

Galveston Housing Authority's

Section 3 Policy

It is the policy of the Galveston Housing Authority (GHA) to continue to expand the mechanisms through which its participants can develop careers and generate income that can lead to permanent sustainable economic independence.

The U.S. Department of Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and its corresponding amendments in the Housing and Community Development Act of 1992 is the basis for the creation of the GHA Section 3 Program. The Section 3 Program is the mechanism through which GHA shall implement its workforce development efforts.

The Section 3 Program ensures that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development ("HUD") financial assistance shall, to the greatest extent feasible, and consistent with 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 from GHA, and to Section 3 business concerns which provide economic opportunities.

Specifically, GHAs implementation of the Section 3 Program provides a conduit that will enable GHA to require and also assist its contractors, subcontractors, vendors and suppliers to provide employment, training and business opportunities for residents of GHA communities. Additionally, the Section 3 Program promotes economic development through entrepreneurship, self sufficiency and community reinvestment opportunities.

Greatest Extent Feasible:

GHA desires to maximize the benefits of the Section 3 regulation as prescribed in 24 CFR Part 135. In recognition of the fact that the numerical goals established in the HUD 1994 Interim Rule were just that, goals, GHA chooses through this policy to expand the regulatory benchmarks for safe harbor compliance. GHA will have a person or a contractor designated as a Section 3 coordinator to insure compliance with this GHA policy and HUD policies regarding Section 3.

The GHA benchmarks for compliance with Section 3 are as follows:

All GHA construction contractors paid with certain HUD funding will abide by the "greatest extent feasible" Section 3 mandate in one of two ways. Compliance can be achieved by: (A) hiring or training a minimum of one full time (40 hours) employee per \$100,000 of the contract value up to \$1 million or by (B) employing Section 3 residents in 30% of all new hire opportunities created by the contract. Contractors will utilize whichever option offers the greater number of employment opportunities to Section 3 residents. The table below can be utilized to determine hiring/training requirements for contracts up to \$1 million.

Contract Value	Minimum number of new hires or trainees
\$1-\$99,999	1 hire

\$100,000 - \$199,999	2 hires
\$200,000 - \$299,999	3 hires
\$300,000 – \$399,999	4 hires
\$400,000 - \$499,999	5 hires
\$500,000 - \$599,999	6 hires
\$600,000 – \$699,999	7 hires
\$700,000 - \$799,999	8 hires
\$800,000 - \$899,999	9 hires
\$900,000 - \$999,999	10 hires

For all contracts exceeding \$1 million, a minimum of ten percent (10%) of the total number of labor hours must be utilized for hiring and/or training initiatives for Section 3 residents when Section 3 covered funds are expended. Additionally, as per the HUD Section 3 regulation, a minimum of 30% of new hires should be Section 3 residents. The preferred objective is employment of GHA residents and voucher holders whenever possible.

For professional, nonconstruction contracts, GHA will accept 30% of new hires as sufficient to meet Section 3 compliance.

Section 3 Contract Requirements

All contracts will contain terms related to the following:

1. Section 3 Employment Preference Tiers:

Tier 1: A resident of the GHA housing site where the work is being performed or a former resident displaced during Hurricane Ike.

Tier 2: A resident of any GHA housing site or GHA sponsored program (such as Housing Choice Voucher program).

Tier 3: A participant in a HUD YouthBuild program in Galveston County.

Tier 4: A very low or low income resident of the City of Galveston

Tier 5: A very low or low income resident of Galveston County.

2. Section 3 Action Plan

For each new contract with the GHA, the contractor will be required to provide a Section 3 action plan which outlines their commitments under the new contract. The action plan will state:

- A brief description of the contract
- The start and end dates of the contract
- The agreed upon Section 3 commitment, i.e., new hire, training/apprenticeship programs, Section 3 business contracting

- Specific project workforce breakdown – including current staff and staff that will need to be hired
- Section 3 Opportunity Plan ensuring that
 - For contracts over one million dollars, at least 30% of the new hires and 10% of the hours worked by new hires on the project are Section 3 eligible residents;
 - For contracts under one million dollars, 1 Section 3 employee is utilized for the duration of the contract for every \$100,000 contract value.
 - hiring preference is given to higher-priority Section3 eligible workers;
 - and a method to assure that 10% of all Section 3 covered contracts for building trades work or 3% of all Section 3 covered contract is awarded to Section 3 businesses.
- This plan shall also identify potential impediments to hiring Section 3 businesses and a commitment to implement additional efforts to address these impediments. Examples of impediments and additional efforts include:
 - a. Cash flow problems for small businesses / General contractor could pay the subcontractors on a 15 day basis.
 - b. High costs of bonding / General contractor extends its bonding to the subcontractor

This plan must be approved by GHA prior to the commencement of any work under the contract.

