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Reforming HUD's "Section 3" Requirements Can Leverage Federal Investments in Housing To Expand Economic Opportunity

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Executive Summary

This is an important time to reform "Section 3," the federal requirement that low-income individuals receive a portion of the economic benefits created through federal investments in affordable housing. Not only is rising unemployment creating added hardship, but federal recovery funds are being distributed to projects across the country that are subject to the Section 3 requirement, and the Obama Administration is contemplating funding increases for some housing programs for fiscal year 2010. Policymakers can leverage these additional federal investments to create more economic opportunity for vulnerable populations.

Section 3 of the Housing and Urban Development Act of 1968 requires certain projects funded by the Department of Housing and Urban Development (HUD) to meet, "to the greatest extent feasible," specific goals for contracting, hiring, and training low-income people to work on these projects. Today, Section 3 could leverage a substantial portion of more than $20 billion in federal housing investments — $13 billion in the 2009 budget and nearly $8 billion in the recovery package[2] — into

KEY FINDINGS

- Section 3 of the Housing and Urban Development Act of 1968 requires certain HUD-funded projects to meet specific goals for contracting, hiring, and training low-income people to work on these projects.
- With unemployment rising and the federal government making new investments in affordable housing, this is an important time to reform Section 3 so those investments also expand economic opportunities for low-income people.
- Reforms should enhance HUD's monitoring and enforcement of Section 3 compliance, maximize economic opportunities for households receiving federal housing assistance, and build the capacity to implement the requirements and provide low-income residents with job training.
- A draft bill by Rep. Velazquez would make major progress in strengthening Section 3. Changes in the Workforce Investment Act also are needed. In addition, there is much that HUD can do administratively.

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[2] $13 billion represents the enacted budget authority for fiscal year 2009 for public housing operations, the public housing capital fund, public housing revitalization (HOPE VI), the Community Development Fund, the HOME block grant, and the

economic opportunities for low-income people.

Thus far, Section 3 has not fulfilled its promise to expand economic opportunities available to low-income Americans. But with modest reform, it has the potential to improve the employment status, earnings, and long-term economic prospects of such individuals. Reform should concentrate on three core areas:

- enhancing HUD's monitoring and enforcement of compliance with section 3;
- maximizing economic opportunities for households receiving federal housing assistance through statutory changes; and
- building the capacity of grantees to implement the requirements and provide low-income residents with job training, through increased collaboration with other HUD grantees and with workforce investment boards funded by the Department of Labor.

Such reforms will require cooperation between the Administration and Congress. Rep. Nydia Velazquez (D-NY) has circulated a discussion draft of legislation (the Earnings and Living Opportunities Act, or ELOA) that would make major progress by encouraging compliance with Section 3, increasing economic opportunities for federally assisted households, and building grantees' capacity to meet Section 3 requirements. In addition, there is much that HUD can do administratively without waiting for new legislation.

Section 3's Mission and Potential Benefits

Congress included Section 3 in the Housing and Urban Development Act of 1968 because it recognized that government investments in affordable housing can also be a tool to expand economic opportunities for low-income families. In addition to providing basic shelter, federally funded housing initiatives can help address unemployment and underemployment and thereby reduce poverty.

The mission of Section 3 is to utilize existing federal funding streams for low-income housing to maximize economic opportunities to low-income individuals. The law is narrowly tailored to provide preferences in employment, training, and contracting to low-income individuals on projects designed to benefit low-income people. This policy recognizes that the problems of housing affordability, employment status, and earnings are intertwined.

Housing Opportunities for Persons with AIDS (HOPWA) program. Some line items within these programs, however, are not subject to Section 3 obligations. Under the Administration's proposed 2010 budget, funding for these programs would increase to $13.5 billion. The American Recovery and Reinvestment Act of 2009 provided approximately $7.8 billion for programs subject to Section 3 requirements. See Department of Housing and Urban Development, "Guidance on ARRA and Section 3: HUD Economic Stimulus Funding and the Creation of Jobs, Training, and Contracting Opportunities," http://portal.hud.gov/portal/page?_pageid=153,1&_dad=portal&_schema=PORTAL.

