern.

d. Section 3 requires that the joint-venture partner be responsible for a clearly defined portion of the work. Proposals or bids must specify the labor hours assigned to the compensation to be received by the Section 3 joint-venture firm.

e. Section 3 firms in the joint-venture must be qualified to perform the scope of work and have the capacity to complete the work assigned under the joint-venture agreement (See item b above).
CERTIFICATION FOR BUSINESS CONCERNS SEEKING
SECTION 3 PREFERENCE IN CONTRACTING

Name of Business______________________________________________________________
Business Address __________________________________________________________________
Telephone Number ______________________ Fax ________________________________
E-mail Address __________________________________________________________________
Project Name & Number __________________________________________________________

Attached is the following documentation as evidence:

Type of Business:   ☐ Corporation    ☐ Partnership
                    ☐ Sole Proprietorship     ☐ Joint Venture

For Business claiming status as a Section 3 Resident-owned enterprise:
☐ Copy of Resident Lease    ☐ Other Evidence

For Business entity as applicable:
☐ Copy of Articles of Incorporation
☐ Certificate of Good Standing
☐ Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar
awarded to qualified Section 3 Business:
☐ List of subcontracted Section 3 Business and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce
are currently Section 3 Residents or were Section 3 eligible residents within 3 years of
date of first employment with business:
☐ List of all current full-time employees
☐ List of employees claiming Section 3 status
☐ HABC residents’ leases
☐ Other evidence of Section 3 status less than 3 years from date of
employment

Under penalty of perjury, I certify that I am the____________________ (Title) of
____________________ (Name of Company), that I am authorized by the
__________ to execute this affidavit on its behalf, that the documents I have
submitted in support of my claim as a Section 3 Business are true and accurate,
and that I have personal knowledge of the certifications made in this affidavit and
that the same are true.

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Authorizing Name and Signature ________________________________
Name (printed)______________________________________________
Subscribed and sworn to before me this ______day of ____________, 20___
Notary ______________________________________________________
My commission expires: ________________________________