



ADVANCING COMMUNITY EMPLOYMENT (ACE) PROGRAM

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1. OVERVIEW

1.1. Through the Advancing Community Employment (ACE) Program, the Cuyahoga Metropolitan Housing Authority (CMHA) is revising and consolidating its existing Project Area Resident (PAR) and Section 3 Programs to streamline policies and procedures as well as incorporating HUD's 2020 changes to Section 3 regulations.

1.2. Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) with implementing regulations at 24 C.F.R. Part 75. Section 3 ensures that employment and other economic opportunities generated by certain HUD financial assistance are, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, directed to low- and very low-income persons, particularly those who receive government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

1.3. CMHA and its contractors and subcontractors will comply with HUD's Section 3 requirements when required. As such, CMHA will, to the greatest extent feasible, ensure that employment, training, contracting, and other economic opportunities are directed to low- and very low-income persons, especially those who are current CMHA residents, and to eligible businesses. CMHA will require the same of its contractors.

1.4. With this Program, CMHA does not intend for contractors and subcontractors to terminate their existing employees. Rather, CMHA encourages those contractors and subcontractors to use their best efforts to consider and hire qualified CMHA residents and other eligible Section 3 workers and targeted Section 3 workers before any other person when additional employees are needed to complete work funded by public housing financial assistance.

1.5. CMHA will apply this ACE Program to all contracts and expenditures that use HUD-assisted funding. This includes development assistance, operating funds, capital funds, and all mixed-finance development. CMHA will strive to apply this Program to the use of such HUD assistance, regardless of the amount of the expenditure or size of the contract.

1.6. According to HUD regulations, Section 3 does not apply to:

1.6.1. Material Supply Contracts;

1.6.2. Indian and Tribal Preferences; and

1.6.3. Certain other HUD assistance and Federal assistance.

1.7. But even when a CMHA expenditure is not subject to Section 3, CMHA will actively seek out opportunities to support the purpose of this Program and will encourage its contractors to do the same. As such, if a contractor fails to include Section 3 Workers and/or Section 3 Businesses in its subcontracting and participation plans (in response to a solicitation), CMHA may treat that contractor's response to the solicitation as non-responsive.

1.8. CMHA may amend this Program to ensure continued compliance with HUD's requirements and/or to reflect changes to CMHA's needs and outreach strategies.

2. ACE PROGRAM COORDINATORS

ACE Program Coordinators are central points of contact for ACE Program compliance by CMHA and its contractors and subcontractors. CMHA encourages its contractors, subcontractors, and others to reach out to ACE Coordinators with questions regarding ACE compliance by contacting them at ACE@cmha.net.

3. DEFINITIONS

3.1. 1937 Act means the United States Housing Act of 1937, 42 U.S.C. § 1437 *et seq.*

3.2. ACE Business, also known as a **Section 3 Business**, means a business concern meeting at least one of the following criteria, documented within the last six-month period:

3.2.1. It is at least 51% owned and controlled by Low- or Very Low-Income Persons;

3.2.2. Over 75% of the Labor Hours performed for the business over the prior three-month period were performed by ACE Workers; or

3.2.3. It is at least 51% owned and controlled by current Public Housing residents or residents who currently live in Section 8-Assisted Housing.¹

¹ A Business's ability to be recognized as an ACE Business will not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

3.3. ACE Coordinator is a person tasked with overseeing ACE Program and Section 3 responsibilities for CMHA.

3.4. ACE Worker, also known as a **Section 3 Worker**, means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

3.4.1. The worker is a Low or Very-Low Income Person;

3.4.2. The worker is employed by a Section 3 Business; or

3.4.3. The worker is a YouthBuild Program participant.²

3.5. Applicable Expenditure means a contract, cost, or other expenditure by CMHA that is paid for by any amount of Public Housing Financial Assistance.

3.6. CMHA means the Cuyahoga Metropolitan Housing Authority.

3.7. CMHA Resident means a person currently listed on CMHA's resident roster.

3.8. Contractor means any entity entering into a contract with CMHA to perform work in connection with an Applicable Expenditure.

3.9. HUD means the United States Department of Housing and Urban Development.

3.10. Labor Hours means the number of paid labor hours worked by persons working on an Applicable Expenditure.

3.11. Low-Income Person means a person as defined in Section 3(b)(2) of the 1937 Act whose individual income is at or below 80% the area median income. Updated individual income limits can be found [here](#).³

3.12. Material Supply Contract means a contract for the purchase of only products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

3.13. Program means this ACE Program.

² A worker's ability to be recognized as an ACE Worker will not be negatively affected by a prior arrest or conviction.

³ <https://www.huduser.gov/portal/datasets/il.html>

3.14. Participant means a person enrolled in CMHA’s ACE Program by virtue of being included in CMHA’s ACE Worker Directory.

