

# Philly Building Philly: Identifying Local Government Best Practices for Improving HUD Section 3 Compliance in Philadelphia, Pennsylvania

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## ABSTRACT

*This Note gives an overview of Section 3 of the Housing and Urban Development Act of 1968, commonly known as HUD Section 3. Section 3 requires that local governments that receive federal housing funds ensure the jobs and contracts the funds create go to residents of low-income areas. I first discuss HUD Section 3’s contents and legislative history, finding an ambitious mandate to train and contract with residents of low-income areas. Next, I describe HUD’s long struggle to monitor and enforce that mandate and low-income residents’ efforts to self-organize and claim their mandated benefits. Finding little federal enforcement, this Note studies Section 3 compliance and related local hiring laws in Philadelphia, Pennsylvania. Philadelphia’s policies, maintained by the City of Philadelphia and the independent Philadelphia Housing Authority, are ambitious but underdeveloped. To find opportunities to improve them, the Note analyzes various cities’ public works local hiring policies and assesses best practices for achieving Section 3’s goals. Finally, the Note argues Philadelphia’s agencies have the potential to effectively coordinate a nation-leading Section 3 policy by setting realistic goals and collaborating with each other and with unions.*

I. INTRODUCTION . . . . .	448
II. SECTION 3’S HIRING AND CONTRACTING COMMITMENTS. . . . .	450

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A. <i>Section 3's Contents and Definitions</i> . . . . .	450
B. <i>The Roots of the Problem: Contracting Requirements, Compliance, and Enforcement</i> . . . . .	452
C. <i>Enforcing the Unenforceable in Practice</i> . . . . .	454
III. A FLAWED YET PROMISING CASE STUDY: PHILADELPHIA . . . . .	455
A. <i>Philadelphia's Neighborhood Benefit Strategy Needs an Update</i> . . . . .	455
B. <i>The Philadelphia Housing Authority Has a Flawed, but Promising Framework</i> . . . . .	457
IV. LOCAL BEST PRACTICES: SUCCESSFUL FIRST-SOURCE HIRING, MONITORING AND ENFORCEMENT, AND CONTRACTOR PARTNERSHIPS. . . . .	458
A. <i>Hybrid Local Hiring and First-Source Requirements</i> . . . . .	458
B. <i>Clear and Reasonable Benchmarks and Consequences</i> . . . . .	459
C. <i>Centralized Implementation</i> . . . . .	460
D. <i>Active and Direct Partnerships with Relevant Stakeholders</i> . . . . .	461
V. THE CITY OF PHILADELPHIA AND THE PHILADELPHIA HOUSING AUTHORITY SHOULD WORK TOGETHER TO COORDINATE SECTION 3 COMPLIANCE . . . . .	463
VI. CONCLUSION . . . . .	464

## I. INTRODUCTION

In September 2022, Philadelphia Housing Authority President and CEO Kelvin Jeremiah published an op-ed in the *Philadelphia Inquirer* warning of an “affordable housing emergency:” as the city’s homes aged and 60,000 households lingered on long-frozen waiting lists for rental housing vouchers and subsidized housing, over 14,500 Philadelphia homes stood to lose their affordability protections in the next ten years.<sup>1</sup> Statewide, Pennsylvania already has a deficit of more than 267,000 units of housing affordable for extremely low-income people, and more than 80% of those people are cost burdened, paying 30% or more of their monthly income for their housing.<sup>2</sup>

One cause of this crisis is a nationwide shortage of qualified construction workers. A housing construction industry survey found that the cost and availability of labor was a significant problem for 82% of builders.<sup>3</sup> In another survey,

1. Kelvin A. Jeremiah, *Amid Philly's Crisis of Affordable Housing, a "Perfect Storm" Is Brewing*, PHILA. INQUIRER (Sep. 22, 2022), <https://www.inquirer.com/opinion/commentary/philadelphia-affordable-housing-crisis-20220922.html>.

2. NAT'L LOW INCOME HOUS. COAL., AFFORDABLE HOUSING GAP REPORT: PENNSYLVANIA (2021), <https://nlihc.org/gap/state/pa>.

3. Ashok Chaluvadi, *Building Materials Remain Top Challenge for Builders*, NAT'L ASS'N HOME BUILDERS: EYE ON HOUS. (Feb. 7, 2022), <https://eyeonhousing.org/2022/02/building-materials-remain-top-challenge-for-builders/>.

91% of construction companies reported having a hard time finding workers to hire, leading to rising labor costs, schedule delays, and canceled projects—all of which added housing costs onto consumers.<sup>4</sup> “The main culprit,” according to the trade association that commissioned the survey, “is that too few people are being prepared with the skills needed to be qualified to work in the industry.”<sup>5</sup>

In addition to driving communities’ housing supply, many construction jobs offer consistent work at middle-class pay to workers without four-year college degrees.<sup>6</sup> In this way, careers in construction promise to build workers’ careers while those workers build their communities. This dual opportunity gives policy-makers at all levels a strong incentive to connect residents of disadvantaged areas with quality jobs in construction. Yet in one large 2022 survey, only 28% of building and construction contractors reported that they had “engaged with a government workforce development or unemployment agency” to meet their staffing needs.<sup>7</sup>

This low number is all the more frustrating considering that, since 1968, there has been a federal policy requiring contractors to employ and contract with low-income residents. In Section 3 of 1968’s Housing and Urban Development Act, Congress mandated that

*to the greatest extent feasible opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing assisted under [certain United States Department of Housing and Urban Development]<sup>8</sup> programs [should] be given to lower income persons residing in the area of such housing.<sup>9</sup>*

On paper, this mandate, which became known as HUD Section 3 in subsequent administrative rules, creates a unique demand-side requirement to hire and contract with public assistance recipients, residents of low-income areas, and their neighbors—a statutory mandate to hire those perceived to need good construction jobs.

In practice, Section 3 has failed to live up to its ambitious language, as HUD struggles to properly police and enforce the policy in the thousands of local

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4. See *Construction Workforce Shortages Risk Undermining Infrastructure Projects as Most Contractors Struggle to Fill Open Positions*, ASSOCIATED GEN. CONTRACTORS AM. (Aug. 31, 2022, 2:01 PM), <https://www.agc.org/news/2022/08/31/construction-workforce-shortages-risk-undermining-infrastructure-projects-most-contractors-struggle>.

