

# **District of Columbia Housing Authority Economic Inclusion Policy**

## **Economic Inclusion Contracting Policy**

The District of Columbia Housing Authority (DCHA) has established a policy whereby any contractor engages in a DCHA Construction Project or Development Project must meet the requirements of DCHA's Economic Inclusion Policy as outlined in this document (DCHA Economic Inclusion Policy). This policy applies to DCHA Construction or Development Projects valued at \$1,000,000.00 or greater. A DCHA Construction or Development Project means a construction project with a total contract value of \$1,000,000 or more funded with funds from the DCHA; a project for the development or redevelopment of public housing with a total development cost of \$1,000,000 or more; or a project that involves the disposition of public housing property or a long-term ground lease with a term of 40 years or more with a total development cost of \$1,000,000 or more.

Contractors will provide Minority Business Enterprises (MBEs), Woman Business Enterprises (WBEs), Small Business Enterprises (SBEs), Veteran Business Enterprises (VBEs) labor surplus areas (LSAs), and Section 3 Businesses (S3Bs) with the maximum opportunity to participate in the performance of contracts awarded by DCHA.

This policy outlines the MBE/WBE/SBE/VBE/LSA/S3B policy and program compliance measures of DCHA. This document also provides guidance on when the DCHA applies the District's Small and Certified Business Enterprise Assistance Act and First Source requirements.

As a recipient of funding from the federal Department of Housing and Urban Development ("HUD") DCHA is required to adopt a Section 3 Policy. *See* [12 U.S.C. §1701u](#); [24 C.F.R. § 135.1](#) *et seq.* A copy of that policy is included as an attachment and fully incorporated as part of the DCHA Policy for Economic Inclusion.

## **Summary of Goals and Requirements**

Thirty Five Per Cent 35% of the value of a contract or development costs will be contracted to MBEs, WBEs, SBEs, VBEs, LSAs, Section 3 business concerns and resident-owned businesses.

These requirements apply to DCHA Construction or Development Projects. A DCHA Construction or Development Project means a construction project with a total contract value of \$1,000,000 or more funded with funds from the DCHA; a project for the development or redevelopment of public housing with a total development cost of \$1,000,000 or more; or a project that involves the disposition of public housing property or a long-term ground lease with a term of 40 years or more with a total development cost of \$1,000,000 or more.

If a contractor or subcontractor cannot meet the Economic Inclusion contracting requirements it must thoroughly document its inability to comply. In addition, DCHA requires contractors that failure to meet the contracting requirements set forth in this policy or in the DCHA Section 3 Policy use the following alternative measures to comply:

Contractors must contribute to DCHA's Section 3 Training Fund, which provides training and other economic opportunities for DCHA residents:

- o Trade, Construction and Rehab Contractors must contribute 2% of the total contract amount.

DCHA will primarily use the Section 3 Training Fund to pay for resident self-sufficiency programming paid Work Experience /Internship Programs, Youth Summer Employment Programs and various other employment and training programs for residents. The site in which the construction or project is occurring will receive a portion of funds generated from that respective site for programs and equipment related to resident training.

## **Definitions**

**Certified Joint Venture:** A joint venture shall be eligible for certification as a certified joint venture if the joint venture intends to submit a response to solicitation in which the joint venture will provide goods or perform services, and has a member that owns a majority or minority interest in the joint venture and meets the definition of a WBE, MBE, SBE, VBE, LSA, or S3B as defined in this Policy. A joint venture shall be certified for a specific solicitation.

**DCHA Construction or Development Project:** A DCHA Construction or Development Project means

- (a) a construction project with a total contract value of \$1,000,000 or more funded with funds from the DCHA;
- (b) a project for the development or redevelopment of public housing with a total development cost of \$1,000,00 or more; or
- (c) a project that involves the disposition of public housing property or a long-term ground lease with a term of 40 years or more with a total development cost of \$1,000,000 or more.

**Joint Venture:** A Joint Venture is an association of two or more businesses acting as a contractor or a subcontractor in carrying out all or a definite portion of a contract in which each combine its property, capital efforts, skills, and knowledge, or (2) an enterprise formed after the date of the first publication of the DCHA's request for solicitations to perform work on a contract, which, if the enterprise were continuing, would qualify as an WBE, MBE, SBE, VBE, LSA, or S3B.

