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HUD SECTION 3:

EMPLOYMENT AND TRAINING OPPORTUNITIES IN THE ERA OF WELFARE
REFORM

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I. Introduction

In 1992, people rioted in Los Angeles after the police officers who beat Rodney King were acquitted. The riots seemed to confirm the frustrations with society generally and specifically from a lack of economic opportunity for certain low-income groups. In 1994, Congress, acting swiftly, called for amendments to the Housing and Urban Development Act of 1968's Section 3¹ (hereinafter "Section 3") to help give citizens deprived of economic opportunity increased access to employment and job training. The centerpiece of these amendments required a study to determine why this federal law had been largely ignored during its, at that point, twenty-six years of existence. Despite these remedial efforts, last year Congress decided to curtail welfare to its citizens with extensive cuts in entitlement programs. Legal immigrants, housing authority residents, and other extremely low-income persons would be "forced into" the work force and to the streets.

From these seemingly contradictory Congressional maneuvers, the municipalities -- that must address the social and economic problems confronting their residents -- are left to ponder several issues. What is the federal government's overall plan for assisting low-income persons to attain education, job training and employment? How do the myriad of federal and state statutes providing incentives to employers for hiring and training low-income persons as well as the numerous funding sources for additional housing, employment and training opportunities, all mesh together?

This paper will answer the above questions by analyzing the legal requirements of Section 3 as well as incorporating the social and economic policy considerations that cities are facing currently in this most recent crisis for low-income persons. This paper will analyze Section 3 and its implications for providing employment and training opportunities for low-income persons when HUD funds are used on local projects. The primary goal of Section 3 is to give priority to low-income persons for employment or training when HUD monies are spent. A constant theme running throughout this paper is that Section 3 merely serves as a single component in an overall employment and training plan for a municipality. In other words, Section 3 can function in conjunction with other local, state, federal, and private programs to achieve more fully the goals of providing economic opportunities to public housing residents and others in need of such services. Part of the lack of implementation and success of Section 3 in the past can be attributed in part to the statute's relative complexity and vagueness.



First, this paper will examine the history of Section 3 and its legislative purpose to provide a foundation for Section 3's future implementation. Second, statutory analysis will review several important aspects to Section 3, such as what funds specifically trigger application of the federal statute, or what types of employment and training opportunities can be accessed under this law. Third, this paper will discuss certain policy considerations with respect to employment and training of low- and very-low-income persons, including topics such as welfare reform and other municipalities' efforts to comply with Section 3. Fourth, this paper will provide recommendations based on policy and legal requirements as how to best accommodate Section 3's goals for addressing this particular need. Finally, the paper will present a proposed implementation plan that could be used by a city seeking to more fully take advantage of Section 3's benefits, including the feasibility and legality of each provision.

II. Brief History of Section 3

In 1968, Congress passed the Housing and Urban Development Act requiring recipients² of HUD funds and the contractors they employ to ensure that the economic opportunities generated by these expenditures would go to benefit low-income persons "to the greatest extent feasible."³ Nonetheless, Section 3's impact in relieving low-income persons' economic hardship has been slight. This limited impact is mostly due to the lenient language of the statute ("to the greatest extent feasible"), thus not requiring recipients of HUD money to guarantee any minimum levels of persons served under this law. Moreover, the absence of any effective monitoring and enforcement mechanisms has allowed recipients to continue to fail to provide these economic opportunities. Lastly, until 1994, a paucity of guidance from HUD itself has allowed continued misconceptions and misunderstandings about how this federal legislation is supposed to function.

After years of neglecting the issue, however, Congress amended Section 3 in 1994, making several significant changes. At that time, Congress amended Section 3 in four significant areas: (1) extending application of Section 3 to all federal housing and community development programs, not just HUD-assisted programs; (2) defining Section 3 beneficiaries more clearly as individuals whose income is either below 80% or 50% of the median income of the area; (3) creating a priority system for awarding opportunities under Section 3; and (4) establishing clearer thresholds of compliance, and providing more technical assistance to help agencies better understand and implement each provision. Specifically, then-HUD Secretary Henry Cisneros initiated a thirty-city "technical assistance initiative" to help these municipalities comply with the goals of Section 3. One of the benefits of the Technical Assistance Team is the production of a handbook to assist municipalities in formulating a plan to comply with the requirements of Section 3.⁴

Despite these improvements to the legislation, cities are just beginning to address this "revitalization" of Section 3 and discussing the best ways in which to utilize it as a tool to help low-income persons and families move towards economic empowerment and self-sufficiency. Although the 1994 amendments clarified some vague provisions, the meaning of many important provisions remains unclear. Moreover, some of the clarifications still leave room for improvement. HUD itself proclaims the "hallmark" of Section 3 is the "flexibility built into the regulations."⁵ It has been this "flexibility," however, that has allowed for a wide range of scenarios to achieve compliance under the law without, perhaps, targeting the populations most in need of the economic benefits that Section 3 generates.

Additionally, HUD published a document detailing "lessons from the field" -- experiences from seven cities around the United States and some of the successes and failures in utilizing Section 3 as a vehicle for providing employment and job training opportunities to persons in need.⁶ These examples from other cities and counties around the country, discussed further below, will aid

other cities in identifying the types of programs that are possible under Section 3, and to avoid the common mistakes that these other municipalities have experienced.

In sum, HUD appears to have adopted a fresh outlook on Section 3, as well as providing some initial guidance to aid municipalities in achieving compliance. Despite these efforts, many municipalities across the country have been slow to formulate workable plans to implement Section 3's goals and requirements. As will be discussed further below, this has been due in part to a lack of coordination among agencies within municipalities as well as municipalities' cooperation with HUD itself. In some cities, the problem may not be how to comply, but how to maximize efficient and effective use of HUD funds to provide employment and job training opportunities to the persons most in need.

III. Legal Analysis of Section 3

Several legal issues emerge when a city or county attempts to grapple with the meaning of Section 3's requirements. Each issue shall be addressed below. Overall, Section 3 requires that "to the greatest extent feasible," recipients of HUD funds (municipalities and their contractors) provide either employment opportunities or award subcontracts to persons in need. Several issues arise from this basic premise. Who qualifies to receive a job? Which HUD or other federal monies fall under the requirements of Section 3?

The following legal analysis consists primarily of merely demystifying the statute and de-compartmentalizing each of its sub-sections and requirements. Case law or legislative history plays a minor role in determining the meaning of Section 3's regulations. In fact, there has been only one significant legal decision regarding the meaning of Section 3. In 1976, the Ninth Circuit (which covers California and most western states) interpreted the meaning of Section 3's standard for compliance: "to the greatest extent feasible." In Ramirez, Leal & Co. v. City Demonstration Agency, the court construed this phrase to require serious, bona fide efforts to comply with the statute; that the recipient of HUD funds or its contractor must take every affirmative action that it could properly take to comply.⁷

Additionally, the legislative history may provide some insight to the meaning of the phrase "to the greatest extent feasible." The Banking and Currency Committee stated that the provision "did not require that a contractor moving into a neighborhood with an already established coterie of foremen and key workers disband his organization by replacing them with local workers or local contractors."⁸ Thus, part of the legislative history seemingly conflicts with the scant case law on this issue. This vagueness has encouraged only continued confusion on the part of recipients of HUD funds. Nonetheless, the answer to this issue lies perhaps in the statute's language itself. Throughout the statute, the language repeats a mantra of broad, widespread application, including superseding other federal and/or state regulations.

