

**BOSTON HOUSING AUTHORITY**

**SECTION 3 PROVISION**

TABLE OF CONTENTS

|   | Page |
|---|------|
| Program Summary   | ii   |
| Part 1: Definitions   | 1    |
| Part 2: Training and Employment Preferences for Section 3 Residents | 3    |
| Part 3: Contract Preference for Section 3 Business Concerns         | 5    |
| Part 4: Procedures Prior to Contract Execution                      | 6    |
| Part 5: Compliance Monitoring After Notice to Proceed               | 8    |
| Part 6: Enforcement   | 9    |
| Part 7: Sanctions   | 9    |
| Part 8: Other Provisions  | 10   |
| Part 9: Section 3 Clause  | 10   |
| Part 10: Section 3 Provision Submission Forms                       | 13   |

**SUMMARY**

## **1.01 GENERAL**

**A.** This section summarizes the Boston Housing Authority Section 3 Provision ("S3P"). The S3P describes BHA's implementation of section 3 of the Housing and Urban Development Act of 1968 ("Section 3"). Section 3 is a federal law that requires contractors, to the greatest extent feasible, to hire and/or train residents of BHA's federally funded public housing developments and communities and adjacent neighborhoods ("Section 3 Residents") and to offer subcontracts to business concerns owned in whole or in part by Section 3 Residents ("Section 3 Business Concerns"). All persons submitting a proposal in response to BHA's Request For Proposal ("Proposers", "Consultants" and/or "Contractors") are advised to consult the Boston Housing Authority Section 3 Provision for the specific requirements that apply to them. Section 3 and this S3P apply to all BHA contractors and all BHA contracts regardless of the contract dollar amount. The S3P will be incorporated into the contract to be awarded by the BHA (the "Contract" or the "Section 3 Contract") and contains both pre- and post-contract award requirements.

**B.** In addition to this Summary section, proposers, consultants, and contractors are required to review all sections of the S3P in order to be fully advised of all S3P procurement phase and contract phase requirements. Other duties and requirements of law which may not be specified in this section or the S3P apply and are inherently made part of the Contract.

## **1.02 PREFERENCES FOR SECTION 3 RESIDENTS AND SECTION 3 BUSINESS CONCERNS**

The S3P is appended to this section and is numbered 1 through 16. Together with this section, the S3P sets out certain employment, training and contracting requirements for the Contract. All proposers are required to comply with the terms of the S3P.

### **A. Training and Employment Preference for Section 3 Residents.**

1. The Contractor shall, to the greatest extent feasible, give preference to Section 3 Residents when hiring any full-time employee for permanent, temporary or seasonal employment ("New Hire") under the Contract. The Contractor will be deemed to be in compliance with the training and employment requirement of the S3P if a **minimum of THIRTY PERCENT (30%) of all New Hires** are Section 3 Residents.

2. The S3P establishes certain requirements for outreach to Section 3 Residents by the Contractor and for the documentation of such outreach efforts. Consult Part 2.2 of the S3P for these requirements.

## ATTACHMENT C-c

3. The S3P establishes an order of priority for the Contractor for making any New Hire under the Contract. Consult Part 2.3 of the S3P for the order of priority in making offers of New Hires.

### **B. Contract Preference for Section 3 Business Concerns.**

1. The Contractor shall, to the greatest extent feasible, give preference to Section 3 Business Concerns when entering into any contract for the work of the Project. The Contractor will be deemed to be in compliance with the contract preference for Section 3 Business Concerns if it commits to award to Section 3 Business Concerns **at least TEN PERCENT (10%)** of the total dollar amount of the Contract. Consult Part 3.4 of the S3P for specifics.

2. The S3P establishes certain requirements for outreach to Section 3 Business Concerns by the Contractor and for the documentation of such outreach efforts. Consult Part 3.2 of the S3P for these requirements.

