

CANDACE TAPSCOTT

RECIPIENT/CONTRACTOR REQUIREMENTS



US Department of Housing  
and Urban Development

## National Training CONFERENCE 2018

June 18 - 20<sup>th</sup>

SECTION **3**  
of the Housing and Urban  
Development Act of 1968



**HUD ACT**  
of 1968



*50 Years of Promoting*

*Economic Opportunity*

**What Section 3  
Requires of Recipients  
and Contractors**

**Good Faith Efforts to Comply  
with Section 3**

**Day 2**

**June 19, 2018**

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Economic Opportunity Division



## Section 3 Summary of Presentation

- Certifications and Assurances
- Recipient Responsibilities
- Preference for Training and Employment
- Preferences for Contracting

## As a recipient of HUD funds, you must comply with:

- HUD's Civil Rights Statutes and Implementing Regulations
- Executive Orders Signed by a President
- HUD Handbook Requirements
- Program Area Specific Civil Rights Related Program Regulations
- CDBG Entitlements and PHAs Certifications that include Compliance with Specific Civil Rights Laws
- Program Handbooks

## CDBG and PHA Certifications

- For CDBG Recipients: civil rights related Certifications are contained in 2 places, in the “Certifications” and, in the “Specific CDBG Certifications” templates as follows. Note: The items are not listed numerically on Certification forms-and will be discussed in the order in which they are listed.
- CPD’s primary “Certification”-has 7 items listed, 2 are civil rights related:
- **#1- (the very first one listed): Affirmatively Furthering Fair Housing** and it states that the jurisdiction will Affirmatively Furthering Fair Housing (AFFH) and conduct an Analysis of Impediments to Fair Housing Choice (AI), take appropriate actions to overcome the effects of any impediments, and maintain proper records of these actions. and
- **#7: Section 3-which states “It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.”**
- **Specific CDBG Certifications**-Also includes 7 items-one is civil rights specific and one implies compliance with HUD’s other civil rights laws and Executive Orders.

## CDBG and PHA Certifications

- **#6: Compliance with Anti-discrimination Laws**-“The grant will be conducted and administered in conformity with Title 6 and the Fair Housing Act and implementing regulations.” and
- **#8: Compliance with Laws**-“It will comply with applicable laws.” FHEO interprets this to mean that although the standard-form certifications specified by HUD (24 CFR § 91.225) fail to make direct reference to required compliance with Section 109 of HCD Act of 1974 (see 24 CFR § 570.602), and Section 504 of the Rehabilitation Act of 1973 (see 24 CFR 8, et seq.). The signed certification of civil rights compliance also binds them to compliance with all applicable federal civil rights/fair housing laws, including Section 109, Section 504, and the Equal Access Rule found at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/LGBT\\_Housing\\_Discrimination](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination)

## PHA Certifications

- PHAs receive funds pursuant to Section 8 and/or Section 9 (Capital Improvement and Operating Subsidy) and sign **form HUD-50077-“PHA Certifications of Compliance with PHA Plans and Related Regulations.”**
- The PHA Certification lists 22 items numerically, 7 are civil rights related, and 1 covers WBE/MBEs, which FHEO also monitors. All will be briefly highlighted in numerical order as follows.
- **Item#2-The [PHA] Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an AI.**
- **#6-The PHA will carry out its Plan in conformance with Title 6, the Fair Housing Act, Section 504 and the Americans with Disabilities Act (ADA).**
- **#7-The PHA will affirmatively further fair housing by examining its programs, identifying impediments, address those impediments and work with local jurisdictions.**

## PHA Certifications

- **#8 (Bullet #5)-The PHA will review its site-based waiting lists to ensure compliance with civil rights certifications at 24 C.F.R. § 903.7(c)(1).**
- **#9-The PHA will comply with the Age Discrimination Act of 1975.**
- **#10-The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41.**
- **#11-The PHA will comply with the requirements of Section 3 and with its implementing regulation at 24 CFR Part 135.**
- **#13-The PHA will take appropriate action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).**



## Section 3 Recipient Responsibilities

## Recipient Responsibilities

### Recipients must implement procedures designed to:

- Notify Section 3 residents and business concerns about economic opportunities
- Notify covered contractors and incorporate the Section 3 clause verbatim into contracts - parts A through G in all solicitations and contracts
- Award contracts to Section 3 Businesses
- Facilitate compliance among contractors

§135.32

## Recipient Responsibilities

- Meet annual numerical goals - § 135.30(b-c)

Employment:

**30 percent** of new hires annually

Contracts:

**10 percent** of the total \$ amount of all Section 3 covered contracts for building trades work

**3 percent** of the total \$ amount of non-construction contracts

- Facilitate training and employment of residents. Recipients may establish reasonable goals that exceed those specified in § 135.30
- Document other actions taken to achieve compliance
- Submit annual report (60002 form)

## Preference for Training and Employment

### Order of Priority for PIH Programs

- Category 1 – Residents of the housing development
- Category 2 – Residents of other housing developments managed by the Housing Authority
- Category 3 – Participants in HUD's Youthbuild program
- Category 4 – Other Section 3 Residents

§ 135.34(a)(1)

## Preference for Training and Employment

### Order of priority for Housing and Community Development Programs

- Category 1 – Residents in the service area or neighborhood
- Category 2 – Participants in HUD's Youthbuild program
- Category 3 – Homeless persons in the service area
- Category 4 – Other Section 3 Residents

-§ 135.34(a)(2)

## Preference for Training and Employment

### Order of priority for Programs funded by the McKinney Act

- Category 1 – Homeless persons in the service area
- Category 2 – Residents in the service area or neighborhood
- Category 3 – Participants in HUD's Youthbuild program
- Category 4 – Other Section 3 Residents

§ 135.34(a)(2)

## Preference for Training and Employment

### Section 3 Residents MUST:

- Certify their Eligibility to received a preference as a Section 3 Resident
- Recipients must develop a certification form that allows area residents to certify their qualifications.
- Section 3 Residents must meet the minimum qualifications for the job

## Preference for Section 3 Business Concerns

### Order of priority for PIH programs:

- Category 1 – Section 3 businesses that are 51% owned or staffed by residents of the housing development.
- Category 2 – Section 3 businesses that are 51% owned or staffed by residents of other housing dev. managed by the HA.

§ 135.36(a)(1)



## Preference for Section 3 Business Concerns

### Order of priority for PIH programs:

- Category 3 – Youthbuild programs operated in the metro area.
- Category 4 – Section 3 businesses that are 51% owned or 30% staffed by other Section 3 residents or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 businesses.

§ 135.36(a)(1)

## Preference for Section 3 Business Concerns

### Order of priority for Housing and Community Development programs:

- Category 1 – Section 3 businesses that provide jobs and training for local residents
- Category 2 – Applicants selected to administer Youthbuild programs
- Category 3 – Other Section 3 business concerns

§ 135.36(a)(2)

## Section 3 Businesses MUST:

- Certify their Eligibility to received a preference as a Section 3 Business
- Recipients must develop a certification form that allows area businesses to certify how they meet the special qualifications for this designation.

## Questions and Answers

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