

Office of Thrift Supervision Memorandum

On September 2, the Office of Thrift Supervision (OTS) in the Department of the Treasury issued a memorandum on the PTFA to CEOs of institutions under OTS supervision, including federal savings banks and federal savings and loans. The short memorandum advised CEOs that tenants must be given “90 days’ advance notice” before “requiring them to vacate foreclosed property.”⁴² The memorandum also advised member institutions that they should “implement a process to ensure compliance with” requirements of the PTFA. However, the memorandum failed to mention that bona fide tenants have the right to remain until the end of their lease terms.

Conclusion

The PTFA has given many tenants in foreclosed properties the chance to remain in their homes until the end of their leases. As a result, their children can stay in the same school to finish the school year. Tenants with disabilities now have the time they need to locate alternative housing that meets their needs. Even tenants who are not entitled to stay until the end of their leases now have ninety days to look for a new home and make moving plans.

But rapid evictions of tenants in foreclosed properties are still being reported across the country, and tenants are forced to find legal assistance to assert their rights under the PTFA.⁴³ As Senator Kerry said, these tenants should not have to enforce their rights individually when they are faced with losing their homes. Instead, lenders and servicers should make sure that tenants’ rights are protected during and after foreclosure. Federal regulators have started the process of ensuring that their regulated entities are in compliance with the PTFA, but there remains much to be done to educate tenants of their rights and inform property managers of their obligations under the PTFA. For this relatively new law, the implementation process continues. ■

⁴²Office of Thrift Supervision Memorandum, Tenant Protection During Foreclosure, “Helping Families Save Their Homes Act of 2009,” Sept. 2, 2009, <http://files.ots.treas.gov/25319.pdf>.

⁴³See, e.g., Charles Oliver, *Law Helps Protect Renters of Foreclosed Property*, DAILY CITIZEN (Dalton, Ga.) (Aug. 23, 2009) (reporting that a tenant with a thirty-year lease living in a foreclosed home received a notice to vacate that allegedly violated the PTFA).

Earnings and Living Opportunities Act Would Strengthen Section 3*

Section 3¹ was enacted as part of the Housing and Urban Development Act of 1968, which had the overarching purpose of providing “a decent home and a suitable living environment for every American family.”² Section 3 is integral to the fulfillment of this purpose, because it directs training and jobs to public housing residents and other low-income residents living in areas where funds from the Department of Housing and Urban Development (HUD) are expended so as to multiply the benefit of the funds for low- and very low-income individuals. Since its creation, Section 3 has not operated to its greatest potential due to a lack of HUD oversight and the absence of enforceable rules. As a result, a multitude of projects and the expenditure of billions of dollars have failed to generate the quality and quantity of employment opportunities that Congress intended.³

Over the past several years, Representative Nydia Velázquez (D-NY), a senior member of the House Financial Services subcommittee on Housing and Community Opportunity, has demonstrated a continuing interest in strengthening Section 3. Most recently, Representative Velázquez authored the Earnings and Living Opportunities Act (ELOA), which would bolster Section 3 obligations. ELOA was the subject of hearings before the House Subcommittee on Housing and Community Opportunity in New York City on July 20, 2009. ELOA comes at a critical time for the Section 3 program, when HUD is distributing and monitoring the expenditure of roughly \$12 billion in stimulus funds⁴ and \$14 billion in Fiscal Year 2009 appropriations that are subject to the requirements of Section 3.⁵

*The author of this article is Erin Liotta, a J.D. candidate at the University of California, Berkeley, and an intern at the National Housing Law Project.

¹12 U.S.C.A. § 1701u(b) (Westlaw July 13, 2009); see H.R. 2243, 107th Cong., 1st Sess. (2001), H.R. 2298, 108th Cong., 1st Sess. (2003), H.R. 5164, 109th Cong., 2d Sess. (2006), H.R. 3310, 110th Cong., 1st Sess. (2007); see also NHLP, *Proposed Legislation Signals New Hope for HUD’s Section 3 Program*, 36 HOUS. L. BULL. 109 (May 2006).

²Housing and Urban Development Act of 1968, Pub. L. No. 90-448, § 2, 82 Stat. 476 (1968).

³For an illustrative examination of the Section 3 failings of the New York City Housing Authority, the nation’s largest housing program, and corresponding recommendations, see VICTOR BACH & TOM WATERS, COMMUNITY SERVICE SOCIETY, *MAKING THE CONNECTION: ECONOMIC OPPORTUNITY FOR PUBLIC HOUSING RESIDENTS* (2009).