A. What Does Section 3 Apply To?

The first step in analyzing Section 3 is determining what Section 3 applies to. Section 3 applies to HUD-funded Public and Indian housing projects and other Housing and Community Development projects. Section 3 makes a distinction between these two groups of sources of funds -- (1) Public and Indian Housing and (2) all other Housing and Community Development programs -- and applies more fully to the former. With respect to Public and Indian Housing, Section 3 applies to *any* expenditure that relates to (1) development assistance, (2) modernization assistance, and (3) operating assistance.⁹ Thus, any employment, including construction, managerial, clerical, and administrative jobs, is subject to compliance under Section 3.

However, with respect to all other Housing and Community Development expenditures, such as Community Development Block Grant (CDBG) monies, there are additional threshold requirements that must be met before Section 3 applies. First, any public, private, or non-profit

agency that receives over \$200,000 in HUD funding for certain construction-related projects must comply with Section 3.¹⁰ Additionally, these aforementioned recipients' contractors and subcontractors who receive contracts or subcontracts of \$100,000 or more must also comply with Section 3. Second, Section 3 applies only to certain types of projects for Housing and Community Development programs, including:

- Housing rehabilitation;
- Lead hazard abatement;
- Housing construction; and
- Other public construction.

Although the above list appears inclusive, Section 3 does not include routine maintenance or refurbishments for Housing and other Community Development projects. Section 3 applies to a wide variety of Housing and Community Development funding sources, including:

- Community Development Block Grants (CDBG);
- McKinney (funding for homeless persons);
- HOME;
- HOPE 1, 2, & 3, (Title IV);
- Section 811 (disabled housing);
- Multi-family Mortgage Programs;
- Nehemiah Housing Opportunity Grants;
- Senior Housing, (Section 202);
- Fair Housing Assistance;
- Community Housing Resource Board;
- Fair Housing Initiatives; and
- Housing Opportunities for Persons with AIDS (HOPWA).

In other words, whenever a Housing or Community Development Program recipient uses these above-mentioned funding sources on a project worth at least \$200,000 in value, then Section 3's employment, training, and contract award requirements apply.

Additionally, two provisions of the Section 3 regulations seek to ensure Section 3's broad scope and applicability. First, the fact that one of the aforementioned funding sources may fund partially a particular project (including Public and Indian Housing Programs), but not entirely, does not exempt the project from the scope of Section 3, as long as the total contract or project amount is more than \$100,000 and \$200,000 respectively.¹¹ Second, even if these regulations fail to enumerate that a particular HUD or other federal funding source is subject to Section 3 requirements, recipients of those funds "are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons and business concerns, or which employ low- and very low-income persons."¹² These two subsections within the Section 3 regulations clearly illustrate the overarching purpose of a broad application of this legislation, seeking to assist the greatest number of persons possible.

In practice, however, a lack of clear definition has hindered more complete compliance with Section 3. For example, the issue of which funding sources would be subject to Section 3's requirements has been unclear. Or, similarly, which types of project activities would be covered under Section 3 is also an area of misunderstanding. Thus, although the Section 3 language attempted to be all-inclusive and intended to apply "to the greatest extent feasible," this lack of firm direction has resulted in a lack of compliance on the part of the recipients of these funds.

Therefore, recipients of Section 3 applicable funds should interpret the statute broadly. One of the few "bright lines" within these regulations is the project value amount of \$200,000 for Housing

and Community Development (non-Public and Indian Housing) projects. Moreover, the 1994 amendments, coupled with a greater understanding of the meaning of the regulations and how Section 3 can operate as a component in an overall strategy to assist persons in need to access employment and training opportunities, will enable municipalities and other recipients of these funds to take affirmative action to comply with the regulations and even go beyond the baseline requirements to assist the specific populations most in need.

B. What is a "Project" under Section 3?

Section 3 requires that recipients provide economic opportunities when funds are spent on "projects or activities funded with Section 3 assistance."¹³ Therefore, the issue arises as to what constitutes a "project" or "activity." First, the language in the regulations provides some insight as to the answer. Under the subsection of the regulations entitled "Applicability," the law requires that, "[Section 3's requirements] apply to the entire project or activity that is funded with Section 3 covered assistance, regardless of whether the Section 3 activity is fully or partially funded with Section 3 covered assistance."¹⁴ This language in the regulations suggests a broad application of Section 3's goals, by applying such goals to projects and activities that are not totally funded by Section 3 covered assistance.¹⁵ As discussed above, Congress amended Section 3 in 1994 to include a wide variety of funding sources that fall under "Section 3 covered assistance." Nevertheless, the plain meaning of "project" would seem to indicate that Section 3 covered funds do not apply to general operating expenses for non-Public and Indian Housing programs. Under the category of Public and Indian Housing Programs, as discussed above, routine maintenance is included under Section 3, whereas "all other" types of Housing and Community Development Programs only trigger Section 3 if the projects relate to (1) housing rehabilitation, (2) housing construction, and (3) public construction projects, such as public improvement projects. Thus, depending on the type of funding -- Public and Indian Housing or not -- the meaning of "project" will vary slightly.

In addition to "projects," Section 3 contains a definition of an "activity." Under the regulations, a Section 3 covered "activity" means "any activity which is funded by Section 3 covered assistance or Public and Indian housing assistance."¹⁶ In contrast, the regulations define a Section 3 covered *project* as meaning, "the construction, reconstruction, conversion or rehabilitation of housing, other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance."¹⁷ Thus, the use of these two distinct terms -- activity and project -- would indicate that there is a difference between the two. This difference comports with Section 3's greater applicability to Public and Indian Housing Programs as opposed to a slightly lesser degree of applicability to all other Housing and Community Development Programs. In other words, the term "activity" means Section 3's requirements are triggered for Public and Indian Housing for virtually every task, including routine maintenance. Whereas the term "project" is used in conjunction with Housing and Community Development Programs only to cover construction and improvement *projects* that may be housing or non-housing related, but that always exceed the minimum dollar amounts.

Lastly, other types of laws that use the term "project" may also help define the use of the term "project" in the Section 3 context. Although there has been no case law on this issue under Section 3, there has been a great deal of case law regarding the applicability of prevailing wage laws to a given "project." To summarize these cases, the legal issues addressed whether the given project at issue was "demolition," or "construction" or "alteration" or "maintenance" or not.¹⁸ In each case, the courts typically looked into the facts of each case to determine whether prevailing wages had to be paid. As for Section 3, the first determination should be whether the project pertains to Public and Indian Housing or not. If it does, then virtually any activity will trigger Section 3's requirements. Conversely, if the funding source is something other than public housing, such as CDBG funds, then there must be some construction or lead hazard abatement project, for example, that will trigger Section 3's requirements. Simple operating expenses or

maintenance costs pertaining to Housing and Community Development Programs do not trigger Section 3's applicability.



C. What Does Section 3 Compliance Require?

How do recipients of Section 3 funds comply with the regulations? The chief requirements of Section 3 are the numerical hiring goals and contract awards. Moreover, when viewed in its entirety, Section 3 allows recipients great flexibility in how to comply with these fixed numerical goals. However, Section 3 does provide some guidance. First, as mentioned above, Section 3 distinguishes between Public and Indian Housing projects and all other Housing and Community Development projects. The numerical goals for each category differ. Second, Section 3 provides two principal types of economic opportunities: (1) employment or training opportunities; and (2) award of a contract or subcontract.