3.15. Professional Services means non-construction services that require an advanced degree or professional licensing, including contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, or civil engineering services.

3.16. Public Housing means housing assisted under the 1937 Act other than under Section 8. It also includes dwelling units in a mixed finance project that are assisted by a PHA with capital or operating assistance.

3.17. Public Housing Financial Assistance means:

3.17.1. Development assistance provided pursuant to Section 5 of the 1937 Act;

3.17.2. Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act;

3.17.3. Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act; and

3.17.4. The entirety of a mixed-finance development project as described in 24 C.F.R. § 905.604, regardless of whether the project is fully or partially assisted with Public Housing Financial Assistance as defined in the previous subparagraphs.

3.18. Public Housing Project means low-income housing and all necessary appurtenances thereto, assisted under the 1937 Act, other than assistance under Section 8. The term “public housing” includes dwelling units in a mixed-finance project that are assisted by CMHA with public housing capital assistance or operating fund assistance. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by CMHA under the 1937 Act, and the improvement of any such housing.

3.19. Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u and its implementing regulations at 24 C.F.R. Part 75.

3.20. Section 8-Assisted Housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

3.21. Subcontractor means any entity that has a contract with a Contractor to undertake a portion of the Contractor's obligation to perform work in connection with an Applicable Expenditure.

3.22. Targeted ACE Worker, also known as a **Targeted Section 3 Worker**, means a Section 3 Worker who:

3.22.1. Is employed by a Section 3 Business;

3.22.2. Currently or when hired, as documented within the past five years, is/was a resident of Public Housing or Section 8-Assisted Housing;

3.22.3. Currently or when hired, as documented within the past five years, is/was a resident of other Public Housing Projects or Section 8-Assisted Housing managed by CMHA; or

3.22.4. Currently or when hired, as documented within the past five years, is/was a YouthBuild Program participant.

3.23. Very Low-Income Person means a person as defined in Section 3(b)(2) of the 1937 Act whose individual income is at or below 50% the area median income. Updated individual income limits can be found [here](#).⁴

3.24. YouthBuild Program means YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. § 3226).

4. IDENTIFICATION, RECRUITMENT, AND CERTIFICATION OF ACE PROGRAM PARTICIPANTS

4.1. To allow CMHA, Contractors, and Subcontractors to identify and recruit Section 3 Workers and to help them meet the targets described in Section 6 below, CMHA will maintain an ACE Worker Directory.

4.2. To be included in the ACE Worker Directory, the worker must self-certify that they meet the definition of an ACE Worker or Targeted ACE Worker by completing the *ACE Worker Directory Application* (Form DEI-8) and providing any requested supporting documentation.

4.3. Workers listed in the ACE Worker Directory will be considered ACE Program Participants. They will receive e-mail updates related to

⁴ <https://www.huduser.gov/portal/datasets/il.html>

employment, training, and contracting opportunities associated with CMHA. CMHA will also connect Participants with CMHA contractors seeking workers, prioritizing the recruitment and placement of Participants who are current CMHA residents.

4.4. Individuals who knowingly provide false or misleading information associated with the ACE Worker Directory or ACE Worker self-certification process may be barred from ongoing and/or future consideration for economic opportunities with or through CMHA.

5. IDENTIFICATION, RECRUITMENT, AND CERTIFICATION OF ACE BUSINESSES

5.1. To allow CMHA, Contractors, and Subcontractors to identify and recruit ACE Businesses and to help them meet the targets described in Section 6 below, CMHA will maintain a directory of self-certified ACE Businesses.

5.2. The ACE Business Directory will connect ACE Businesses to contracting opportunities directly with CMHA or with Contractors.

5.3. To be included in CMHA's ACE Business Directory, the business must submit to CMHA a completed *ACE Business Directory Application* (Form DEI-4).

5.4. An ACE Coordinator will review the *ACE Business Directory Application* (Form DEI-4) to ensure completeness and that the business preliminarily meets the definition of an ACE Business.

5.5. ACE Businesses that self-certified they meet the definition of an ACE Business by submitting an *ACE Business Directory Application* (Form DEI-4) must subsequently be officially certified by CMHA for their Labor Hours to be counted towards CMHA's targets. Official certification will occur prior to CMHA executing the contract by requiring the business to complete an *ACE Business Certification Application* (Form DEI-5). If a business becomes an ACE Business after contract award, it may request official ACE Business certification at any point over the duration of that contract by contacting an ACE Program Coordinator.

5.6. If CMHA's review of the *ACE Business Certification Application* (Form DEI-5) confirms the business meets the definition of an ACE Business, then CMHA will officially certify it as an ACE Business for purposes of the particular contract at issue.

