
CHAPTER 15

Opportunities and Contracting with Resident-owned, Small, Minority, and Other Disadvantaged Businesses



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Introduction

- HUD encourages:
 - Training and employment opportunities to residents and contracting with residents and resident-owned businesses
 - PHAs to establish goals for contract awards to small and minority-owned businesses and minority business enterprises (MBEs), women's business enterprises (WBEs), and businesses in labor surplus areas



Section 3

- Section 3 objectives must be consistent with existing federal, state, and local laws and regulations
- Section 3 ensures HUD financial assistance creates employment, training, and business opportunities for low- and very-low-income persons, particularly those who receive government assistance for housing or residents of the community where federal assistance is spent



Section 3: Covered Programs and Covered Work

- Applies to PHA funds used for:
 - Housing development
 - Operations
 - Capital fund programs
 - Expenditure of funds generated by the HCV
 - Non-federal funds such as Tax Credit
 - Does not apply to Section 8 landlords, but does apply to the expenditure of Section 8 funds for supplies and services
- Applies to contracts for work
- Does not apply to contracts for purchase of supplies and materials
- Contracting with PHA resident-owned businesses for purchase of supplies and materials is considered providing an “other business-related economic opportunity” under 24 CFR §135.40, which can be used to satisfy a PHA’s overall Section 3 obligations



Mandatory Section 3 Contract Clause

- Mandatory Section 3 contract clause: 24 CFR §135.38
- Applies to all contracts covered by Section 3
- Covered contracts include:
 - Developments
 - Operating
 - Modernization assistance
 - Expenditure of funds generated by the HCV
 - Non-federal funds such as Tax Credit
 - Does not apply to Section 8 landlords, but does apply to expenditure of Section 8 funds for supplies and services
- Section 3 does not apply to contracts for supplies and materials unless purchase includes installation of items



Section 3: Annual Report

- PHAs must submit to HUD an annual report using Section 3 Data Reporting System on form HUD-60002—Economic Opportunities for Low- and Very Low-Income persons
- Access form HUD 60002 through HUD’s Web Access Secure System (WASS)



Resident-owned Businesses (ROBs)

- HUD encourages PHAs to contract with resident-owned businesses
- PHAs are allowed (but not required) to use an alternative procurement process when contracting with resident-owned businesses for public housing services, supplies, or construction



Alternative Procurement Process

- PHA prepares Independent Cost Estimate (ICE) for procurement and selects appropriate method of procurement
- PHA solicits a quote, bid, proposal, or offer from one or more resident-owned businesses
- PHA receives offer(s) from one or more resident-owned businesses and ensures that:
 - Offeror has submitted required certifications described in 24 CFR Part 963.10(d)
 - Previous contracts received under alternate procurement process must be less than \$1,000,000
 - Cost or price analysis of the offer(s) received is performed and price is reasonable



Contracting with a Resident Management Corporation (RMC)

- PHA may enter into a contract with RMC to provide property management under 24 CFR Part 964, Tenant Participation and Tenant Opportunities in Public Housing
- Contract between PHA and RMC is administered as any other contract for services and is subject to any collective bargaining agreement provisions
- Competitive bid requirements do not apply to PHA decision to contract with RMC for property management



Contracting with a Resident Management Corporation (RMC) (cont.)

- PHA sole-source awards to RMC must meet certain conditions to differentiate RMC from resident-owned business
 - Meets all criteria to qualify as RMC
 - Demonstrate capability to perform proposed work and that price is reasonable.
 - Fidelity bond coverage and insurance or equal protection to PHA and HUD
 - Comply with requirements of 2 CFR §200
 - Audited each year by a licensed CPA and submit audit report to HUD and PHA within 30 days



Assistance to Small and Other Disadvantaged Businesses

- PHAs are required to make every feasible effort to ensure small businesses, MBEs, WBEs, and labor surplus area businesses participate in PHA contracting
- PHAs should establish goals that measure effectiveness of efforts without limiting competition
- PHAs required to report on MBE progress semi-annually using Form HUD-2516



Engaging Small and Disadvantaged Businesses

- Study existing barriers
- Review and modify any PHA policies and procedures
- Communicate directly with disadvantaged firms and resident-owned businesses
- Maintain a list of disadvantaged and resident-owned firms and notify them of planned procurement activities
- Establish partnerships with other community and governmental agencies
- Consider partnering in a consortium or interagency agreement with other PHAs or units of local government