1. Numerical Goals

One of Section 3's principal goals is to provide opportunities for the hiring of Section 3 residents.¹⁹ Again, the regulations pursuant to Section 3 emphasize the legislation's ubiquitous theme of providing the greatest economic opportunities as is feasible. For example, the regulations provide numerical targets and reiterate that these targets are *minimums*.²⁰ Moreover, the regulations require that "efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all job levels."²¹ The numerical goals stated in the regulations apply to new hires.²² With respect to employment and training opportunities, the numerical goals, beginning in Fiscal Year 1997, require that 30% of the aggregate number of new hires shall be Section 3 residents. This minimum requirement of 30% of new hires applies to all types of Section 3 funding, including Public and Indian housing programs, other HUD programs, and recipients of community development assistance and their contractors and subcontractors.²³

The other principal way for Section 3 recipients to comply with the law is to award contracts to Section 3 business concerns.²⁴ Again, Section 3 distinguishes between "Public or Indian housing projects" and "all other Section 3 covered projects." This means that recipients can achieve compliance with Section 3 by awarding "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 for building trades work arising in connection with housing rehabilitation, housing construction and other public construction, and at least 3% of the total dollar amount of all other Section 3 covered contracts," meaning non-Public or Indian housing.²⁵

It is also important to note that a recipient may choose to award contracts to non-Section 3 business concerns, or simply contractors. If the recipient does so, the recipient "must assure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns."²⁶ This particular subsection of the regulations has provided the largest area of noncompliance and may be chiefly responsible for Section 3's overall lack of success. Municipalities -- recipients of Section 3 covered funds -- typically contract out the work to be performed. There is nothing in the regulations pursuant to Section 3 to prohibit this, and in fact it is more efficient economically. The problem, however, tends to arise in the mere fact that the recipients of the Section 3 covered funds are "passing off" the responsibility of Section 3 to provide economic opportunities for persons in need to the contractors. This presents several problems.

First, construction contractors are not professionals in the area of employment and training programs and may lack the expertise necessary to fulfill Section 3's goals effectively. Although contractors would be the ones to supervise Section 3 residents who attain apprenticeship positions, for example, contractors have not proven adept at recruitment, screening, and evaluation of employability of Section 3 residents. Second, in the absence of an effective referral

mechanism, the contractors are often ill-equipped to locate Section 3 residents. Lastly, the vague phrase "to the greatest extent feasible" has allowed contractors to make meager efforts to comply with Section 3, while falling short of its goals. Often, contractors may not be headquartered in the project area and thus tend to recruit their workers from other, perhaps more distant, sources. Moreover, the recipient is ultimately responsible for "demonstrating why it was not feasible to meet the numerical goals."²⁷ Thus, there may result a game of "passing the buck" when it comes to assigning ultimate responsibility for locating and hiring Section 3 residents. Potential solutions to these issues will be discussed further in section V. below.

2. Other Economic Opportunities

Other economic opportunities, in the Section 3 context, can be distinguished from the two main economic opportunities afforded by the statute, namely employment and contract awards to low- and very-low-income persons. For example, "other" economic opportunities include vocational training programs or conducting job readiness classes at a housing authority project. As mentioned above, Section 3 allows great flexibility in *how* to comply with its numerical goals. As will be discussed further below, Section 3 suggests a great many ways in which recipients can act creatively to comply with Section 3. Perhaps the lack of compliance with Section 3 can be traced to this lack of firm direction from Congress -- there is too much flexibility. In fact, the regulations place the impetus on the recipients to devise the training programs, first-source agreements, and other techniques to ensure that persons in need gain access to economic opportunities.

Recipients are "encouraged" to undertake efforts to provide training, hiring Section 3 residents in management and maintenance positions, and hiring Section 3 residents in part-time positions.²⁸ In addition, a recipient or contractor may provide economic opportunities such as: (1) Section 3 joint ventures, (2) use of labor only contracts for building trades, and (3) purchase of supplies or materials from housing authority resident-owned businesses.²⁹ Note that a recipient may do this directly or provide incentives to non-Section 3 businesses to use such alternative methods. Additional examples of "other economic opportunities":

- first-source hiring agreements;
- sponsoring a HUD-certified "Step-Up" program;
- establishing training programs;
- contacting resident councils, resident management corporations, or other resident organizations to request assistance in notifying residents of jobs;
- sponsoring job informational meetings;
- conducting job interviews at the housing development or the neighborhood service area of the project;
- coordinating with JTPA-funded training programs;
- employing a job coordinator;
- for a Housing Authority, employing a Section 3 resident to perform work generated by Section 3 assistance; and
- coordinating plans and implementation of economic development with the planning of housing and community development.

3. Assurances of Contractor's Compliance

Lastly, the regulations pursuant to Section 3 provide specific examples of how the recipient must assure the contractor's compliance.³⁰ Any recipient of HUD Section 3 funds must assure compliance of its contractors and subcontractors. This includes, but is not limited to: (1) notifying Section 3 residents of employment and training opportunities, (2) notifying contractors of Section 3 requirements, (3) facilitating employment and training opportunities for Section 3 residents, (4) assisting and actively cooperating with the Assistant Secretary in obtaining compliance of contractors, and (5) informing any units of government of Section 3 requirements. Note that the

Assistant Secretary will also conduct compliance reviews on a periodic basis.

4. Complaints³¹

Any Section 3 resident or Section 3 business concern may file a complaint. Complaints must be filed within 180 days of the action or omission upon which the complaint is based. Within 10 days of filing, the Assistant Secretary makes an initial determination that the complaint has merit. The recipient can make counter-arguments in writing within 30 days of receipt of the complaint. If the complaint has merit, the recipient will have 60 days to resolve the matter with the complainant. If the matter remains unresolved, it is referred to the Assistant Secretary. Sanctions can be imposed, including debarment, suspension and limited denial of participation in HUD programs.



D. Intersection with Federal, State and Local Laws

1. Prevailing Wages: The Davis-Bacon Act

The Davis-Bacon Act³² was enacted to protect employees of government contractors from sub-standard earnings and to preserve local wage standards.³³ In addition, the Act seeks to promote the hiring of local labor rather than cheap labor from distant sources.³⁴ All laborers³⁵ and mechanics must be paid the prevailing wage. The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature, as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, and helpers. Workers must be paid not less than once per week. Contributions made or costs reasonably anticipated for bona fide fringe benefits on behalf of laborers or mechanics are considered wages.



Apprentices and trainees³⁶ can work for less than the prevailing wage when these workers are employed pursuant to a registered apprenticeship program registered with the Department of Labor, or a State Apprenticeship Agency. The ratio of trainees to journeymen on the job site is determined by the federal or state program approved by the Employment and Training Administration.