5. ASSOCIATED GEN. CONTRACTORS AM. 2022 WORKFORCE SURVEY ANALYSIS 5 (Aug. 2022), [https://www.agc.org/sites/default/files/users/user22633/2022\\_AGC\\_Workforce\\_Survey\\_Analysis.pdf](https://www.agc.org/sites/default/files/users/user22633/2022_AGC_Workforce_Survey_Analysis.pdf).

6. See Larry Eichel, *What’s Happening with Philadelphia’s Middle-Wage Jobs?*, PEW CHARITABLE TRS. (Apr. 26, 2021), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/04/whats-happening-with-philadelphias-middle-wage-jobs>.

7. 2022 WORKFORCE SURVEY ANALYSIS, *supra* note 5, at 3.

8. Hereinafter “HUD.”

9. Housing and Urban Development Act of 1968, Pub. L. 90-448, § 3, 82 Stat. 476 (1968) (emphasis added), <https://www.govinfo.gov/content/pkg/STATUTE-82/pdf/STATUTE-82-Pg476.pdf>.

governments and housing authorities that are required to comply with it. This Note will first give an overview of Section 3's history, explain why HUD has failed to fully enforce the policy, and assess recent regulatory changes to Section 3.

However, even without consistent federal enforcement, numerous housing authorities, cities, counties, and other localities have created their own local hiring and monitoring policies to meet and exceed Section 3's requirements. This Note looks closely at the Section 3 policies maintained by the City of Philadelphia and the independent-of-the-city Philadelphia Housing Authority,<sup>10</sup> finding them flawed in their vagueness and open-endedness but promising in their ambition. To find ways to improve Philadelphia's policies, the Note looks to Section 3 policies in other cities across the United States. It then brings these lessons back to Philadelphia, proposing a more centralized program with clearer benchmarks for compliance and penalties for noncompliance.

In the end, Section 3 is loosely enforced and aspirational. For it to succeed, local program beneficiaries must create clear, coordinated, and commercially appealing programs to connect workers and companies to Section 3-covered opportunities. Philadelphia has many of the pieces of a successful Section 3 program, but to connect those pieces, the City and the Housing Authority must cooperate on certain aspects of the Section 3-related job program, revise their respective requirements, and create consistent institutions for monitoring and enforcing the policy. In sum, they have to bring Section 3 out of the realm of idealistic dead letters and make it an active part of public housing providers' interaction with the private construction industry.

## II. SECTION 3'S HIRING AND CONTRACTING COMMITMENTS

### *A. Section 3's Contents and Definitions*

In its current form, an administrative final rule issued in September 2020, Section 3 sets out requirements for employment, training, and contracting, as well as worker eligibility guidelines and compliance benchmarks.<sup>11</sup> The specific benchmarks and requirements vary slightly by funding type, depending on whether HUD considers the funding "Public Housing Financial Assistance" or "Section 3 Projects."<sup>12</sup> The former includes developments funded under section 5 of the United States Housing Act of 1937, whether they are entirely owned by public housing authorities or mixed-finance developments; the latter includes all other housing rehabilitation, construction, and community development financial assistance in which HUD spends \$200,000 or more.<sup>13</sup>

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10. Hereinafter referred to either in full or as "the City" and "the PHA," respectively.

11. Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses, 85 Fed. Reg. 61524, 61562-67 (Sept. 29, 2020) (to be codified at 24 C.F.R. pt. 75), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>.

12. 24 C.F.R. 75.3(a).

13. *Id.*

For both funding types, government bodies which are recipients of HUD funding, as well as their contractors and subcontractors, must “make their best efforts” to hire Section 3 workers, who are residents who meet at least one out of an enumerated set of priorities.<sup>14</sup> Highest priority are residents of the very development being built, then public housing residents generally, participants in the YouthBuild program, which is a job training program for at-risk adolescents, and finally low-income or very low-income residents of the overall metropolitan area.<sup>15</sup> HUD has added a subcategory called “Targeted Section 3 Workers” to track employment outcomes for a related list of designated high-priority residents.<sup>16</sup>

Using these worker definitions, HUD defines “best efforts” using benchmarks which it updates at least every three years and publishes in the *Federal Register*.<sup>17</sup> The current benchmarks require:

- (1) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and
- (2) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at § 75.21.<sup>18</sup>

Notably, the focus on work hours was a new addition in the 2020 final rule. Previous iterations of Section 3 tracked new hires, which critics claimed let recipients and contractors hire Section 3 workers for part time, unskilled, and lower-paying positions.<sup>19</sup>

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14. 24 C.F.R. §75.9(a).

15. 24 C.F.R. §75.9(b).

16. 24 C.F.R. §75.5. This term has two closely related definitions in the regulation, both of which reflect the broad priorities in note 15, *supra*. For “public housing financial assistance,” a Targeted Section 3 Worker is: (1) A worker employed by a Section 3 business concern; or (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years: (i) A resident of public housing or Section 8-assisted housing; (ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or (iii) A YouthBuild participant.” 24 C.F.R. §75.11. For “community development financial assistance,” a Targeted Section 3 Worker is: “(1) A worker employed by a Section 3 business concern; or (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years: (i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or (ii) A YouthBuild participant.” 24 C.F.R. §75.21.

17. 24 C.F.R. §75.13(b).

18. Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses, 85 Fed. Reg. 60907, 60909 (Sept. 29, 2020) (to be codified at 24 C.F.R. pt. 75), <https://www.federalregister.gov/d/2020-19183>.

