

**LEGISLATIVE PROPOSALS TO INCREASE  
WORK AND HEALTH CARE OPPORTUNITIES FOR  
PUBLIC AND SUBSIDIZED HOUSING RESIDENTS**

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**FIELD HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
HOUSING AND COMMUNITY OPPORTUNITY  
OF THE  
COMMITTEE ON FINANCIAL SERVICES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS  
FIRST SESSION

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**LEGISLATIVE PROPOSALS TO INCREASE  
WORK AND HEALTH CARE OPPORTUNITIES  
FOR PUBLIC AND SUBSIDIZED  
HOUSING RESIDENTS**

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**Monday, July 20, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON HOUSING AND  
COMMUNITY OPPORTUNITY,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 9:20 a.m., at City Hall, New York, New York, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Representatives Waters and Velazquez.

Also present: Representative Maloney.

Chairwoman WATERS. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good morning, ladies and gentlemen. Welcome to the Subcommittee on Housing and Community Opportunity's New York City field hearing entitled, "Legislative Proposals to Increase Work and Health Care Opportunities for Public and Subsidized Housing Residents." Thank you all for joining us this morning.

I would like to begin by thanking the New York City Council for graciously allowing us to use this very beautiful place for today's hearing.

Thank you, Speaker Quinn, and especially Thomas Allen and Chuck Ferrara for all of your help in arranging the use of this chamber.

The reason we are all here today is because of the bold and admirable leadership of Chairwoman Nydia Velazquez, New York City member of the Housing Subcommittee and our very able chairwoman of the Small Business Committee of the Congress of the United States of America.

Ms. Velazquez is a true champion for the rights of residents of public and subsidized housing and has been dedicated to the Brooklyn community she serves, as well as the neediest communities throughout the country.

I commend Ms. Velazquez for her tireless work on improving the lives of public housing and subsidized housing residents everywhere.

The very, very special thing about Nydia Velazquez is she is able to be the best advocate for small businesses, a distinction in the Congress of the United States of America, helping to increase jobs,

because small businesses are creating more jobs in this economy than big business.

And she does that while keeping a hand right in the district on public housing. I'm here today because she has created proposals and she asked if I would come and hold this subcommittee hearing here. I'm very, very pleased to be here with her in her leadership.

I would also like to thank our ranking member of the Housing Subcommittee, Shelly Moore Capito, who very much wanted to be here today but was unable to attend.

We have some very, very special other members of the House Financial Services Committee who are with us today. Of course, Congresswoman Carolyn Maloney of the 14th District in New York, and Congressman Greg Meeks will be joining us, representing the 6th District, a little later.

Carolyn Maloney, as you know, did a wonderful job of helping this country to deal with the credit card abuses, helping not only to pass it, and worked very hard initiating the Credit Cardholders' Bill of Rights.

Thank you very much, Carolyn, for your work.

I would also like to thank Congressman Ed Towns of the 10th District of New York, and Congressman Anthony Weiner of the 9th District. I think they will be here this morning a little bit later to support and engage in this important discussion of public housing issues.

And with that, I will ask unanimous consent that Representatives Carolyn Maloney, Greg Meeks, Ed Towns, and Anthony Weiner be considered members of the subcommittee for this hearing.

Today's hearing will address the important legislation Ms. Velazquez is drafting to improve and expand opportunities for jobs and health care access for residents of public housing and subsidized housing. The need to assist public housing residents in accessing health care and employment opportunities is significant in New York City.

The New York City Housing Authority is the largest provider of Federal public housing units in New York City, with over 178,000 public housing units and 338 developments.

Furthermore, the New York City Housing Authority represents about 8.4 percent of New York City's rental apartments and houses, 4.8 percent of the City's population, which amounts to over 402,700 residents.

The first legislative proposal is the Earnings and Living Opportunities Act, which would reform the Section 3 Program to expand job opportunities for residents of public housing. To help connect low-income residents to employment opportunities, HUD established the Section 3 Program in 1968, which requires a certain project funded by HUD must meet specific goals for contracting hires and training low-income people to work on this project.

The program serves public housing residents and those who live in an area where a citizen's project is located and have an income below either 50 or 80 percent below the median income of that area, depending on HUD income limits for the area.