The Secretary of Labor may make exemptions from the requirements of this subtitle whenever the Secretary finds that such action is "necessary and proper in the public interest or to prevent injustice and undue hardship."³⁷ In other words, the hiring of section 3 residents who may not be as qualified as another applicant, can be paid less than the prevailing wage, whenever an exemption is applied for and obtained. In addition to this general exemption whenever "necessary and proper in the public interest," other exemptions are possible as well. For example, workers can be deemed "volunteers" and be paid stipends and thus be exempted from the Davis-Bacon prevailing wage requirements. The Community Housing Partnership used this method for its Iroquois Hotel project.³⁸

2. State Apprenticeship Programs

Traditionally, Section 3-generated employment has focused on construction related jobs. This focus on building jobs has spawned two difficulties. First, many public housing residents, or any other Section 3 residents, may not be adequately trained in the building trades. Second, assuming that many Section 3 residents are not fully qualified for many construction positions, the number of apprentices and/or trainees that may work on a given project is limited by California State law.³⁹ Exemptions, however, to this limitation can be obtained by applying to the local joint apprenticeship committees.⁴⁰



IV. Employment and Training: Beyond Section 3

A. Intersection with Welfare Reform

The current re-examination of Section 3 coincides with the present crisis created by the welfare reform. Now more than ever, extremely low-income persons⁴¹ need employment and



training opportunities. Many of these persons are public housing authority residents and thus qualify for economic opportunities generated through Section 3. Additionally, many people who are extremely low-income, who are homeless or simply do not reside in public housing, are also in need of opportunities to achieve economic self-sufficiency. Under Section 3's current baselines, a "low-income" person can earn as much as 80% of the median income in the area.⁴² For areas such as the Bay Area, with relatively higher median income, this baseline income figure does not allow Section 3 to reach the persons most in need, such as persons whose entitlements may be cut off in the coming months or year.

One of the first issues that may arise in devising an implementation plan addressing Section 3's goals, is deciding which population(s) to target. Section 3's regulations merely define "low-income" persons as those earning below 80% of the median income for the area. If a municipality wanted to target persons receiving public assistance, then a target population of "extremely low-income persons" could be defined as 15-20% of the median income. Additionally, Section 3 also targets "Section 3 residents" who, in addition to being low- and very-low income persons, are public housing residents.⁴³ Thus, if a municipality wanted to target homeless persons specifically, it should clearly identify that target population in its implementation plan. In addition, municipalities should consider that the funding for homeless persons, such as McKinney funds, falls within the parameters of Section 3.

Another issue that repeatedly arises with respect to the typical construction jobs created through Section 3 is concerning the "employability" of the targeted populations. In other words, are the targeted populations of Section 3 residents, homeless persons, extremely low-income persons, etc. qualified to perform the tasks that the positions created would require? One of the principal failings of Section 3's implementation over the years has been the complaint from contractors that public housing residents, for example, have not been adequately qualified to perform the work. If municipalities are able to use Section 3 as a tool for providing meaningful economic opportunities to persons in need, then a more effective, in-depth effort is required to enable these targeted populations to be in a position to qualify for the positions generated through Section 3 projects. If welfare recipients have been out of the work force, then these persons will likely be in need of training and apprenticeships that will enable them to not only obtain employment through the Section 3 covered project, but also continue to gain employment and economic self-sufficiency.

A third issue that relates to welfare reform and Section 3 is, how can different sectors of local, state, and federal governments, and private and nonprofit entities coordinate to assist low-income communities in their reaching economic self-sufficiency? Again, HUD recommends that Section 3 be merely used as a tool to achieve these goals, only a component in an overall scheme to provide employment and training to persons in need. In fact, most of the effort falls with the recipients of the funds to devise these broad plans to utilize Section 3 funds as a means to aiding low-income persons. HUD itself states that Section 3 "does not ask the employer (contractor) to hire any person who is not suitable for the position available."⁴⁴ Thus, municipalities must adopt a wide perspective on welfare reform and the available funds and tools that can be used interrelatedly to achieve the ultimate goal of providing economic and educational opportunities to persons in need.

Lastly, there is the issue of what jobs should be targeted. Historically, recipients of Section 3 money have thought of Section 3 only in terms of construction jobs. Under this approach, only Section 3 residents skilled in the building trades would be provided employment opportunities. However, the regulations pursuant to Section 3 clearly state that all jobs related to the Section 3 covered project or activity are applicable.⁴⁵ This means that Section 3 can generate not only construction jobs, but also managerial and clerical positions as well. Thus, the task of determining what types of jobs shall become available through the expenditure of Section 3 covered funds again falls to the municipalities. Additionally, in many cases, Section 3 residents

require vocational training or an apprenticeship to take advantage of any employment opportunities generated by Section 3 expenditures. Thus, recipients of Section 3 funds should strategize to determine the type of employment that will be available and then devise training program opportunities to enable persons in need to take advantage of Section 3 generated employment opportunities.



B. Learning from Experiences: Case Studies in the Field

1. Review of Other City Programs: Lessons Learned



In November, 1996 HUD published a report profiling seven municipalities' efforts to comply with Section 3 and detailed the strategies they used.⁴⁶ The following summary of these strategies illustrates the varied techniques used to address the different economic and social characteristics of each municipality. These case studies should serve to address the aforementioned issues with respect to what strategies certain recipients have devised to foster employment and training opportunities. Some have been successful, others have not. Further, it must be mentioned that the HUD report focuses on the Housing Authority policies of each city, rather than on the city's policies as a whole. Other cities, in contrast, are taking a broader, more holistic approach to low-income hiring and welfare reform, involving numerous other governmental and community entities in regards to issues of employment, training, and housing.

a. Priority Hiring

Many cities have used formal and informal agreements with contractors to ensure attainment of certain hiring goals of low-income persons. Sometimes these agreements are known as "first-source" hiring agreements. Essentially, a first-source agreement requires a contractor to utilize a particular source first when seeking new hires, thus helping to comply with Section 3's goals. Several cities in the HUD report utilized this method effectively.

For example, the Tampa Housing Authority (THA) requires that all contractors desiring to do business with it must agree to a 50 percent resident hiring goal for all new hires.⁴⁷ Moreover, THA "actively courts" minority-owned firms to work on HUD-funded projects, with a goal of 40 percent minority business participation. According the report, THA's success in implementing their goals came as a result of the "view that THA -- not the contractor -- is responsible for meeting Section 3 goals ... [by] ... developing ... guidelines that do not let the contractors freely interpret the regulations."⁴⁸ Moreover, with respect to awarding minority-owned businesses contracts, THA has utilized 24 C.F.R. 963 which allows PHAs to limit solicitations of bids to groups of resident-owned businesses under certain circumstances. Although the THA's strategies resulted in hiring of low-income persons, their effect was not far-reaching. Only low-skilled or unskilled workers were hired for the construction of a housing project, many of whom were used only as security guards to keep drug dealers from "pilfering" at the job site or as general helpers, "basically cleaning up at the sites."⁴⁹ The HUD report recognized that the THA's lack of a "formal training vehicle" for these low- and un-skilled workers was a tremendous short-coming of this strategy.

b. Construction Training

Overwhelmingly, HUD recommends that Section 3 should be used in coordination with additional programs and incentives. In other words, mere baseline compliance with Section 3 will not likely succeed in satisfying low-income persons' needs for employment and training. The THA case study exemplifies this deficiency. Several cities in the HUD report, however, have implemented training programs of various types to address the issue of longer-term employment, as opposed to a "stop-gap" measure, such as employing low-income persons in a low-skill position.