**Joint Venture Agreement:** A fully executed and notarized copy of a Joint Venture Agreement shall be submitted with a bid by a certified joint venture in order to demonstrate the WBE/MBE/SBE/VBE/LSA/S3B partner's share in the ownership, control, management responsibilities, and risks in the profits generated by the enterprise.

**Housing Property:** “Housing Property” or “Housing Properties” means housing and related facilities for persons of low- and moderate-income, including housing and related facilities for the elderly, and housing and related facilities for people with disabilities; and housing, community facilities, and other properties intended to support or contribute to the financial viability of such housing and related facilities: (A) owned, operated, or managed by the DCHA, or (B) the development or administration of which is assisted by the DCHA.

**Labor Surplus Area (LSA):** A business concern which, together with its first-tier subcontractors, will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if more than 50 percent of the dollar amount of the contract will be manufactured, produced, or performed in labor surplus areas. A Labor Surplus Area is a geographic area with concentrated unemployment or underemployment or an area of labor surplus. These are geographical areas identified by the U.S. Department of Labor in accordance with 20 C.F.R. 654, Subpart A, and listed annually by federal register notice and on the Department of Labor website.

**Minority Business Enterprise (MBE):** A business concern that is 51% or more owned, controlled and actively operated by one or more minority persons. Minority group members include the following groups: Black Americans; Hispanic Americans; Native Americans (Alaska Natives, Native Hawaiians, or enrolled members of a Federally or State recognized Indian Tribe); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal).

**Qualified Contracts:** Qualified Contracts include contracts awarded by DCHA, contracts partially or wholly funded with HUD funds, contracts partially or wholly funded with District funds, contracts that support the development and maintenance of Housing Properties, and other contracts as deemed appropriate for application of this policy by the DCHA. DCHA shall examine and consider a contractor’s potential for success in meeting these requirements prior to acting on any proposed contract award.

**Small Business Enterprise (SBE):** The U.S. Small Business Administration defines a "small business" in terms of the number of employees over the past year, or average annual receipts over the past three years. Size standards vary by industry, and are available here: <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

**Subcontractor:** 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.

**Veteran:** The term “veteran” means a person who served in the active military, naval, or air

service, and who was discharged or released therefrom under conditions other than dishonorable.

**Veteran-Owned Business Enterprise (VBE):** A business concern that is 51% or more owned and operated by one or more veterans, as defined in this policy. In the case of any publicly owned business, a business concern wherein at least 51% of the stock is owned by one or more veterans and one or more veterans control the management and daily operations.

**Woman Business Enterprise (WBE):** A business concern that is 51% or more owned, controlled, and actively operated by one or more women.

**Economic Inclusion Policy Statement**

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and as implemented in 24 C.F.R. Part 200, Section 3 of the U.S. Housing Act of 1937 as implemented by 24 C.F.R. Part 135, DCHA affirms its commitment to ensuring that all contractors and any tier subcontractors involved in a DCHA Construction or Development Project with a value of \$1,000,000 or more shall take all necessary and reasonable steps to provide MBE, WBE, SBE, VBE or LSAs with the maximum opportunity to participate in the performance contracts awarded by DCHA.

The goal of this policy is to require best efforts to reach a reasonable level of success in the utilization of eligible businesses by contractors working on Qualified Contracts. DCHA shall examine and consider a contractor’s potential for success in meeting these requirements prior to acting on any proposed contract award.

The DCHA’s economic inclusion policy includes the full implementation of DCHA’s Section 3 policy, which is included as an addendum to this policy.

