

**ALBANY HOUSING AUTHORITY
200 SOUTH PEARL STREET
ALBANY, NY 12202**



ALBANY HOUSING

AUTHORITY

Section 3 Participation Plan

2018

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INTRODUCTORY STATEMENT

Albany Housing Authority will, to the greatest extent feasible, attempt to offer training and employment skill building programs for the residents of public housing in Albany and will make a good faith effort to recruit as many lower income residents as possible for employment and instructional positions and contract opportunities in an effort to provide economic opportunities for area residents and rea business concerns, in accordance with Section 3 of the Housing and Urban Development Act of 1968.

It will be the responsibility of the Albany Housing Authority to assure that any Section 3 covered project or program will be identified and monitored as necessary to assure that all mandates of equal employment and training opportunities are met as required under the statute.

PART A – GENERAL PROVISIONS

I. Purpose

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons.

For the purpose of the Albany Housing Authority, Section 3 applies to training, employment, and contracting and other economic opportunities arising from the expenditure of the following public housing assistance:

1. Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);
2. Operating assistance provided pursuant to section 9 of the 1937 Act;
3. Modernization assistance provided to section 14 of the 1937 Act.

II. Definitions

The Section 3 regulation acknowledges that HUD funding typically results in projects/activities that generate new contracting, employment, and other economic opportunities that not only impact bricks and mortar, but also create a multiplier effect for local housing providers and businesses that provide goods and services.

As used in the statute the following program terms and definitions will apply:

EMPLOYMENT OPPORTUNITIES GENERATED BY SECTION 3 COVERED ASSISTANCE means ALL employment opportunities generated by the expenditure of Section 3 covered activities, including management and administrative jobs connected with Section 3 covered projects. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

HUD means the United States Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this Program.

HUD YOUTHBUILD PROGRAMS means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992, and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing homeless individuals and members of low and very low-income families.

NEW HIRES means full-time employees for permanent, temporary or seasonal employment opportunities.

RECIPIENT means any entity which receives Section 3 covered assistance, from Albany Housing Authority and includes, but is not limited to, any unit of local government 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.

SECTION 3 COVERED PROJECT means the construction, reconstruction, conversion or rehabilitation of housing, including reduction and abatement of lead-based paint hazards, and other public construction which includes buildings or improvements (regardless of ownership) assisted with housing and community development assistance.

SECTION 3 RESIDENT means:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local income criteria of low- or very low-income.
 - a. A low-income person, defined as families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families
 - b. A very low-income person, defined as families (including single persons) whose income does not exceed 50 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

SECTION 3 BUSINESS CONCERN means a business concern:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

SECTION 3 JOINT VENTURE means an association of business concerns, one of which qualifies as a Section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 business concern:

1. Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
2. Performs at least 25% of the work and is contractually entitled to compensation proportionate to its work.

SUBCONTRACTOR means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

III. Certification

A. Albany Housing Authority certifies that it will make all feasible efforts, under its public housing programs to direct its endeavors to provide training and employment opportunities to Section 3 residents in the following order of preference as required by the statute as follows:

1. Residents of the housing development which is being developed
2. Other Public Housing Authority residents
3. Low income residents of the City of Albany
4. City of Albany residents receiving Public Assistance or Food Stamps
5. Unemployment residents of the City of Albany
6. HUD YouthBuild Participants
7. Returning Veterans

B. Albany Housing Authority will provide a certification process which results in the creation of a database of Section 3 certified residents for utilization in Section 3 projects.

C. Require that, to the greatest extent feasible (as defined by the numerical goals), contracts are awarded to Section 3 area business concerns for work in connection 3 covered projects.

IV. Section 3 Clause

The incorporation of the Section 3 clause is required for every party involved in a Section 3 covered project.

SECTION 3 CLAUSE

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR PART 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract

certify that they are under no contractual or other impediment that would prevent them from complying with part 135 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person (s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. The Contractor agrees to post "new hire" positions with the tenant Leadership Council, the Urban League, and the City of Albany Equal Employment Office/ Fair Housing Office.

V. Applicability

Applicability of Section 3 to Public Housing Assistance

The requirements of Section 3 apply to all contractors and subcontracts performing work in connection with projects and activities funded by public housing assistance, regardless of the amount of the contract or subcontract.

Applicability of Section 3 to Housing and Community Development Assistance

The requirements of Section 3 apply to recipients of HUD Housing and Community Development funding exceeding **\$200,000**.

Section 3 does not apply on a “per-project” basis, whenever any portion of HUD funding is invested into projects involving housing construction, demolition, rehabilitation, or other public construction (i.e., roads, sewers, community centers, etc.), the requirements of Section 3 apply.

