

## RESIDENT EMPLOYMENT PROVISION (REP)

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Forms		
Form 1	Contractor's Certificate of Intent to Comply	Submit with Bid
Form 2	Contractor's List of Current Employees	Submit with Bid
Form 3	Contractor's List of Economic Opportunities under the Contract	Submit with Bid
Form 4	Contractor's Compliance Certificate for Employment and Training	Submit at Contract Execution
Form 5	Contractor's Interim Hiring Certificate	Submit at Contract Execution
Form 6	Monthly Employee Utilization Report	Submit by the 10 <sup>th</sup> Day each Month
Form 7	Notice to Labor Representatives Certificate	Submit at Contract Execution

## RESIDENT HIRING AND CONTRACTING REQUIREMENTS

### 1. GENERAL

- A. This Resident Employment Provision (REP) summarizes the requirements for the hiring of "Section 3 Residents" as defined below.
- B. The Contractor's attention is directed to Article 40 of the General Conditions of the Contract for Construction (form HUD 5370-EZ).
- C. These requirements do not supercede Government requirements for competitive procurement and DavisBacon Wages. Nor do they supercede the requirements of Massachusetts laws regarding bidding and construction.
- D. Other duties and requirements of law which may not be specified in this section apply and are inherently a part of the Contract.
- E. A copy of this REP shall be included in all Invitation for Bids and Requests for Proposals.

### 2. DEFINITIONS

For the purposes of this Resident Employment Provision, the following terms have the following meanings:

**Authority** means the Somerville Housing Authority.

**Contractor** means any entity which contracts to perform work in connection with a Section 3 Covered Project.

**Federal Wage Rate Job Classification** means the job classifications listed in the federal minimum wage rate schedule issued from time to time by the Secretary of the United States Department of Labor pursuant to the Davis Bacon Act.

**HUD** means the U.S. Department of Housing and Urban Development.

**New Hires** means full time employees hired for permanent, temporary or seasonal employment.

**Person** means any natural person, business, partnership, corporation, joint venture, organization, entity or group of individuals.

**Project Development** means the public housing development or developments for which the Contractor is performing work under a Section 3 Covered Contract.

**Provision** means this Resident Employment Provision. Section 3 Covered Activity means any activity which is funded by Section 3 covered HUD assistance.

**Section 3 Covered Contract** means a contract or a subcontract awarded by the Authority or by a Contractor for work on a Section 3 Covered Project and/or any Section 3 Covered Activity. Section 3 Covered Contracts do **not** include contracts for the purchase of supplies and materials, except where a contract for the purchase of materials includes installation.

**Section 3 Covered Project** means the construction, reconstruction, installation, repair demolition, maintenance, conversion or rehabilitation of housing (including reduction and abatement of lead based paint hazards) on the behalf of the Authority which shall include, but not be limited to, the furnishing of labor, time, and/or effort by a contractor.

**Section 3 Resident** means a person who is at least 18 years of age, who maintains his or her full time principal residence at any of the public housing developments and who is listed on the lease as a resident; or (b) a person whose income is below 80% of the adjusted median income for the Boston SMSA and who resides in the Boston SMSA; or (c) a person who participates in Youthbuild programs.

## 2. TRAINING AND EMPLOYMENT PREFERENCE FOR SECTION 3 RESIDENTS

- A. The Contractor shall, to the greatest extent feasible, give preference to Section 3 Residents when making any New Hire in connection with a Section 3 Covered Contract.
- B. Prior to making any New Hire in connection with a Section 3 Covered Contract, the Contractor shall use its best efforts to:
  - 1. Notify Section 3 Residents about training and employment opportunities arising out of any Section 3 Covered Contract;
  - 2. Encourage the application of Section 3 Residents for training and employment opportunities arising out of any Section 3 Covered Contract;
  - 3. Facilitate the employment of Section 3 Residents; and
  - 4. Document actions taken to comply with the requirements of this Part 2, the results of such actions and impediments encountered, if any.
- C. In making any New Hire in connection with a Section 3 Covered Contract, the Contractor shall make such hires in the following order of priority:
  - 1. Section 3 Residents from the Project Development(s) in which work is performed.
  - 2. Section 3 Residents from other Public Housing Developments owned and/or operated by the Authority.
  - 3. Participants in HUD Youthbuild programs in the Somerville area.
  - 4. Other Section 3 Residents
- D. The Contractor may demonstrate compliance with the training and employment requirements of this Provision by meeting the following minimum numerical goals:
  - 1. Committing to employ Section 3 Residents as thirty percent (30%) of the aggregate number of New Hires.
  - 2. Where applicable and to the greatest extent feasible, the contractor shall make New Hires in Federal Wage Rate Job Classifications.
- E. Any Contractor which has not met the minimum numerical goals for training and employment set forth in this Part 2 has the burden of demonstrating why it was not feasible to meet such goals.
- F. A Section 3 Resident seeking preference in training and employment pursuant to this Part 2 shall, if requested to by the Contractor, certify or submit evidence that he or she is a Section 3 Resident as defined in this Provision. Notwithstanding the foregoing, any Person named as a Section 3 Resident on a list provided to the Contractor by the Authority shall be deemed to be a Section 3 Resident without being required to furnish additional proof of such status.
- G. Nothing in this REP shall be construed to require the employment of a Section 3 Resident who does not meet the minimum qualifications of the position to be filled; however, any such qualifications shall be reasonably related to the work to be performed by the person filling the position.
- H. The Contractor is responsible for complying with the requirements of this Provision in its own operations and for assuring compliance in the operations of its Subcontractors.