Unfortunately, there has been little enforcement and compliance with this program. Few public housing agencies or other HUD grant recipients had met their obligation under the law.



In 2003, the HUD Inspector General found that HUD lacked basic control on compliance. Furthermore, HUD's Office of Fair Housing and Equal Opportunity has few enforcement options under current regulation. However, I'm encouraged to know that the potential for job for low-income residents under Section 3 is significant.

As we saw, a public housing rehabilitation program, some estimated that over 15,000 jobs could be produced annually for public housing residents. With the appropriate guidelines and requirements in place, I'm confident that Section 3 can fulfill its original purpose to lift poor people out of poverty. Representative Velazquez's bill, the Earnings and Living Opportunities Act, would fix the Section 3 Program to increase and create more types of training and job opportunities while strengthening the monitoring and compliance of the Section 3 Program.

She certainly has my full support and I look forward to the introduction of her report to Legislature. Her other proposal is the Together We Care Act, which would provide public housing residents to become trained as home health care aides for the aging low-income population in public and subsidized housing.

With that, I'm going to recognize Ms. Velazquez for her opening statement.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman.

Good morning, everyone. I want to really take this opportunity to thank Chairwoman Waters for holding this important hearing. And I would have to say, she has been one of the strongest, leading voices in Congress on public housing and tenant's rights. And we have gone so far and we have accomplished so much compared to the last 8 years that, I have to say, so many working families in our country, Congresswoman Maxine Waters are indebted to your commitment and compassion to make sure that working families in America have a better tomorrow, especially in cities like New York, Boston, and Los Angeles, where the real estate market is going through the roof. That is the last frontier that we have and what we can offer to working families, public housing.

So, let me take this opportunity to also thank Speaker Quinn and her able staff for hosting us today and the entire New York City Congressional Delegation, especially Congresswoman Carolyn Maloney.

Madam Chairwoman, our State is home to the Nation's largest public housing authority. As many New Yorkers know, this program doesn't just provide affordable housing, it helps foster economic development in underserved communities. Given the economic downturn and the many challenges that our Nation is facing today, from housing foreclosure to rising unemployment, especially among African Americans, Latinos, and Asians, the timing of this hearing couldn't have been more appropriate.

Today, we will examine two proposals that came to ensure our housing system delivers for working families.

Currently, the average one-bedroom apartment in New York costs \$2,600 a month, an amount among the highest in the Nation and out of the reach of so many, especially public housing residents. In fact, the average income for a family living in affordable housing is just over \$22,000 a year.

If we can help these hardworking families find adequate employment, it will increase their options and help improve their lives and communities. Job training and placement has long been the primary purpose of Section 3. The program requires HUD contractors to employ working men and women while rebuilding their own communities. However, the program has not evolved to its promise from from Bush, Sr, to Clinton, to Bush, Jr. They have tried to really reform Section 3. They have tried to make it work, but it hasn't.

In 2005, there were at least 20,000 public housing residents looking for jobs in New York City. Last year, they reported finding work through Section 3 for just 10 residents. Especially with the unemployment rate today of 9.5 percent, New Yorkers cannot afford for this program to fail. And given the increased Federal investment in public housing that the economic recovery package provides to New York, it is the right time to make sure that Section 3 lives up to its promise.

We need to expand training opportunities and promote entrepreneurship within the public and subsidized housing community. It is important to place emphasis on hiring benchmarks and make clear that when a business accepts a contract with NYCHA or HUD, it has an obligation to hire local workers. With solely jobs and contracting goals, we can improve oversight and ensure accountability for the Section 3 Program, but most importantly, put Americans back to work.

Since 2003, I have promoted efforts to strengthen and enforce Section 3 regulations and I will be working with the chairwoman to move legislation again this year. This is not the only area of improvement needed for New York City's affordable housing. It is no secret that our country is aging.

In my district alone, there are 30,000 seniors living in public housing. And nationwide, nearly 1 in 3 HUD households is home to an elderly person. While the number of people is expected to double by 2030, the number of family members available to take care of them is not keeping pace. This presents an opportunity and challenge to train public housing residents to meet this home's health care demand.