⁴Under the Housing and Economic Recovery Act of 2008, HUD received \$3.9 billion for its Neighborhood Stabilization Program. Under the American Recovery and Reinvestment Act of 2009, HUD received \$7.8 billion in funds subject to Section 3. For more information on Section 3 funds under HERA and ARRA, see NHLP, *New Opportunities for Section 3 Job Creation Under the Recovery Act and the Neighborhood Stabilization Program*, 39 HOUS. L. BULL. 163 (July 2009).

⁵These FY 2009 Appropriations Funds consist of \$4.5 billion for the Public

This article summarizes and expands upon testimony presented in support of ELOA by the National Housing Law Project (NHLP) before the Subcommittee on Housing and Community Opportunity, and examines the major changes that ELOA proposes.⁶

Mandatory Obligation Would Simplify Applicability and Close Loopholes

ELOA contains a number of provisions that would broaden the applicability of Section 3. Most significantly, it would impose a mandatory obligation on all recipients of HUD funds. The current language of the statute, calling for agencies to direct economic opportunities to low- and very-low income persons “to the greatest extent feasible,” has created confusion or inaction and thereby noncompliance.⁷ Section 3 applicability currently depends upon the agency type, program type and end use, and imposes differing requirements for each. The statute now distinguishes between public and Indian housing programs and “other programs.” It also names certain types of assistance—three discrete types of assistance for public and Indian housing authorities, and three broad categories of activities (construction, rehabilitation and public works) for other programs—to which Section 3 applies.⁸ Recipients have cited these nuanced exceptions as reasons why they did not know or believe they were subject to Section 3. ELOA would eliminate such confusion by speaking in broad terms about Section 3’s applicability to “recipients of funds administered by [HUD]”⁹ and by removing all but one distinction in requirements based on whether a recipient is a public or Indian housing agency. ELOA also acknowledges that federal housing programs have expanded beyond public housing, which was most prominent at Section 3’s enactment in 1968. Rather than prioritizing individuals based on their residence in public housing, ELOA would create a top training and employment preference for low- and very-low income individuals residing in developments where the HUD assistance is expended.¹⁰

ELOA would further eliminate confusion by clarifying the manner in which Section 3 applies. Currently, the statute requires compliance “to the greatest extent feasible.”¹¹ Some courts, and undoubtedly numerous recipients, have construed this language as allowing recipients to circumvent the Section 3 obligations in certain circumstances.¹² Some recipients of HUD funds have claimed that an effort is sufficient even though the intended outcomes were not achieved. ELOA would remedy this by removing nearly all of the “greatest extent feasible” and “best efforts” language and plainly requiring compliance as a “condition of [HUD] assistance.”¹³

ELOA would also correct provisions that often undermine Section 3’s effectiveness. The Section 3 regulations set minimum numerical goals by which fund recipients can demonstrate they have met the “greatest extent feasible” standard. Recipients of Section 3-covered funds “may demonstrate compliance” by ensuring that 30% of the aggregate number of new hires annually are Section 3 residents and that 10% of the dollar amount of building trade contracts and 3% of all other contracts go to Section 3 business concerns.¹⁴ One loophole to these presumptions became apparent during the course of project execution: fund recipients who hire Section 3 residents toward a project’s end can meet the numerical hiring goals without providing meaningful work hours.¹⁵ ELOA would fix this aggregate hiring loophole by requiring that Section 3 contractors give 30% of all hours worked to low- and very-low income persons qualifying for the Section 3 preference.¹⁶

Sanctions, Incentives, Private Right of Action and Reporting Would Increase Compliance

The current regulations lack teeth to enforce Section 3 requirements. The regulations do not mandate sanctions for noncompliance, stating that “debarment, suspension, and limited denial of participation *may be applied*” by HUD “where appropriate.”¹⁷ For the most part, the regulations leave sanctions to be specified by the individual HUD contract or other HUD program regulations.¹⁸ HUD rarely, if at all, imposes sanctions. Also, until recently, HUD did not regularly remind fund recipients of its authority to

Housing Operating Fund, \$3.9 billion for the Community Development Fund, \$2.5 billion for the Public Housing Capital Fund, \$1.8 billion for the HOME Investment Partnership Program, \$765 million for Section 202 Housing for the Elderly, \$250 million for Section 811 Housing for Persons with Disabilities, \$140 million for the Lead-Based Paint Hazard Reduction Program and \$120 million for HOPE VI. NATIONAL LOW INCOME HOUSING COALITION, FY10 BUDGET CHART FOR SELECTED PROGRAMS (2009), <http://www.nlihc.org/doc/FY10-presidents-request.pdf>.