Section 3 Basics[a]

What is Section 3?
Section 3 is a set of legal obligations established by the Housing and Urban Development Act of 1968. It requires public housing agencies and local governments to meet numerical goals for hiring, training, and contracting with "Section 3 residents" and "Section 3 business concerns" on certain types of projects that receive federal housing funds. A Section 3 office exists in HUD's Office of Fair Housing and Equal Opportunity, but there is no Section 3 "program." Local agencies receive no federal funds dedicated to meeting the obligations.

Who qualifies as a Section 3 resident?
All public housing residents qualify as Section 3 residents, as do all low-income individuals (those with annual incomes of less than 80 percent of area median income) living in a metropolitan area or nonmetropolitan county that contains a covered project. Section 8 assisted families are *not* automatically conferred Section 3 status by receiving assistance but can qualify on the basis of their incomes.

What projects carry Section 3 obligations?
Section 3 applies to all HUD-funded public and residential construction projects valued at over $200,000. It also applies to some activities funded by the Community Development Block Grant, HOME, and Housing Opportunities for Persons with AIDS programs. For public housing only, the $200,000 threshold does not apply, and Section 3 obligations apply not only to construction but also to development, maintenance, modernization, and operations. Even if HUD funds account for only a portion of a project's costs, Section 3 requirements apply to the *entire* project. Requirements apply to contractors as well as grantees.

What are the Section 3 requirements for hiring?
On Section 3 projects, grantees must, "to the greatest extent feasible," ensure that at least 30 percent of new, full-time hires are Section 3 residents. (This obligation does not apply if a project results in no new employees being hired.) Hiring goals apply to private companies and public agencies performing Section 3 work. Some projects give preference to categories of Section 3 residents; public housing residents, for example, receive the highest preference on public housing work. Grantees are to provide training and apprenticeship opportunities to residents in conjunction with employment.

How does Section 3 affect the companies that grantees contract with, using HUD funds?
Goals must be met for contracting with "Section 3 business concerns," which are defined as companies owned by Section 3 residents or that have a high percentage of Section 3 residents as employees. Unlike programs providing opportunities to minority- and women-owned enterprises, participation in the Section 3 contracting program is dependent on the income of the owners or employees.

Is compliance with Section 3 required?
Yes, to "the greatest extent feasible," though there are few sanctions for failure to achieve goals. Grantees have flexibility in the means by which they achieve the goals. Courts have interpreted the "greatest extent feasible" language to mean that other procurement considerations must be subordinated to fulfilling Section 3 obligations, and have held cost considerations to be insufficient grounds for awarding work to firms that were not Section 3-compliant. Local jurisdictions are required to certify annually to HUD that they are in compliance, but HUD has not placed a high priority on verifying the information in these certifications.

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[a] For more detailed information on Section 3 regulations and requirements, see: *An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Housing Law Project, 2009; 24 CFR Part 135; *Frequently Asked Questions and Answers About Section 3 of the Housing & Urban Development Act of 1968*, U.S. Department of Housing and Urban Development, April 3, 2009, http://www.hud.gov/offices/fheo/section3/FAQ08.pdf.

If effectively structured and implemented, Section 3 can reduce poverty, overcome spatial barriers to employment, and reduce federal costs, as explained below.

Reducing Poverty

Section 3's most obvious potential benefit is to increase the incomes of low-income people by making more jobs available to them. Public housing residents, who receive first preference for Section 3 opportunities on HUD-funded public housing projects, experience high levels of unemployment. HUD reports that 42 percent of families living in public housing that are headed by a person who was not elderly or disabled had no earnings in 2008.[3]

Nonetheless, a 1999 survey found that the overwhelming majority of working-age, non-disabled heads of household living in public housing had participated in the workforce at some point.[4] This suggests that the high levels of unemployment that public and other assisted housing residents face is due in part to lack of job opportunities.

By helping members of federally assisted households obtain jobs, Section 3 could increase their earnings, possibly lifting some out of poverty. In 2006, the median household income for public housing households was just $8,788, far below the poverty line. Section 8 voucher holders were only marginally better off, with a median household income of $9,924.[5]

Section 3 can also enhance the long-term employment prospects of public and assisted housing residents. Possessing basic job skills has a positive impact on an individual's short- and long-term earnings.[6] Unfortunately, many low-income people lack access to the job training programs that teach these skills. Section 3 is intended to provide this access, as grantees must make training or apprenticeships available on covered projects.