3. The S3P establishes an order of priority for the Contractor when entering into any contract for the work of the Project. Consult Part 3.3 of the S3P for the order of priority in entering into such contracts.

### **1.03 PROCEDURES PRIOR TO CONTRACT AWARD AND EXECUTION**

1. All proposers are required under the S3P to make certain submittals to the Authority and to attend an Implementation Meeting with the Authority prior to contract award. Consult Parts 4 and 5 of the S3P for these requirements for more details regarding these requirements.

2. A schedule of procedures prior to contract execution is indicated below:

| <u>Step</u> | <u>Event</u>  | <u>Submission of Form</u>   |
|-------------|---|---|
| 1           | Proposal Due Date   | Form 1 (Part 4.1.1)<br>Form 2 (Part 4.1.3)  |
| 2           | BHA Notification  | Section 3 Compliance Plan (for proposals valued over \$100,000) within 10 business days |
| 3           | BHA Approval/Disapproval of Section 3 forms and Section 3 Compliance Plan |   |

The REP forms submission schedule is provided solely as a convenience for proposers and in no way changes, affects, or supersedes the provisions contained in the S3P or any other section or provision of the Request For Proposals. All proposers are strongly encouraged to read the S3P thoroughly to ensure compliance with all applicable requirements.

#### **1.04 SECTION 3 PROVISION FORMS**

The S3P forms are appended to Part 10 of the S3P. Bidders and contractors are required to submit the various S3P forms during the proposal submission phase, contract award phase and contract administration phase in the manner described in the S3P, time being of the essence.

#### **1.05 SECTION 3 CLAUSE.**

The Contractor is required to include information entitled the “Section 3 Clause” in all contracts and subcontracts related to the Contract. The Section 3 Clause is printed at Part 10 of the S3P.

#### **1.06 MISCELLANEOUS**

No provision of this S3P shall be interpreted or construed to create or establish an employment, agency or contractual relationship of any type or nature between the BHA and any Section 3 Resident and/or any Section 3 Business Concern.

END OF S3P SUMMARY SECTION

**1. Definitions.**

For the purposes of this Resident Employment Provision, the following terms have the following meanings:

1. Authority or BHA means the Boston Housing Authority.
2. BHA leased housing participant means an individual or family that has been admitted to and is currently assisted by a housing program administered by the BHA Leased Housing Department.
3. Contractor means any entity which contracts to perform work in connection with a Section 3 Covered Project.
4. Employment opportunities means, with respect to Section 3 covered housing assistance, all employment opportunities arising in connection with Section 3 covered projects including management and administrative jobs. Management and administrative jobs include architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, for example, construction manager, relocation specialist, payroll clerk, etc.
5. Federal Wage Rate Job Classification means the job classifications listed in the federal minimum wage rate schedule issued from time to time by the Secretary of the United States Department of Labor pursuant to the Davis Bacon Act.
6. HUD means the U.S. Department of Housing and Urban Development.
7. HUD YouthBuild programs mean programs that receive applicable federal assistance 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.
8. Metropolitan area means the Boston metropolitan statistical area (MSA), as established by the Office of Management and Budget. The Boston MSA consists of seven counties: Norfolk, Plymouth, Suffolk, Middlesex, Essex, Rockingham (NH), and Strafford (NH).
9. New Hires means full-time employees hired for permanent, temporary or seasonal employment. An employee returning to the payroll after a period of unemployment is considered a new hire for Section 3 purposes.
10. Person means any natural person, business, partnership, corporation, joint venture, organization, entity or group of individuals.
11. Project Development means the public housing development or developments for which the Contractor is performing work under a Section 3 Covered Contract.
12. Provision or S3P means this Section 3 Provision.