⁶For the witness list and prepared written testimony, see http://www.house.gov/apps/list/hearing/financialsvcs_dem/hrhco_072009.shtml.

⁷12 U.S.C.A. § 1701u(b) (Westlaw July 13, 2009).

⁸§§ 1701u(c)(1)(A), (c)(2)(A), (d)(1)(A), (d)(2)(A).

⁹Earnings and Living Opportunities Act, H.R. _____, 111th Cong. §§ 2(a)(e)(1), (f)(1) (2009) (Discussion Draft, June 25, 2009).

¹⁰§ 2(a)(3)(g)(1)(A).

¹¹See, e.g., 12 U.S.C.A. § 1701u(b).

¹²See, e.g., Ramirez, Leal & Co. v. City Demonstration Agency, 549 F.2d 97 (9th Cir. 1976); Mannarino v. Morgan Twp., 64 F. Appx 844 (3d Cir. 2003).

¹³Earnings and Living Opportunities Act, *supra* note 9, §§ 2(a)(3)(e)(2)(A), 2(a)(3)(f)(2)(A) (emphasis added).

¹⁴24 C.F.R. § 135.30 (2009). For definitions of “Section 3 resident” and “Section 3 business concern,” see § 135.5.

¹⁵For more information on this practice, which involved the City of Long Beach, see NATIONAL HOUSING LAW PROJECT, AN ADVOCATE’S GUIDE TO THE HUD SECTION 3 PROGRAM: CREATING JOBS AND ECONOMIC OPPORTUNITY 12-14 (2009), <http://nhlp.org/files/03%20Sec.%203%20Guide.pdf>.

¹⁶Earnings and Living Opportunities Act, *supra* note 9, § 2(a)(3)(e)(2)(A).

¹⁷24 C.F.R. § 135.74(d) (emphasis added); see also § 135.76(g).

¹⁸§ 135.74(d).

impose sanctions.¹⁹ ELOA, by contrast, would mandate strict sanctions, providing that recipients, contractors and subcontractors who do not comply with Section 3 “shall be sanctioned” by the HUD Secretary.²⁰ Sanctions include reduction of future HUD funds, debarment, suspension, limited denial of participation in HUD programs or other sanctions the Secretary deems necessary.²¹ Clear sanctions would more than likely have the salutary effect of improving up-front compliance. At the opposite end of the spectrum from sanctions, ELOA would incentivize recipients to comply with Section 3 through performance incentives for exceeding baseline numbers.²² The proposed bill would also authorize \$5 million, which may be used to fund efforts to implement and improve local Section 3 programs, such as the provision of incentives.²³

ELOA would also tighten enforcement through contractor requirements. While current regulations prohibit recipients from contracting with an entity “after notification to the recipient by HUD that the contractor has been found in violation of” Section 3, ELOA would clarify this standard to require that recipients not contract with “any contractor in any case in which the recipient has *notice or knowledge* that the contractor has violated” Section 3.²⁴ ELOA would further make Section 3 compliance “part of any performance standard” in reviewing recipients and their contractors.²⁵

Under the present system, Section 3 complaints often take years to resolve and may never result in meaningful resolutions. In one case, Section 3 residents filed a complaint with HUD in 1998 and did not obtain a determination of non-compliance until 2004.²⁶ In another example, by the time a Section 3 business concern received a favorable appellate decision on its HUD complaint filed six years prior, the company had gone out of business.²⁷ To address this, ELOA would explicitly grant a private right of action for enforcement by stating that the Administrative Procedure Act and 42 U.S.C. § 1983 are available to aggrieved parties for pursuing such actions.²⁸ This statutory

provision is particularly necessary in light of recent case law determining that Congress did not intend to create a private right of action to enforce Section 3 requirements.²⁹ ELOA recognizes that a substantial number of entities are subject to Section 3, and HUD cannot effectively oversee compliance by all recipients, contractors and subcontractors.³⁰ By adding a private right of action, ELOA would make clear that Section 3 must and will be enforced, a critical message given the failings of the current complaint procedure to afford effective and timely relief. Additionally, ELOA would specify that state and local laws that provide more expansive protections for achieving Section 3 goals are not preempted.³¹