For example, the Housing Authority of the City of Los Angeles (HACLA), has taken several steps to secure training opportunities for their residents. First, the HACLA has created internal subsidiary companies that train and employ residents for maintenance jobs within the authority.

Moreover, HACLA has formed a Joint Apprenticeship and Training Committee (JATC), comprised of representatives from HACLA and local unions to develop and coordinate maintenance training programs for residents.⁵⁰ Specifically, two of HACLA's private subsidiary companies -- Kumbaya I and Kumbaya II -- were responsible for hiring 60 residents in a 20-month period, to handle smaller jobs such as cleaning fences, painting walls, and replacing toilets. In total, these two companies have handled \$10 million in projects. In addition, a third company, the Public Construction Company (PCC), has hired 75 residents to be trained in certain projects such as lead abatement.

Also, HACLA has formed JATC to facilitate the entry of residents into apprenticeships. Originally targeting only maintenance jobs, JATC is now negotiating Memoranda of Understanding that will require contractors to sign agreements in each of five trades -- carpenters, painters, laborers, plumbers, and electricians. Despite this innovation, HACLA has experienced some conflicts with labor unions. For example, HACLA wanted to lessen or remove certain traditional eligibility requirements for the apprenticeships programs, such as requiring a high school diploma. Another problem was the question of how to provide continuous work for residents, as opposed to mere seasonal employment. The unions wanted the residents to be allowed to work on non-HACLA projects, whereas HACLA feared there would not be enough trained residents if these workers were allowed on non-HACLA projects. As of the writing of the HUD report, these conflicts had not yet been resolved.

Similar to Los Angeles, the Chicago Housing Authority (CHA) has developed a plan to coordinate with the labor unions in a strong union town, creating the nation's first Step-Up program.⁵¹ The Step-Up program does not guarantee work for residents, but rather gives them priority to be hired as apprentices. The training program itself consists of a half-day of classroom training per week for 20 weeks (to be performed at a local community college), and four days of work in the field alongside journey workers (at a ratio of 2:1). The trainees were paid \$9.52/hour plus \$4 for fringes, for an effective wage of \$13.52/hour. Moreover, the entrance requirements into the apprenticeship program were simple: (1) sixth-grade reading and math skills, (2) being named in the lease of the public housing, and (3) a drug test. These conditions were the product of extensive negotiations between the CHA and the union representatives. Out of 1,200 applicants, 298 were deemed eligible, and of those, 144 graduated from the apprenticeship program.⁵²

Lastly, the Fort Worth Housing Authority (FWHA) has chosen to promote linkages with the local community college network to train low-income persons with the goal of providing a pool of qualified workers. The FWHA preferred this method over relying on the contractors to provide apprenticeship opportunities due to the short-term nature of most of the work. The FWHA implemented two such programs, linking with the community colleges, but the job placement rates were disappointing. For example, FWHA managed a building trades training program, training approximately 40 women, but only 4 obtained employment, all within FWHA's maintenance department.⁵³

c. Other Training Opportunities

Section 3 of HUD intends to provide employment and/or training opportunities of varying types to low-income persons. Although there has been an emphasis on construction jobs, Section 3 can be used to provide non-construction training opportunities.⁵⁴ To take advantage of these non-construction training opportunities, it is fundamental that cities form linkages with other governmental and non-governmental employment and training programs. Some of the municipalities in the HUD report have taken advantage of these funds to provide much needed training programs in areas besides construction. For example, the Housing Authority of Baltimore City (HABC) manages a network of "family service centers," funded through CDBG block grants. In particular, these family service centers provide day care, parenting skills workshops,

and medical care. The day care centers employ residents working to become certified as child care workers. These particular centers serve dual purposes by providing a much-needed service in the community, child care, as well as a vocational training opportunity for low-income persons. Moreover, HABC manages other social service centers that offer job training in the areas of eldercare, counseling, and nurses' aides.

Additionally, an August, 1994 HUD publication suggests further training opportunities that can be created through HUD's resources.⁵⁵ In 1994, Congress amended Section 3 of HUD to ensure compliance. Part of that amendment created HUD "Technical Assistance Initiative Teams" in 30 cities around the country and HUD published a guidebook to assist in the formulation of implementation plans. The Guidebook also contains sample action plans, based on fictitious municipalities.

In one such sample plan, HUD details suggestions for implementing Section 3 that includes numerous non-construction related training possibilities. For example, where planning discovered that low-income business owners lacked effective proposal writing skills, the goal would be to implement a Proposal Writing Skills workshop for low-income business owners. Other examples of these types of training opportunities consisted of job interviewing skills for low-income job applicants, English language skills development classes, and designing new types of training for housing-related administration.⁵⁶

Similarly, the Fort Worth Housing Authority (FWHA) has proposed to HUD to build a Family Investment Center (FIC), which would provide one-stop shopping for a family's educational, child care, health care, employment placement and training needs. The FIC has commitments from 20 human service organizations. The vocational training programs include home health aide, automotive repair, apartment maintenance, and clerical/word processing.⁵⁷

d. Philadelphia's Neighborhood Benefit Strategy

Apart from the case studies outlined in the HUD report, the Public Law Research Institute has obtained a copy of the City of Philadelphia's Neighborhood Benefit Strategy (NBS), Executive Order 2-95. The overall objective of the NBS is to retain the financial benefits of community development projects within the project area. Specifically, the project "sponsor" must "strive to return" 50% of the project value to the community in the form of employment, contracting, and supply purchasing.

Regarding program requirements, Philadelphia's NBS closely follows Section 3. For example, the NBS does not require that project sponsors create employment and contracting opportunities or replace existing staff with local help. Instead, the NBS vaguely requires that "sponsors, contractors, and the community must work together to identify the actual number of employment opportunities."⁵⁸ Moreover, the NBS states that "NBS favors those contractors who retain low-income residents ... from project to project," but fails to state any specific goals or provide incentives that illustrate this favor. However, the NBS goes beyond the Section 3 definitions of low-income and very low-income for defining the target population. For the Philadelphia NBS, "low-income" means not to exceed 50% [which is the "very low-income" under Section 3] and "very low-income" means not to exceed 25% of the median income. The NBS includes an Income Chart which shows that the median income is \$33,000 and thus "low-income" is less than \$16,500 and "very low-income" is less than \$8,250. Lastly, the NBS requires that all project sponsors sign two agreements regarding their commitment to the goals of the NBS. The language of the agreements, however, is not very strong, requiring only that "to the greatest extent feasible" the project sponsor meet the employment and training goals. Furthermore, project sponsors are merely "encouraged to establish a goal of employing low- and very-low-income neighborhood residents at 50%." Lastly, the agreements state that they "should not be construed as requirements [or] quotas."



C. Utilizing HUD's Technical Assistance Team



Additionally, recipients of HUD and other applicable federal funds can ensure compliance with Section 3 by increasing communication with the Regional HUD Office and the Technical Assistance Initiative Team. As discussed earlier above, as part of the 1994 amendments to Section 3, Congress created the Section 3 Technical Assistance Initiative (TAI), selecting thirty cities to "empower federally assisted communities, families, and individuals to achieve economic self-sufficiency."⁵⁹ The goals of the initiative seek to: create a link between low-income residents and jobs, training, and other economic opportunities. In fact, HUD describes the TAI as "designed to illustrate that Section 3 can work effectively to provide job training, employment and other economic opportunities to low-income persons."⁶⁰ In order to appreciate the potentially significant impact for persons in need, in fiscal year 1994, HUD spent \$7.8 billion, generating 36,000 Section 3 jobs.⁶¹

The objectives of the TAI are to provide consulting, on-site trainings, and help recipients formulate plans to implement Section 3. Moreover, HUD has published a guidebook for recipients to utilize in formulating their own plans.⁶² This HUD guidebook provides step by step instruction and recommendations as to how to comply successfully with Section 3's goals, including clarification of goals, identification of existing HUD programs and collection of baseline data, analysis of needs, identification of strategies and listing of resources.

