



National Association of Housing and Redevelopment Officials

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August 2, 2024

Amanda Herrmann Vasquez
Office of Field Policy and Management
Department of Housing and Urban Development
300 Pearl Street
Suite Room 301
Buffalo, NY 14202

Re: "60-Day Notice of Proposed Information Collection: Reporting on Section 3 Activities; HUD Form 60002A; OMB Control No.: 2501-0042" [Agency/Docket Number: Docket No. FR-7084-N-03]¹

To Whom It May Concern:

On behalf of the National Association of Housing and Redevelopment Officials (NAHRO), I am pleased to offer the following comments in response to the request for information, "60-Day Notice of Proposed Information Collection: Reporting on Section 3 Activities; HUD Form 60002A; OMB Control No.: 2501-0042," published in the *Federal Register* on June 10, 2024.

NAHRO, which was established in 1933, is a membership organization of 26,000 housing and community development providers and professionals throughout the United States. NAHRO members create and manage affordable housing for low- and middle-income families and support vibrant communities that enhance the quality of life for all. NAHRO members administer more than 3 million homes for more than 8 million people.

1. Background

Section 3 is currently in effect. PIH Notice 2022-38 requires that agencies receiving Public Housing Financial Assistance and recipients of covered Housing and Community Development Financial Assistance must comply with and document compliance with Section 3 requirements; however, reporting of this documentation is suspended until the new system, S3R, replaces the former system, SPEARS. This information collection would apply to HUD 60002A, which agencies would use once reporting resumes.

2. General Comments

Although the goals of Section are laudable, the statutory requirement often makes upkeep, modernization, and construction of affordable housing more difficult for agencies. Even though this single program is not prohibitively difficult, it exists alongside other regulations, which, when considered together, can present a substantial barrier to agencies. Current Davis Bacon wage rates, which have not

¹ All citations are informal

George Guy, President; **Sean Gilbert**, SPHM, NAHRO Fellow, Senior Vice President; **Renee Smith NCC**, Vice President - Commissioners; **David S. Gates**, CSO-PH, CSEC-PH, CMPO, C-PHM, CME Vice President - Professional Development **Jeff du Manoir**, Vice President-International Research and Global Exchange; **Duane Hopkins**, CME, Vice President-Budget & Administration; **Shaunté Evans MBA, PHM**, Vice President-Member Services; **Grace Stepter**, Vice President-Community Revitalization and Development; **Lanita Hillen**, Vice President-Housing, **Mark Thiele**, CS-PHM, CME, CMVO, NCC, Chief Executive Officer

been updated since the 1930s, and the Build America, Buy America Act (BABA) preferences also impede affordable housing development.

In spring 2024, NAHRO conducted a survey of housing and community development agencies for whom BABA will apply. In total, the survey received 304 responses. NAHRO scrubbed duplicate agencies out of these responses, so each response included below represents one unique agency. Several of the questions in the survey asked if federal regulations had ever made it more difficult to maintain affordable housing. While in response to a request for information concerning BABA, these questions explore additional connections between federal requirements associated with the work PHAs do, including Section 3. Figure 1 shows overall responses to two relevant questions included in the survey.

The first question asks whether federal requirements have ever made it more difficult to partner with contractors to complete work. 73% of unique respondents indicated that federal requirements—other than BABA—have made it more difficult to secure contractors. This question explicitly includes Section 3. Agencies regularly cannot complete all necessary work themselves, and thus rely on hiring additional labor to complete projects. NAHRO members have emphasized that outside partners are aware of federal regulations and will refuse to work with agencies if they consider these requirements too burdensome. NAHRO members have indicated that they receive fewer bids for projects subject to greater regulations, and sometimes no bids from contractors at all.

Finally, 70% of respondents said federal regulations have made it more difficult to construct, alter, maintain, or repair affordable housing. HUD and NAHRO agree that quality affordable housing is essential for any community. It is important to make Section 3 as simple and easy to comply with as possible.

These responses illustrate that the ultimate consequence of Section 3 is not merely regulatory burden—it is harm to housing providers' core mission.