This is a win-win. It is a win-win for seniors who live in public housing and it is a win-win for residents. Because if they could be trained, if they could get a certification, they will be able to get a well-paying job.

NYCHA would win, because then these people will pay more to cover their rent. So, in the last Congress, I introduced the Together We Care Act. The purpose of this bill is to educate and instruct HUD tenants in the field of home health care services.

Not only will this increase employment prospects for residents, it increases health care options for those in their golden years. The bill will enable tenants to forge sustainable careers in the modern industry. And at the end of the day, that is what housing programs should be about, self-sufficiency and financial independence.

I will be reintroducing this legislation shortly and I look forward to working with Chairwoman Waters and all of the members of the Financial Services Committee to move it forward.

And Chairwoman Waters, without objection, I would like a written statement and letters of support of the following organizations that I included here be made part of the record for this hearing.

Chairwoman WATERS. Without objection.

Ms. VELAZQUEZ. With that, I thank you. Thank you very much.

Chairwoman WATERS. Ms. Maloney, for 5 minutes.

Mrs. MALONEY. Thank you very much.

First, it is a great honor for me to be back in the City Council Chambers in which I had the honor of serving for 10 years with my good friend, Nydia Velazquez. And a special welcome to council member Melissa Mark-Viverito, who is an outstanding advocate for public housing, helping people in all good causes.

And I congratulate and thank Chairwoman Waters who is—I admire her tremendously. She always nails her position to the masthead and she doesn't move. And when I started on the Credit Card Bill of Rights, there were a lot of push-backs and there was one person who was there at every hearing, every meeting, always speaking up, always working hard, Maxine Waters.

We are really very privileged in this country to have her as the chair of the Housing Subcommittee when there is such a desperate need of housing in this country. And she has moved forward numerous bills to help people and worked selflessly to do so.

And Nydia Velazquez is the first woman to chair the Small Business Committee in history. Her whole life is a series of remarkable firsts in her work in Congress and in so many ways. And I am thrilled to be a strong supporter of this initiative.

It takes Nydia's leadership to take a bill that has been on the books since 1968, dust it off, put it back to work, and turn it onto a mandate, because this is an unfunded mandate. Since 1968, she has been funding it to provide jobs, probably the biggest problem in our City now, with unemployment at 7 million since the crisis started with the economy. But this money will help create jobs, train residents, and provide money for contracting with businesses run by low-income people.

My only addition is that the \$2 million is not enough. I would support her in pushing it up to \$50 million. I think that this is a program that is national and it needs more funding to make it happen. But she is not only helping public housing and housing but individuals. And I would just say that New York State has a lot of the firsts—has a lot of things to be proud of, but one of them is our public housing operation.

When Nydia and I served on the City Council, there were 700,000 people waiting to get into New York City public housing. There are now 200,000 people waiting to get into New York City public housing. It is a tremendous success in so many ways. And also New York City's regional HUD, I think, is the best in the Nation. It is creative. As for our housing authority, I would put the rest of my remarks on the record, because I'm looking forward to hearing what you have to say.

Thank you so much. And thank you, Nydia, and thank you, Maxine, for having this important hearing.

Chairwoman WATERS. You are certainly welcome.

Our first panel, I would like to ask Representative Velazquez to read the names of the supporters that we have placed in the

record. In order to have the record completed, we must have each of the names of the organizations.

Ms. VELAZQUEZ. Yes, Chairwoman Waters. Without objection, I would like the written statements and letters of support for the following organizations to be made part of the record for the hearing:

Commonwealth Housing Legal Services; Corporation for Supportive Housing of New York; Council of Large Public Housing Authorities; Lawyer's Committee for Civil Rights Under Law; Legal Aid Society, New York; National Black Chamber of Commerce; National Low Income Housing Coalition; New York City Comptroller, William "Bill" Thompson; Paraprofessionals Healthcare Institute; Pastor Frederick Newell of St. Paul, Minnesota; Sam Jackson of New Orleans and Willy "JR" Fleming of the Coalition to Protect Public Housing; St. Nicholas Neighborhood Preservation Corporation; Supportive Housing Network of New York, Transportation Equity Network; United Job Creation Council of California, United Neighborhood Houses of New York.

Thank you.