19. *Id.* at 61529 (“HUD is not retaining the tracking of new hires for [Public Housing Authorities], but instead requiring tracking of labor hours for all Section 3 outcomes.”). For criticism of the new hire measure, see, e.g., Deborah M. Austin & Matthew M. Gerend, *The Scope and Potential of Section 3 as Currently Implemented*, 19 J. AFFORDABLE HOUS. & CMTY. DEV. L. 89, 102 (2009). (“Another nonlegislative fix would be to clarify that the hours worked as well as the number of new hires added to the payroll should both be evaluated in determining compliance.”). See also BARBARA SARD AND MICAH KUBIC, CTR. ON BUDGET & POL’Y PRIORITIES, REFORMING HUD’S “SECTION 3” REQUIREMENTS CAN LEVERAGE FEDERAL INVESTMENTS IN HOUSING TO EXPAND ECONOMIC OPPORTUNITY 9 (Jun. 10, 2009), [https://www.nhlp.org/files/01.%20CBPP%](https://www.nhlp.org/files/01.%20CBPP%20)

*B. The Roots of the Problem: Contracting Requirements, Compliance, and Enforcement*

Compared to these somewhat detailed hiring guidelines, Section 3's contracting requirements are sparse and open-ended. For public housing and mixed finance construction projects, recipients and their contractors must "make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers," according to the same priority list used in the hiring provisions.<sup>20</sup> Meanwhile, local government recipients on Section 3 projects must

[t]o the greatest extent feasible . . . ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.<sup>21</sup>

For both types of funding, the "business concerns" at issue are those that are at least 51% owned by low- or very low-income people, those that gave at least 75% of their labor in the past three months to Section 3 workers, or those that are "at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing."<sup>22</sup> Similar to the hiring and training requirements, recipients are supposed to prioritize contractors who hire residents of the specific public housing projects and nearby neighborhoods.<sup>23</sup>

To comply with all of these regulations, recipients must maintain records showing the total number of labor hours worked, the total number worked by Section 3 workers, and the total worked by Targeted Section 3 workers.<sup>24</sup> Most recipients have to submit these records to HUD annually.<sup>25</sup>

As for monitoring and complaints, the 2020 HUD guidance is broad and devolved: Section 3's monitoring subheading is three sentences long and includes the sentence "[t]he applicable HUD program office will determine appropriate

20Reforming%20HUD's%20Section%203%20Requirements%206-10-09hou.pdf ("No guidance is provided on *when* employees must be hired for the project. As a result, there is nothing to prohibit grantees from hiring Section 3 residents on the final day of a project for the sole purpose of complying with the policy.").

20. 24 C.F.R. 75.9(b)(1)-(2).

21. 24 C.F.R. § 75.19(b)(1). HUD has declared that the terms "best efforts" and "greatest extent feasible" are interchangeable. Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses, 85 Fed. Reg. 61524, 61528 (September 29, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf> ("HUD notes that some perceive 'best efforts' to be the more rigorous standard, while others perceive 'greatest extent feasible' to be the more rigorous standard. HUD has determined not to define the difference between these two terms, but rather to increase the emphasis on outcomes as a result of these efforts.").

22. 24 C.F.R. § 75.5.

23. See 24 C.F.R. § 75.9(b)(2); 24 C.F.R. § 75.19(b)(2).

24. 24 C.F.R. § 75.25(a)(1); 24 C.F.R. § 75.33(a).

25. 24 C.F.R. § 75.25(c).

methods by which to oversee Section 3 compliance.”<sup>26</sup> Meanwhile, the complaint subheading is one sentence long and simply says that “Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.”<sup>27</sup> In practice, HUD has also tasked its Office of Field Policy and Management with filtering complaints to the relevant department.<sup>28</sup> Section 3 contains one specific corrective action for recipients whose reporting shows a failure to comply, namely that they should report on efforts such as hosting job fairs and providing training and apprenticeship opportunities.<sup>29</sup> For all the details and definitions in the rest of the regulation, these seemingly important topics get a brisk, concise, yet undefined treatment that does not even refer to any other administrative remedies, procedures, or reporting details.

In fact, these short sections hint at why Section 3 failed to achieve its goals. Prior to the 2020 update, Section 3’s monitoring and enforcement occurred at HUD’s Office of Fair Housing and Equal Opportunity (FHEO).<sup>30</sup> Even without Section 3, FHEO’s limited staff has a remarkably broad set of legal responsibilities, including directly enforcing the Fair Housing Act, Americans with Disabilities Act, and Title VI of the Civil Rights Act of 1964 in over 3,000 housing authorities across the country.<sup>31</sup> A 2003 internal audit of FHEO’s administration bluntly found that “HUD does not have adequate controls in place to ensure Section 3 is meeting its purpose as intended by the HUD Act of 1968,” lacking fundamental tools such as “[v]erification that the recipients are notifying Section 3 residents about training and employment opportunities” and “[v]erification that the recipients recruited/hired Section 3 residents.”<sup>32</sup> In response to this report, HUD’s representative acknowledged that “the recipients themselves have been deemed to be responsible for monitoring their own compliance.”<sup>33</sup> The most recent audit in 2013 found that “1,650 of 3,102 public housing agencies failed to submit their Section 3 annual summary reports and potentially falsely certified

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26. 24 C.F.R. § 75.33(c).

27. 24 C.F.R. § 75.33(b).

28. Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses, 85 Fed. Reg. at 61,554.

29. 24 C.F.R. § 75.25(b).

30. ED GRAMLICH, NAT’L LOW INCOME HOUS. COAL., DETAILED SUMMARY AND ANALYSIS, FINAL SECTION 3 REGULATION 1, 5 (2021), [https://nlihc.org/sites/default/files/Detailed\\_Summary\\_and\\_Analysis\\_Final\\_Section\\_3\\_Rule.a.Modified.3.21.pdf](https://nlihc.org/sites/default/files/Detailed_Summary_and_Analysis_Final_Section_3_Rule.a.Modified.3.21.pdf).

31. Austin & Gerend, *supra* note 20, at 98. *See also About FHEO*, U.S. DEP’T OF HOUS. AND URBAN DEV., [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/aboutfheo](https://www.hud.gov/program_offices/fair_housing_equal_opp/aboutfheo) (last visited Apr. 5, 2024).

32. ROGER E. NIESEN, DEP’T HOUS. & URB. DEV., OFF. INSPECTOR GEN., AUDIT CASE #2003-KC-000, SURVEY OF HUD’S ADMINISTRATION OF SECTION 3 OF THE HUD ACT OF 1968 3 (2003), <https://archives.hud.gov/offices/oig/reports/internal/ig370001.pdf>.

33. *Id.* at 8.

compliance with Section 3.<sup>34</sup> Such well-documented failures to enforce Section 3 explain why HUD changed the policy's enforcement mechanism.