Further, contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered projects/activities, but no individual contract exceeds \$100,000, the requirements of Section 3 only apply to the recipient. Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses.

State and County agencies that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. The state or county must inform its subrecipients about the requirements of Section 3; assist them and their contractors with achieving compliance; and monitor their performance with respect to the objectives and requirements of Section 3.

PART B – ECONOMIC OPPORTUNITIES FOR SECTION 3 RESIDENTS AND SECTION 3 BUSINESS CONCERNS

I. Numerical Goals

Numerical goals are set for in Section 3 regulations which must be applied to all new hires on Section 3 covered assistance projects.

The Albany Housing Authority, a recipient of assistance from the United States Department of Housing and Urban Development demonstrates its compliance with the “greatest extent feasible” requirement of 24 CFR part 135 by applying numerical goals as set forth in Section 3, and to be applied to all new hires on Section 3 covered assistance. Efforts to employ Section 3 residents should be made at all job levels.

The goals for training and hiring are as follows:

- (1) 30% of new hires must be Section 3 qualified.

Efforts to award contracts to Section 3 business concerns will be based on the following numerical goals:

- (1) At least 10% of the total dollar amount of all Section 3 covered contracts for building trade work for maintenance, repair, modernization or development of public housing or for building trade work arising in connection with housing rehabilitation, housing construction and other public housing construction; and
- (2) At least 3% of the total dollar amount non-construction contracts.

Contractors and subcontractors are required to make every effort to meet the AHA’s numerical hiring goals of having Section 3 qualified employees make up 30% of their total new-hires. Firms must seek to maintain this percentage throughout the life of the project. If these goals are not met, the contractors are expected to show documentation demonstrating their efforts to hire Section 3 candidates by exhausting all available hiring sources. While a contractor receives credit for hiring low-income residents of Albany, first priority should be given to residents of the Albany Housing Authority. This includes residents in both the public housing and Section 8 programs.

The means by which these goals are to be achieved includes but is not limited to:

- (1) Utilize the database created to canvas those who are already Section 3 certified;
- (2) Participate in all public events that advertise the upcoming project and hiring opportunities;

- (3) Notify the potential contractors of the Section 3 requirements, and incorporating the Section 3 clause into all solicitations and contracts;
- (4) Work to successfully obtain the compliance of contractors and subcontractors to the requirements and refraining from entering into any contracts with parties known to violate the Section 3 rules and regulations;
- (5) Incorporate an Affirmative Action Plan to facilitate the training and employment of Section 3 business concerns; and
- (6) Adopt training goals for ALL contractors on a Section 3 covered project:
 - (I) When the work force of a contractor reaches 4 workers, at least 1 of those persons shall be a Section 3 resident who is enrolled in an approved program certified by the New York State Department of Labor or the United States Department of Labor, Bureau of Apprenticeship and Training.
 - (II) When the work force of the contractor reaches 8 workers, at least 2 of those persons shall be Section 3 residents who are enrolled in an approved program certified by the New York State Department of Labor or the United States Department of Labor, Bureau of Apprenticeship and Training.
 - (III) When the work force of the contractor reaches 12 worker, at least 3 of those persons shall be Section 3 residents who are enrolled in an approved program certified by the New York State Department of Labor or the United States Department of Labor, Bureau of Apprenticeship and Training.

II. Preference for Section 3 Residents in Training and Employment

- (1) Public housing programs:
 - (I) Residents of the housing development (s) for which the Section 3 covered assistance is expended;
 - (II) Residents of other housing developments managed by the Housing Authority that is expending the Section 3 covered housing assistance;
 - (III) Participants in HUD YouthBuild programs being carried out in the City of Albany;

(IV) Other Section 3 residents as outlined in Section 3 Certifications.

V. III. Preference for Section 3 Business Concerns in Contracting Opportunities

(1) Public Housing programs:

(I) Business concerns that are 51% or more owned by residents of the housing development or developments in which the Section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30% of these persons as employees;

(II) Business concerns that are 51% or more owned by residents of other housing developments or developments managed by the Housing Authority that is expending the Section 3 covered assistance, or whose full time, permanent workforce includes 30% of these persons as employees;

(III) HUD YouthBuild programs being carried out in the City Of Albany;

(IV) Business concerns that are 51% or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than 30% Section 3 residents, or that subcontract in excess of 25% of the total amount subcontracted to business concerns identified in paragraphs (I) & (II).