Chairwoman WATERS. Without objection, they will be added to the record.

I would like to introduce our first panel.

Our first witness is the Honorable Sandra Henriquez, Assistant Secretary for Public and Indian Housing, from the U.S. Department of Housing and Urban Development.

Our second witness will be the Honorable John Trasvina, Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development.

Our third witness will be Mr. Mario Musolino, executive deputy commissioner, New York State Department of Labor.

Our fourth witness will be Mr. John Rhea, chairman of the New York City Housing Authority.

Our fifth witness will be Ms. Yvonne Graham, deputy president, Brooklyn Borough Hall.

And our sixth witness will be the Honorable Melissa Mark-Viverito, District 8 council member, New York City Council.

Thank you very much for appearing before the subcommittee today. Without objection, your written statements will be made a part of the record. You will now be recognized for a 5-minute summary of your testimony, starting with Ms. Sandra Henriquez.

**STATEMENT OF THE HONORABLE SANDRA BROOKS HENRIQUEZ, ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. HENRIQUEZ. Good morning.

Thank you, Chairwoman Waters, and the distinguished Members of Congress. I am Sandra Henriquez, Assistant Secretary for Public and Indian Housing. I want to thank you for having me here today.

I would like to begin by thanking Representative Velazquez for her creative and thoughtful work toward addressing the pressing needs of not only one, but two groups of citizens in need of assistance to become and remain self-sufficient. The Together We Care Act of 2009 proposes a pilot grant program to train work-able adults living in public housing to provide necessary in-home per-

sonal care services for elderly and disabled residents of public and assisted housing. And clearly, this was mentioned as a win-win approach.

I also commend the fact that this Act allows the services to be provided to residents of both public and various types of assisted housing. Under the leadership of Secretary Donovan, HUD is looking to cross long standing silos that have artificially divided essentially similar beneficiaries of housing assistance based on the source of funding.

To this end, we recommend that the eligible recipients of this training be expanded to Housing Choice Voucher holders as well as residents of conventional public housing.

As can be expected, as the average age of the Nation increases, the average age of residents of public housing also increases. For the elderly and disabled residents on fixed incomes, public or assisted housing is often their last independent housing option. As seniors age, they find themselves in need of assistance with activities of their daily lives.

However, when on a fixed income, many residents of public and assisted housing cannot afford access to in-home personal care that can be a vital and sustained step between independent living and full nursing home care.

A recent HUD study showed that the presence of a service coordinator was associated with lengths of resident occupancy that were 10 percent, or more than 6 months, longer than at facilities without Service Coordinators, controlling other factors.

The average cost of homemaker services is about \$18 per hour. If you contrast that with \$187 per day in a shared room in a nursing home, you can see the difference is quite dramatic. If limited in-home service provision can successfully delay the costly institutionalization of the residents, it has a potential to create substantial savings, in human costs as well as financial.

In the past several years, HUD has modified its supportive services programs, to conform across housing programs to the Service Coordinator model. This model is one wherein HUD provides the salary for a Service Coordinator position as part of the housing authority or property management staff.

The role of the Service Coordinator is to form collaborative partnerships with State- and locally-funded agencies, nonprofits, community colleges, banks, and businesses to offer activities and services to residents. Too often, in the absence of a Service Coordinator, we find that although excellent services may be available in the neighborhood community, our residents do not access them.

In assisted housing, the presence of the Service Coordinators has been shown to reduce property damage, turnover, and evictions, thus assisting residents to move to self-sufficiency or remain independent while saving money for property operations, a preventive management tool, if you will.

With the Service Coordinator model in mind, we will be sure that the Together We Can Act's pilot program allows joint applications that leverage existing programs and services through critical partnerships. We should take advantage of the training programs and successful businesses already in place, instead of expecting a public

housing authority to create a new training program or manage the employment of its residents.

Effectively partnering with the local public work force system, which was recently encouraged by Secretary Donovan and the Department of Labor Secretary Solis's joint letter to housing authorities and Workforce Investment Boards, is essential to provide opportunities for residents to continue their path to be self-sufficient once they get their foot in the door.