Overcoming Spatial Barriers to Employment

For decades, jobs have moved out of central-city neighborhoods and areas with high concentrations of low-income residents.[7] Recent research by the Brookings Institution shows this trend has continued unabated. In addition, jobs in sectors that are most hospitable to the skill profiles of low-income residents, such as the manufacturing and retail sectors, tend to be located farthest from city centers.[8] This creates a "spatial mismatch" between where low-income people live and where job opportunities are.

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3 HUD 2010 Budget, Congressional Justifications, p. H-3.

4 John Martinez, *The Employment Experiences of Public Housing Residents: Findings from the Jobs-Plus Baseline Survey*, Manpower Demonstration Research Corporation, 2002.

5 *Seventh Annual Report to Congress on Public Housing and Rental Assistance Programs: Demographics, Income and Work and Rent,* U.S. Department of Housing and Urban Development, 2008.

6 Karin Martinson and Julie Strawn, "Built to Last: Why Skills Matter for Long-Run Success in Welfare Reform," Center for Law and Social Policy, 2003.

7 William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Vintage Books, 1996).

8 Elizabeth Kneebone, "Job Sprawl Revisited: The Changing Geography of Metropolitan Employment," The Brookings Institution, 2009.

This problem is especially acute for public housing residents. Though public housing developments are much less likely to be located in highly segregated, extremely poor neighborhoods than they were a decade ago,[9] they are still disproportionately found in urban cores and areas with limited job growth.

Section 3 is designed to address this spatial mismatch by opening more job opportunities within low-income neighborhoods and, for residents of assisted developments, where they live.

Nearby job opportunities address other barriers to employment as well. More than half of public housing households, and nearly half of Section 8 voucher households, include a person who is elderly or has a disability.[10] Many of these households include individuals who are able to work but also have care-giving responsibilities for the elderly or disabled members of the household, which limits their flexibility in pursuing job opportunities. Families with young children face a similar quandary. By creating access to jobs on-site or within the neighborhood, Section 3 makes it easier for residents to juggle work with other responsibilities.

Reducing Federal Costs

Public housing residents generally pay 30 percent of their income in rent, with federal subsidies paying the rest. As residents' incomes rise, the rent payments they make rise as well, so the federal housing subsidy declines. The same pattern holds for Section 8-assisted households.[11]

Section 3 thus can reduce the cost of federal housing assistance by increasing the incomes of assisted households. Each $1,000 in extra income they earn will reduce federal costs by roughly $300. Since the HUD grants used to pay their wages would be expended *regardless* of whether the agencies and contractors hire federally assisted households, Section 3 effectively uses federal housing funds for double duty — meeting the need for housing investments and reducing the costs of providing affordable housing to low-income Americans.[12]

Section 3 can also reduce a development's maintenance costs. Employees who live and work in the same development are likely to be more vested in their community and thus likely to take greater care of their units and public spaces, reducing maintenance outlays.[13]

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[9] Barbara Sard and Will Fischer, "Preserving Safe, High Quality Public Housing Should Be a Priority of Federal Housing Policy," Center on Budget and Policy Priorities, revised October 8, 2008.

[10] CBPP tabulations of data from HUD's Resident Characteristics Report, as of March 31, 2009.

[11] Subsidy rules for vouchers are slightly different than for public housing. Local agencies establish caps on the subsidy they will pay for modest units rented using vouchers. If rental costs exceed the maximum amount, the tenant is required to pay the difference in addition to the standard contribution of 30 percent of income.

[12] Some tenants' incomes might rise significantly enough that they leave public housing, opening a unit for a household with a lower income. While this would reduce the program's fiscal advantages, it would enable another needy family to receive assistance, and there would be some short-term monetary gain for the federal government in any event.

[13] Arthur Naparstek, Robin Smith, and Dennis Dooley, *Community Building in Public Housing: Ties That Bind People and Their Communities* (Washington: U.S. Department of Housing and Urban Development, 1997).

Section 3's Shortcomings and Successes

There is general agreement that Section 3 has failed to achieve its objectives, though lack of data has precluded a comprehensive national analysis. HUD commissioned a 1996 report on Section 3 implementation; its investigation was limited in scope but highlighted that grantees face significant challenges in making Section 3 work.[14] Anecdotal evidence compiled by legal services agencies pursuing individual instances of non-compliance suggests that Section 3 implementation has been spotty at best.[15]

Many jurisdictions, especially city governments, are unaware of or misunderstand their obligations under the statute. Some mistakenly believe that Section 3 hiring and contracting goals are subordinate to other procurement policies. Although HUD's Office of Fair Housing and Equal Opportunity (FHEO), the division responsible for Section 3 enforcement, has made efforts in recent years to monitor compliance more vigorously, it lacks the capacity to do so effectively.