5.7. Self-certified ACE Businesses are not entitled to contracts simply by being listed on CMHA's ACE Business Directory or by submitting an *ACE Business Certification Application*. Any preference that a self-certified ACE Business might receive is subject to CMHA subsequently verifying the information contained in the submission.

5.8. CMHA may, at any time, revoke the certification of an ACE Business that no longer meets the definition thereof.

5.9. Businesses that knowingly provide false or misleading information associated with the ACE Business Directory or the ACE Business certification process may be barred from ongoing and/or future consideration for economic opportunities with or through CMHA.

6. TARGETS FOR EMPLOYMENT, TRAINING, AND CONTRACTING

6.1. CMHA has established minimum targets (called "benchmarks" by HUD) that CMHA, Contractors, and Subcontractors must meet to comply with this Program. To comply, CMHA, Contractors, and Subcontractors must ensure that:

6.1.1. At least 25% of all Labor Hours associated with an Applicable Expenditure are worked by ACE Workers and

6.1.2. At least 5% of all Labor Hours associated with an Applicable Expenditure are worked by Targeted ACE Workers.

6.2. Those Labor Hours can be accomplished through:

6.2.1. Time spent by ACE Workers and Targeted ACE Workers in apprenticeship and other "on the job training" on Applicable Expenditures that is provided by CMHA, Contractors, or Subcontractors to those workers;

6.2.2. Hours worked on Applicable Expenditures by ACE Workers and Targeted ACE Workers; or

6.2.3. Hours worked by the workers of Contractors or Subcontractors that are themselves ACE Businesses.

6.3. Under Section 3 HUD does not require CMHA to achieve the foregoing targets for Labor Hours for Professional Services. But CMHA may count any work performed by a Professional Services ACE Worker or Targeted ACE Worker as ACE or Targeted ACE Labor Hours without including such hours in the total labor hours worked.

7. PRIORITIZATION OF EFFORTS AND ACHIEVING ACE COMPLIANCE

7.1. In pursuing the targets described in Section 6 above, CMHA, Contractors, and Subcontractors must prioritize their efforts to extend employment and training opportunities to ACE Workers and Targeted Section ACE Workers as follows:

7.1.1. First, to residents of the CMHA Public Housing Project where the Applicable Expenditure is being spent;

7.1.2. Second, to other CMHA residents or residents of Section 8-assisted housing managed by CMHA;

7.1.3. Third, to YouthBuild Participants; and

7.1.4. Fourth, to Low and Very Low-Income persons residing in the metropolitan area where Applicable Expenditure is being spent.

7.2. In pursuing the targets for ACE Businesses described in Section 6 above, CMHA, Contractors, and Subcontractors must also prioritize their efforts to extend contracting opportunities to ACE Businesses as follows:

7.2.1. First, to ACE Businesses that are owned and controlled by CMHA residents or Section 8-assisted residents;

7.2.2. Second, to ACE Businesses that provide economic opportunities to residents of the CMHA Public Housing Project where the Applicable Expenditure is being spent;

7.2.3. Third, to ACE Businesses that provide economic opportunities to other CMHA residents or residents of Section 8-assisted housing managed by CMHA;

7.2.4. Fourth, to YouthBuild Participants; and

7.2.5. Fifth, to ACE Businesses that provide economic opportunities to ACE Workers residing in the area where the Applicable Expenditure is being spent.

7.3. If CMHA is unable to meet the targets, then CMHA will be considered to have nevertheless complied with HUD's Section 3 requirements if it certifies to HUD its efforts to recruit, hire, or contract with ACE Workers, Targeted ACE Workers, or ACE Businesses ("qualitative efforts"). Such efforts might include:

- 7.3.1.** Engaging in outreach efforts to generate job applicants who are Targeted ACE Workers through this ACE Program;
- 7.3.2.** Connecting ACE Participants and other ACE Workers with employers seeking workers;
- 7.3.3.** Providing training or apprenticeship opportunities;
- 7.3.4.** Providing technical or other assistance to help ACE Participants and other ACE Workers compete for jobs (e.g., resume assistance, coaching, interviewing skills, transportation, financial literacy, childcare);
- 7.3.5.** Including ACE Program language in all RFPs, procurement documents, bid offerings, and contracts;
- 7.3.6.** Scheduling pre-bid meetings to inform ACE Businesses of upcoming contracting opportunities and to explain and answer questions related to the ACE Program;
- 7.3.7.** Advertising contracting opportunities in local community papers and with other civic organizations to provide general information about the work to be contracted and where to obtain additional information;
- 7.3.8.** Providing written notice of contracting opportunities to all known ACE Businesses. The written notice will be provided in sufficient time to enable those businesses to respond to bid invitations;
- 7.3.9.** Coordinating with the Contractor to publicize subcontracting opportunities for ACE Businesses;
- 7.3.10.** Notifying local business assistance agencies and contractor associations about upcoming contracting opportunities;
- 7.3.11.** Seeking assistance from local business assistance agencies and contractor associations in identifying ACE Businesses;
- 7.3.12.** Connecting ACE Businesses with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.); and
- 7.3.13.** Encouraging Contractors to collaborate with CMHA as subcontract opportunities arise in an effort to notify eligible ACE Businesses about such opportunities.