As described in the table below, DCHA’s Economic Inclusion Policy, Section 3, the District’s DSLBDE Policy and First Source policies apply to Qualified Projects, depending upon the funding source.

| <b>Funding Source</b>                  | <b>DCHA EI or District DSLBDE applies?</b>        | <b>Section 3 or First Source?</b>   |
|--|---|---|
| Federal Funds, only                    | DCHA Economic Inclusion Policy                    | Section 3   |
| District Funds, only                   | District Small and Certified Business Enterprises | First Source (but DCHA Section 3 individuals may have first access to job openings) |
| No Federal Funds and No District Funds | District Small and Certified Business Enterprises | Section 3   |
| Federal Funds and                      | DCHA Economic Inclusion Policy                    | Section 3   |

|                   |  |  |
|-------------------|--|--|
| District<br>Funds |  |  |
|-------------------|--|--|

In response to any Request for Proposals (RFP) or a Request for Qualifications (RFQ) a DCHA-Construction Project or Development Project with a projected contract amount of greater than \$1,000,000, or a total development cost of greater than \$1,000,000 DCHA will require submission of evidence and certification that the bidder will comply with the requirements of this policy.

**Numerical Goal**

DCHA requires that all contractors and any tier subcontractors shall direct their subcontracting opportunities to MBEs/WBEs/SBEs/VBEs/LSAs/S3B as follows:

35% of the total contract value to MBEs/WBEs/SBEs/VBEs/LSAs/S3Businesses

MBE/WBE/SBE/VBE/LSA/S3B businesses seeking a contract or subcontract shall be responsible for submitting evidence, if requested, to demonstrate to the satisfaction of the contracting party that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract.

Contractors must incorporate and enforce the provisions of this policy and numerical requirements in any and all tier subcontracts.

One hundred percent of the participation of MBE/WBE/SBE/VBE/LSA/S3B suppliers shall count towards the requirements as long as the supplier maintains an inventory and/or significantly alters the product for distribution. In cases where the MBE/WBE/SBE/VBE/LSA/S3B supplier does not maintain an inventory and/or does not significantly alter products for distribution, only 25% of the MBE/WBE/SBE/VBE/LSA/S3B supplier’s participation shall count toward the goals.

If a contractor cannot meet the hiring goals described by this Economic Inclusion Policy, it must contribute to DCHA’s Section 3 Training Fund, which provides training and other economic opportunities for DCHA residents:

- o Trade, Construction and Rehab Contractors must contribute 2% of the total contract amount.

DCHA will primarily use the Section 3 Training Fund to pay for resident self-sufficiency programming paid Work Experience/Internship Programs, Youth Summer Employment Programs and various other employment and training programs for residents. The site in which the construction or project is occurring will receive a portion of funds generated from that respective site for programs and equipment related to resident training.

**Contracting Procedures**

Businesses wishing to participate in DCHA contracts as MBEs/WBEs/SBEs/VBEs/LSAs/S3Bs must be certified by DCHA’s MBE/WBE/SBE/VBE/LSA/S3B Coordinator. Businesses claiming MBE/

WBE/SBE/VBE/LSA/S3B status must be certified in order to have their participation counted toward the contracting requirements stated herein. Interested businesses must initiate the certification process by submitting an application for certification to the Housing Authority. Applications for certification may be obtained by visiting DCHA's website at [www.dchousing.org](http://www.dchousing.org).

The procedures outlined herein shall apply to all contractors seeking contracting opportunities with the District of Columbia Housing Authority.

**Prior to Bid/Pre Certification Process:** If qualified, contractors can visit [www.dchousing.org](http://www.dchousing.org) to complete and submit a MBE/WBE/SBE/VBE/LSA/S3B Program Certification Application.

**1. Bid/Proposal Phase:** Contractors submitting bids and/or proposals to DCHA shall be required to complete and submit the following forms (Available in the Appendix):

MBE/WBE/SBE/VBE/LSA/S3B Contracting Action Plan  
Contracting Schedule  
Letter of Intent  
Statement of Understanding

**2. Pre-Award Phase:** Subsequent to the submission of bids/proposals, but prior to contract award, contractors may be requested to provide additional information regarding the submissions required in the Bid/Proposal Phase. Such requests may be made in instances where the contractor does not show sufficient detail in their required Action Plans, where the contractor's required Schedules do not reflect achievement of the minimum stated requirements, where the contractor has not identified the name of the MBE/WBE/SBE/VBE/LSA/S3B subcontractor(s) in the required Schedules and does not have signed Letters of Intent, or where it is deemed necessary by DCHA's Compliance Officer.