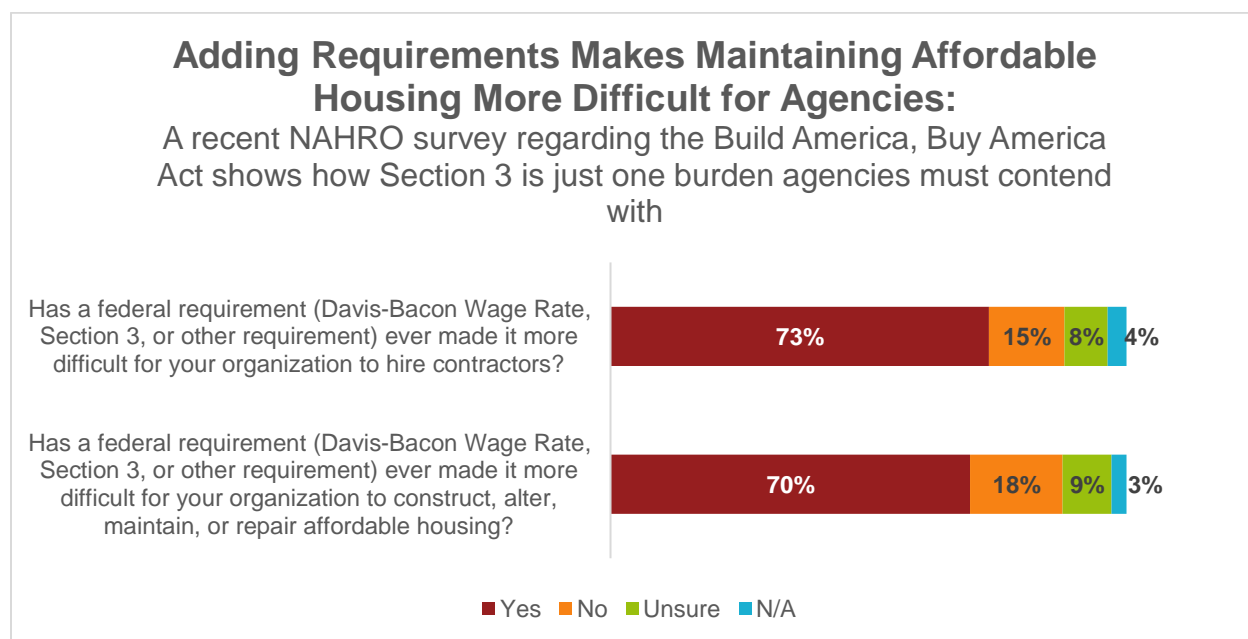


Figure 1: Responses to selected questions related to Section 3 from NAHRO's Build America, Buy America survey. These data include agencies of all sizes and funding streams.

3. Specific Comments

Clarify Requirements for Small Agencies and Qualitative Reporting

NAHRO applauds the straightforward nature of HUD Form 60002A. While Section 3 is a requirement agencies must meet, HUD should administer it in as straightforward a manner as possible, including the checklist of subjective efforts agencies have undertaken. This form currently aligns with this recommendation.

Section 3 regulations allow for agencies with 250 or fewer units to report subjectively and requires agencies who have not met the safe harbor to do so.² HUD should continue to utilize the “Nature of Agency Efforts” checklist included in HUD Form 60002A. NAHRO members have reported that this checklist is efficient and non-burdensome when reporting on subjective efforts. NAHRO members have reported that the checklist is useful in situations in which they are unable to meet safe harbor thresholds. Especially since the COVID-19 pandemic, NAHRO members have reported struggling to hire staff and contractors, including Section 3 workers. They request an accessible and reasonable method for communicating their difficulties and qualitative efforts to HUD. Finally, HUD should accept this checklist without requiring excessive supporting documentation, and HUD should clarify in the instructions the exact requirements for supporting documentation. Because labor can be so difficult to obtain, PHAs need to plan and understand early in the hiring or contracting process what will suffice for supporting documentation.

Thank you for the opportunity to comment on this important request for information.

Sincerely,



Andrew Van Horn

² 24 CFR 75.15