### C. *Enforcing the Unenforceable in Practice*

Despite these failures, FHEO did show some ability to exercise its role as an independent legal watchdog. In 1995, the City of Long Beach, California received a \$40,000,000 loan from HUD, and agreed to abide by Section 3's terms in staffing the project.<sup>35</sup> Three years later, a tenants' association filed an administrative complaint with help from a public interest lawyer, claiming that they were entitled to be hired under Section 3 and the city had not made any effort to do so.<sup>36</sup> After six years of analysis and filings, in 2004, FHEO concluded that the tenant should have received the job offers in 1995, and that the city ignored multiple hiring agreements made with HUD and with several labor unions.<sup>37</sup>

In one sense, this administrative case shows the extremely slow-moving, laborious, and sporadic process that has long defined HUD's enforcement of Section 3. At the same time, it also shows how FHEO could, with active and persistent complainants, enforce Section 3. When HUD devolved compliance and enforcement to the various program offices and field offices in 2020, some analysts argued that FHEO had made sense as an enforcer because it exists to enforce HUD's regulations and can maintain uniform standards; in contrast, the new enforcers may have too strong a working relationship with local housing authorities to act as impartial enforcers.<sup>38</sup>

Ultimately, it is too early to judge the 2020 policy changes' long-term effects on federal Section 3 enforcement. However, a few recent case studies give some hope that the lower-income resident participation that Section 3 envisioned continues. In April 2022, a coalition of Black contractors and community organizers in Chicago met at the Rainbow-PUSH Coalition's headquarters to announce that they would be filing complaints against the Chicago Housing Authority (CHA) for allegedly failing to comply with Section 3 hiring and contracting requirements.<sup>39</sup> Another citizens' group made up of former residents of Chicago's famous Cabrini-Green public housing development conducted a decade-long campaign to enforce a Section 3 remedial agreement the CHA entered into based

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34. RONALD J. HOSKING, DEP'T HOUS. & URB. DEV., OFF. INSPECTOR GEN., AUDIT CASE # #2013-KC-0002, HUD DID NOT ENFORCE THE REPORTING REQUIREMENTS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 FOR PUBLIC HOUSING AUTHORITIES 4 (2013), [https://www.hudoint.gov/sites/default/files/documents/2013-KC-0002\\_0.pdf](https://www.hudoint.gov/sites/default/files/documents/2013-KC-0002_0.pdf).

35. *Carmelitos Tenants Assoc. v. City of Long Beach*, HUD Case #09-98-07-002-720 (2004), <https://nhlp.org/files/03%20Carmelitos%20letter%20determination%20REDACTED%20Case%2009-98-07-002-720%20Ltr01.pdf>.

36. *Id.*

37. *Id.* at 13.

38. GRAMLICH, *supra* note 30, at 5.

39. Alan Jordon, *Black Contractors Appeal for Help in Getting CHA Section 3 Program Contracts*, CHI. CRUSADER (Apr. 7, 2022), <https://chicagocrusader.com/cha-section-3-program-contracts/>.



on past Section 3 violations.<sup>40</sup> Notably, many of CHA's violations involved hiring Section 3 workers for part-time, low-skilled positions such as janitors and movers, rather than for full-time construction and post-construction jobs.<sup>41</sup> If activists and their legal advocates can replicate these groups' levels of commitment and persistence, the new hours-based HUD regulations might offer residents the higher-paying jobs with longer hours that Section 3 originally promised.

Yet even if the Chicago tenant and contractor groups are successful in their efforts to claim Section 3 violations, it might take years for them to successfully secure remedies, and then HUD might once again fail to enforce those remedies. Moreover, if more intended beneficiaries tried to bring claims under the current system, it might overwhelm HUD programs' investigative capacities and slow the complaint adjudication process even further. In the meantime, localities that want to honor the spirit and policy of Section 3 need to carefully curate and enforce their own local hiring rules.

### III. A FLAWED YET PROMISING CASE STUDY: PHILADELPHIA

In theory, Philadelphia seems like a city that would embrace Section 3. Philadelphia has two large public recipients of HUD funding in the Philadelphia Housing Authority and the City of Philadelphia itself, active unions, a large construction community, and "the highest poverty rate among the nation's largest cities."<sup>42</sup> Yet Philadelphia's Section 3 and local hiring programs need legislative updating, clarifying, and tightening.

#### A. Philadelphia's Neighborhood Benefit Strategy Needs an Update

The City of Philadelphia passed its Neighborhood Benefit Strategy in 1999 and last amended it in 2003.<sup>43</sup> The law's legislative findings directly cite HUD Section 3 and declare that "[t]hese housing and community development projects can provide additional benefits to the neighborhoods in which the projects are located if low-income area businesses are used to help carry out the projects and if low-income area residents are employed in the construction and other activities related to the projects."<sup>44</sup> The program defines "Low Income Project Area Business" and "Low-Income Person" by quoting then-current HUD definitions.<sup>45</sup> It requires all contractors who are required by the city's Office of Housing and Community Development (OHCD) and Department of Commerce (DOC) to file affirmative action plans to also file a report called a "Neighborhood Benefit

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40. Alejandra Cancino, *Cabrini-Green Residents were Promised 2,500 Construction Jobs. They got 40.*, WBEZ CHI. (Dec. 15, 2021), <https://www.wbez.org/stories/cabrini-green-residents-were-promised-2500-construction-jobs-they-got-40/322a4a5e-469e-4f9f-96e3-e6ccb9cc862a>.

41. *Id.*

42. PEW CHARITABLE TRS., PHILADELPHIA 2021: THE STATE OF THE CITY 18 (Apr. 2021), <https://www.pewtrusts.org/-/media/assets/2021/04/philadelphia-2021-state-of-the-city.pdf>.

43. Phila. City Council Bill 020827, 2003 Leg. Sess. (Phila. 2003); Phila. City Council Bill 990563, 1999 Leg. Sess. (Phila. 2003); Phila., Pa., Code §17-900 (1999).

44. PHILA., PA., CODE §17-901(2) (2003).

45. *Id.* §17-902(2).