## 3. COMPLIANCE PROCEDURES

- A. All Contractors must comply with this Resident Employment Provision. There is no dollar threshold but, procedures vary depending on contract amount and other factors.

- B. Purchase Orders and Contracts for work under \$25,000 (may be telephone quotes).
  - 1. Contractor shall submit Form 1, Contractor's Certification of Intention to Comply.
- C. Bidding for contracts over \$25,000.
  - 1. Bid documents for contracts over \$25,000 shall include this Resident Employment Provision and the appropriate Forms.
  - 2. Bids for all contracts over \$25,000 shall include Form 1, Contractor's Certificate of Intent to Comply, Form 2, Contractor's List of Current Employees and Form 3 Contractor's List of Economic Opportunities under the contract.
  - 3. Completed Forms must be submitted within three (3) working days of bid opening.
- D. Contract Execution For All Contracts over \$25,000.
  - 1. Contractor shall submit list of his or her full time employees including name, trade and social security number.
  - 2. Contractor shall submit Form 4, Contractor's Compliance Certificate for Employment and Training.
  - 3. Contractor shall submit Form 5, Contractor's Interim Hiring Certificate.
  - 4. Contractor shall submit Form 7, Notice to Labor Representatives Certificate.
  - 5. Failure to submit the completed forms may prevent or delay execution of the contract.
- E. After Notice to Proceed
  - 1. The Contractor shall submit Form 6 Monthly Employee Utilization Report, along with certified payrolls no later than the 10<sup>th</sup> day of each Month.
  - 2. Failure to submit this form may result in delay of payments to the Contractor.
  - 3. The Contractor shall promptly provide to the Authority, at its request, any such information or reports as the Authority may require and shall permit access to the Authority's employees and agents to the job site and to any books, records, accounts and/or other material deemed by the Authority to be necessary to monitor the Contractor's compliance with this Provision.
  - 4. The Contractor may terminate the employment of a Section 3 Resident for good cause, provided that the Contractor first notifies the Authority in writing of the proposed termination and the specific reasons therefor. The Authority may request that the Contractor or Subcontractor meet with the Authority to discuss the reasons for any such proposed termination.
  - 5. If any Section 3 Resident employed by the Contractor pursuant to this Provision leaves or is terminated from such employment, the Authority may require the Contractor to employ another Resident in order to remain in compliance with the requirements of this Provision.

#### 4. PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING ACTIVITIES

The Authority shall, to the greatest extent feasible and consistent with Commonwealth of Massachusetts bid laws, direct its efforts to ensuring that contracts are awarded to Section 3 Business Concerns in the following order of priority, as more fully defined in the applicable federal regulations, presently codified as 24 CFR §135.36:

- A. Business concerns which are 51% or more owned by Section 3 Residents in the affected development or whose full time permanent workforce includes 30% of these persons as employees.
- B. Business concerns which are 51% or more owned by Section 3 Residents in other SHA public housing developments or whose full time permanent workforce includes 30% of these persons as employees.
- C. YouthBuild programs.

- D. Business concerns which are 51% or more owned by any Section 3 Residents or whose full time permanent workforce includes 30% of these persons as employees or as otherwise provided in the regulations.

5. ENFORCEMENT

- A. On a timely basis, the Authority shall review each Contractor's required forms and attachments and determine whether or not the Contractor is in compliance with its Section 3 obligations and this Resident Employment Provision.
- B. If at any time the Authority determines that the Contractor is not in compliance with this Provision, it shall notify the Contractor in writing of such finding and of any sanctions it intends to apply. Such written notice shall give the Contractor an opportunity to meet with representatives of the Authority to present information demonstrating that it is in compliance, or in mitigation of its failure to comply and shall appoint a time and place for such meeting, subject to the Contractor's availability.
- C. Following any such meeting the Authority shall make a finding as to whether the Contractor is in compliance with this Provision and shall notify such Contractor in writing of such finding, the information upon which such finding was based and the sanctions, if any, it intends to apply. Any such finding shall be final and without recourse, unless it is made in bad faith and without reasonable cause.