## ATTACHMENT C-c

13. Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).
14. Section 3 Business Concern means a business entity organized in accordance with applicable state law and licensed in the Commonwealth of Massachusetts to conduct the business for which it was formed; and
- .1 That is 51% or more owned by Section 3 Residents; or
  - .2 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 business concern were section 3 residents; or
  - .3 That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded by it to business concerns that meet the qualifications set out in paragraphs .1 and .2 of this Part 1.14.
15. Section 3 Compliance Plan means the plan submitted to the Authority by a Contractor setting out how it intends to comply with the requirements of this Provision.
16. Section 3 Covered Activity means any activity which is funded by Section 3 - covered HUD assistance.
17. Section 3 Covered Contract means a contract or a subcontract (including a professional service contract) awarded by the Authority or by a Contractor for work on a Section 3 Covered Project and/or any Section 3 Covered Activity. Section 3 Covered Contracts do not include contracts for the purchase of supplies and materials, except where a contract for the purchase of materials includes installation.
18. Section 3 Covered Project means the construction, reconstruction, installation, repair, demolition, maintenance, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards) and/or the furnishing of services to or on the behalf of the Authority which shall include, but not be limited to, the furnishing of labor, time, and/or effort by a contractor.
19. Section 3 Joint Venture means an association of business concerns formed by a written joint venture agreement to engage in and carry out a specific business venture, where one of the business concerns qualifies as a Section 3 Business Concern and:
- .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 proportionate to its work.
- A Section 3 Joint Venture shall meet all the requirements for submitting proposals, bidding on contracts, or entering into contracts generally applicable to all other Persons or business entities doing so.

## ATTACHMENT C-c

20. Section 3 Resident means an individual who is at least 18 years of age, who
- .1 Maintains his or her full-time principal residence at any of the public housing developments owned by the Authority and who is listed on the lease as a resident
  - or
  - .2 Is a low-or very-low income resident of the Boston metropolitan area.
21. Subcontractor means any entity (other than an individual 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 the work.

### 1A. Order of Precedence.

In the event of a conflict between the definitions contained in this Part 1 and the definitions of terms contained in Section 3 and its regulations, the definitions contained in Section 3 and its regulations shall control.

### 2. Training and Employment Preference for Section 3 Residents.

- 2.1 The Contractor shall, to the greatest extent feasible, give preference to Section 3 Residents when making any New Hires in connection with a Section 3 Covered Contract.
- 2.2 Prior to making any New Hire in connection with a Section 3 Covered Contract, the Contractor shall use its best efforts to:
  - .1 Notify Section 3 Residents about training and employment opportunities arising out of any Section 3 Covered Contract;
  - .2 Encourage the application of Section 3 Residents for training and employment opportunities arising out of any Section 3 Covered Contract;
  - .3 Facilitate the employment of Section 3 Residents; and
  - .4 Document actions taken to comply with the requirements of this Part 2, the results of such actions and impediments encountered, if any.
- 2.3 In making any New Hire in connection with a Section 3 Covered Contract, the Contractor shall make such hires in the following order of priority:
  - .1 Section 3 Residents from the Project Development;
  - .2 Section 3 Residents from other Public Housing Developments owned and/or operated by the Authority and located in the Neighborhood of the Project Development;

## ATTACHMENT C-c

.3 Section 3 Residents from other Public Housing Developments owned and/or operated by the Authority and located outside the Neighborhood of the Project Development;

.4 Participants in HUD Youthbuild programs being carried out in Boston: firstly, in the Neighborhood of the Project Development; and, secondly, outside the Neighborhood of the Project Development.

.5 Participants in BHA's leased housing programs in the Boston metropolitan area;

.6 Other low-income or very-low income residents of Boston metropolitan area.

2.4 The Contractor may demonstrate compliance with the training and employment requirements of this Provision by meeting the following minimum numerical goals:

.1 By committing to employ Section 3 Residents as **thirty percent (30%)** of the aggregate number of New Hires.

.2 Where applicable and to the greatest extent feasible, the Contractor shall make New Hires in Federal Wage Rate Job Classifications.

2.5 Any Contractor which has not met the minimum numerical goals for training and employment set forth in this Part 2 has the burden of demonstrating why it was not feasible to meet such goals.