As recently as 2003, HUD's Inspector General found that the Department lacked basic controls for ensuring Section 3 compliance.[16] To its credit, FHEO moved quickly to put those controls in place and increase the number of monitoring reviews, but FHEO's efforts remain largely reactive. In general, hiring and procurement are responsibilities of local agencies over which FHEO (in contrast to other HUD divisions) wields minimal leverage. When grantees do not hew to Section 3 guidelines, FHEO has few enforcement options. In the rare cases where FHEO has compelled compliance, it has almost invariably been because Section 3 residents initiated complaints.

Proposed Reforms

Despite these problems, the benefits of Section 3 are significant enough that it is worth the time and effort needed to make the law work. Policymakers of both parties have consistently recognized Section 3's potential to push the federal government to make smarter choices in its spending, capitalizing on existing investment to achieve multiple national objectives — including providing housing assistance, boosting employment, promoting social mobility for low-income people, and moderating the costs of the housing programs by raising tenants' incomes.

Recognition of the need to improve Section 3 has also been bipartisan. HUD secretaries under Presidents George H.W. Bush, Bill Clinton, and George W. Bush all pursued reforms. Today, rising unemployment, increased federal investment in housing, and the benefit of lessons learned from successful local implementation make this an opportune time to revisit Section 3.

As detailed below, reforms should be concentrated in three areas:

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14 Maxine Bailey, Suzanne Lynn, and Fred Doolittle, *Lessons from the Field on the Implementation of Section 3* (Washington: U.S. Department of Housing and Urban Development, 1996).

15 For more details on legal actions pursued by Section 3 residents, see *An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Housing Law Project, 2009.

16 Office of Inspector General, U.S. Department of Housing and Urban Development, "Survey of HUD's Implementation of Section 3 of the HUD Act of 1968" (Audit Case #2003-KC-0001), 2003.

1. enhancing HUD's monitoring and enforcement to improve compliance with Section 3 requirements,
2. revising the statute to maximize opportunities for federally assisted households, and
3. building grantee capacity to meet Section 3 obligations.

1. Improve Compliance

Federal monitoring and enforcement of Section 3 have not been sufficient. As noted, HUD's Office of Fair Housing and Equal Opportunity has made recurring efforts to be more vigilant but has faced institutional constraints. Grantees have typically improved compliance only in the face of strong pressure from local legal services and housing advocates. Aware that enforcement is not a federal priority, grantees have had little incentive to pursue compliance independently of such pressure. Better enforcement could thus have a major impact.

HUD can improve its monitoring and enforcement fairly quickly, at relatively modest expense and with no change in governing law. Such improvement requires administrative changes at HUD and better guidance to grantees. HUD should:

- **Encourage grantees to use existing local resources to monitor compliance rather than creating a new bureaucracy.** Larger public housing agencies and most mid-sized and large cities already have staff charged with monitoring compliance with government contracting requirements, such as "first-sourcing" and utilization of minority and women's business enterprises. The mechanics of monitoring Section 3 compliance are essentially the same as the work these staffers already do. HUD should encourage grantees to use these staff for Section 3 monitoring purposes, such as collecting documentation of compliance, preparing performance reports to submit to the Office of Fair Housing, and making findings easily accessible by the public.

  Not all grantees have this capacity. Therefore, HUD should encourage cooperation among an area's grantees to identify one that will be responsible for monitoring Section 3 compliance for multiple local recipients. Cities and counties receiving Community Development Block Grant (CDBG) funds may be the logical choice for this role; since they all have populations of at least 50,000, they are large enough that they likely have existing monitoring capacity. Agencies should collaborate with states where no local agency has this capacity.[17]

  Even where multiple local grantees have internal monitoring capacity, HUD should encourage them to collaborate. This would allow grantees to take advantage of economies of scale, minimizing the time and expense of effective monitoring.

[17] Most public housing authorities serve cities and counties that receive CDBG funds, and most of the housing authorities that do *not* are located in states that administer CDBG funds. (The one exception is Hawaii, where HUD directly administers the CDBG program outside of the more populous areas that receive their own grants.)