Involving a home health agency as the employer also opens the door for further training and advancement along their career ladder, something that the Public Housing Authority cannot provide. Strong partnerships are recommended to execute these programs in the most efficient manner.

The bill proposes funds to pay for the services to be provided to public and assisted housing residents. Most residents of public and assisted housing will not have the disposable income to hire in-home personal care services independently.

Residents at below 30 percent of area median income will likely qualify financially for benefits with Medicaid, but higher-income residents may not.

In addition, there are specific functional steps to qualify for Medicaid in-home personal care services. Even if these residents qualify, the level of the benefits and availability of funding varies State by State. We recommend that the State Medicaid Program should be involved as a partner, as well.

Again, we applaud the effort that went into this bill. We support the intent of the program. We look forward to implementing the creative approach for self-sufficiency for families and for our senior and disabled residents.

Thank you.

[The prepared statement of Assistant Secretary Henriquez can be found on page 55 of the appendix.]

Chairwoman WATERS. The second witness will be the Honorable John Trasvina.

**STATEMENT OF THE HONORABLE JOHN D. TRASVINA, ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. TRASVINA. Good morning. On behalf of the Department of Housing and Urban Development, I am pleased to discuss the importance of fostering job opportunities in public housing and the Department's responsibilities related to Section 3 of the HUD Act of 1968. I want to thank both Chairwoman Waters and Chairwoman Velazquez for holding this hearing.

You both represent metropolitan areas that have a significant population of low-income residents, the very population Section 3 is meant to assist with economic opportunities. For too long, we have focused on buildings and not people. Section 3 enforcement, job opportunities, and residents have suffered by this approach. We are determined to fix it, and we will.

In the few days and weeks the key actors have been in place in the Department, we have developed a plan and strategy for Section 3 and public housing residents giving them the serious attention

they merit. We must ensure that HUD funds result in meaningful employment, training, and contracting opportunities for low-income persons throughout the country.

The new leadership at HUD is ready to make this happen, and we appreciate the reforms Congresswoman Velazquez offered in the Earnings and Living Opportunities Act to further this effort.

Congress passed Section 3 to ensure that the effects of HUD investments in local economies reach low- and very-low-income residents in the form of wages, contracts to businesses that are owned or who employ them, and sales revenue for those in the community who provide services to the community.

Section 3 requires that when certain HUD-funded recipients hire new personnel, they give preference to low- and very-low-income persons and/or businesses owned by these persons, or that substantially employ these persons, and that, to the greatest extent feasible, 30 percent of the new hires be Section 3 covered persons.

Now, one of the obstacles before us is in the language, "to the greatest extent feasible." Nonetheless, there are some successes. The Department conducted a compliance review for Kansas City, Missouri, after several complaints in regard to compliance. The review resulted in a number of findings and corrective actions that the Department issued that it instructed Kansas City to implement. Kansas City not only took the Department's findings seriously, it dedicated a significant amount of time and resources to the development of policies and procedures that resulted in a significant increase in employment and contracting opportunities for Section 3 residents.

Kansas City provided 39 percent of its funding for Section 3 residents and awarded 26 percent of the total dollar amount of all contracts to Section 3 business concerns.

Nonetheless, prior to 1986, FHEO, my office, received reports for only about 4 percent of covered recipient agencies. Since then, reporting has increased to 25 percent, and 80 percent of the reports showed the recipients failed to meet the minimum goals and did not provide an adequate explanation.

As an incoming Assistant Secretary, I was dismayed to learn this, but today's leadership is committed to do better and bring about meaningful compliance with Section 3.

The Department has been using webinars and satellite broadcasts to provide consistent training on the requirements of Section 3 to large audiences of recipients and HUD staff. We have appeared before the Public Housing Authority Directors Association and the National Council of State Housing Agencies.

Later this month, we will be conducting more training for all Departmental employees for Section 3. To increase the rate of compliance and quality of information provided, we are revising the annual reporting form. In the next 60 days, we will also remind recipients of their duty to comply with Section 3.

I am pleased that Assistant Secretary Henriquez and our new Assistant Secretary for Community Funding and Development will join me in this regard. However, if educational requirements and outreach to recipients do not increase compliance, we will impose the available sanctions for noncompliance.