2.6 A Section 3 Resident seeking preference in training and employment pursuant to this Part 2 shall, if requested to by the Contractor, certify or submit evidence that he or she is a Section 3 Resident as defined in this Provision. Notwithstanding the foregoing, any individual named as a Section 3 Resident on a list provided to the Contractor by the Authority shall be deemed to be a Section 3 Resident for the purposes of this Part 2.6 without being required to furnish additional proof of such status.

2.7 Nothing in this Part 2 shall be construed to require the employment of a Section 3 Resident who does not meet the minimum qualifications of the position to be filled; however, any such qualifications shall be reasonably related to the work to be performed by the person filling the position as determined by the Authority.

2.8 The Contractor is responsible for complying with the requirements of this Provision in its own operations and for assuring compliance in the operations of its Subcontractors.



## **ATTACHMENT C-c**

### **3. Contract Preference for Section 3 Business Concerns.**

- 3.1 The Contractor shall, to the greatest extent feasible, give preference to Section 3 Business Concerns when entering into any Contract in connection with a Section 3 Covered Project.
- 3.2 Prior to entering into any Contract in connection with a Section 3 Covered Project, the Contractor shall use its best efforts to:
- .1 Notify Section 3 Business Concerns about contracting opportunities arising out of any Section 3 Covered Contract;
  - .2 Encourage Section 3 Business Concerns to submit proposals or bids on any Section 3 Covered Contracts;
  - .3 Facilitate the award of contracts to Section 3 Business Concerns; and
  - .4 Document actions taken to comply with the requirements of this Part 3, the results of such actions and impediments encountered, if any.
- 3.3 In entering into any Contract in connection with a Section 3 Covered Project, the Contractor shall award any such contract in the following order of priority:
- .1 Section 3 Business Concerns 51% or more owned by Section 3 Residents of the Project Development or whose full-time permanent workforce includes 30% of those individuals as employees;
  - .2 Section 3 Business Concerns 51% or more owned by Section 3 Residents of other Public Housing Developments owned and/or operated by the Authority whose full-time permanent workforce includes 30% of those individuals as employees;
  - .3 HUD Youthbuild programs being carried out in Boston metropolitan area: firstly, in the Neighborhood of the Project Development; and secondly, outside the Neighborhood of the Project Development.
  - .4 Business concerns that are 51% or more owned by Section 3 Residents, or whose permanent, full-time workforce includes no less than 30% Section 3 Residents, or that subcontract in excess of 25% of the total amount of subcontracts to business concerns identified in Parts 3.3.1 and 3.3.2.
- 3.4 The Contractor may demonstrate compliance with the contract requirements of this Provision by meeting the following minimum numerical goals:
- 3.5

## ATTACHMENT C-c

.1 By committing to award to Section 3 Business Concerns at least **ten percent (10%)** of the total dollar amount of any Section 3 Covered Contract for building trades work for the maintenance, repair, modernization or development of public housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; or

.2 By committing to award to Section 3 Business Concerns at least **three percent (3%)** of the total dollar amount of any other Section 3 Covered Contract.

3.5 Any Contractor which has not met the minimum numerical goals for contracting set forth in this Part 3 has the burden of demonstrating why it was not feasible to meet such goals.

3.6 A Section 3 Business Concern seeking preference in contracting pursuant to this Part 3 shall, if requested to by the Contractor, certify or submit evidence that it is a Section 3 Business Concern as defined in this Provision. Notwithstanding the foregoing, any business concern named as a Section 3 Business Concern on a list provided to the Contractor by the Authority shall be deemed to be a Section 3 Business Concern for the purposes of this Part 3.6 without being required to furnish additional proof of such status.

3.7 A Section 3 Business Concern seeking preference in contracting pursuant to this Part 3 shall, if requested by the Contractor awarding the Contract, submit evidence sufficient to demonstrate to the satisfaction of the Contractor that it is responsible and has the ability to perform successfully under the terms and conditions of such Contract.