Strategy.”<sup>46</sup> These reports mainly ask covered contractors to outline their projected hiring and contracting numbers of low-income project area residents and businesses, as well as “[a] description of efforts that the sponsor, developer or builder has made to identify and contract with low-income project area businesses.”<sup>47</sup> The program’s specific benchmarks are quite high, requiring project sponsors, developers, or builders to demonstrate “that seventy-five percent (75%) or more of his or her new hires on covered projects are low-income project area residents, and that seventy-five percent (75%) or more of the aggregate dollar value of the contracts awarded on covered projects have been awarded to low-income project area businesses.”<sup>48</sup>

These provisions of the law show its promise and its problems. Positively, Philadelphia’s decision to frame the program around Section 3’s requirements, spirit, and definitions is a smart way to encourage compliance with Section 3. The hiring percentages are higher than any of Section 3’s requirements and higher than any of the major local hiring programs in progressive California discussed *infra*. However, the percentages might be unrealistically high and difficult for contractors to achieve, which might encourage contractor non-compliance in the absence of clear enforcement mechanisms. Additionally, the law uses the outdated and problematic new hire metric rather than labor hours.<sup>49</sup> Moreover, instead of a clear dollar threshold establishing when the bill’s requirements are triggered, Philadelphia opted to use a convoluted string of references to various federal programs and local organizations; it does not explain when the necessary affirmative action plans come into effect, and its reference to “local legislation or Executive Orders relating to affirmative action or equal employment opportunities” is an open-ended gesture at best.<sup>50</sup> After all those problems, the law allows contractors to simply give projections of their anticipated hiring, a self-certification of compliance with Section 3, and an explanation for why they chose not to use low-income businesses if they should do so.<sup>51</sup>

Compared to the effective laws in other cities, the terms in the Philadelphia law are hard to understand at first glance, and somehow both unrealistically demanding in their standards and permissive in their exceptions. Future reforms should change the new hires metric to work hours to comply with HUD’s thoughtful revision. The City should also strongly consider lowering the safe harbor hiring and contracting thresholds to something it can confirm is realistic, and should consider breaking up the percentages by craft and classification if, for example, it wants to raise the apprenticeship level higher. As it currently reads, the Neighborhood Benefit Strategy asks some unclear subset of its public contractors to hire many low-income people, if they feel up to the task.

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46. *Id.* §17-903(4).

47. *Id.* §17-903(2).

48. *Id.* §17-904(2)(a).

49. For analysis of why new hires are a problematic metric, *see* note 19 and textual analysis, *supra*.

50. *Id.* §17-903(1).

51. *Id.* §17-903(2).

In its provisions for the tracking and enforcement of the Neighborhood Benefit Strategy, Philadelphia made similar mistakes. For example, the one sub-heading that deals with consequences with non-compliance says that a contractor's failure to follow the law "may affect whether project sponsors, developers or builders are considered 'responsible'" in future bid attempts, and "a failure to comply with Section 3 hiring and contracting goals may result in a noncompliance complaint filed against the noncomplying party with the U.S. Department of Housing and Urban Development"<sup>52</sup> (emphasis added). Finally, the law simply states that "OHCD and DOC shall work closely with other City and City-related departments and agencies" in order to assist stakeholders in implementing the law, and that "OHCD and DOC and their agents or designees shall encourage sponsors, developers and builders to utilize graduates of employment and training programs for employment and training opportunities in housing and community development projects."<sup>53</sup> These enforcement terms are general and imprecise. The use of *may* rather than *shall* underscores the city's lack of commitment to enforcing this program, and saying in 1999 that the city may refer violators to HUD amounts to saying that the violators might have to enter into a remedial plan a decade or more in the future, if ever. The references to working with other agencies within the government and with private sector stakeholders are also too vague. The city should identify specific departments within the city government for OHCD and DOC to meet regularly regarding statutorily defined topics.

Finally, the city does not require OHCD and DOC to include Section 3 in its publicly available overall annual reports. Currently, the law only requires OHCD to submit a report to the Mayor and President of City Council annually.<sup>54</sup> None of these reports appear to be published anywhere online, and neither OHCD nor DOC has referenced any Neighborhood Benefit Solutions updates in any of recent years' program reports, strategic plans, or action plans. If the city wants these programs to exist in reality instead of a neglected corner of the Philadelphia Code, it can start by referencing them in its own plans and sharing its assessments with the public.

### *B. The Philadelphia Housing Authority Has a Flawed, but Promising Framework*

Compared to the City of Philadelphia, the Philadelphia Housing Authority's (PHA) guidelines are straightforward and merely in need of some fixing. On its page outlining Section 3 goals, the PHA starts with an accurate restatement of the current Section 3 benchmarks.<sup>55</sup> In terms of reporting, the PHA does publish its

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52. *Id.* §17-904(4).

53. *Id.* §17-905 (2020); *id.* at §17-906.

54. *Id.* §17-903(4) (2020).

55. *Section 3 Requirements for Contractors (Construction and Non-Construction)* PHILA. HOUS. AUTH., <http://www.pha.phila.gov/business-opportunities/contractors-and-vendors/section-3-requirements-for-contractors-vendors.aspx> (last visited Apr. 8, 2024).

annual Section 3 report, but its most recent update is from 2017.<sup>56</sup> That said, this report shows a respectable 54.1% of new hires being Section 3 residents.<sup>57</sup> Part of this success might be attributable to the PHA's use of Pennsylvania's CareerLink service, which the Commonwealth of Pennsylvania uses to coordinate job referrals and promote employment and job training in economically distressed areas.<sup>58</sup>

#### IV. LOCAL BEST PRACTICES: SUCCESSFUL FIRST-SOURCE HIRING, MONITORING AND ENFORCEMENT, AND CONTRACTOR PARTNERSHIPS

To understand its problems and weigh possible solutions, Philadelphia has examples from across the United States. Recognizing that low-income residents need good jobs immediately, not after a nine-year administrative proceeding, cities, counties, and housing authorities around the country have created their own hiring programs to meet and often exceed Section 3's benchmarks on construction and post-construction employment as well as contracting.<sup>59</sup> Economists Thomas Douthat and Nancy Green-Leigh assessed several such programs and determined that their success depends on "Four Rs:" Rules, Resources, Relationships, and Reporting.<sup>60</sup> Building on this framework, this Note finds the most successful local hiring programs provide clear and connected standards and programs, including: (A.) hybrid first-source and local hiring requirements; (B.) clear hiring and contracting requirements, compliance benchmarks, and sanctions; (C.) centralized monitoring, coordination, and enforcement; and (D.) active workforce training partnership with public and private stakeholders, especially labor unions, contractors, and community representatives. The first two best practices aim to give contractors a clear requirement that they can reach realistically, while the latter two ensure that the programs reach their full potential and offer contractors a benefit that is commensurate with the programs' costs.