A major hurdle to Section 3 enforceability under the current system is the paucity of available information. A 2003 Office of Inspector General study found that HUD had not effectively implemented its Section 3 recipient reporting system or other methods of recipient monitoring.³² Currently, Section 3-covered recipients must submit information on Section 3 activities to HUD annually.³³ But HUD often cannot analyze Section 3’s effectiveness because recipients do not submit reports as required. And though HUD has the ability to sanction recipients who fail to submit reports, there is no indication that it does so with regularity.³⁴ ELOA, by contrast, would require reporting at least twice per year, with mandates that for “any period” in which a recipient, contractor or subcontractor fails to meet the numerical requirements, the recipient shall report on the steps it took in attempting to meet the requirement.³⁵

Overall, ELOA aims to achieve greater accountability and transparency so that the public—and HUD—will not be left in the dark about who is or is not in Section 3 compliance. Recipients would be required to include Section 3 compliance information in their Five-Year Plans, annual plans or similar alternative plans.³⁶ The HUD Secretary would be mandated to submit annual reports to Congress summarizing Section 3 recipient report information.³⁷

¹⁹2 C.F.R. part 2424 authorizes HUD to impose sanctions such as debarment and suspension for failure to comply with applicable regulations, but the Notices of Funding Availability (NOFAs) for various HUD programs vary widely and often do not contain information on Section 3 sanctions. HUD only added this information to the General Section of its NOFAs in FY2009. See Notice of HUD’s Fiscal Year (FY) 2009 Notice of Funding Availability (NOFA), Policy Requirements and General Section to HUD’s FY2009 NOFAs for Discretionary Programs, 74 Fed. Reg. 79,548, 79,552 (Dec. 29, 2008).

²⁰Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3(k)(1).

²¹§ 2(a)3(k)(1).

²²§ 2(a)3(e)(2)(A).

²³§ 2(a)3(n)(1).

²⁴§ 2(a)3(k)(2) (emphasis added).

²⁵§ 2(a)3(h).

²⁶Letter from Carolyn Peoples, HUD Assistant Secretary for Fair Housing and Equal Opportunity, to Heather A. Mahood, Long Beach, CA, Deputy City Attorney (Apr. 26, 2004).

²⁷Mannarino v. Morgan Twp., 64 F. App’x 844 (3d Cir. 2003); Mannarino v. HUD, 2009 WL 918355 (W.D. Pa. Apr. 2, 2009) (slip op.).

²⁸Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3 (k)(3).

²⁹See *McQuade v. King County Hous. Auth.*, 203 F. App’x 823 (9th Cir. 2006); *Williams v. HUD*, 2008 WL 5111105 (E.D.N.Y. Dec. 4, 2008) (unreported); *Williams v. HUD*, 2006 WL 2546536 (E.D.N.Y. Sept. 1, 2006) (unreported); *Nails Constr. Co. v. City of Saint Paul*, 2007 WL 423187 (D. Minn. Feb. 6, 2007) (unreported).

³⁰OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SURVEY OF HUD’S ADMINISTRATION OF SECTION 3 OF THE HUD ACT OF 1968 3-4 (Audit Case # 2003-KC-0001) (2003).

³¹Earnings and Living Opportunities Act, *supra* note 9, § 3 (k)(3).

³²OFFICE OF INSPECTOR GENERAL, *supra* note 30, at 3-4.

³³24 C.F.R. § 135.90.

³⁴See 74 Fed. Reg. 79,552, *supra* note 19.

³⁵Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3(j)(1)(A)-(B). In addition, recipients, contractors and subcontractors, if they fail to meet the requirement that 10% of all contracts go to Section 3 businesses, are required to show that they used all feasible means to achieve the goal and to explain why qualified businesses that submitted a bid were not selected. § 2(a)3(f)(2)(B)(ii).

³⁶§ 2(a)3(h).

³⁷§ 2(a)3(j)(2).