3.8 The Contractor is responsible for complying with the requirements of this Provision in its own operations and for assuring compliance in the operations of its Subcontractors.

#### 4. **Procedures Prior to Contract Execution.**

##### 4.1 Publicly Bid Section 3 Covered Contracts

.1 Proposers shall submit a completed **Certification of Intent to Comply with Section 3 (Form 1)** and **Section 3 Hiring, Training, and Contracting Opportunities (Form 2)** with their proposals.

.2 If the Certification of Intent to Comply with Section 3 (Form 1) and/or Section 3 Hiring, Training, and Contracting Opportunities (Form 2) are not submitted with the proposal, the Authority may, but is not required to, reject the proposal. If the Contractor's Certification is incomplete, the Authority may, but is not

## ATTACHMENT C-c

required to, permit the apparent proposer to submit and/or complete, correct, and/or modify such Forms in order to meet bid requirements.

.3 Within ten (10) business days of notification by the Authority, Proposers on contracts with costs estimated over \$100,000 shall submit a **Section 3 Compliance Plan** describing in detail how the Proposer intends to comply with this Provision, including a plan for soliciting Section 3 Residents and Section 3 Business Concerns for employment and contracting opportunities, together with sample solicitations and other information to be used in the implementation of such plan and designating a representative for overseeing the Proposer's responsibilities under this Provision.

4.2 If deemed advisable by the BHA, the Authority may assist the Contractor's outreach efforts by providing the Contractor with the following information (if such information is available) for its consideration:

.1 A list of Section 3 Residents available for work under this Provision and a summary of their qualifications and experience; and

.2 A list of Section 3 Business Concerns available for work under this Provision and of the summary of their qualifications and experience.

4.3 The Authority shall, within five (5) business days after the delivery to the Authority of the Section 3 Compliance Plan:

.1 Approve the Section 3 Compliance Plan as submitted; or

.2 Approve the Section 3 Compliance Plan as modified to reflect changes arising out of correspondence between the Contractor and the Authority; or

.3 Notify the Contractor that the Section 3 Compliance Plan is not approved and require the Contractor to submit for the Authority's approval a revised Section 3 Compliance Plan.

4.4 If the Contractor does not submit a Section 3 Compliance Plan, or if the Authority does not approve the Section 3 Compliance Plan, the Authority may, but is not required to, award the Contract to the next-ranked Person on the short list of Persons submitting proposals for the contract.

.1 The next-ranked Person submitting a proposal for the contract shall be required to submit the forms required pursuant to Part 4.1 within five (5) business days of receipt of the Authority's request. Forms required to be submitted pursuant to Part 4.1.3 shall be submitted within ten (10) business days of receipt of the

Authority's original request.

4.5 In addition, the Contractor shall submit to the Authority prior to execution of any Subcontract a Section 3 Hiring, Training, and Contracting Opportunities form (Form 2) completed by such Subcontractor under such Subcontract.

4.6 On the date of contract award, the Contractor shall provide the Authority with a list of its current employees in a format satisfactory to the Authority. The Contractor shall provide such employee lists on an ongoing basis for any and all of its subcontractors as subcontracts are awarded.

4.7 Notwithstanding the foregoing, the Contractor shall demonstrate compliance with this Provision no later than the date the Contractor signs the Contract.

## **5. Compliance Monitoring After Notice to Proceed.**

5.1 On or before the fifth business day of each quarter (i.e., January-March, April-June, July-September, October-December) of the Contract term, the Contractor shall submit to the Authority a completed **Quarterly Section 3 Report (Form 3)** for the preceding quarter, setting out for each week in such quarter the hours worked by each new hire employed, whether employed directly by the Contractor, or indirectly by one or more of its Subcontractors and amounts paid under the contract to Section 3 Business Concerns, whether such amounts are paid directly by the Contractor, or indirectly by one or more of its Subcontractors.