Capacity and Enforcement Matter: Successful Programs in Kansas City and Oakland

Problematic as Section 3's implementation has been, there is cause for measured optimism. Two "best practice" examples demonstrate that where grantees are committed to the program, build capacity to perform Section 3 tasks, and make enforcement a priority, Section 3 can yield real benefits for low-income individuals and communities.

Kansas City, Missouri is one of the few cities to aggressively seek fulfillment of Section 3 goals. It created its own Section 3 Office within its Human Relations division to link contractors with potential employees, alert Section 3 business concerns to opportunities, and monitor and enforce compliance. Because the local public housing agency is independent, the city's efforts have concentrated on projects funded through city-administered grants like CDBG and HOME. Like many other cities, Kansas City experienced a major development boom before the recent recession. The Section 3 office was a vital part of ensuring that low-income people were able to access some of the economic opportunities created through local investment during that boom. In 2006, for example, the city met its goal of placing 50 Section 3 residents in full-time employment and awarded $2 million in contracts to Section 3 business concerns.[a]

The Oakland Housing Authority (OHA) is a success story among public housing agencies. Through the HOPE VI public housing revitalization program, OHA has received nearly $84 million in grants for residential construction since 1994. The agency was committed to meeting Section 3 goals but realized that many tenants lacked the skills to gain construction employment in opportunities created by HOPE VI investment. Since OHA did not have the capacity to provide job training itself, it partnered with a local construction training umbrella organization. That organization had links to local building trades unions, which used it to recruit participants into apprenticeship programs and construction-related employment. Since 1994, the OHA initiative has yielded union construction jobs for 177 Section 3 residents.[b]

[a] "Program Planning and Interpretation: Kansas City, Missouri Section 3 Program," U.S. Department of Housing and Urban Development, http://www.hud.gov/offices/fheo/section3/planning.cfm accessed May 5, 2009; *Kansas City, Missouri's Department of Human Relations Section 3 Guidebook*; *Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Law Housing Project, 2009.

[b] *Economic Opportunities Policy*, Oakland Housing Authority, 2001; *Advocate's Guide to the HUD Section 3 Program.*

- **Remind grantees of their obligations and establish incentives for successful Section 3 implementation.** In a promising initial set of actions, HUD has issued guidance to recipients of funds from the recent economic recovery legislation on their Section 3 obligations, and in late May Secretary Donovan sent a joint letter with Labor Secretary Solis to public housing agencies and Workforce Investment Boards encouraging them to work together to create employment opportunities for residents of HUD housing. In addition, HUD has included training on Section 3 obligations as part of a webcast regarding civil rights requirements for implementation of recovery act funding.[18]

  Beyond the implementation of the recovery act programs, HUD should also offer training to

[18] The guidance is available on the HUD Recovery Act home page, http://portal.hud.gov/portal/page?_pageid=153,1&_dad=portal&_schema=PORTAL, which also has links to the June 9 civil rights (and other) webcasts. The HUD-DOL letter is at http://portal.hud.gov/pls/portal/docs/PAGE/RECOVERY/TRANSPARENCY_RESOURCES/DOL%20-%20HUD%20WIB%20PHA%20LETTER%20FINAL.PDF.

grantees on Section 3 implementation, develop methods of incentivizing compliance, and require submission of data to facilitate monitoring. ELOA, the draft legislation Rep. Velazquez has circulated for discussion, would allow the HUD Secretary to award performance bonuses to grantees that exceed the numerical goals set by the law (see the box on page 3), although Congress would have to provide funds for this purpose. Without additional funding, HUD could include Section 3 compliance as one of its measures of the management performance of public housing agencies. HUD could also consider incorporating Section 3 compliance into the application process for competitive grants that it awards, thereby benefiting applicants that are Section 3-compliant and penalizing those that are chronically non-compliant.

- **Revise regulations to use "hours worked" as the test of Section 3 compliance.** Current regulations specify only that, to count for Section 3 compliance purposes, a contractor's new hires must be full-time employees. No guidance is provided on *when* employees must be hired for the project. As a result, there is nothing to prohibit grantees from hiring Section 3 residents on the final day of a project for the sole purpose of complying with the policy. This violates the spirit, if not the letter, of the law.