To further establish incentives to create economic opportunities, Secretary Donovan and Secretary Solis entered into a partnership to promote employment opportunities for residents of public housing.

We are now focused on the American Recovery and Reinvestment Act of 2009 with Section 3 in mind. It has two key purposes: To preserve and create jobs and promote economic recovery; and to assist those folks seriously affected by the current economic downturn.

We agree that a significantly more robust Section 3 program at HUD is critical to promote more economic opportunity for low-income residents.

We now have a leadership in HUD that is committed to more aggressive outreach to HUD recipients, to advise them of their obligations under Section 3. And we'll work collaboratively to achieve compliance.

Also, as suggested in your discussion draft, the Department has already gone beyond the four walls of HUD to collaborate with other Federal agencies on joint efforts to integrate Section 3 into the wide range of economic recovery activities.

Thank you for bringing long-needed attention to ways to strengthen the promise of Section 3, and for allowing me to testify today. I will look forward to answering your questions and working on the legislation.

[The prepared statement of Assistant Secretary Trasvina can be found on page 118 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Musolino?

**STATEMENT OF MARIO MUSOLINO, EXECUTIVE DEPUTY COMMISSIONER, NEW YORK STATE DEPARTMENT OF LABOR**

Mr. MUSOLINO. Thank you very much, Madam Chairwoman. Thank you, Congresswoman Velazquez, as well. I appreciate the opportunity to be here to comment on these proposals on behalf of Governor Paterson and Commissioner Smith. I'm particularly interested in this. I have come here not just as executive deputy commissioner of the State Department of Labor, but also as a former director of Public Housing—Housing Authority in upstate New York.

I recognize how important this initiative is and I applaud Congresswoman Velazquez for really working on making sure that self-sufficiency is achieved by the residents from all over the State. We certainly have many communities in the State that can benefit from these initiatives. Unemployment rates and poverty rates in the State are on the increase and have been increased dramatically. Persons with low incomes constitute the largest percentage of the unemployed in New York State. Many of those living in poverty and low wage earners are residents of public housing subsidized by the Federal Government.

The pilot program proposed in the Together We Can Act to train public housing residents for home and community-based health care occupations affords the opportunity to field test a plan that serves two purposes: Providing training and job creation for the un-



employed and underemployed; and expanding the supply of direct-care workers to assist the elderly and disabled.

The need for direct care workers is being expanded dramatically, and I know you're going to hear testimony about that later today. The Bureau of Labor Statistics projects that personal and home care aides and home health aides will be the second and third fastest growing occupation in the country between 2006 and 2016, increasing by 51 percent and 49 percent respectively. So, there's a great need to fill these positions.

In New York, a home health aide training program must include a minimum of 75 training hours, including 16 hours of supervised practical training. There are more than 350 organizations statewide that were approved to operate home health aide programs. And while we believe the scope of the existing home health care aide training program includes residents of public or subsidized housing, New York State currently has no home health care training programs or office to specifically serve that target population.

Our department, the Department of Labor, is a State administrative agency under the Federal Workforce Investment Act of 1998, the Wagner-Peyser Act. The majority of these funds for the Workforce Investment Act, about 85 percent, are distributed via formula to the 33 workforce investment areas around the State, which focuses on preparing individuals for occupations, considering demands in local areas.

A key challenge for all work force training programs is limited resources. The need for these services far surpasses our available funds. The Recovery Act also emphasizes the importance of providing services to those mostly in need of employment training services. These low-income individuals often need basic and work readiness skills development in addition to the occupational training. They usually have many needs for support services, as well. Residents of public housing would meet the eligibility requirements of many of these programs.

I would like to note that in New York State, we are trying to implement a sector-based coverage to all of our training programs. Health care is one of the sectors that we have targeted as an important growing industry here in New York State.

We're focusing on that along with green and renewable resources and advanced manufacturing in the State. It's important that we promote wrap-around supportive services to all the clients in the employment and training system. Transportation, childcare services, these are often barriers the employed and unemployed individuals need to overcome in order to be able to be gainfully employed.

To accomplish this, the department has tried to take the lead in developing partnerships and collaboration around the State with sister agencies from all States and local. For instance, Public Housing Authorities and local Workforce Investment Boards are working together to form the connections that work best for their local communities.