3. Safe Harbor Benchmarks:

The endorsement of GHA's safe-harbor benchmark of no less than 30% of new hires and (A) 1 full time new hire per \$100,000 contract value up to \$999,999 or (B) 10% of labor hours for contracts over \$1 million

4. Career Development

The contract must include an acknowledgement that the hiring of a Section 3 eligible resident is a commitment to the career development of that employee and that the hiring thresholds will not be met simply by temporarily hiring a resident. The contract will also require the contractor to offer on-the-job or continuing training to Section 3 hires that is comparable, or exceeds the training provided to non-Section 3 eligible employees.

5. Career Oversight of Section 3 Hires

All contracts subject to this policy will contain terms requiring:

1. That the contractors and subcontractors will acknowledge that Section 3 workers experience higher barriers to employment than the population at large and a willingness to help employees work through those barriers on an ongoing basis.

2. Contact with the Section 3 Coordinator to be made prior to terminating any Section 3 employee and seek a resolution to the problem to avoid turnover; and
3. The Section 3 employee can only be fired for good cause; and
4. If an eligible Section 3 resident is referred to a contractor by the GHA Section 3 database or any database maintained by a contractor for GHA, and does not perform satisfactorily due to poor work habits, the employer must alert the GHA and meet to discuss continued eligibility. After this meeting:
 - a. The resident may be retained for employment or
 - b. The resident may be removed from employment and required to attend and complete job readiness class, alcohol/drug treatment center, or some other program. After successful completion of program, the resident will be given the opportunity to be reinstated on the list of residents available for work. If a Section 3 eligible worker is removed from a position, the employer must first seek to again fill the job with a Section 3 eligible worker.

5. Outreach

All contracts require active outreach to the Section 3 eligible community soliciting applicants for the available positions. This outreach must include:

- a. A job-site notice prominently stating "The contract for work on this project requires hiring preference be given to low and very low income residents of the neighborhoods near this job site." The notice should also provide information on how to apply for positions.
- b. A first source hiring procedure which requires that when a job opening occurs Section 3 residents are allowed to be interviewed first.
- c. Notice of openings to local community organizations after Section 3 residents have been interviewed.

6. Subcontracts

1. Subcontracts, where appropriate, be broken into economically feasible units to facilitate participation by Section 3 business concerns.
2. Subcontracts contain these Section 3 contract terms,
3. The employment actions of subcontractors be included in the monitoring reports submitted to GHA by the contractor. (See Reporting, below)
4. All contracts subject to this policy will contain terms requiring that the employment actions of subcontractors be included in the monitoring of reports submitted to GHA by the contractor. A safe

harbor benchmark of no less than: (a) 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, construction, and other public construction with federal funds; and (b) at least three percent of the total dollar amount of all other covered contracts will be awarded to eligible Section 3 concerns. Where the safe harbor benchmarks are considered unattainable by the contractor, the contractor has the burden of demonstrating why safe harbor compliance was not achieved. **§ 24 C.F.R.135.30**

7. Contract Terms-Enforcement

All contracts subject to this policy will contain terms requiring:

1. The contracts incorporate, by reference, the non compliance procedures discussed below.
2. The certification of compliance with the contracted hiring preferences and the submitted Section 3 Opportunity Plan
3. The designation of a representative of the contractor who will be responsible for monitoring subcontractor Section 3 compliance and assuring that all required documentation is provided to GHA.

8. Contract Terms-Misc:

All contracts subject to this policy will contain terms requiring:

1. Records related to the Section 3 activities of the contractor, whether in the possession of GHA or the Contractor, qualify as public records subject to the Public Information Act of Texas.

9. The complete Section 3 Clause, as defined at § 24 C.F.R.135.38:

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) 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. 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.

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).

III: Section 3 Program Training

GHA acknowledges that the responsibility to insure, to the greatest extent feasible, the Section 3 requirements are met does not pass solely to the entities or individuals directly contracting for the Section 3 eligible activities. GHA will, to the greatest extent feasible direct adequate and sufficient resources into a fund to be used to provide additional job training and technical assistance to Section 3 eligible residents and businesses in the City of Galveston. This fund will be referred to as The Bright Futures Fund.

Each fiscal year, as funding allows, GHA will designate and/or fund two levels of job training programs: Basic and Skilled.