7.4. Contractors and Subcontractors must use their best efforts to achieve the targets. If Contractors and Subcontractors fail to meet these targets, they will nevertheless be deemed to have used their best efforts if they explain to CMHA the qualitative efforts they made to reach ACE Workers and Targeted ACE Workers, based on the prioritization described above. CMHA will require the Contractors and Subcontractors to explain, in detail, those efforts at the time of project closeout.

7.5. Contractors and Subcontractors that violate CMHA's ACE Program targets and/or 24 C.F.R. Part 75 may face sanctions, termination of any contract with CMHA, and debarment or suspension from future HUD assisted contracts.

8. RECORDKEEPING AND REPORTING

8.1. Contractors and Subcontractors that provide employment, training, and/or contracting opportunities to ACE Workers or Targeted ACE Workers must maintain records supporting the workers' classification. This can include:

8.1.1. The worker's self-certification that they are a Low or Very-Low Income Person;

8.1.2. The worker's self-certification that they are a resident of Public Housing or Section 8-assisted housing;

8.1.3. The Public Housing or Section 8-assisted housing owner, administrator, or manager's certification that the worker is a resident of Public Housing or Section 8-assisted housing;

8.1.4. The employer's certification that the worker's income results in them meeting the definition of a Low or Very-Low Income Person;

8.1.5. The employer's certification that the worker is employed by an ACE Business; or

8.1.6. The worker's certification that they are a YouthBuild participant.

8.2. Contractors and Subcontractors must document their progress in meeting the targets. This includes:

8.2.1. Total Labor Hours worked by all workers;

8.2.2. Total Labor Hours worked by ACE Workers; and

8.2.3. Total Labor Hours worked by Targeted ACE Workers.

8.3. Contractors and Subcontractors must report to CMHA the data needed to track Labor Hours associated with Applicable Expenditures at a time and in a manner specified by CMHA. Specifically:

8.3.1. Contractors and Subcontractors must provide CMHA a *Core Employee List* (Form DEI-6) that provides the name and job type of each of their employees. The *Core Employee List* will indicate whether each employee is an ACE Worker or Targeted ACE Worker.

8.3.2. Contractors and Subcontractors must survey their workforce by either completing an *ACE Worker Verification* (Form DEI-7) for each qualifying employee or by providing a copy of that form to each of their current employees to complete.

8.3.3. Contractors must submit to CMHA the *Core Employee List* (Form DEI-6) and an *ACE Worker Verification* (Form DEI-7) for each Targeted ACE and ACE Worker listed on the *Core Employee List*.

8.3.4. CMHA will use the *ACE Worker Verifications* (Form DEI-7) to designate employees as ACE Workers in its records and will track their labor hours payroll records submitted by Contractors and Subcontractors.

8.3.5. CMHA may request additional information to verify that a worker is an ACE Worker or Targeted ACE Worker.

8.4. Contractors must retain all books, documents, papers, and records required by this Program for 3 years after final payment by CMHA and after all other pending matters related to the contract are closed.

9. COMPLAINT PROCEDURE

9.1. If a business or worker believes CMHA, a Contractor, or Subcontractor has violated 24 C.F.R. Part 75 or this Program, the complainant should put their complaint in writing, including their name and a brief description of the alleged violation, and submit it to an ACE Program Coordinator.

9.2. Complaints must be filed within 14 calendar days after the complainant becomes aware of the alleged violation.

9.3. If the complaint appears valid, CMHA will conduct an informal but thorough investigation and will give interested parties the chance to submit testimony and/or evidence relevant to the complaint.

9.4. CMHA will document its findings and provide a copy of the findings to the complainant no more than 60 days after the filing of complaint.

9.5. If the complainant prefers to have their concern considered outside of CMHA, they may file their complaint with:

HUD Cleveland Field Office
US Bank Centre Building
1350 Euclid Avenue, Suite 500
Cleveland, Ohio 44115
(216) 357-7900
(216) 357-7920 (fax)
OH_Webmanager@hud.gov

9.6. Complainants may be eligible to bring complaints under other federal laws as well, for example:

9.6.1. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact the [EEOC](http://www.eeoc.gov).⁵

9.6.2. The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained on [OFCCP's website](http://www.dol.gov/ofccp).⁶

⁵ <http://www.eeoc.gov>

⁶ <http://www.dol.gov/ofccp>