And as mentioned before, HUD and USDOL issued a mass mailing to all PHA and WIB directors encouraging collaborations. So, we support that and we also are supportive of the Earnings and Living Opportunities Act.

One thing I would like to point out is the importance about the labor unions in discussions around that. There's a great—and I'm sure the chairman will talk about how NYCHA works with labor unions, which have been very successful in bringing the right people to the table. So, we applaud the efforts.

[The prepared statement of Mr. Musolino can be found on page 73 of the appendix.]

Chairwoman WATERS. Thank you.

Mr. John Rhea?

**STATEMENT OF JOHN B. RHEA, CHAIRMAN, NEW YORK CITY  
HOUSING AUTHORITY**

Mr. RHEA. Thank you. Chairwoman Waters, Representative Velazquez, and members of the subcommittee in the New York Congressional Delegation, I am John Rhea, chairman of the New York City Housing Authority. Thank you for this opportunity to discuss NYCHA and to express a support for the important legislative measures and the economic opportunities for public housing residents.

As you noted, the New York City Housing Authority is the largest provider for low and moderate public houses in the United States for over 400,000 New Yorkers living in public houses and another 97,000 families receiving rental assistance through the Section 8 Program.

As NYCHA's newly-appointed chairman administered proving quality of life for residents, NYCHA is a powerful economic engine to generate significant returns of local companies or citizens of the City.

Sharing their economic benefits with our residents is their key priority. This means increasing jobs and business opportunities for our residents. NYCHA's core population is working families who comprise nearly 50 percent of our public housing households. These families are a stabilizing and contributing force within public houses and the City. They continue to be fundamental in NYCHA's success. With the infusion of the American Recovery and Reinvestment Act fund and housing authorities nationwide, the focus on enhancing resident employment opportunities cannot be more timely.

One of the key tools available to housing authorities across the country is to promote economic opportunity, a mandate of Section 3. So, the proposed Earning and Living Opportunities legislation modify the current provisions of Section 3 of the Housing and Urban Development Act of 1968, to support the goals of Section 3. It is a challenge to implement and has long been an unfunded mandate to require NYCHA and housing authorities across the Nation to divert scarce resources to administer the program.

The current expenditure was \$2 million annually for resident employment with Section 3 compliance for NYCHA alone. We welcome the funding proposal of this bill. Dedicated funding will enhance the capacity of housing authorities certainly to implement Section 3.

However, to make this legislation meaningful, the funding level should be significantly increased from \$5 million nationwide to at least \$50 million, with a separate set-aside for funding for resident-

mentoring programs to work with residents as they participate in Section 3 training.

Additionally, housing authorities should be granted flexibility to include other recipients of HUD assistance, such as Section 8 participating families, in the employment priorities. One of the things that the proposed legislation does not address, such as economic restraints and local labor conditions, makes it difficult to achieve the numbers contemplated by Section 3.

The provisions of the draft bill sending an immediate requirement to 30 percent of new hires and 30 percent of hours worked be performed by residents, while understood in spirit, is too aggressive. The reality is that few, if any, housing authorities would be able to comply with Section 3.

Alternatively, we recommended 30 percent of new hires be the standard, as it is an achievable goal given the contractors in-place workforce, and the total percentage of hours worked by Section 3 employees should be prescribed in the contracts as they are determined during negotiations.

Finally, we are particularly concerned that the proposed sanctions outlined in the bill include the reductions for future funding for housing authorities unable to meet the hiring and contracting targets. The bill will inadvertently punish residents and the sanction would adversely impact the ability of non-supplied housing authorities to maintain core services for residents and, most likely, result in reduced services. We believe sanctions should be directed to contractors and unions that are unwilling to participate in Section 3 programs.

You should also consider the fact that many of the skills and training programs are run exclusively by unions that are unable to provide an adequate amount of training slots for the number of residents contemplated by this bill.

Additionally, the bill imposed a requirement that will reduce opportunities for otherwise qualified contractors, particularly the minority/woman-owned businesses. Many subcontractors are unable to absorb the hiring requirements contained in the draft bill.