  The Office of Fair Housing has held that compliance should be measured by the percentage of the project's total work-hours that Section 3 residents perform.[19] This is a sensible standard and also would benefit low-income parents who are raising young children and able to work less than full time. But the "hours worked" standard is not included in any of the regulatory or statutory language on Section 3. HUD should revise the regulations to explicitly include it as the measure of compliance. The draft Velasquez legislation would write this change into the statute.[20]

2. Maximize Benefits to Federally Assisted Households

Other Section 3 reforms will require legislation. Although Section 3 is tailored to provide economic opportunities to low-income populations, it can be refined to better serve those who are most vulnerable and to create greater social benefit. Congress can strengthen Section 3 and maximize benefits for families receiving federal housing assistance by:

- **Broadening Section 3 to apply to all HUD-funded projects.** Section 3 obligations currently exist on all HUD-funded projects to construct or rehabilitate residential housing, including public housing. But Section 3 obligations are more expansive in the public housing program, where they also apply to funds spent on maintenance, modernization, and operations. These inconsistent requirements make it more difficult for grantees to understand Section 3 requirements, and result in a failure to fully leverage federal investments in HUD programs other than public housing. In 2008, for example, two out of every five CDBG dollars did not carry Section 3 obligations.[21]

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[19] Office of Fair Housing and Equal Opportunity, "Section 3 Complaint: Determination of Non-Compliance, Carmelitos Tenants Association, *et al. v.* City of Long Beach" (Case #09-98-07-002-720), 2004.

[20] Some have called for the reorganization of the federal staff charged with overseeing Section 3. Since its inception, Section 3 oversight has been housed in the Office of Fair Housing and Equal Opportunity. ELOA, the draft legislation that Rep. Velasquez has circulated, would elevate Section 3 responsibilities into the Office of the Secretary. (HUD could also accomplish this administratively, without legislative action.) Such a change could potentially signal an increased emphasis on enforcement and could minimize the conflicting Section 3 guidance that grantees sometimes receive from HUD offices.

[21] Authors' calculation of HUD's CDBG expenditure data as of September 30, 2008 for Program Year 2008. CDBG grantees spent almost $1.7 billion on acquisition, administration/planning, economic development, public services, and "other" activity types that are not subject to Section 3 obligations.

Congress should apply Section 3 obligations to all HUD funding streams used by agencies or their contractors for management and administrative activities.[22] In addition, funds used to provide services, such as child or elder care, should carry the same job-creation obligations that currently apply to public housing funds.[23] This would not be unprecedented: until 1992, Section 3 covered a range of activities in programs other than public housing comparable to those suggested here.[24] Consistent with this proposal, the draft Velasquez legislation would expand the scope of activities with Section 3 obligations to include all management, administrative, and professional services on HUD-funded projects.

- **Include all HUD-assisted tenants in the preference system.** Currently, Section 3 gives public housing tenants special preferences over other recipients of HUD-funded housing assistance and over other low-income people. Public housing residents receive first preference for employment opportunities at the developments where they live, and only public housing residents are defined as Section 3 residents simply by virtue of receiving housing assistance (without regard to their income). Most recipients of other HUD-funded housing assistance qualify for Section 3 as well because of their low incomes, but they receive no preference over *unassisted* low-income residents for employment opportunities that arise on HUD-funded projects.

  Congress should revise the Section 3 "preference pyramid" to categorically define as Section 3 residents — and thus give priority to — recipients of *any* form of federal rental assistance, including families holding Section 8 vouchers, residents of project-based Section 8 units, and residents of public housing.[25] Residents of the development where expenditures are being made should receive first priority, then other assisted households, then unassisted households.

  Such a step would recognize that other federally assisted households face many of the same barriers to employment as public housing residents. It would give Section 8-assisted families in communities with public housing enhanced access to billions spent on capital repairs, operations, and maintenance. This is particularly important where public housing funds are unlikely to generate work opportunities for residents of the public housing development because most or all residents of the development are elderly or have disabilities.[26]

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[22] Section 8 funds used by public housing agencies to cover the administrative costs of the housing voucher program would be covered by this proposal; funds used to provide rent subsidies to private owners would not be.

[23] CDBG economic development activities are supposed to create or retain employment opportunities for low-income people, but this requirement is not an adequate substitute for Section 3. The calculation method for CDBG is far less rigorous than the one used by Section 3 and inflates claims of job creation for low-income residents. Unlike Section 3, which requires proof of income of employees on covered projects, CDBG simply *assumes* that all jobs created in low-income neighborhoods go to low-income residents or that any worker living in a low-income census tract is low-income.