A. Basic Job Training Programs

All individuals who wish to register as a Section 3 available person who have not worked for at least 3 of the last 12 months shall go through a program at the GHA or through a contracted job readiness center. That center shall operate a program that:

1. Integrates with social services
2. Includes etiquette/ interview skills training
3. Includes assistance getting individuals Section3 certified
4. Provides ongoing career guidance, including training in the basic employment skills necessary to qualify for the Skilled Job Training Programs below.
5. Links participants with further training programs that will get them into higher paying jobs (such as trade apprenticeship programs) based on which jobs are most likely to become available.

B. Skilled Job Training Programs

The second set of training programs will be union or other trade programs to put people on a path to higher skill construction jobs.

C. Provision of Technical Assistance

The Bright Futures Fund will provide Section 3 Business Technical Assistance: GHA will, directly or through contracted organizations, provide outreach and support to identify Section 3 eligible businesses and, as necessary, to help them meet bonding and insurance requirements and become certified as Section 3 businesses. Included in this effort shall be training on bidding and estimating under federal guidelines. Additionally, this assistance will focus on meeting with the contractors under Section 3 to help them utilize the Section 3 businesses that have been identified. It is anticipated that this will be a contract let by GHA.

D. Review of Training Plan

Both programs (the Individual Job Training program and the Business Technical Assistance program) will perform a training plan review and/or revision every 6 months to address problems in the system and changes in likely upcoming jobs. This training plan review will be presented to the Section 3 Advisory Board.

IV . Bidding Procedure

A. Lowest Price Preferences

Section 3 certified businesses will be given a 10% price preference in bidding. Where the Section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the

qualified Section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source.

B. Exceeding Minimum Thresholds Preferences

Contractors who have a consistent history of exceeding the minimum Section 3 hiring and employment thresholds of their Section 3 eligible contracts in the last 24 months will be given a 5% price preference in bidding.

C. Tie Breaker Preferences

In the event of a tie, the contractor with the longest average historical career tenure for Section 3 hires shall be awarded the contract.

Reporting – Non Construction Contractors

All non-construction contractors are required to submit data quarterly to the Section 3 coordinator. The following data should be sent to the Section 3 Coordinator on company letterhead with an original signature:

For Hires

- # of vacancies for the quarter
- # of hires for the quarter
- # of hires that are section 3
- Names of Section 3 hires
- Dates of hire
- Job titles
- # of hours worked
- Name of any terminated employees
- Date of termination
- Reason for termination/withdrawal

For training

- # of Section 3 candidates enrolled
- Training description
- # of training hours
- Names of any terminated/withdrawn trainees
- Reason for termination/withdrawal

A. Required Submittals –

- Pursuant to HUD regulations, contractors are required to comply with the requirements set forth in HUD Form 5370-C (for non-construction contracts) or HUD form 5370 (for construction contracts)
- Every contractor must submit, to the Section 3 Coordinator, an weekly electronic copy of its certified payroll and reports on the Section 3 status of job applicants, new hires, terminations, and hours-worked on the awarded project. This report should include the activities of sub-contractors, and separate general summary information and narratives from payroll information with employee names and salary information

B. Terminations & Job Problems

- Notice of terminations and job problems related to Section 3 eligible workers should be also provided on a monthly basis to the job training programs.

C. Reporting Subcontract Values

- Contractors must submit to the Section 3 coordinator monthly reports that state the value of any subcontracts and the value of any subcontracts awarded to Section 3 businesses.

D. Delinquent Reports

- Scheduled contract payments will not be approved if reports are delinquent.

E. Access to Reports

- GHA will post the general summary reports on a publicly accessible website.

Reporting – Construction Contractors

Construction contractors are required to submit a copy of their weekly payroll with their new Section 3 hires highlighted to the Section 3 Coordinator. If there are no Section 3 hires for that reporting period, then contractors should submit a memo to the Section 3 Coordinator indicating that “there are no new Section 3 hires for that reporting period.” A copy of payroll will not need to be submitted in this instance.

Site Visits

The Section 3 coordinator will conduct unscheduled site visits to each job site to validate all Section 3 hires. Each review will include interviews with Section 3 employees to ensure that their work, pay and onsite duties are in keeping with the weekly reporting that contractors and subcontractors have

submitted. The Section 3 coordinator will also review company records to ensure that proper documentation has been filed for each Section 3 worker.