Finally, recipients would be obligated to conduct annual community hearings to obtain citizen input on the recipient's Section 3 performance.³⁸

Centralization, Capacity Building and Working with Residents Would Improve Outcomes

A hallmark of ELOA is its recognition that Section 3's success hinges on centralized support for its administration. ELOA would create the unprecedented requirement that all Section 3-covered recipients "designate, employ, or contract with" a Section 3 coordinator.³⁹ Given current limitations in obtaining adequate remedies and the mixed messages that HUD sends regarding Section 3's applicability, requiring a discrete coordinator to monitor Section 3 implementation may be ELOA's most powerful step toward fulfilling Section 3 goals. Studies of the few jurisdictions that have taken similar actions attest to the impact a Section 3 coordinator can have. The City of Kansas City, for example, has employed two full-time staffers devoted to Section 3 administration since receiving a negative HUD audit in February 2006.⁴⁰ Under this new structure, the city quickly turned its operations around. In 2006, it exceeded its aggressive goal of placing fifty Section 3 residents in full-time employment and awarded over two million contract dollars to Section 3 business concerns.⁴¹

ELOA proposes another significant structural change to increase centralized program oversight. ELOA would more clearly define the Section 3 organizational structure by removing the program from its current location in HUD's Office of Fair Housing and Equal Opportunity (FHEO) and creating a stand-alone Section 3 office in the Office of the Secretary.⁴² This change has the potential to increase effectiveness and outcomes. Currently, the Section 3 office within FHEO has no line authority over the HUD departments that control and allocate the majority of the HUD funds. Moving the Section 3 office would likely result in a broader achievement of Section 3 goals and requirements.

ELOA would further improve Section 3 outcomes through its emphasis on training and long-term employment objectives. In its "Employment" subsection, ELOA states that "special consideration shall be given to persons enrolled in State-approved apprenticeship programs."⁴³ In the training arena, ELOA would require the HUD Secretary to provide incentives to those recipients and contractors whose training programs promote career

advancement.⁴⁴ This emphasis on meaningful, long-term outcomes is also reflected through a slight modification in individual and business priorities. In contracting priorities, for example, ELOA would create a separate category for "qualified businesses that provide significant training and job opportunities to low- and very-low income persons."⁴⁵ In addition, ELOA would promote long-term employment and skill development by providing that any person who qualifies for a Section 3 priority shall continue to qualify for a period of five years, "irrespective of any increase in income or other change in priority status during the period."⁴⁶

In several ways, ELOA calls for citizen and resident participation and requires recipients to consider such input. ELOA would require recipients to conduct annual community hearings to obtain citizen input on their Section 3 performance.⁴⁷ These hearings would be required to accommodate non-English speaking residents "where a significant number of non-English speaking residents can be reasonably expected to participate."⁴⁸ In addition, residents would be able to provide input through the public housing (or other similar) planning process, for which ELOA would mandate a specific Section 3 component.⁴⁹ Finally, recipients would be held to greater public accountability standards in reporting.

Given HUD's difficulty in monitoring compliance,⁵⁰ resident participation can provide much-needed local monitoring and enforcement. Residents and their organizations are often in the best position to monitor whether Section 3's benefits are reaching the intended beneficiaries. Coupled with the creation of a private right of action, ELOA would tap into the currently underutilized resident potential as a compliance tool. For example, residents and the city-wide resident council for the Housing Authority of Kansas City were extensively engaged in the city's public housing redevelopment. At that time, the tenant organization had a member on an oversight committee that regularly met with the developer and public housing authority staff. The residents referred other public housing residents for jobs and training, the resident representative monitored weekly payrolls, and the resident council was involved in the creation and support of a resident business that received Section 3 contracts.

Similarly, Camden, New Jersey, used federal funds to demolish a sixty-year-old development and replace it with 172 modern townhouses. The development's resident association had a role in reviewing bid applications, the developer selection and the final construction plan. The association surveyed residents to identify skills and

³⁸§ 2(a)3(i)(2).

³⁹§ 2(a)3(g)(4)(A).

⁴⁰AN ADVOCATE'S GUIDE TO THE HUD SECTION 3 PROGRAM, *supra* note 15, at 21-22.

⁴¹*Id.*

⁴²Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3(c).

⁴³§ 2(a)3(e)(2)(A).

⁴⁴§ 2(a)3(d)(3).

⁴⁵§ 2(a)3(g)(2)(B).

⁴⁶§ 2(a)3(l)(3).

⁴⁷§ 2(a)3(i)(2).

⁴⁸§ 2(a)3(i)(2)(B).

⁴⁹§ 2(a)3(h).

⁵⁰See OFFICE OF INSPECTOR GENERAL, *supra* note 30, at 3-4.

interests in construction and management trades positions and met with the developer to match residents appropriately as job openings arose under both the general contractor and subcontractor. The association also played a key monitoring role, making site visits to confirm that public housing residents were actually on the job, consulting with residents about the substance of their work assignments, and reviewing pay ledgers every two weeks to confirm that residents were receiving full-time work comparable to other employees. This close engagement of the resident association also resulted in a wholly resident-owned painting business being hired to do the interior painting, with public housing residents then hired to perform the painting work. All such efforts helped to achieve the Section 3 goals.

