



Jim Haining <jhaining@gmail.com>

FROM MIKE GIFFORD: Section 3 Final Rule [IMPORTANT NOTICE]

1 message

HAPA <mgifford@procurementassistance.org>
Reply-To: HAPA <mgifford@procurementassistance.org>
To: jhaining@gmail.com

Fri, Dec 4, 2020 at 6:45 PM

**Housing Agency Procurement Assistance**

Housing Agency Procurement Assistance

Dear Housing Professional,

I am distributing this notice, and the following and attached information, to housing agencies nationwide as a public service. I will follow with several more related notices over the next few days.

I hereby again state that the recent MAJOR revisions to the Section 3 program are VERY impactful on each housing agency's program (at least those agencies with 250 housing units or greater--it is my understanding that the new Section 3 Final Rule DOES NOT apply to Section 8 HCV's, but DOES apply to both PHA units and RAD units). The changes to the program are substantial and, for me (and I bet for you also!), difficult to understand and fully comprehend! What I do know is that there are two very impactful dates pertaining to this issue:

November 30, 2020: Per HUD Notice, the requirements of the Section 3 Final Rule officially apply; and

July 31, 2021 (or a date thereafter, based on your FYE): Certain reporting requirements and other requirements "kick in" for each housing agency.

I have previously, and continue to forward information pertaining to Section 3 that I have been receiving. Much of this information is generated by Keith Swiney of Motivation, Inc., who is a nationally-known SME (Subject Matter Expert) pertaining to Section 3. By forwarding this information I am NOT endorsing his services or products (I do not endorse anyone). I am forwarding this information because he is the only source I have for this information. I am reviewing that information, and for me personally, I am considering the information for my direct clients that have retained me for procurement consulting. Each housing agency has to make its own determination pertaining to the Section 3 information circulating and I recommend that each of you search the Internet pertaining to his issue to obtain more information. The Notices that I have recently issued pertaining to this issue can be found within the "Notices Issued" link within the menu of my website, procurementassistance.org.

My main goal in forwarding information pertaining to the Section 3 Final Rule and its applicability to your Agency is to keep you informed and to encourage ALL housing agencies to not "put their head in the sand" and ignore this issue. The Final Rule requires most housing agencies (250 units or greater?) to take steps now to conform and comply to the requirements of the Final Rule. In my opinion, delaying action may create risk for your agency.

As for the services I provide, because I do not yet have a clear understanding as to this Section 3 Final Rule, I will not be providing any services pertaining to Section 3. Motivation, Inc. is available, and I am told there are others, though I have not received approval from those firms to mention them in this notice.

For your review I have attached hereto a copy of the Section 3 Final Rule. Warning: I have read this Rule several times, but it is very difficult for me to understand or comprehend in a practical manner all of the ramifications thereto. I am confident that you may be able to gain this practical understanding by consulting with another consultant who may have a greater understanding of the Section 3 Final Rule than I do.

I hope that this helps.

Regards,
Mike Gifford, C.P.M., CPSD
Housing Agency Procurement Assistance (HAPA)

BEGINNING OF MESSAGE



Good Day Section 3 Professionals:

HUD released a notice to all Public Housing Leaders yesterday (December 1, 2020) that has caused some massive confusion. That notice was not pertinent to Community Development funded projects at all. That notice made clear that the old rule at 24 CFR Part 135 has been replaced by Part 75 as of November 30, 2020. However, the notice failed to provide any guidance on the PIH projects funded in part with Community Development or Disaster Recovery funds.

The notice does allow PHA's to continue to track their existing projects under part 135, but failed to tell the PHA's that there is currently no requirement to report that data, so their efforts are in vain. If you have a mixed funded project involving a PHA and Community Development funds like HOME, CDBG, 108 Loans or others, please contact the funding entity to confirm what their requirements are the project s you don't end up doing the wrong thing.