##### *A. Hybrid Local Hiring and First-Source Requirements*

Many cities that implement local hiring requirements combine them with an active first-source referral system which requires contractors to consider applicants referred by the cities' programs before they can look elsewhere for hiring. For example, East Palo Alto, California requires that on each public works contract with the city valued at \$250,000 or more, 20% of all new hires must be residents of East Palo Alto, and 5% of all new hires must be "disadvantaged workers," including individuals experiencing homelessness, custodial single parents, recipients of public

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56. *Section 3 Summary Report: Philadelphia Housing Authority*, U.S. Dep't Hous. & Urb. Dev. (May 30, 2018), [https://www.pha.phila.gov/wp-content/uploads/2021/12/hud60002\\_report\\_25184\\_cfp\\_20150401.pdf](https://www.pha.phila.gov/wp-content/uploads/2021/12/hud60002_report_25184_cfp_20150401.pdf)

57. *Id.*

58. PA. CAREERLINK, <https://www.pacareerlink.pa.gov/jponline/> (last visited Apr. 8, 2024).

59. See generally ROBERT DAMEWOOD & KATRINA LIU, LOCAL HIRING AND FIRST-SOURCE HIRING POLICIES: A NATIONAL REVIEW OF POLICIES AND IDENTIFICATION OF BEST PRACTICES, REGIONAL HOUSING LEGAL SERVICES (Oct. 2013). This report provided a primary inspiration for this Note, this section, and several of the examples cited in this Section.

60. Thomas Douthat & Nancy Green-Leigh, *First Source Hiring: An Essential Tool for Linking the Poor to Employment or a "Dead Letter" Progressive Policy?* 53 URB. AFFS. REV. 1025, 1032 (2017).

assistance, veterans, and recently-inducted apprentices.<sup>61</sup> Similar 20% thresholds apply to any post-construction retail and professional jobs in such subsidized buildings.<sup>62</sup> To help businesses meet local hiring standards to the best of their abilities, East Palo established a referral system to track qualified disadvantaged workers and connect them with employers.<sup>63</sup> Similarly, Washington, D.C. requires that for every government-assisted construction project and every public contract over \$5 million, at least 20% of journeyworker hours, 60% of apprentice hours, 51% of skilled laborer hours, and 70% of common laborer hours be performed by District residents.<sup>64</sup> Fund recipients must submit an employment plan with the District of Columbia government which states in part that the contractor and subcontractors on the project will receive referrals from the District's Department of Employment Services and give preference to unemployed District residents.<sup>65</sup>

In both examples, the cities' use of mandatory referral systems ensures the local hiring provisions actually lead to some local hiring. In contrast, requiring local hiring without detailing how to do it forces employers to either undertake extra recruitment efforts or instead feign best efforts, remark on the low supply of qualified labor, and ignore the statutes. By requiring employers to take referrals, clarifying the priorities and requirements within those referrals, and then actively providing qualified workers to the employers, the cities provide a much clearer and more direct means of ensuring success in their local priorities than HUD can with Section 3. They also potentially make the employer's job easier by quickly recruiting and screening qualified workers for free.

### *B. Clear and Reasonable Benchmarks and Consequences*

Relatedly, for local hiring and referral programs to be successful, the requirements and processes for hiring and contracting should be clear and unambiguous, and so should be the consequences of noncompliance. This at least means requiring more than "best efforts" from employers, and instead setting concrete benchmarks for compliance—preferably based on work hours performed rather than number of new hires. In order to avoid excessive punishment that would discourage contractors from working in the city, clear policies should also be reasonable in light of a city's actual supply of labor. This information will likely require data on job training and employment provided by other government institutions.

Beyond the basic benchmarks for each program, guidelines should explain the entire compliance process for both the employer and the government. San Francisco's local hiring policy explains what records each contractor must keep and how often they must report them to specific city offices, outlines the penalties that contractors may face depending on the type and severity of their noncompliance,

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61. EAST PALO ALTO, CA., CODE § 5.11.030 (2023).

62. *Id.*

63. *Id.* at 5.11.040.

64. D.C. CODE § 2-219.01 (2024).

65. D.C. CODE §§ 2-219.03(1A)(F)(i), (3)(A)(iv) (2024).

and even mandates what kind of compliance data the city's agency must make publicly available online.<sup>66</sup> Smaller and less well-staffed cities might at least follow East Palo Alto's lead by establishing liquidated damages for different forms of noncompliance, contractors' remedies to dispute complaints, and a progression of city punishments leading up to debarment and suspension.<sup>67</sup> Finally, while "best practices" language is a poor substitute for specific hiring requirements, some cities let contractors apply for waivers if they can document their unsuccessful, but good faith effort to meet the city's requirements.<sup>68</sup> These strong, clear, and specific terms make local hiring policies predictable for businesses, incentivizing compliance and by making it clear what they have to do, to what extent, when, and what will happen if they do not follow the law.

### C. Centralized Implementation

Still, even if a policy is perfectly clear to all stakeholders, it cannot succeed unless it has an adequately staffed and sufficiently organized workforce to implement it. Local hiring policies should be administered by a single well-staffed municipal department, rather than spread out among various departments. Ideally, some program staff should be assigned to monitor and enforce the program and others assigned to grow the program by maintaining relationships with local businesses, community groups, and schools. San Francisco centralizes its program under its Office of Economic and Workforce Development (OEWD) and employs dedicated, full-time compliance monitors, workforce monitors, and employment liaisons.<sup>69</sup>

Cities that cannot support such dedicated staffs should at least clearly assign different parts of the policy to appropriate departments as needed and then task one overarching office with regularly reviewing the program; for example, the City of Boston allows the Boston Planning and Development Agency and a dedicated Boston Residents Jobs Policy office to oversee its local hiring law, and both are subject to monthly review by the city's Employment Commission.<sup>70</sup> Los Angeles takes a different approach, focusing its local first-source hiring enforcement on city contracts other than those designated "public works projects."<sup>71</sup> For public works projects, the city agency responsible for the project is required to negotiate a project labor agreement that includes local hiring alongside work hours, wages, safety, and project scheduling.<sup>72</sup> Cities can also shift some of the burden onto residents and contractors by creating a shared job software that allows residents to

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66. S.F., CAL., ADMIN. CODE § 82.8(a)-(f) (2023).