V. Recommendations

There are four essential areas that any municipality or other recipient of Section 3 covered funding should address in order to implement an effective plan for providing employment and training opportunities to persons in need apart from what has been mentioned above.

First, municipalities should seek to integrate the employment and training services. Many cities have a myriad of employment and training programs, some of which are already linked together, many of which are not. For Section 3 to be effective, municipalities should determine what types of jobs will be generated by the expenditure of Section 3 funds in the coming years and thereby coordinate employment and training opportunities. This coordination and integration is especially important if the municipality seeks to undertake "first-source" agreements. First-source agreements can be an excellent method of obligating employers to use an organized source that easily and efficiently puts the employers in touch with the targeted populations. One potential danger, however, from a legal standpoint is that if the first source itself is not well-organized and coordinated throughout the city, then the employers could "comply" with Section 3 merely by utilizing the first-source without actually hiring anyone, or by claiming that there were no qualified applicants at the first source used.

Thus, municipalities should seek to create or to coordinate some type of centralized or coordinated system to assess a person's employability for positions that will be generated by Section 3 expenditures. Currently in San Francisco a new collaborative effort provides an excellent model. This collaborative, called Career Link, provides job listings, vocational assessment, training options, labor market information, resume workshops, interview preparation, career counseling and job skills matching. Career Link represents the joint efforts of the Employment Development Department, the Private Industry Council, City College of San Francisco, and the Department of Human Services. Career Link could serve as a model of a "one-stop" center for employment and training needs. Municipalities could utilize programs like Career Link as a tool for recruitment, training, job readiness preparation, job counseling to link Section 3 residents and extremely low-income persons with the positions generated by the Section 3 covered funds.

Moreover, municipalities should seek to create or coordinate an efficient referral mechanism to link the persons seeking employment and training opportunities with the employers. This device is crucial with respect to any utilization of first-source hiring agreements. An efficient referral mechanism will ensure that the maximum number of persons are advised of each employment and training opportunity thereby increasing the likelihood that persons will be placed in jobs or given training and apprenticeship opportunities. Furthermore, this referral mechanism, created or coordinated by the municipality, will not leave the very important tasks of recruitment, screening, and placement to construction contractors who are typically not professionally training in human resources or social work.

Also, a successful integration of services requires that there be a combination of governmental and community resources working together to maximize economic opportunities for the targeted populations. In some municipalities nonprofit agencies constitute a major force in the employment and training sphere. Their individualized service to the multi-lingual, multi-cultural populations should be utilized to the fullest.

In addition to the concept of integrating services, municipalities should also place a high emphasis on vocational training programs. First, as mentioned above, municipalities should seek to determine and strategize regarding what types of employment opportunities are likely to be generated by Section 3 expenditures. Next, municipalities should seek to create training opportunities to enable persons in need to qualify for the positions generated by Section 3. Moreover, municipalities should adopt a long-term perspective by strategizing as to the jobs of the future in the area. If, for example, public construction consists of a medical university, then the city should determine the types of jobs the university will be hiring for and how the city can play a role in preparing its low-income persons to be able to compete for those opportunities. In order to truly provide meaningful economic opportunities, as Section 3 mandates, training must be available to those who need it. Certain examples from the "Lesson From the Field" Section above should illustrate that providing janitorial positions on a construction project is not likely to create long-term employment opportunities for those in need.

Moreover, municipalities should utilize Section 3's broad scope to reach the maximum number of persons served. First, recipients should seek to target specific populations to be served. The income guidelines mentioned in the regulations pursuant to Section 3 are merely minimum guidelines and recipients are clearly free to exceed those minimums with respect to Section 3 compliance. Moreover, municipalities have the freedom to and the task of creating implementation plans for compliance with Section 3 and can devise a wide variety of employment and training opportunities utilizing the money generated through Section 3 expenditures.



VI. Proposed Strategy for the Implementation of Section 3

A. Overall Strategy

As discussed above, HUD recommends that Section 3 be utilized as part of an overall plan to assist low-income persons obtain employment and training opportunities. Much energy has been spent determining whether Section 3's requirements applies to a given project, funding source, or person. Recipients of Section 3 covered assistance are free to exceed the minimum goals detailed in the regulations. In other words, a municipality's first decision is whether its strategy is baseline compliance or addressing specific needs. This proposal assumes that the municipalities seeking to fully implement Section 3 are taking a broad, holistic approach to welfare reform and the related issues of employment, housing, and training. Each municipality's policy makers need to decide how far they will go to provide assistance to low-income persons in need of employment and training services. What types of employment and training opportunities shall be developed? What type of support services shall be offered? Who will administer these services? Who will recruit the workers? These, and many other related issues, must be answered by each municipality seeking to fully implement Section 3. Section 3 can provide funding for the



ideas that flow from an overall strategy to assist low-income persons escape the cycle of under-employment and inadequate education.

B. Components of the Plan

1. Projects, Positions, and Persons Covered

How can a municipality utilize Section 3 as a means to provide employment and training opportunities to persons in need? As discussed in detail above, only certain projects fall under the parameters of Section 3. Typically, projects that are part of any Public and Indian Housing program are covered by Section 3, as well as any Housing and Community Development program project valued at \$200,000 or more. These are the threshold requirements. To go beyond the threshold, municipalities will have to work to create a comprehensive, city-wide plan for employment, housing and training for persons in need.

As a starting point, each municipality should continue to work towards finalizing strategies for the following three areas of concern. First, the municipal departments that deal with housing issues, in conjunctions with nonprofit housing and community development organizations, should review their annual budgets to determine how many projects will be undertaken and, of those, which will be subject to Section 3. Moreover, recipients of Section 3 funding could incorporate all projects into their "implementation plan." Second, recipients should determine what types of jobs will be generated by these projects and activities, including, but not limited to, administrative, managerial, clerical, service, and building trades positions. Lastly, recipients of Section 3 funding should target specific populations who are most in need. Although Section 3's regulations define "low-income person" and "very-low-income person," a municipality could choose to target certain populations, including, but not limited to, homeless individuals, persons with HIV/AIDS, "extremely" low-income persons (earning less than 15% of the median income for the area), or public housing residents who are unemployed or under-employed.

2. Identification of Employment and Training Resources

In order for Section 3 to function effectively, cities must develop a collaborative effort to accomplish their goals. This entails involving other agencies and organizations apart from local government. First, the recipients of Section 3 funding should compile a list of all the existing vocational training and apprenticeship programs in the area.