I recognize there was a loud minority of PHA's that were quite bent out of shape about the transition to Hours Worked in the midst of an existing project, and that lobby persuaded HUD to release this ill conceived and incomplete notice. However, please keep in mind that the HUD Form 60002 Report also known as SPEARS expired November 30, 2018 and HUD never renewed that report.

Thus there is NO OBLIGATION by any HUD Section 3 funded recipient to legally report any Section 3 data under the old part 135 rule despite what the notice states. Moreover, because there is no requirement to collect that data, HUD is sending those PHA's that chose to waste their time on the old rule falling fast down a rabbit hole with no bottom.

Rather than continue to worry about the old requirements that very few PHA's every met, PHA's should be spending their time during this transition period focusing on the new Hours Worked Benchmarks. Those projects that are currently working will provide amazing data for the recipient agency as to what is possible, impossible, and what changes in protocols need to be made to comply.

HUD stated very clearly in the final rule that it will be relying on the data from the first three years to decide what if any changes need to be made to the Benchmarks. If recipients are waiting valuable time worrying about data to no-where, rather than collecting valuable information about the challenges they face in meeting what all have stated will be very difficult Benchmarks, than they are skewing the data badly to HUD's favor. Meeting the 25% and 5% of hours worked will prove messy and challenging for all, so the more data you all have to substantiate your case the better.

This is just my advice, but I strongly recommend the PHA's that think chasing an old, outdated, and clearly failed Section 3 regulation should rethink their efforts and use of resources to convert as HUD state in the notice, by altering the agreements toward the new rule.

By the way, HUD also failed to convey where that data will be reported if at all. That concerns me and should you as well. Don't just read what HUD's legal team wrote and accept it for what it says without asking about what it doesn't. This is not a one-size fits all opportunity, so proceed with caution. Use the transition period wisely. It will NOT cause your agency or project any harm, so why not be productive instead of afraid.

FREE SECTION 3 Q & A SESSIONS

Realizing that there are far more questions than answers right now about the new rule and what to expect, I will be hosting two open Q & A sessions this month for anyone interested in doing a deeper dive into the transition to Hours Worked and how it will affect the recipients, contractors, and the true beneficiaries, Section 3 residents. In order to allow a reasonable communication stream, the sessions will be limited to the first 50 people registered.

For simplicity, if you want to participate in one of the sessions, you must send an email directly to me

at keiths@motivation-inc.com. I will manage the list personally and provide the dial-in-number for the session you request to participate. There is no fee, however, I do ask that only one person per agency/ city/ county/ state/ company or office register so as many different groups can be represented. If there is a true need, I can add a session based on my schedule and demand.

Section 3 Q & A Session #1

December 9, 2020 2:00PM - 4:00PM Eastern

Section 3 Q & A Session #2

December 10, 2020 2:45PM - 4:45PM Eastern

If there is a cancellation, I will allow someone to fill that spot based on the date and time of the email requesting participation.

This will **NOT** be a webinar event so you can call from wherever you are to participate. After all it is the holiday season and someone has to do the shopping.

Be Well and Informed

As always, I'm happy to answer your questions by reaching out to me directly at 678-794-3066 or keiths@motivation-inc.com

Visit our Website to View Resources & Services


END OF MESSAGE

ABOUT MIKE GIFFORD: Please feel free to visit my no-charge procurement and contracts-mentoring web site, www.procurementassistance.org. After you register, you will receive a username and password to access the material and documents on the website.

I have a consulting practice providing procurement- and contracts-related mentoring, training, and technical assistance to housing agencies. I help housing agencies conduct procurement and contracts in a HUD-compliant and "best practice" manner. [Click here](#) to see my full resume. Please do not hesitate to contact me if you have any questions or concerns pertaining to procurement and contracts (initial answering of questions is "no charge"). As I am either on-the-road or on the phone a lot, an initial contact by e-mail is best; please be sure to include your return telephone number (office/cellular) so that I can call you back.

This email was sent to jhaining@gmail.com by HAPA
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