



June 3, 2019

Regulations Division
Office of the General Counsel
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0500

Docket No. FR-6085-P-01

Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses

Enterprise Community Partners (Enterprise) appreciates the opportunity to provide comments on proposals for updating and streamlining the implementation of Section 3 requirements.

Enterprise is a national nonprofit organization, providing development capital and expertise needed to create quality, affordable homes in communities of opportunity. Since 1982, Enterprise has invested more than \$36 billion in equity, grants and loans to help build and preserve nearly 529,000 affordable homes in strong neighborhoods. To accomplish this, Enterprise has worked alongside state and local partners, including public housing authorities (PHAs), local community development corporations, and economic development organizations.

In addition to providing capital, Enterprise offers technical expertise and programs to build thriving communities that are self-sufficient and well connected to healthcare, education, and decent wage-earning jobs. Solving these critical issues that low-income communities face across the nation is at the core of our mission.

Enterprise views updating Section 3 requirements as an opportunity to create and strengthen pathways toward economic mobility for low-income people, particularly residents of HUD-assisted housing. Accordingly, we are pleased to see the proposed rule's recommendation of moving from tracking and reporting of "new hires" to "labor hours worked." We agree this will better measure total actual employment by Section 3 workers and the proportion of total employment performed by those workers, while also emphasizing continued employment.

Capacity for Implementing, Monitoring and Enforcement of Section 3

The promise of Section 3 has not yet been realized, largely due to the fact that none of the entities responsible for its administration—HUD, state and local governments, PHAs—have been sufficiently resourced to implement, monitor, and enforce Section 3 requirements. The HUD program offices responsible for funding all are currently under-resourced and could better fulfill their obligations in monitoring and enforcing Section 3 with dedicated staff.

Enterprise recommends providing adequate funding for HUD to hire the necessary headquarters and field office staff to provide Section 3 technical assistance and to robustly monitor and enforce Section 3. HUD should request increases in congressional appropriations to meet all the agency's goals and to meet the needs of low-income communities. Additional funding is also needed so that all jurisdictions and PHAs can

fulfill their Section 3 obligations. Through increased funding, HUD can incentivize and build capacity at the local level to more effectively implement Section 3 requirements. This includes the following recommendations:

1. Update HUD's grantee reporting systems to streamline grantee ability to comply with Section 3 requirements and allow greater availability of the data;
2. Establish Section 3 coordinator positions at the local level;
3. Create a network of peer-to-peer exchange among Section 3 coordinators and hold annual conferences and webinars so that the rest of the nation can understand and learn from their efforts to implement the statutory purpose of Section 3;
4. Leveraging the existing workforce development system to assist with job training services; and,
5. Develop partnerships and plans with local partner organizations (outside of the housing "silo") to increase employment, training, and entrepreneurship opportunities.

Enterprise is concerned about the proposal to eliminate the Section 3 complaint process for residents. The proposed rule aligns complaint procedures with those of the applicable HUD program offices; however, HUD program areas do not have detailed provisions for residents to field complaints on the part of Public Housing Authorities or jurisdictions that do not meet program requirements.

Enterprise recommends that the final rule require each federal program to have a detailed complaint process, complete with details for residents on how to submit complaints and believes it would be preferable for one office at HUD to be ultimately responsible for independent overall HUD enforcement. At a minimum, if HUD defers to grantees to field complaints from individuals, the process should require a grantee to inform HUD of the resolution of each complaint much like CPD does with CDBG-DR complaints from individuals.

Public Housing Authority "New Hire" and Reporting Exemption

Enterprise applauds the proposed rule for updating employment requirements for jurisdictions to report labor hours instead of new hires. We are concerned about the proposal to allow PHAs to continue to use the new hire standard in fulfilling Section 3 requirements. Enterprise believes this could provide a loophole to PHAs, their contractors and sub-contractors, allowing them to hire Section 3 workers for a limited or short time frame in order to comply with the regulation. Short-term employment does not allow residents to gainfully obtain technical skills, knowledge, or adequate savings. Furthermore, the proposed rule allows small PHAs, defined as those with fewer than 250 public housing units, to be exempt from reporting labor hours worked or new hires.