Non-Compliance Procedures:

Bright Futures Training Fund

Where contractors are unable to comply through hiring, training or Section 3 business contracting, contractors will be required to contribute to the GHA managed Bright Futures Fund. This fund receives money from penalties applied as shown below:

A. Non-Compliance of Hours Worked Requirement

Failure to achieve the Section 3 hiring or hours-worked thresholds established in the contract will result in penalties being charged at the rate of double the lost Davis Bacon wages of the Section 3 employees not hired, prematurely terminated and not replaced, or limited in hours-work. These payments will be credited to the Bright Futures Fund. Sample calculations are shown below.

B. Failure to Subcontracting Thresholds

For failure to meet subcontracting thresholds the sanctions will be liquidated damages being charged at the value of 10% of the subcontracts. These payments will be credited to the Bright Futures Fund, which can be used either for Section 3 business support, or individual training.

C. Assessment & Appeals of Penalties

Penalties will be levied after each mid-contract and final contract quarterly review session based on the plans submitted by the contractors. Contractors may appeal any fines or penalties to the Section 3 Advisory Board.

D. Result of Non-Compliance. Failure to comply with these general conditions, may, and are expected to lead to the following sanctions which

- Will include the fines as as stated above
- May include termination of the contract
- May include designation on a list of contractors which are ineligible for future GHA contracts or subcontracts.

Contributions to the fund will be calculated by multiplying the number of Section 3 employee hours that should have been paid to a Section 3 employee by the Davis Bacon wage expected of the position that should have been filled by that Section 3 resident and then doubled.

EXAMPLE A

A \$50,000 contract requires one full time Section 3 resident to be hired for the duration of the 4 week job. This resident is needed as a laborer for a total of 160 labor hours. The resident is hired and works for only 100 of the 160 hours. If the contractor does **not** replace this laborer with another Section 3 resident, the contractor will be required to contribute the remaining hourly wages to the GHA Bright futures fund.

- 60 hours X Davis Bacon laborer wage X 2 = 60 hours x \$9.43 x 2 = \$1131.60 contribution

EXAMPLE B

A contractor needs 6 new laborers to complete his job and therefore must hire two section 3 residents to fill those positions. By the end of the contract period, the contractor has hired only 1 full time Section 3 resident for the job that required 160 hours per worker to complete.

- 160 hours X Davis Bacon laborer wage X 2 = 160 hours x \$9.43 x 2 = \$3016.00 contribution

All final invoices will be withheld until a contribution check has been made payable to the Bright Futures Fund in the amount required. Contracts will be monitored regularly for compliance, and invoices can be withheld mid-contract where contractors are found unable to meet their Section 3 goals as stated in their Section 3 action plan. Contractors that produce no evidence of their efforts to comply will be excused from their contract obligations and the GHA reserves the right to seek another Section 3 compliant contractor to complete the work.

Section 3 Implementation Funds

GHA will conduct an annual review of the Section 3 program and budget before the Board of Commissioners to determine past progress and assess the need for funds for future training initiatives.

Section 3 Businesses

1. The Section 3 Regulations in 24 CFR Part 135 provide that GHA, its contractors and subcontractors will also demonstrate compliance by awarding contracts to Section 3 Business Concerns or to contractors who contract with such firms. The procurement of Section 3 business concerns includes professional service activities. These activities include employment opportunities arising in connection with Section 3 covered projects including management and administrative jobs, paraprofessional services, jobs including architectural, engineering or related professional services, jobs related to administrative support of these activities e.g. construction manager, relocation specialist, payroll clerk, accountant, attorney, etc. Each recipient, contractor or subcontractor paid with Section 3 covered funds may demonstrate compliance by committing to award to Section 3 businesses in the amounts below:

- a.) at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing; or

b.) at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

c.) at least 3% of the total dollar amount of all other Section 3 covered contracts.

A Section 3 business concern means a business concern:

- a.) That is 51 percent or more owned by Section 3 residents; or
- b.) 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
- c.) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to Section 3 business concerns

Preference:

Preference shall be given to business concerns owned at least 51% by residents of the census tract where the project is located and where the covered assistance is expended. Next, Section 3 business concerns whose full-time employees include persons, at least 30 percent of whom are currently employed Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents.

Community Engagement:

Section 3 is one tool for ensuring that low income residents are connected to viable avenues towards self sufficiency. GHA acknowledges that many community partners ranging from various employers to other social services agencies connect with GHA Section 3 residents regularly through various means. The GHA commits to engaging community leaders and residents where possible in Section 3 programmatic review to ensure the highest quality Section 3 program is created for the agency and its residents. The monthly reports that are received by the GHA from contractors shall be made available to the community leaders involved in this community engagement.