[24] In 1992, at the urging of the Bush Administration and then-HUD Secretary Jack Kemp, Congress modified Section 3 requirements. The thrust of the changes was to expand Section 3 obligations on public housing agencies to apply to operations and maintenance positions and contracts. At the same time, however, the amendments limited the obligations that applied to community development funding and the new HOME block grant to funds used for construction activities.

[25] Congress could also consider including recipients of Department of Agriculture rural rental housing assistance in the preference pyramid, if the Department of Agriculture's housing programs were made subject to Section 3.

[26] More than 300,000 public housing units are in developments in which residents are predominantly elderly or disabled. Since these residents are unlikely to work, no federal savings can be captured from increased earnings that lead to lower rent subsidies. Ensuring that other HUD-assisted households have access to employment opportunities at these developments is important if HUD is to capture those savings.

In communities with no public housing, CDBG represents the primary source of Section 3 employment opportunities. Without the benefit of this preference pyramid, federally assisted households fail to benefit from the employment opportunities created by the $300 million in CDBG expenditures that these communities make each year.[27]

ELOA (the draft Velasquez legislation) would revise the current preference pyramid to include all recipients of HUD housing assistance.[28] Revising the pyramid would make Section 3 a more powerful tool to expand opportunity to socially and historically disadvantaged groups. And because Section 3 — unlike other initiatives to accomplish these goals — is based on income rather than race or gender, it is more likely to withstand any legal challenges.[29]

3. Build Capacity at Grantees and Through Collaboration with Workforce Agencies

The preceding recommendations can have only limited success unless HUD also helps build the capacity of its grantees. The lack of grantee capacity to perform Section 3-related tasks is the single biggest impediment to effective implementation.

While the provision of job training and employment services is central to the mission of Section 3, it is *not* central to the mission of most public housing agencies or local governments. As a result, even the best-intentioned grantees generally are unable to perform essential tasks efficiently, such as coordinating employment services for Section 3 residents or providing job training. (Some agencies are capable of performing some of these tasks; in these instances, HUD should encourage other grantees in the region to tap into that capacity.)

To provide job training, policymakers should look outside of the housing "silo" to the workforce investment system. It makes more sense to access an existing system than to create a duplicative one within HUD grantees. Building job training capacity would not only facilitate compliance with Section 3 requirements but also benefit low-income people by enhancing their long-term employability. Evaluations of Section 3 implementation have found that residents have difficulty making the transition from the short-term employment afforded by the program to long-term employment. Providing job training to residents can help address these issues.

Efforts to build capacity for Section 3 implementation should:

- **Establish Section 3 coordinator positions at the local level.** One of the recurring "best practices" in successful Section 3 implementation plans is the creation of Section 3 coordinators.

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[27] CBPP estimate based on CDBG allocations and Voucher Management System data.

[28] ELOA would grant the preference to assisted households "who live in the service area or neighborhood where the assistance is being expended." ELOA differs from the recommendation made here in that it gives no preference to assisted households when the expenditure is made outside their neighborhood. Still, Section 8-assisted households who live in public housing service areas could benefit from the ELOA provision. Nearly $2 billion in annual public housing capital investment occurs in areas served by agencies that administer both public housing and a Section 8 voucher program (CBPP estimate based on Public Housing Capital Grant and Voucher Management System data).

[29] Most recipients of federal rental assistance are poor. A small share, however, are not. For example, 10 percent of families in public housing and 4 percent of families in the housing voucher program have incomes over 50 percent of the area median income. HUD 2010 Budget, Congressional Justifications, pp. H-3 and F-4. It may make sense to impose an income criteria on the preference for federally-assisted households for opportunities outside of the development in which they reside.

Coordinators do the daily work of linking Section 3 residents with employment opportunities created by federal housing investments: making Section 3 residents aware of job openings, facilitating the qualification process, and interacting with contractors. ELOA would require each HUD grantee to designate a Section 3 coordinator.

While coordinators are important, the ELOA requirement may be an inefficient means to accomplish the goal. Particularly in areas with multiple smaller grantees, HUD should encourage agencies to partner with one another to take advantage of economies of scale to reduce costs. Even for large recipients, partnership with other agencies to have one agency serve as the Section 3 coordinator for all HUD grantees in the area is valuable because it creates a central contact for residents. This is particularly desirable in metropolitan areas, where eligible Section 3 residents can come from any jurisdiction in the area.