These preference ratings for Section 3 business concerns are based on the ability of the contractor or subcontractor to perform successfully under the terms and requirements of a given contract and be able to meet the terms and conditions set forth in the HUD General Conditions Statement, or section of the Contract.

◇ SECTION 3 AFFIRMATIVE ACTION PLAN

The following plan will detail the means by which the Albany Housing Authority will comply with the Section 3 plan as outlined by HUD.

All programs and opportunities for training and employment for residents will be covered by a variety of outreach methods.

1. All Authority printed materials including but not limited to the Albany Housing Authority Newsletter, paid advertising, public notices, legal notices, requests for proposals bid solicitations, brochures, will include the equal housing opportunity statement, slogan or logo as required by 24 CFR Part 109.
2. Printed information in the form of legal notices, bids, RFP's, etc. will be published, at minimum, in the Times Union (local, widest circulation newspaper) as well as one additional printed media source.
3. Legal notices, bid solicitations, bid specifications, contract documents and contract files are to include EEO, EO 11246, Section 3 and MBE provisions. Pre-construction conference records will be maintained in contracting files and will include any and all information issued pertaining to the above provisions.
4. Bid specifications will include a list of community contact names, addresses and phone numbers to assist contractors in their Section 3, Minority Business Enterprise, minority and resident employment outreach, along with a letter from the Director of EEO, Fair Housing Office, Albany, advertising assistance of their office.
5. Appropriate signage at the construction project indicating contact information for employment and training opportunities.

IV. Programs and Opportunities for Training and Employment of Section 3 Residents

Programs and opportunities for training and employment of Section 3 residents will be achieved through the following methods in order to fulfill HUD's stated numerical goals:

- 30 percent of new hires,
- 10 percent of construction contracts, and
- 3 percent of non-construction contracts

The Albany Housing Authority will undertake:

- **Outreach**

- Coordinate with the General Contractor to establish and achieve utilization goals with the intention of maximizing participation on the Project.
- Develop and maintain a Section 3 employer and certified M/WBE data base.
- Coordinate outreach efforts with local employment and supportive services providers and government agencies which serve the same disadvantaged population.
- Coordinate outreach efforts to businesses with local trade organizations and business associations.
- Facilitate qualification of Section 3 businesses and certification of M/WBE's prior to placement on the list and referral to the General Contractor.

- **Placement**

- Develop opportunities with the General Contractor for individual employment and business contracts throughout the Project with the objective of exceeding minimum goals and maximizing participation. Participate in pre-bid meetings to describe pre-employment training and utilization goals and advocate for the creation of employment opportunities.

- **Advertising**

- Advertising the training and employment positions by distributing flyers (including what positions need to be filled, qualifications, and where to obtain further information), to every occupied dwelling unit in the housing development where Section 3 residents may reside.
- Advertising the training and employment positions by posting flyers, (including what positions need to be filled, qualifications, and where to obtain further information), in the common areas or other prominent areas of the housing developments.
- Advertising the jobs to be filled through the local media.
- Albany Housing Authority will sponsor job informational sessions as the need arises offering assistance to Section 3 residents in completing job applications and preparing for interviews where applicable.

V. Efforts to Award Contracts and Subcontracts to Section 3 Business Concerns

- (1) Advising smaller or newly established Section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance such as with the local Small Business Association or SCORE.
- (2) Carry out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- (3) Support businesses which provide economic opportunities to low income persons by linking them to the support services available through SBA, The Department of Commerce, and The Albany-Colonie Regional Chamber of Commerce.
- (4) Actively support joint ventures with Section 3 business concerns.
- (5) Actively support the development and maintenance of business incubators which assist Section 3 business concerns.
- (6) Where applicable, provide pre-bid meetings which would inform Section 3 business concerns of upcoming contracts for bidding.
- (7) Make available to Section 3 business concerns will be referred to appropriate agencies providing similar services.
- (8) Advertise contracting opportunities by posting notices in prominent places in the common areas of the developments owned and managed by AHA.

VI. Preference for Section 3 Business concerns in Contracting Opportunities

- (1) Business concerns that are 51% or more owned by residents of the housing development or developments which the Section 3 covered assistance, or whose fulltime, permanent workforce includes 30% of these persons as employees;
- (2) Business concerns that are 51% or more owned by residents of other housing developments managed by the HA that is expending the Section 3 covered assistance, or whose fulltime permanent workforce includes 30% of these persons as employees;
- (3) Business concerns that are 51% or more owned by other low-income residents of the City of Albany.