In addition to involving residents, ELOA would bring in other agency support at the federal level. The current Section 3 statute requires the HUD Secretary to coordinate among federal agencies, but up until very recently that coordination did not occur. ELOA would require the HUD Secretary to enter into “formal collaborative agreements regarding training, employment, contracting, or other areas” within 180 days and to report to Congress on the changes needed in other federal agencies “to facilitate the effective implementation and outcomes of the [Section 3] program.”⁵¹ This coordination is essential for a full and robust implementation of Section 3 and to improve the likelihood that the objectives of the program are fully met.⁵²

Over the years, HUD, housing advocates and HUD funding recipients have recognized weaknesses in the Section 3 program. Efforts have been made to address these problems by recommending revising and finalizing the Section 3 regulations. In 2003, HUD committed to completing this task.⁵³ But to date, fifteen years after the interim Section 3 regulations were adopted, the rules have not been revised and finalized.⁵⁴ ELOA would address that issue by requiring the Secretary to issue regulations implementing the revisions to the statute within 120 days after enactment.⁵⁵

Recommendations

The proposed amendments to Section 3 would strengthen a program with substantial potential that has been long neglected. There are several minor changes to ELOA that would further strengthen and clarify Section 3 provisions.

- For maximum effectiveness, and in light of stimulus funding awards, ELOA should be expanded to apply

Section 3 to non-HUD funds. At a minimum, Section 3 should apply to all funds expended for housing work, such as weatherization, green retrofits and Low-Income Housing Tax Credit housing, regardless of the federal agency distributing or facilitating the creation of the funds.⁵⁶

- To avoid confusion, ELOA should make clear that the priorities for jobs and training apply to low- and very-low income individuals, so as to avoid any confusion with the term “recipient,” which is defined in the proposed legislation as an entity that receives HUD funds.⁵⁷
- The bill ought to clearly state that Section 3 applies to funds that support all kinds of housing work, including repairs, management and modernization.
- The reporting requirements for recipients of funds should be more clearly spelled out.⁵⁸
- The exception of certain funds from the application of Section 3 should be limited solely to the tenant-based voucher program. Project-based vouchers or other project-based rental or subsidy programs should not be excluded from Section 3’s requirements.⁵⁹

Conclusion

Section 3 reform is needed now more than ever. In February 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA), allocating \$13.6 billion in funding to HUD. With its focus on job creation and assistance to those most impacted by the recession, ARRA’s goals are patently consistent with the underlying purposes of Section 3. Since its enactment in 1968, however, Section 3 has proven difficult to implement, presenting administrative obstacles and regulatory loopholes. With ELOA, Congress has the opportunity to address current deficiencies in time to ensure that Section 3 makes a real difference as HUD distributes ARRA funds and local entities engage in and contract for the work. These changes are crucial to ensuring that HUD funds are used to assist low- and very low-income residents in obtaining economic opportunities. Additionally, ELOA will reinvigorate the public discussion of Section 3, which may lead to greater compliance and enforcement. ■

⁵¹Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3(m).

⁵²BARBARA SARD & MICAH KUBIC, CENTER ON BUDGET AND POLICY PRIORITIES, REFORMING HUD’S “SECTION 3” REQUIREMENTS CAN LEVERAGE FEDERAL INVESTMENTS IN HOUSING TO EXPAND ECONOMIC OPPORTUNITY 12 (2009), www.cbpp.org (noting the need for Workforce Investment Boards (WIBs) to play a formal role in Section 3 implementation).

⁵³OFFICE OF INSPECTOR GENERAL, *supra* note 30, at 4.

⁵⁴*Id.* at 8.

⁵⁵Earnings and Living Opportunities Act, *supra* note 9, § 2(b).

⁵⁶See Earnings and Living Opportunities Act, *supra* note 9, § 2(a)3(m), which requires the HUD Secretary to coordinate with other federal agencies.

⁵⁷*Id.* § 2(a)3(l)(5).

⁵⁸Compare § 2(a)3(j), which addresses the reporting requirements of recipients, with §§ 2(a)3(e)(2)(B) & 2(a)3(f)(2)(B), which explain the reporting requirements of contractors.

⁵⁹See § 2(a)3(e)(2), which would cover recipients, contractors and subcontractors “except in the case of rental subsidies.”