HUD should explore mechanisms to provide federal funding for Section 3 coordinators. It could incorporate their cost into the annual public housing operating subsidy formula. To encourage smaller grantees to collaborate, HUD might fund coordinators based on the amount of covered HUD funding made available in an area through different programs, and allow grantees in an area to compete for the additional funding. Where CDBG recipients perform coordination functions for other HUD grantees, Congress could allow HUD not to count these costs towards the CDBG limit on administrative and planning expenses.[30]

- **Use the workforce investment system to provide job training services.** Many residents lack the specialized skills needed for some Section 3 jobs, especially construction. Providing them with training and apprenticeships opens these opportunities, while also improving their potential long-term earnings and employment success.

  Since public housing agencies and local governments generally are ill-suited to meet Section 3's job training requirements, recipients should tap into the capacity of local workforce investment boards for these services. Created by the Workforce Investment Act to take primary responsibility for workforce services, local boards administer "one-stop centers" that provide unemployed and underemployed adults with training opportunities, career counseling, and linkages to employers. Yet workforce boards have played no formal role in Section 3 implementation. The recent joint letter from Secretaries Donovan and Solis to public housing agencies and workforce investment boards recognizes the need for greater cooperation to expand HUD-assisted residents' economic opportunities through programs covered by Section 3 and more broadly in "green jobs" funded through the recovery act.

  When it reauthorizes the Workforce Investment Act (which may occur this year), Congress should mandate that local workforce boards become responsible for Section 3 job training requirements.[31] Changes in how local boards administer job training vouchers and the appointment of dedicated

[30] CDBG recipients may not spend more than 20 percent of their grants on administrative and planning expenses. This cap is not included in the authorizing statute, but Congress has included it in annual appropriations acts since 1978.

[31] ELOA requires that job training be provided by programs "approved" by some level of government or by an endorsed trade association, but it does not explicitly mandate the involvement of the workforce investment system. If ELOA were to include changes to the Workforce Investment Act, the legislation likely would have to be considered by the Education and Labor Committee, as well as the housing committees (Financial Services in the House and Banking in the Senate).

Section 3 staff at workforce agencies may be necessary. Additional funds may be needed for these purposes.[32]

Concurrently, HUD should direct its grantees to develop coordination plans with workforce investment boards, and the Administration should consider further parallel changes in housing and workforce development policy that would foster collaboration between the relevant agencies. Such policy changes should address the apparent lack of solid performance by many local workforce boards in delivering training opportunities to low-income residents of assisted housing.[33]

Many workforce boards are regional in nature, allowing them to create economies of scale and respond to Section 3's metropolitan mandate. (Any low-income resident of a metropolitan area that contains a Section 3 project is eligible for Section 3 resident status, regardless of the particular jurisdiction in which he or she lives.) Nearly 70 percent of the more than 600 local boards have jurisdiction over more than one county; another 25 percent are countywide and generally cover a number of municipalities.[34] Boards in 39 regions are already undertaking enhanced regional workforce development initiatives, some of them crossing state lines.[35] Capitalizing on this regional training system would be simpler, less costly, and more effective than requiring each of the more than 4,000 HUD grantees to develop its own training capacity.

Conclusion

Section 3 aims to leverage federal investments in housing and community development programs to help low-income people make the transition to permanent, decent-paying jobs in the private sector and thereby to reduce poverty. The reforms described above would help accomplish that goal by allowing more residents of low-income communities generally — and more people who live in assisted housing in particular — to build job histories and obtain the jobs experience and skills they need to succeed in the labor market. Strengthening Section 3 would be consistent with the Obama Administration's commitments to make job training available to those who need it most and to create a path of economic opportunity for Americans struggling with unemployment and low incomes.

[32] Workforce agencies have suffered years of budget cuts (although they received substantial funding in the stimulus package). They may be reluctant or unable to provide Section 3-specific services without additional funding.

[28] For a review of ways that workforce investment agencies could better serve low-income individuals, see Allegra Baider, "Congressional Action Needed to Ensure Low Income Adults Receive Critical Employment and Training Services under the Workforce Investment Act," Center for Law and Social Policy, 2008.

[34] Authors' calculation.

[35] U.S. Department of Labor Employment and Training Administration, "WIRED," http://www.doleta.gov/wired.