**3. Contract Performance Phase:** DCHA shall monitor and evaluate the contractor's compliance towards achieving the numerical goals relative to MBE/WBE/SBE/VBE/LSA/S3B contracting throughout the contract period. The contractor shall be responsible for providing the Contracting Compliance Report to DCHA, which shall be submitted no later than 4:30 p.m., on the tenth business day of each month throughout the contract period.

The contractor shall be responsible for monitoring the compliance of any tier subcontractors. In doing so, the contractor shall require monthly reports, in the format provided, from its lower tier subcontractors.

## **Contracting**

Target recruitment of MBEs/WBEs/SBEs/VBEs/LSAs/S3Bs by taking such steps as:

- Contact MBEs/WBEs/SBEs/LSAs/S3Bs in the DCHA's directory;
- Prominently place a notice of commitment relative to MBE/WBE/SBE/VBEs/LSAs/S3Bs contracting at the project site and other appropriate places;

- Contact DCHA for a list of certified firms;
- Contact other organizations which might be helpful in identifying MBEs/WBEs/SBEs/VBEs/LSAs/S3Bs;
- Advertise in the local media.

Make every effort to use MBEs/WBEs/SBEs/VBEs/LSAs included in DCHA's directory of certified firms. Such efforts may include, but are not limited to:

- Using multiple firms for the same type of work (i.e. two drywall subcontractors or several plumbing suppliers);
- Exercise flexibility in utilizing MBEs/WBEs/SBEs/VBEs/LSAs/S3Bs in other or additional areas than initially proposed if necessary to meet the program objectives.

Provide ongoing monitoring of the program by the contractor and its subcontractors to ensure compliance and to identify problems or difficulties in meeting the requirements, and implement strategies to overcome the problems. Where problems or difficulties in meeting the requirements are encountered, take aggressive efforts to rectify the matter. Such action shall include, but not be limited to convening a meeting with DCHA to advise it of the problems and proposed solutions. DCHA will offer its assistance whenever possible.

Where feasible, adjust the initial MBE/WBE/SBE/VBE/LSA/S3B Contracting Action Plan to increase the use of Section 3 business concerns in categories where the Plan has been successful, to compensate for those categories of lower success.

DCHA may award not less than ten percent (10%) and up to twenty percent (20%) of the total points for a procurement evaluation based upon the respondents stated goals with the Economic Inclusion Plan, including points for compliance with the Section 3 Policy.

### **Contracting and Compliance Forms**

1. MBE/WBE/SBE/VBE/LSA Contracting Action Plan
2. Contracting Schedule
3. Letter of Intent
4. Statement of Understanding
5. Contractor Compliance Report

### **Compliance Requirements**

If a contractor or subcontractor cannot meet the MBE/WBE/SBE/VBE/LSA/S3B contracting requirements it must thoroughly document its inability to comply. DCHA may determine a contractor non-responsive and not enter into a contract if the contractor did not make best efforts to comply with this policy after the award of the contract and before the final execution of the contract.

Failure by a contractor to fulfill its goals as described in its Contracting Action Plan and other submitted materials constitutes a material breach of the contract. It may lead to suspension or

termination of the contract in whole or in part, it may lead to suspension or debarment of the contractor from future contracting with the DCHA for a specified period of time commensurate with the degree of noncompliance. DCHA may also elect to pursue liquidated damages.

For each one percent (or fraction thereof) of shortfall toward the Economic Inclusion goal, one percent of the base bid for the contract awarded may be surrendered by the contractor in payment as liquidated damages, if such damages are assessed or may be deducted from pay requests.

### **Subcontracting Requirements**

All DCHA Construction or Development projects over \$1,000,000, shall require 35% subcontracting to MBEs, WBEs, SBEs, VBEs, S3Bs certified by DCHA. The 35% requirement is not limited to the amount of the Authority subsidy.

A DCHA Construction or Development Project means a construction project with a total contract value of \$1,000,000 or more funded with funds from the DCHA, or a project for the development or redevelopment of public housing, or a project that involves the disposition of public housing property or a long-term ground lease with a term of 40 years or more with a total development cost of \$1,000,000 or more.

### **Addendum**

DCHA Section 3 Compliance Plan