67. See EAST PALO ALTO, CAL., CODE ch. 5.11 § 080 (2023).

68. See, e.g., D.C. CODE § 2-219.03(3)(A)(i) (2024).

69. DAMEWOOD & LIU, *supra* note 59, at 6.

70. *Boston Residents Jobs Policy*, CITY OF BOS., <https://www.boston.gov/government/cabinets/equity-and-inclusion-cabinet/supplier-diversity/boston-residents-jobs-policy-construction-projects> (last visited Apr. 8, 2024).

71. L.A., CAL., ADMIN. CODE div. 10, ch. 1, art. 18, § 10.44.1 (2024).

72. L.A., CAL., ADMIN. CODE div. 10, ch. 1, art. 19, § 10.45.2 (2024); see DAMEWOOD & LIU, *supra* note 59, at 10.

proactively sign up and apply for jobs and allows contractors to proactively hire for jobs. Washington D.C.'s First Source Online Registration and Reporting System is one example.<sup>73</sup> Ideally, these systems should be the same ones used by other local actors, including local housing authorities and the state more broadly.

#### *D. Active and Direct Partnerships with Relevant Stakeholders*

Ultimately, though, cities need to accept the responsibility that local hiring policies are inherently an “intermediation program” for which “municipal management needs to dedicate qualified staff with the authority and relationship-building capacity to broker agreements among different sectors.”<sup>74</sup> In other words, local hiring policies work when they actively and formally involve all stakeholders. East Palo Alto’s law requires the city to actively solicit pre-bid meetings with developers as well as to convene a semi-annual meeting with local labor unions, contractors, workforce training providers, and community groups “to provide feedback and suggestions about this chapter and to review employment goals established by this chapter.”<sup>75</sup> Meanwhile, San Francisco and Boston also connect their programs with one-stop career centers located in neighborhoods and a centralized job bank, respectively.<sup>76</sup> Educationally, cities should maintain an active list of apprenticeship and pre-apprenticeship programs, especially ones that focus on lower-income communities. Chambers of commerce and contractors’ advocacy groups are natural partners for establishing relationships with contractors. In particular, chambers of commerce that focus on minority- and women-owned enterprises might be ideal partners for cities looking to meet their Section 3 contracting requirement.

Finally, cities should strive to include building trades unions as a stakeholder. This is true at a basic level because in cities where unions perceived local hiring laws as a threat to their economic position, they have leveraged their political influence to oppose passing and enforcing local ordinances: Pittsburgh has had a local hiring and diversity ordinance in its code since 2000, but when one member of the City Council moved to reform it in 2013, the Pittsburgh Regional Building Trades Council opposed the move for fear it would limit their contractors’ abilities to hire their workers from the traditional union hiring hall model.<sup>77</sup> Similar backlash occurred in East Palo Alto.<sup>78</sup> This friction echoes decades of ambivalence and opposition from many building trades unions toward employing women

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73. See *First Source Online Registration and Reporting System*, D.C. DEP’T EMP. SERVS. (last visited Apr. 4, 2024), [https://webapps.does.dc.gov/FORRS/\(S\(yfzptsumqmluxwm0j5ntofh1\)\)/Home/FSHomePage](https://webapps.does.dc.gov/FORRS/(S(yfzptsumqmluxwm0j5ntofh1))/Home/FSHomePage).

74. Douthat & Green-Leigh, *supra* note 60, at 1034.

75. EAST PALO ALTO, CAL., CODE ch. 5.11 § 050-060 (2023).

76. DAMEWOOD & LIU, *supra* note 59, at 6; BOS., MASS., CODE ch. 8 § 9.2.a.-b (2024).

77. Interview with Robert Damewood, Senior Development Attorney, Regional Housing Legal Services (Dec. 9, 2022) (on file with author).

78. KATHLEEN MULLIGAN-HANSEL, P’SHP WORKING FAMS., MAKING DEVELOPMENT WORK FOR LOCAL RESIDENTS 11 (2008), [https://s3.amazonaws.com/progov21-uploads/uploads/asset/asset\\_file/Making\\_Development\\_Work\\_Local\\_Residents\\_Mulligan-HanselPWF2008.pdf](https://s3.amazonaws.com/progov21-uploads/uploads/asset/asset_file/Making_Development_Work_Local_Residents_Mulligan-HanselPWF2008.pdf). (“In East Palo Alto, the

and people of color and complying with federal, state, and local workforce provisions.<sup>79</sup>

That said, in recent decades building trades unions have shown increased openness to diverse hiring, especially when it presents a clear economic opportunity to grow union membership and secure work. Not far from East Palo Alto, in Oakland, the local building trades council was directly involved in negotiating a project labor agreement that included local hiring, and the project ended up securing 31% local employment for several million hours of work.<sup>80</sup> Likewise, a small-scale union collaboration with the Boston Public Schools led to thirteen out of forty-three apprenticeships going to low-income apprentices.<sup>81</sup> Unions are also a natural partner for Section 3 and local hiring programs because in some states union apprenticeships account for up to 85% all construction apprentices trained.<sup>82</sup> Ideally, unions should be willing to accept more willing and qualified apprentices coming from local hiring programs' pre-apprenticeship partners if it means the union can secure a project labor agreement or greater access to HUD-funded projects.

One success story regarding union involvement in local Section 3 efforts comes from the New York City Housing Authority (NYCHA). For nearly twenty years, the NYCHA has maintained the CM/Build Program,

which requires construction management companies used in capital projects to participate in apprenticeship programs, in order to foster employment opportunities for residents and increase the number of residents hired under Section 3. Through the CM/Build Program, unions like the MTDC and contractors have made these resident hires possible.<sup>83</sup>

In its first decade, the partnership brought over 200 public housing residents into various unions.<sup>84</sup> Programs like this enable cities with strong unions to offer more than adversarial negotiation, positioning organized labor as an active stakeholder that can benefit from expanding its membership into lower-income communities.

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outcomes reflect challenges that the program continues to face, including the unwillingness of trades unions to take ownership over the program's success.”)

79. See Travis Watson, *Union Construction's Racial Equity and Inclusion Charade*, STAN. SOC. INNOVATION REV. (Jun. 14, 2021), [https://ssir.org/articles/entry/union\\_constructions\\_racial\\_equity\\_and\\_inclusion\\_charade](https://ssir.org/articles/entry/union_constructions_racial_equity_and_inclusion_charade).

