

## HACM Section 3 New Final Rule Overview

This document is a Team Only Internal Communication, please do not share this outside of development, management, and construction. The final Section 3 public documents have not been finalized or board approved.

### New Rule High Points for Contracting and Employment

The two new categories of Section 3 employees are now referred to as:

- **Section 3 Worker** - Any low or very low-income persons residing in the housing authority MSA and within one-mile of the project for the City.
- **Targeted Section 3 Worker** - Public Housing, Voucher Holder, YouthBuild participant (The City only has current YouthBuild participants)

The Benchmarks in the first two bullets are specific to HACM based on 100% of all of people paid with its public housing financial assistance (Only) No Section 8 dollars apply. Do Not be overly concerned about achieving these numbers as they are not mandated or based on any achievable strategy. HUD intentionally removed any requirement to hire any Section 3 employees in the new rule, so the results will be organic. We DO NOT recommend artificially forcing employment outside of the rules requirements.

### Annual Agency Benchmarks

- Twenty (20) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in a HA's fiscal year are Section 3 workers; and
- Five (5) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in a HA's fiscal year are Section 3 workers;

The New Rule States:

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

There are no requirements to:

- ★ Do outreach to residents inside or outside the agency
- ★ Post any notices of employment or contracting (We disagree with this and strongly request our clients to continue to provide notice of opportunities)

The rule does not allow for:

- ★ Any contracting Preferences for Section 3 Businesses
- ★ To provide any sort of points or other considerations for Section 3 Businesses
- ★ There are No preferences for Resident employment

HUD uses the term "Order of Priority" to describe how HACM residents, voucher holders along with local low-income persons are secured for employment. Because there is no requirement to hire Section 3 persons, there is no motivation to engage in the certification process unless multiple "qualified" persons are being considered for a position. Otherwise, once a person is hired by HACM or its affiliates, and contractors, the Self Certification form will be requested to be introduced to that employee. The form remains voluntary and the employee can decide to not complete it.

If the employee is a HACM resident or voucher holder, they also reserve the right to not complete the form. HUD did write that the form is required even for PHA and HCV residents to be counted. That makes no sense, but it ties to the overall rule.

There is NO value in being a Section 3 business any longer, nor would there be any value in us stressing that there may be to any of your contractors, or even talking about it until after a qualified contractor is secured and contracted. At that point the awarded contractor will have a chance to confirm if they meet one of the Section 3 Business Concern definitions. Again, let me stress that there is nothing about contracts or contracting that ever gets collected or reported to HUD. Contracting is no longer a factor in any way relative to Section 3 Compliance.

These are new definitions of how a contractor can be a Section 3 Business Concern. Again, we will not focus on getting the Contractor Self-Certification Form completed until the final contractor has been secured. Here are the new definitions:

- §• It is at least 51 percent owned by low- or very low-income persons; with businesses at least 6 months old
- §• Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or (Based on the prior 90 days of full business payrolls)

- It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing, with businesses at least 6 months old

### Reporting

Contractors, and the HACM HR Department will provide these three (3) data sets to us as prescribed within 45 days of the month after the hours have been worked by EVERY person working directly on the contract. No back-office staff hours are counted for contractors, but all hours worked by every person including salaried staff are counted for HACM:

- Total Hours Worked by all workers
- Total Hours Worked by Section 3 Workers (Individual Self-Certification Form Required)
- Total Hours worked by Targeted Section 3 Workers (Individual Self-Certification Form Required)

Please let me know if you have questions at 678-794-3066 or [keiths@motivation-inc.com](mailto:keiths@motivation-inc.com), and I suspect you will have many. This overview is intended as just that, and all details and processes for compliance management are being refined so your questions, comments, and concerns will be heard and considered.