6. SANCTIONS

- A. If, during the term of the Contract the Authority determines that the Contractor is not in compliance with this Provision, the Authority may impose on the Contractor, any one or more of the following sanctions:
  - 1. The recovery from the Contractor of one tenth of one percent (0. 1%) of the Contract price or \$2,500, whichever is greater, in the nature of liquidated damages, for each week that the Contractor fails or refuses to comply; or the recovery from the Contractor, to be assessed by the Contractor as a back charge against the Subcontractor, of one tenth of one percent (0. 1%) of the subcontract price, or \$ 1,000, whichever sum is greater, in the nature of liquidated damages for each week that the Subcontractor fails or refuses to comply.
    - a. SHA shall make available 50% of such funds for payment of training, apprenticeships, or other similar programs to enable Section 3 Residents to obtain the skills necessary to perform work likely to be needed in a Section 3 Business Concern or Section 3 Covered Contract.
  - 2. The suspension of any payment or part thereof due under the Contract, until such time as the Contractor is able to demonstrate its compliance with the terms of this Provision.
  - 3. The termination or cancellation of the Contract, in whole or in part, unless the Contractor is able to demonstrate within a specified time its compliance with the terms of this Provision.
  - 4. The retention in connection with final acceptance and final payment of five percent (5%) of the Contract price (as adjusted by change orders or other amendments), where the Contractor has been unable to demonstrate compliance with the terms of this Provision.
  - 5. Denial to the Contractor of the right to participate in any future contracts awarded by the Authority for a period of up to three years.

- B. If, at any time after the imposition of one or more of the above sanctions, a Contractor is able to demonstrate that it is in compliance with this Provision, it may request the Authority to suspend the sanctions conditionally, pending a final determination as to whether the Contractor is in compliance. Upon final determination of the Authority, the Authority shall either lift the sanctions or reimpose them.

7. OTHER PROVISIONS

- A. Certain Contractors subject to this Resident Employment Provision are also required to comply with Executive Order 11246, as amended by Executive Order 12036 and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.
- B. The Authority shall have access to all records, reports, and other documents or items maintained to demonstrate compliance with this Resident Employment Provision.

**FORM I**  
CONTRACTOR'S CERTIFICATION OF INTENT TO COMPLY

I hereby certify that:

1. I am the \_\_\_\_\_ of \_\_\_\_\_  
                        [Insert Title]                                  [Insert Name of General Bidder] (the "Contractor");
2. I am duly authorized by the Contractor to execute this Contractor's Certificate of Intent to Comply as a condition of the Purchase Order or Contract for \_\_\_\_\_  
\_\_\_\_\_  
                        [Insert Project Name and Number] (the "Project");
3. The Company will make its best effort to hire 30% of new employees for this project from among qualified Section 3 Residents Employment Provision.
4. The company will comply with the requirements set out in the Somerville Housing Authority's Resident Employment Provision.

Signed under the penalties of perjury.

Date: \_\_\_\_\_

Company: \_\_\_\_\_

By: \_\_\_\_\_  
Signature, Duly Authorized





**FORM 2**  
CONTRACTOR'S LIST OF CURRENT EMPLOYEES

I hereby certify that a complete and accurate list of all current Employees is set out below.

Signed under the penalties of perjury.

Date: \_\_\_\_\_

Company: \_\_\_\_\_

By: \_\_\_\_\_  
Signature, Duly Authorized

NAME	DATES of HIRE	POSITION	COMPENSATION

Use Additional Sheets, If Necessary



# FORM 3

## CONTRACTOR'S LIST OF CURRENT EMPLOYEES

I hereby certify that:

- There will be no New Hires under this Contract
- A complete and accurate list of all New Hires projected under this Contract is set out below and incorporated herein. A job description for each of the positions listed is attached hereto.

Signed under the penalties of perjury.

Date: \_\_\_\_\_

Company: \_\_\_\_\_

By: \_\_\_\_\_  
Signature, Duly Authorized

JOB TITLE	DATES OF WORK	COMPENSATION

Use Additional Sheets If Necessary













# FORM 6

## CONTRACTOR'S COMPLIANCE CERTIFICATE FOR CONTRACT OPPORTUNITIES

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I hereby certify that:

1. I am the \_\_\_\_\_ of \_\_\_\_\_  
[Insert Title] [Insert Name of General Bidder] (the "Contractor");
2. I am duly authorized by the Contractor to execute this Contractor's Certificate for Contract Opportunities as a condition of the Contract for \_\_\_\_\_  
[Insert Project Name and Number] (the "Project");
3. The names and addresses of Section 3 Business Concerns with which the Contractor will contract under the Somerville Housing Authority's Resident Employment Provision, the nature of the contract and the contract price are set out in Schedule A, attached hereto and incorporated herein.

Signed under the penalties of perjury.

Date: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

By: \_\_\_\_\_  
Signature, Duly Authorized

# FORM 6

## CONTRACTOR'S COMPLIANCE CERTIFICATE FOR CONTRACT OPPORTUNITIES

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### Schedule A

#### List of Section 3 Business Concerns Employed Under the Contract

NAME	ADDRESS	JOB	EMPLOYER NAME



