

SAGINAW HOUSING COMMISSION

EXECUTIVE SUMMARY

December 19, 2005

SECTION 3 OPPORTUNITIES POLICY

It is the intent of these revisions to enhance the Commission's residents' economic well being by using resources from all procurement areas. These initiatives are designed to clearly articulate the requirements for resident hiring, training and contracting opportunities as outlined in SHC's policy on Section 3. They are also created to develop and/or strengthen administrative procedures for facilitating contractors' capacity to fulfill SHC's stated requirements.

In order to implement a more effective approach that will ensure SHC and area Section 3 residents receive direct financial benefits through the Commission's procurement program, staff have recently developed and recommend several policy initiatives or changes that require Board of Commissioners review and approval. These recommendations are detailed below:

I. POLICY INITIATIVE-Procurement Documents

Include the contractor's commitment to meet the Commission's resident hiring requirements as one of the ranked criteria in all Request For Proposals (RFP) not to exceed either 20% of the total points assigned or 25 points, whichever methodology generates the less points overall.

If a bidder /proposal fails to submit Schedule A and the related data, such bidder/proposal will be declared as non-responsive.

For Invitations For Bids (IFB) where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy the Commission's resident hiring requirements will be a factor to use in determining whether the bidder is "responsible".

For both RFPs and IFBs, contractor shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts) and materials.

II. POLICY MODIFICATION-Resident Hiring Requirements

Establish higher resident hiring requirements for application to all Commission service contracts with labor component. In view of the Board's desire to provide SHC residents with increased employment opportunities, staff recommends the following scale for resident hiring on all service contracts containing labor component:

When the lowest responsive bid is less than \$100,000- 10% of that bid, or \$9000.

When the lowest responsive bid is:

<u>AMOUNT FOR SERVICE CONTRACT</u>	<u>RESIDENTS' % OF TOTAL LABOR DOLLARS (The lesser of the two)</u>
At least \$100,000 but less than \$200,000	9% or \$16,000
\$200,000 but less than \$300,000	8% or \$21,000
\$300,000 but less than \$400,000	7% or \$24,000
\$400,000 but less than \$500,000	6% or \$25,000
\$500,000 but less than \$ 1Million	5% or \$40,000
\$1 Million or More	Minimum of \$ 85,000 or 4% of the lowest responsive bid.

With this sliding scale formula, it is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in SHC contracted labor efforts.

A prime contractor through his/her subcontractor may satisfy the Commission's resident hiring requirements set forth above.

III. POLICY INITIATIVE-Definition of Direct and Indirect Means of Meeting Resident Hiring Requirements.

There may be situations when the Commission in its best interest may need to award a contract to a business entity that would not be able to directly meet the resident hiring requirements. Accordingly, specific means to enable the contractor to indirectly meet the resident hiring requirements have been drafted. Application of the indirect means shall be followed in this order of progression:

Indirect Resident Participation

- a. Incurs the cost of providing skilled training for residents in an amount commensurate with the above sliding scale. Such training shall be determined after consultation with the Commission.
- b. In consultation with the Commission , provides economic opportunities to establish, stabilize or expand resident owned business concerns which shall include micro-enterprises. Such opportunities include, but are not limited to: the formation of joint ventures with resident-owned businesses, the purchase of supplies and materials from resident-owned businesses, or the establishment of or contribution to a revolving loan fund for resident-owned businesses.

- c. Contribute to the Commission's Section 3 Educational Fund in an amount commensurate with the Section 3 Labor Cost sliding scale.

If a prime contractor is unable to satisfy the Commission's resident hiring requirements using these indirect means, the requirements may be satisfied through any subcontractors that may be involved in the project.

IV. POLICY REINFORCEMENT-Supporting Enforcement

To facilitate the Commission's decision making process pertaining to determining applicable percentages for resident hiring and whether a direct or indirect method should be implemented for a particular contract, enforcement strategies are proposed or set forth in Section VI below.

The SHC will conduct a Contract Award Conference (CAC) whose objective shall be to impart critical information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail: Davis-Bacon, Minority and Women Business Participation and Resident Hiring.

The Contract Award Conference (CAC) shall be comprised of the Executive Director or his designee, the Maintenance Supervisor, the FSS Coordinators, and the Administrator of Business Operations. The CAC shall require that each potential contractor certify to his/her understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, Resident Hiring and Minority and Women Business participation.

V. POLICY REINFORCEMENT-Monitoring and Enforcement Authority and Responsibility

The Contract Compliance officer who shall be designated by the Executive Director will carry out the function of monitoring and enforcing resident hiring. The Contract Compliance officer shall carry out all field activity and shall develop and implement monitoring strategies required to accomplish the contract monitoring function.

The Contract Compliance Officer shall contact the Executive Director, the Maintenance Supervisor, and the Administrator of Business Operations of instances of non-compliance. Together, these SHC units will review each notification of non-compliance and work with the contractor/vendor to seek immediate voluntary Compliance.

In the event that immediate voluntary compliance cannot be obtained, the following enforcement mechanisms are provided in progressive order.

VI POLICY INITIATIVE-Enforcement Strategies

Progressive enforcement measures that the Commission may exercise at its sole election and discretion include, but not limited to:

1. Withholding some or all future contract payments pertaining to the contract determined to be in non-compliance as well as all other contracts the vendor may have with the Commission until compliance has been determined; the amount of payment to be withheld shall be equal to the difference between Resident Hiring as a percentage of Total Labor Dollars pursuant to the sliding scale set forth herein and the amount the contractor has not satisfied.

- a. When voluntary compliance can not be achieved, a portion of the contractor's final payment will be withheld in liquidated damages for violating the terms and conditions of the contract; liquidated damages shall be equal to the amount of the contract's labor costs designated for residents minus the non-compliance amount. Further, this amount shall be deducted from the final payment and deposited in the Commission's Section 3 Educational Fund for residents. By executing a contract with the Commission containing the foregoing provision, contractors will be deemed to have voluntarily agreed to the foregoing liquidated damages provision not as a penalty but as reasonable damages the SHC may incur as a result of the contractor's non-compliance with Section 3 requirements.
- i. Refusal of all future offers or proposals shall be in effect for a period of six (6) months to three (3) years; and the Purchasing Division shall recommend the duration of such debarment to the Executive Director for approval prior to the debarment taking effect.
- ii. If the same contractor incurs three (3) resident hiring violations, the Commission may refuse to consider all future bids or offers submitted by such contractor for contracts.
- iii. Vendors/Contractors have the right to due process under the Commission's administrative protest procedures to seek resolution of resident hiring non-compliance.
- iv. If the vendor/contractor deems the internal protest procedures to be unsatisfactory and seeks resolution in a court of law, the contractor/vendor shall be solely responsible for both his and the Authority's court cost and attorney fees.

DEFINITION

For participation in the Resident Hiring effort, a resident is defined as anyone who is residing in a SHC development and is listed on a written lease executed by the Saginaw Housing Commission.