The task of identifying existing resources addresses several issues which have posed problems in the past regarding Section 3 compliance. First, with respect to construction jobs, recipients of Section 3 funds often shifted the burden of the recruitment and hiring of Section 3 residents⁶³ to the contractors. Clearly, construction contractors are not qualified as employment and training professionals and are not skilled in recruiting Section 3 residents and confronting the myriad of social, educational, and other issues that these persons typically face. Second, contractors or other employers of Section 3 residents, as well as the residents themselves have complained of poor access to job training information. By compiling a list of existing resources, information can be centralized and shared by all agencies collaborating in the Section 3 implementation effort. The centralization of information can increase access to information, as well as ensure that a sufficient number of qualified Section 3 residents apply for any jobs available. Lastly, training opportunities -- as opposed to employment -- can satisfy the requirements of Section 3. Naturally, recipients should develop a strategy to develop training programs that will correspond with employment opportunities generated by Section 3 funded projects. Thus, by identifying current resources, new training programs will likely not need be created, but rather recipients can utilize already existing ones.

3. Outreach Efforts

Another area of concern in the past has been the lack of outreach efforts to Section 3 residents and other persons in need. Similarly, contractors have complained that not enough qualified Section 3 residents apply for positions and therefore the number of actual hires of Section 3

residents remains consistently low. For Section 3 to have success, residents must have access to information about employment and training opportunities and must be equipped to meet these opportunities. First, municipalities could create a centralized information system regarding employment and training opportunities that could be administered through an agency similar to the Career Link program in San Francisco. Additionally, for outreach to be successful, the community-based agencies need to be involved fully in the recruitment process. In many municipalities, residents who typically qualify under Section 3 come from diverse backgrounds, speak many languages, and have special cultural and social barriers that the community agencies are uniquely qualified to address. Second, Section 3 residents must be better prepared to meet employers. Recipients of Section 3 funds could hire job developers to work in public housing projects. Or, more simply, community-based organizations could be utilized to recruit and screen qualified persons. Lastly, again, it is important that information be centralized regarding these opportunities.

4. First-Source Hiring Agreements

Another technique that can ensure that Section 3 residents gain access to information about employment generated by Section 3 expenditures is the use of a "first-source" agreement. Essentially, a first-source agreement requires any contractor or subcontractor that works on a Section 3 covered project, to recruit from and hire persons from certain specified places first. One concern with the use of first-source agreements has been that the contractor will utilize the first-source, hire few persons, and have satisfied its obligation under the law. Again, the centralization of information and a collaborative system, involving local and state government agencies as well as nonprofits, will minimize this problem. For example, under Section 3's regulations, if the project involves Public and Indian Housing, residents of the particular housing project have priority first, then residents of other housing projects, etc. But if the project is "other" Housing and Community Development, then the priority is simply for any low-income person residing in the "area" which can mean all of a given city.⁶⁴ Thus, a centralized system of "first-sources" could be created simply by tapping into the already existing network of community-based organizations and link them by computer. Thus, where a Section 3 project occurs in a particular neighborhood, priority could be given to workers residing in that neighborhood, but also, if a surplus of qualified workers were lacking, other workers from other neighborhoods would have access to the information and would be able to apply for the positions in a timely manner. Thus, the first-source system will ensure that a sufficient number of qualified applicants, who are Section 3 residents and other needy persons, apply for the available positions.

Moreover, recipients of Section 3 funds have an obligation to ensure that contractors and subcontractors understand and comply with the goals of Section 3.⁶⁵ Recipients can utilize informational meetings or workshops, bid packets, and an information hotline, to ensure that contractors and subcontractors are aware of the obligations under Section 3 and are aware of the resources available. But recipients should avoid placing too much responsibility upon the contractors to recruit, screen, and hire Section 3 residents. The professional employment and training and social workers should handle the recruitment, job readiness, screening, career counseling, and referral to the employers to increase the likelihood of successful hiring.

5. Support Service Partnerships

In combination with outreach efforts, centralization of employment and training information, and first-source agreements, recipients of Section 3 funds should develop a network of support services to enable low-income persons to succeed in finding and maintaining employment. Section 3 residents need support services such as child care, transportation, job readiness trainings, career counseling, and referrals for food, shelter, and public benefits. Again, each municipality's recipients of Section 3 funds should collaborate with local, state, and nonprofit agencies to utilize the already existing expertise available to counsel and prepare Section 3 resident and other populations to enter training programs and obtain employment successfully.

Moreover, recipients need to act creatively to develop networks that will address the many issues that each person in need faces. For example, Section 3's regulations suggest "arranging assistance in conducting job interviews and completing job applications."⁶⁶ If community-based agencies are used as first-sources, then Section 3 funds can be used to supplement the services to administer "job readiness" courses to enable the Section 3 residents and other low-income persons to be as well prepared as possible to apply for Section 3 generated employment opportunities. Other suggestions include: providing a "how to" guide for job interviewing to residents, English skills classes, and conducting proposal writing training workshops.⁶⁷ In many municipalities, most of these resources already exist, through the community-based organizations, educational institutions, as well as local and state governmental agencies.

6. Monitoring & Evaluation

Lastly, any Section 3 implementation plan must have an effective monitoring and evaluation system to ensure that persons in need are obtaining employment and training opportunities. Again, it is recommended that the entire process of employment and training opportunities be centralized. The recipients of Section 3 funds should not act alone. Instead, uniform paperwork, processes, and methods of evaluation will increase efficiency and effectiveness in hiring and training low-income persons.

First, recipients need to ensure that contractors and subcontractors are fully aware of their obligations under Section 3 and how to comply. It is important to document outreach efforts, number of applicants, as well as demographic, educational, and employment data on the applicants. Second, as discussed above, recipients should determine the number of Section 3 covered projects that will be undertaken in the upcoming year, the number of new jobs anticipated, and make this information accessible to the first-source agencies and other entities that shall recruit and train low-income persons. Third, recipients should plan the support services that shall be needed to complement the training programs associated with Section 3 as well as the recruitment and hiring efforts. Lastly, recipients should set numerical goals for hiring and training of Section 3 residents or other targeted populations.

Regarding evaluation, recipients should produce reports at least twice per year with respect to meeting the numerical goals set forth for the year for hiring and training of Section 3 residents. Also, recipients should conduct a substantive evaluation with respect to the quality of the employment opportunities, the demographic and educational profile of the targeted populations, and the overall satisfaction with the processes and systems.

VII. Conclusions

Section 3 can be used as a tool for providing employment and training opportunities to low-income persons. Standing alone, however, Section 3 cannot be effective. Some municipalities are taking a unified approach to employment and training for extremely low-income persons. The key to successful implementation of Section 3 lies in the sharing of information, centralization of services, and preparing both employers (contractors) to hire and those seeking employment to maintain employment successfully. It is important that Section 3 is not viewed merely as a regulation that must be complied with, but rather as an impetus, a starting point, to help launch employment, training, and support service programs dedicated to assisting extremely low-income persons and other targeted populations in achieving economic self-sufficiency.