Enterprise recommends that all PHAs, regardless of size, be required to report on "labor hours worked". Due to the lack of resources many PHAs have, we also recommend HUD ask for increased funding for the Office of Public and Indian Housing so that PHAs can sufficiently meet the intended goals of Section 3. HUD should also give thought to the creation of Section 3 technical assistance funding that can be used to build the technical knowledge and capacity of PHAs.

Definition of Section 3 Worker

The proposed rule replaces the term “Section 3 resident” with “Section 3 worker,” who is someone who meets one of the following criteria:

1. The worker’s income is less than the income limit set by HUD for the program triggering Section 3;
2. The worker lives in a “qualified census tract;”
3. The worker is employed by a Section 3 business.

Section 3 should benefit low- and very-low income residents who are recipients of government assistance. The proposed options above do not stress this goal enough.

Regarding option 1 -- To better meet the law’s emphasis Enterprise recommends that the first option be “A low-income worker who currently is or was before being hired, a public housing, Section 8, Section 811, or Section 202 resident.”

Regarding option 2 – A person or family living in a qualified census tract (QCT) may not necessarily be low- or very-low income. QCT boundaries vary heavily across the country and may include higher income residents. Enterprise recommends eliminating geographic area to define a Section 3 worker.

Regarding option 3 – workers hired by Section 3 businesses may not necessarily be low- or very-low income, exposing a loophole that can be taken advantage of by business and jurisdictions. Option 3 should be modified to specifically state “worker is employed by a Section 3 business and currently is or was before being hired, a public housing, Section 8, Section 811, or Section 202 resident, or other low-income resident.”

Definition of Section 3 Business

The proposed rule lays out the definition of Section 3 Business as one that meets at least one of the following:

1. At least 51% of the business is owned by low-income people;
2. Low-income people work more than 75% of the labor hours worked at the business;
3. At least 25% of the business is owned by public housing residents or Section 8 residents.

Option 3 above presents a danger of the business being a front for owners who might not represent residents’ interests, absent majority control by residents. Enterprise suggests modifying the option 3 definition to require that the business have 51% ownership by public housing or Section 8 residents.

Exclusion of Professional Services from Benchmarking Requirements

The intended goal of the Section 3 statute is to positively impact the lives of HUD assisted residents through meaningful job placement and training that will ultimately lead to greater self-sufficiency. The current rule includes a goal of 30% of new hires in management and administrative jobs, technical, professional, building trades, and non-construction jobs and all levels. Professional service jobs include

accounting, legal services, financial consulting, architectural and engineering services. The proposed rule indicates that professional services will be excluded from benchmarking requirements, but HUD will allow voluntary reporting of these workers.

Excluding professional services positions – typically higher paying, higher career growth – would effectively limit Section 3 workers to construction services, diminishing the potential positive impact of the statute. Ultimately, it will not provide HUD with adequate data on positive or negative impacts of Section 3's intended goals.

Enterprise suggests maintaining the current rule's requirement of reporting on professional services but moving to total labor hours worked in both construction and non-construction services, and better tracking this data through streamlined reporting systems.

Conclusion

Enterprise commends HUD for proposing changes to make Section 3 live up to its potential. HUD's current rule demonstrates pathways toward self-sufficiency for HUD-assisted residents, and Enterprise shares that objective. However, to maximize impact, we urge HUD to request adequate funding to enable HUD, all jurisdictions, and PHAs to effectively implement, monitor and enforce Section 3 obligations.

If you have any questions regarding these comments, please contact Marion McFadden at mmcfadden@enterprisecommunity.org or 202-649-3920.

Sincerely,



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