5.2 The Contractor shall promptly provide to the Authority, at its request, any such information or reports as the Authority may require and shall permit access to the Authority's employees and agents to the job site and to any books, records, accounts and/or other material deemed by the Authority to be necessary to monitor the Contractor's compliance with this Provision.

5.3 The Contractor or any of its Subcontractors may terminate the employment of a Section 3 Resident or the contract of a Section 3 Business Concern for good cause, provided that the Contractor or Subcontractor first notifies the Authority in writing of the proposed termination and the specific reasons therefor. The Authority may request that the Contractor or Subcontractor meet with the Authority to discuss the reasons for any such proposed termination. Nothing in this paragraph or in the S3P is intended to or shall be interpreted to create or establish an employment, agency or contractual relationship of any type or nature between the BHA and any Section 3 Resident and/or any Section 3 Business Concern.

5.4 If any Section 3 Resident employed by the Contractor or a

## **ATTACHMENT C-c**

Subcontractor pursuant to this Provision leaves or is terminated from such employment, or if any Section 3 Business Concern fails to perform under its contract or its contract is terminated, the Authority may require the Contractor and/or its Subcontractor to employ another Section 3 Resident or contract with another Section 3 Business Concern in order to remain in compliance with the requirements of this Provision.

### **6. Enforcement.**

6.1 If at any time the Authority determines that the Contractor is not in compliance with this Provision, it shall notify the Contractor in writing of such finding and of any sanctions it intends to apply. Such written notice shall give the Contractor an opportunity to meet with representatives of the Authority to present information demonstrating that it is in compliance, or in mitigation of its failure to comply and shall appoint a time and place for such meeting, subject to the Contractor's availability. The Authority may require the attendance of any Subcontractor at any such meeting.

6.2 Following any meeting held with a Contractor pursuant to Section 7.1 the Authority shall make a finding as to whether the Contractor is in compliance with this Provision and shall notify such Contractor in writing of such finding, the information upon which such finding was based and the sanctions, if any, it intends to apply. Any such finding shall be final and without recourse, unless it is made in bad faith and without reasonable cause.

### **7. Sanctions.**

7.1 If the Authority determines that the Contractor is not in compliance with this Provision, the Authority may impose on the Contractor, or require the Contractor to impose on any Subcontractor, any one or more of the following sanctions:

.1 The recovery from the Contractor of one-tenth of one percent (0.1%) of the Contract price or \$2,500, whichever is greater, in the nature of liquidated damages, for each week that the Contractor fails or refuses to comply; or the recovery from the Contractor, to be assessed by the Contractor as a back-charge against the Subcontractor, of one-tenth of one percent (0.1%) of the subcontract price, or \$1,000, whichever sum is greater, in the nature of liquidated damages for each week that the Subcontractor fails or refuses to comply.

.2 The suspension of any payment or part thereof due under the Contract, until such time as the Contractor is able to demonstrate its compliance with the terms of this Provision.

## ATTACHMENT C-c

.3 The termination or cancellation of the Contract, in whole or in part, unless the Contractor is able to demonstrate within a specified time its compliance with the terms of this Provision.

.4 In connection with final acceptance and final payment, retention and forfeiture of no more than five percent (5%) of the Contract price (as adjusted by change orders or other amendments), where the Contractor has been unable to demonstrate compliance with the terms of this Provision.

.5 Denial to the Contractor of the right to participate in any future contracts awarded by the Authority for a period of up to three (3) years.

7.2 If, at any time after the imposition of one or more of the above sanctions, a Contractor is able to demonstrate to BHA's satisfaction that it is in compliance with this Provision, it may request the Authority to suspend the sanctions conditionally, pending a final determination as to whether the Contractor is in compliance. Upon final determination of the Authority, the Authority shall either lift the sanctions or re-impose them.