PART C – REPORTING AND RECORD KEEPING

I. Reporting

Each recipient which receives HUD financial assistance that is subject to the requirements of this part shall submit to the Albany Housing Authority reports in such form and with such information as requested, for the purpose of determining the effectiveness of Section 3. Where the program providing the Section 3 covered assistance requires submission of an annual performance report. If the program providing the Section 3 covered assistance does not require submission of an annual performance report, the Section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier.

II. Record Keeping and Access to Records

The Albany Housing Authority and/or HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD Program under which Section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

PART D – COMPLIANCE AND REVIEW

I. General

(a) Purpose. The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's and/or the Albany Housing Authority review of a recipient's or contractor's compliance with the regulations at 24 CFR part 135.

(b) Definitions. For purposes of this subpart:

(1) Complaint means an allegation of noncompliance with regulations of this part made in the form described in 135.76 (d).

(2) Complainant means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) Non-compliance with Section 3 means failure by a recipient or contractor to comply with the requirements of this part.

(4) Respondent means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in 135.7 which includes the Albany Housing Authority.

II. Cooperation in Achieving Compliance

(a) The Assistant Secretary and the Albany Housing Authority recognize that the success of ensuring the Section 3 residents and Section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary and the Albany Housing Authority in Section 3 compliance reviews, in investigations of allegations of noncompliance made under 135.76 and with the distribution and collection of data and information that the Albany Housing Authority may require in connection with achieving the economic objectives of Section 3.

(b) The recipient or contractor shall refrain from entering into a contract with any contractor after notification to the recipient or contractor by HUD that the contractor by HUD that the contractor has been found in violation of the regulations at 24 CFR part 135. The provisions of 24 CFR part 135 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period debarment, suspension or otherwise ineligible status.

III. Section 3 Compliance Review Procedures

(a) Compliance Reviews by the Assistant Secretary and the Albany Housing Authority. The Assistant Secretary and/or the Albany Housing Authority shall periodically conduct Section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations under 24 CFR part 135.

(b) Form of Compliance Review. A Section 3 compliance review shall consist of a comprehensive analysis and evaluation for the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which Section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of Section 3.

(c) Where Compliance Review Reveals Noncompliance With Section 3 By Recipients or Contractor. Where the Section 3 compliance review reveals that a recipient or contractor has not complied with Section 3, the Assistant Secretary or Albany Housing Authority shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies are to be corrected. HUD or the Albany Housing Authority shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) Continuing Noncompliance by Recipient or Contractor. A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract (through which HUD assistance is provided governing the HUD program under which HUD financial assistance is also provided.) HUD or the Albany Housing Authority will notify the recipient or contractor of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. **Debarment, suspension and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.**

(e) Conducting Compliance Review Before the Award of Assistance. Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary or Albany Housing Authority has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) Consideration of Complaints During Compliance Review. Complaints alleging noncompliance with Section 3, as provided in 135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

IV. Filing and Processing Complaints

(a) Who May File a Complaint. The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary, a complaint alleging noncompliance with Section 3:

(1) Any Section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of Section 3 covered assistance with a recipient or contractor, or by a representative who is not a Section 3 resident but who represents one or more Section 3 residents.

(2) Any Section 3 business concern on behalf of itself, or as a representative of other Section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of Section 3 covered assistance from a recipient or contractor, or by an individual representative of Section 3 business concerns.

(b) Where to File A Complaint. A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C., 20410.

(c) Time of Filing. A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(1) Where a complaint alleges noncompliance with Section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(2) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary and/or the Albany Housing Authority within sixty (60) days of the date of the request, the complaint may be closed.

(d) Contents of Complaint

(1) Written complaints. Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged non-compliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) Amendment of complaint. Complaints may be reasonable and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) Resolution of Complaint by Recipient

(1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as non-compliance with Section 3. If a determination is made that there is an allegation of non-compliance with Section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within thirty (30) days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) Informal Resolution of Complaint by Assistant Secretary.

(1) Dismissal of complaint. Upon receipt of the recipient's written recommendation that there is on merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of non-compliance with Section 3.

The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to represent a valid allegation of noncompliance with Section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) Informal resolution. Where the allegations in a complaint on their face, or as amplified by the statements of the complaint, present a valid allegation of noncompliance with Section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing HUD program under which the Section 3 covered assistance was provided.

(3) Effective date of informal resolution. The imposed resolution will become effective and binding at the expiration of 14 days following notification to recipient and complainant by certified mail or the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) Sanctions. Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) Investigations of Complaint. The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of Section 3 and this part.

(i) Intimidatory or Retaliatory Acts Prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) Judicial Relief. Nothing in this Part D precludes a Section 3 resident or Section 3 business concern from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.