Footnotes

1. 12 U.S.C. ♦ 1701u (West, 1996). [back to text](#)

2. "Recipient" means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors. 24 C.F.R. Part 135, ♦135.5 (1996). [back to text](#)

3. *Id.* [back to text](#)

4. For a detailed discussion of the Technical Assistance Initiative, See section IV, *infra.* [back to text](#)

5. Section 3: Job Training, Employment, and Contracting Opportunities for Low-Income Persons, U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (1996). (Hereinafter, Section 3). [back to text](#)

6. Lessons From the Field on the Implementation of Section 3, U.S. Department of Housing and Urban Development, Office of Policy Development and Research (November, 1996). (Hereinafter, Lessons). [back to text](#)

7. Ramirez, Leal & Co. v. City Demonstration Agency 549 F.2nd 97 (9th Cir.1976). The plaintiffs in Ramirez were a Latino accounting firm that was overlooked in its bid to obtain a contract through a HUD-funded program, the Model Cities Program. This case did not address the issues of employment opportunities, but rather the issue of awarding contracts and subcontracts to persons in need. [back to text](#)

8. Senate Report (Banking and Currency Committee) No. 91-392, Sept. 5, 1969 (91st Congress, 1st session). [back to text](#)

9. 24 C.F.R. Part 135, ♦ 135.3(a)(1) (1996). [back to text](#)

10. 24 C.F.R. Part 135, ♦ 135.3(a)(3) (1996).[back to text](#)

11. 24 C.F.R. Part 135, ♦ 135.3(b) (1996). [back to text](#)

12. 24 C.F.R. Part 135, ♦ 135.3(d) (1996).[back to text](#)

13. 24 C.F.R. Part 135, ♦ 135.3(b) (1996). [back to text](#)

14. *Id.* [back to text](#)

15. As discussed in Section III A, *supra*, Section 3 applies either to Public and Indian Housing Projects -- in which case likely all of the funding comes from HUD -- or "other" Housing and Community and Development Projects, in which case there may be a variety of funding sources. For Section 3 to apply, the total project amount must exceed \$200,000 and each individual contract within a project must exceed \$100,000. Thus, for example, a Housing and Community Development project that had 5% Section 3 covered assistance and 95% non-Section 3 assistance, then Section 3 would apply if the total project amount exceeded \$200,000 and then to all contracts within the project exceeding \$100,000. Again, these complicated scenarios would only concern an entity interested in minimum compliance with the goals of Section 3. [back to text](#)

16. 24 C.F.R. Part 135, ♦ 135.5 (1996). [back to text](#)

17. *Id.* [back to text](#)

18. What Projects Involve Work Subject to State Statutes Requiring Payment of Prevailing Wages on Public Works Projects? 10 A.L.R. 5th 337 (1996). [back to text](#)
19. A Section 3 resident is (1) A public housing resident, or an individual who resides in the area and is a (2) Low-income person, which means a person whose income is less than 80% of the median income for the area, as determined by the Secretary, or (3) Very-low-income person, which means a person whose income is less than 50% of the median income for the area, as determined by the Secretary. 24 C.F.R. Part 135 ◆ 135.5 (1996). [back to text](#)
20. 24 C.F.R. Part 135, ◆135.30(a)(4) (1996). [back to text](#)
21. 24 C.F.R. Part 135, ◆135.30(b) (1996). [back to text](#)
22. "New hires" mean full-time employees for permanent, temporary or seasonal employment opportunities. 24 C.F.R. Part 135, ◆135.5 (1996). [back to text](#)
23. 24 C.F.R. Part 135, ◆135.30(b) (1996). [back to text](#)
24. A "section 3 business concern" means a business concern that is (1) 51% or more owned by section 3 residents, (2) whose permanent, full-time employees include persons, at least 30% 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 to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition. 24 C.F.R. Part 135, ◆ 135.5 (1996). [back to text](#)
25. 24 C.F.R. Part 135, ◆135.30(c) (1996). [back to text](#)
26. 24 C.F.R. Part 135, ◆135.30(a)(3) (1996). [back to text](#)
27. 24 C.F.R. Part 135, ◆135.30(d)(2) (1996). [back to text](#)
28. 24 C.F.R. Part 135, ◆135.40 (1996). [back to text](#)
29. 24 C.F.R. Part 135, ◆135.40(c) (1996). [back to text](#)
30. 24 C.F.R. Part 135, ◆135.32 (1996). [back to text](#)
31. 24 C.F.R. Part 135, ◆135.76 (1996). [back to text](#)
32. 40 U.S.C. ◆◆ 276a1-5 (1996). [back to text](#)
33. Unity Bank & Trust Co. v. United States, 756 F.2nd 870 (1985). [back to text](#)
34. North Georgia Building and Construction Trades Commission v. Goldschmidt, 621 F.2nd 697 (1980). [back to text](#)
35. 29 C.F.R. Part 5, ◆5.2 (1996). [back to text](#)
36. 29 C.F.R. Part 5, ◆5.5(a)(4) (1996). [back to text](#)
37. 29 C.F.R. Part 5, ◆5.14 (1996). [back to text](#)
38. Community Housing Partnership (1995). [back to text](#)
39. California Labor Code ◆ 1777.5: "The ratio of work performed by apprentices to journeymen who shall be employed...on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentices work for every five hours of labor performed by a journeyman." [back to text](#)

40. See 24 C.F.R. Part 5. [back to text](#)
41. This report uses the terms "low-income," "very-low-income" and "extremely low-income." The first two terms, "low" and "very low" are defined in HUD's Section 3 regulations as earning 80% and 50% of the median income respectively. The term "extremely low-income" is not defined by the regulations. [back to text](#)
42. 24 C.F.R. Part 135, §135.30 (1996). [back to text](#)
43. 24 C.F.R. Part 135, §135.5 (1996). [back to text](#)
44. [Section 3](#), supra note 5. [back to text](#)
45. "Employment opportunities generated by section 3 covered assistance" means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance. With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects, including management and administrative jobs. 24 C.F.R. Part 135, §135.5 (1996). [back to text](#)
46. [Lessons](#), supra, note 6. [back to text](#)
47. [Id.](#) at 12. [back to text](#)
48. [Id.](#) at 12. [back to text](#)
49. [Lessons](#), at 12. [back to text](#)
50. [Id.](#) at 26. [back to text](#)
51. [Id.](#) at 42. [back to text](#)
52. [Id.](#) at 43. [back to text](#)
53. [Id.](#) at 54. [back to text](#)
54. See 24 C.F.R. 135.40. [back to text](#)
55. [A Guidebook for Developing An Action Plan for Section 3 Technical Assistance Initiative Teams](#), U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (August, 1994). (Hereinafter, [Guidebook](#)). [back to text](#)
56. [Guidebook](#), p. B-11-12. [back to text](#)
57. [Lessons](#), at 55. [back to text](#)
58. Executive Order 2-95 City of Philadelphia, Office of Housing and Community Development, Neighborhood Benefit Strategy. [back to text](#)
59. [Jobs for Residents: The Section 3 Technical Assistance Initiative](#), U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity (April, 1994). [back to text](#)
60. [Id.](#) [back to text](#)
61. [Id.](#) [back to text](#)
62. [Guidebook](#), supra, note 62. [back to text](#)
63. The term "Section 3 residents" refers to persons who would qualify to receive employment or training opportunities, whether they be low-income or extremely low-income depends on the recipient's individual implementation plan. [back to text](#)

64. 24 C.F.R. Part 135, [135.34\(a\)](#) (1996). [back to text](#)

65. 24 C.F.R. Part 135, [135.30\(a\)\(3\)](#) (1996). [back to text](#)

66. 24 C.F.R. Part 135, Appendix. [back to text](#)

67. [Guidebook](#), at B-23. [back to text](#)