### 8. Other Provisions.

8.1 All Section 3 Covered Contracts shall include the clause set forth in Part 10, entitled "Section 3 Clause".

8.2 Certain Contractors subject to this Resident Employment Provision are also required to comply with Executive Order 11246, as amended by Executive Order 12036 and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

8.3 The Authority shall have access to all records, reports, and other documents or items maintained to demonstrate compliance with this REP.

### 9. Section 3 Clause.

The Contractor shall require that the following provision entitled "the Section 3 Clause" be included in all Section 3 Covered Contracts related to or associated with the work to be performed under the Contract:

**SECTION 3 CLAUSE OF THE HOUSING AND  
URBAN DEVELOPMENT ACT OF 1968**

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 evidenced 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) 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. Noncompliance 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.

**ATTACHMENT C-c**

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).

END OF SECTION 3 CLAUSE



**10. Section 3 Submission Forms and Deadlines**

|                       |   |   |
|-----------------------|---|---|
| <b>FORM 1</b>         | Certification of Intention to Comply with Section 3                 | Submit with Proposal  |
| <b>FORM 2</b>         | Section 3 Hiring, Training, and Subcontracting Opportunities        | Submit with Proposal  |
|                       | Section 3 Compliance Plan*<br>(For contracts valued over \$100,000) | Due within 10 business days of BHA notification                             |
| <b>FORM 3</b>         | Quarterly Section 3 Report  | Submit quarterly throughout contract term                                   |
| <b>HUD Form 60002</b> | Section 3 Summary Report  | Submit at end of calendar year (if applicable) and at completion of project |

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\* There is no BHA form for a Compliance Plan but sample plans are available on request. The Compliance Plan details the Proposer's specific efforts to implement the Section 3 requirements.

# ATTACHMENT C-c

## FORM 1

### Certification of Intent to Comply with Section 3

*This form is to be submitted by proposers with their proposal. Failure to submit this form may result in the rejection of your proposal.*

| HIRING   | SUBCONTRACTING                                       |
|--|--|
| <input type="checkbox"/> New Hires/Trainees Projected    | <input type="checkbox"/> Subcontracting Projected    |
| <input type="checkbox"/> No New Hires/Trainees Projected | <input type="checkbox"/> No Subcontracting Projected |

I hereby certify that:

1. I am the \_\_\_\_\_ [Insert Title] of \_\_\_\_\_  
\_\_\_\_\_ [Insert Name of Proposer] (the "Company");
  2. I am duly authorized by the Company to submit a proposal on its behalf to the Boston Housing Authority for \_\_\_\_\_  
[Insert Project Name and Number] and to execute any and all documents required to be filed as a condition of such proposal;
  3. I have read and understood the Section 3 Provision, which applies Section 3 of the Housing and Urban Development Act of 1968, as amended, and the Section 3 regulations found at 24 CFR 135.
  4. The Company will comply with the requirements of 24 CFR 135 and the Section 3 Provision. This includes ensuring that, to the greatest extent feasible, **at least thirty percent (30%) of new hires and trainees** will be Section 3 residents and **at least three percent (3%) of the contract value** for non-construction contracts will be awarded to Section 3 business concerns.
  5. The Company is responsible for the compliance of its subcontractors and will ensure that its subcontractors comply with the requirements set out in 24 CFR 135 and the Section 3 Provision.
  6. Any vacant positions filled after the contract award notification but before contract execution will not be filled to circumvent the Company's Section 3 obligations.
- Signed under the penalties of perjury.