80. MULLIGAN-HANSEL, *supra* note 78, at 4.

81. *Id.* at 12.

82. See, e.g., STEPHEN HERZENBERG ET. AL, CAP. AREA LAB-MGMT. COUNCIL, CONSTRUCTION APPRENTICESHIP AND TRAINING IN PENNSYLVANIA 9 (May 30, 2018), [https://krc-pbpc.org/wp-content/uploads/20180530\\_CALMReport\\_Final.pdf](https://krc-pbpc.org/wp-content/uploads/20180530_CALMReport_Final.pdf).

83. Press Release, New York City Housing Authority, NYCHA Joins with Construction & General Building Laborers' Local 79, MTDC to Celebrate the Addition of More Than 200 Public Housing Residents to the Union (Nov. 15, 2011), <https://www.nyc.gov/site/nycha/about/press/pr-2011/Public-Housing-Residents-to-the-Union.page>.

84. *Id.*



If local governments can maintain similar relationships with other apprenticeship providers, schools, and community groups, it can start to supply the kind of workforce needed to meet Section 3's induced demand. Once that supply grows, these governments can start to revise and tighten their own local hiring ordinances, streamlining the process and enforcing the law against non-compliant contractors. It takes coordination and clear policymaking on the government's part, but in large and small cities on both the east and west coasts, cities have managed to make Section 3's loft goals more of a reality.

#### V. THE CITY OF PHILADELPHIA AND THE PHILADELPHIA HOUSING AUTHORITY SHOULD WORK TOGETHER TO COORDINATE SECTION 3 COMPLIANCE

All of these best practices offer lessons to Philadelphia's two public housing providers. The City of Philadelphia can do better by updating the Neighborhood Benefit Strategy statute, coordinating its Section 3 administration, and partnering more intentionally with the Philadelphia Housing Authority and with local business groups, community groups, schools, and unions. Meanwhile, the Housing Authority can improve its transparency and reporting.

Once the City of Philadelphia and Philadelphia Housing Authority amend their programs, they will both still need to ensure that their Section 3 programs are actively administered by well-organized administrators which are engaged in Philadelphia's low-income communities. The city and PHA already collaborate on annual housing action plans, having conducted an assessment of fair housing needs together in 2016.<sup>85</sup> The two can combine forces so that neither has to extensively expand their staffs: the city can provide referrals to PHA's certified apprenticeship programs, while the PHA can use CareerLink to refer jobs to residents who live near its field offices, effectively using them the way San Francisco uses its one-stop career shops. Meanwhile, the two localities should follow East Palo Alto's lead and convene recurring meetings for local stakeholders, including businesses, contracting groups, minority business groups such as the Philadelphia Black Chamber of Commerce and the local chapter of the National Association of Minority Contractors. Indeed, these organizations are already working together to expand construction opportunities to low-income people: a new coalition called Everybody Builds aims to generate up to \$10 billion dollars in construction activity and give as much of that work as possible to minority and lower-income residents.<sup>86</sup> Notably, the Philadelphia Construction and Building Trades are among the organizations leading Everybody Builds, thanks to their first Black

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85. See, e.g., Philadelphia Office of Housing and Community Development, *Annual Action Plan 2021-2022* 99 (Mar. 17, 2022), <https://www.phila.gov/media/20220317122245/Annual-Action-Plan-2021-2022-rev-3-17-2022.pdf>.

86. See Stephen Williams, *Philly's Everybody Builds Seeks to Replicate Chicago Success*, PHILA. TRIB. (Nov. 26, 2022), [https://www.phillytrib.com/news/local\\_news/phillys-everybody-builds-seeks-to-replicate-chicago-success/article\\_9d883585-409d-52d2-a79a-415cb6b3cc5f.html](https://www.phillytrib.com/news/local_news/phillys-everybody-builds-seeks-to-replicate-chicago-success/article_9d883585-409d-52d2-a79a-415cb6b3cc5f.html).

president, Ryan Boyer.<sup>87</sup> Boyer's leadership and stated goal of diversifying the trades in Philadelphia should encourage the city and PHA to seek out more labor partnerships and pursue a more intense Section 3 regulatory regime.<sup>88</sup> The city's building community is already taking the steps. They just need the government to start enforcing its own policies and join in the project.

## VI. CONCLUSION

At the end of his September 2022 article, PHA President Jeremiah described a number of steps the Philadelphia Housing Authority was taking to meet Philadelphia's affordable housing demand, including funding traditional housing development through the Rental Assistance Demonstration program, incentivizing landlords' acceptance of Housing Choice Vouchers, and creating a "Housing Accelerator Fund" "to finance the acquisition and rehabilitation of affordable housing and to provide working capital when feasible."<sup>89</sup> Amid all these laudable efforts, Section 3 got no mention.

For the sake of PHA's residents, the Philadelphia Housing Authority and the City should take action now. While Section 3 has never lived up to its promise from 1968, the program's recent changes show it still has some potential to grow and encourage low-income hiring and contracting. Other cities and housing authorities have shown that local hiring with an equitable edge is not a failed progressive experiment in urban governance, but rather a poorly understood tool that communities can still effectively use if they make their rules clear and sensible, provide the resources needed to enforce them, foster the relationships needed to make effective referrals, and outline reporting standards that are updated and intentional. The City of Philadelphia and the Philadelphia Housing Authority can do each of those things. If they can just do them consistently they will ensure Philadelphia's future is built by Philadelphians.

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87. *The 2023 Pennsylvania Construction 100*, CITY & STATE PA. (Apr. 10, 2023), <https://www.cityandstatepa.com/power-lists/2023/04/2023-construction-power-100/384889/> ("Boyer recently led the [building trades] council's participation in 'Everybody Builds,' a collaborative effort to hire a more diverse workforce for Philadelphia construction projects.").

88. Unlike in California, in Pennsylvania, state courts have limited the times that local governments can pursue project labor agreements. *See* Allan Myers, L.P. v. Dep't of Transp., 202 A.3d 205, 212 (Pa. Commw. Ct. 2019). (In Pennsylvania, local agencies, including cities, can only require project labor agreements when "time is of the essence" and some financial or temporal limit demands the predictable cost and schedule of a project labor agreement.). However, Pennsylvania leaders can still negotiate collective bargaining agreements and require responsible contracting in ways that favor contractors who honor union-level standards and wages.

89. Jeremiah, *supra* note 1.