\_\_\_\_\_  
[Company]

Date: \_\_\_\_\_

By: \_\_\_\_\_  
[Signature]  
Duly Authorized

# ATTACHMENT C-c

## FORM 2

### Section 3 Hiring, Training, and Contracting Opportunities

*This form is to be completed by the proposer on behalf of itself and all projected subcontractors, if any. Provide estimates of hiring and contracting needs on the project.*

#### HIRING OPPORTUNITIES

| Job Category                       | Number of positions needed to complete project | Number of positions filled by current employees* | Number of positions to be filled by Section 3 Residents | Anticipated dates of work |
|------------------------------------|--|--|---|---------------------------|
| <i>Example: Tenant Coordinator</i> | 1  | 0  | 1   | 10/1/11-12/31/11          |
| 1) Professionals                   |  |  |   |                           |
| 2) Technicians                     |  |  |   |                           |
| 3) Office/Clerical                 |  |  |   |                           |
| 4) Tenant Coordinator              |  |  |   |                           |
| 5) Other:                          |  |  |   |                           |
| <b>Totals</b>                      |  |  |   |                           |

#### SUBCONTRACTING OPPORTUNITIES

| Sub-trade and Company (if known) | Type of Business        | Section 3 Business Concern? (Y/N) | Amount of Contract |
|----------------------------------|-------------------------|-----------------------------------|--------------------|
| <i>Example: HVAC Inc.</i>        | <i>HVAC Engineering</i> | Y                                 | 8,000              |
| 1)                               |                         |                                   |                    |
| 2)                               |                         |                                   |                    |
| 3)                               |                         |                                   |                    |

\* **“Current employee”** means an employee who is on the payroll as of the date of the signature below. HUD considers an employee who has been laid off and is returning to the payroll to be a “new hire” for purposes of Section 3 compliance.

The above tables represent an accurate estimate of workforce and subcontracting needs for this project and also represent the number of Section 3 residents and business concerns that the company proposes to employ and/or contract with.

Signed under the penalties of perjury.

\_\_\_\_\_  
[Company]

Date: \_\_\_\_\_

By: \_\_\_\_\_  
[Signature] Duly Authorized

# ATTACHMENT C-c

## FORM 3 Quarterly Section 3 Report

*This form or a certified substitute document containing the information requested below is to be completed by the consultant and all subcontractors, if any, and submitted within 5 business days of each calendar quarter (i.e., Jan.-Mar., Apr.-Jun.). Attach verifications (e.g., Section 3 Resident Affidavit and copy of photo identification) as necessary.*

BHA Job No. \_\_\_\_\_

Month Ending: \_\_\_\_\_

### NEW HIRES

| Employee Name<br><i>(Report New Hires Only)</i> | Job Title                | Section 3 Resident?<br>(Y/N) | Address  | Date Hired      | Hours this month | Hours to date | Cumulative Wages |
|---|--------------------------|------------------------------|--|-----------------|------------------|---------------|------------------|
| <i>Example: Gladys Jones</i>                    | <i>Project Assistant</i> | <i>Y</i>                     | <i>Franklin Field,<br/>100 Ames St.<br/>Dorchester, MA<br/>02124</i> | <i>10/15/11</i> | <i>80</i>        | <i>200</i>    | <i>3,000</i>     |
| 1)  |                          |                              |  |                 |                  |               |                  |
| 2)  |                          |                              |  |                 |                  |               |                  |
| 3)  |                          |                              |  |                 |                  |               |                  |
| 4)  |                          |                              |  |                 |                  |               |                  |
| 5)  |                          |                              |  |                 |                  |               |                  |

### SECTION 3 BUSINESS CONCERNS

| Section 3 Business Concern       | Address                                  | Dates of Work               | Contract Price | Paid to Date | Amount Remaining to be paid |
|----------------------------------|--|-----------------------------|----------------|--------------|-----------------------------|
| <i>Example: ABC Security Co.</i> | <i>123 Main St., Boston MA<br/>02111</i> | <i>11/1/11-<br/>5/30/12</i> | <i>15,000</i>  | <i>2,500</i> | <i>12,500</i>               |
| 1)                               |  |                             |                |              |                             |
| 2)                               |  |                             |                |              |                             |
| 3)                               |  |                             |                |              |                             |
| 4)                               |  |                             |                |              |                             |

\_\_\_\_\_  
[Company]

Date: \_\_\_\_\_

By: \_\_\_\_\_  
[Signature]