Very quickly, I would like to address the attention of the proposed home and health care legislation. NYCHA and Congresswoman Nydia Velazquez launched the proposed pilot program involving home and health care training for NYCHA on Lower East Side at one community center.

The proposed bill in 2009 establishes a compelling grant to fund training for public housing residents as home and health care aides to provide home-based health care. Given the growth in the health care industry, we think that this is an invaluable bill, so we look forward in working with you.

[The prepared statement of Mr. Rhea can be found on page 90 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. Graham?

**STATEMENT OF YVONNE J. GRAHAM, DEPUTY PRESIDENT,  
BROOKLYN BOROUGH**

Ms. GRAHAM. Good morning. I'm grateful for the opportunity to represent Marty Markowitz.

Good morning, Chairwoman Waters, and the rest of the Representatives. I'm grateful for the opportunity to represent Brooklyn Borough President Marty Markowitz and to present his testimony on his behalf.

First, I want to thank Congresswoman Velazquez for your distinguished record of leadership and for recognizing the need to find creative approaches to increase job opportunities and health care access for residents and publicly-subsidized houses.

Let me begin by directing the Together We Care Act, which will target Medicaid eligible seniors and the disabled by providing them with needed home health care assistance, while at the same time providing skills training and job opportunities in the home health care field for residents in public housing so they work with those seniors.

Brooklyn benefits from this program in many ways. First, according to the New York City Housing Authority, as of May 2009, Brooklyn had the greatest number of conventional public housing in New York City with 100 developments and 58,452 apartments.

Second, our borough has the highest concentration of seniors in New York City, with 280,610 in 2005. The Department of City Planning projects that by the year 2030, the borough will have as many as 410,000 elderly residents, a 45 percent increase since the last census in 2000.

In nearly every category—income, housing costs, disability, and linguistic isolation, Brooklyn's elderly residents face greater health challenges and are hospitalized at higher rates for most major diseases compared to other older New Yorkers.

Of course, we know that people, particularly the elderly who live in poor socio-economic conditions, frequently have difficulty accessing medical and preventive services, and experience barriers in obtaining assistance to manage their chronic health conditions so that they can stay active and enjoy optimum health.

Recruiting and training home health aides from public housing to offer a variety of elder care services will serve many purposes. It will undoubtedly be a cost-effective and dignified way of enabling people who are elderly, disabled or ill to live in their own homes instead of health facilities or institutions.

These home health aides have to provide medical, physical, and psychological support which adds greatly to the quality and quantity of life for the elderly.

In addition, the fact that the participants of the program will be drawn from public housing and provided with skills training and job opportunities will not only ensure that they have an income, but also is an expeditious route to self-sufficiency.

Further, as the baby boomer generation begins to retire, the need for this training program will become more pronounced as they would require more health care services. We already have a shortage of home-based health care workers. Therefore, this program will fill a critical gap.

Also, dollars that will go to these communities for training will create jobs and strengthen the budgets of the community-based organizations that are currently losing funding.

Clearly, this is win-win situation for all stakeholders involved. However, in addressing people's critical needs, the program's suc-

cess should ultimately be judged by the benefits and performance, and we offer the following recommendations:

First, that the program's efforts to recruit participants increase retention and encourage self-sufficiency, and provide home health aides with financial incentives or earnings comparative to industry standards, so that these paychecks would be more attractive than a welfare check.

Second, that psychosocial support and financial literacy issues are included during the trainings and thereafter aimed at increasing program participant's knowledge about money management and how to build the personal and financial resources they need to achieve and maintain self-sufficiency, as well as responding to their psychosocial needs.

The second piece of the proposed legislation, the Earnings and Living Opportunities Act, would affect over 2.5 million Brooklyn residents. Again, with the highest concentration of public housing, Brooklyn proves to be a major beneficiary of this legislation. As a way to improve compliance, the legislation suggested use of existing local resources. And I would like to suggest that the downtown Brooklyn advisory and oversight committee be added to a list of local resources for HUD.

Again, I thank Congresswoman Velazquez for her leadership. And Brooklyn looks forward to working with all of you.

[The prepared statement of Brooklyn Borough President Marty Markowitz can be found on page 64 of the appendix.]

Chairwoman WATERS. Thank you very much.

Council Viverito, did I pronounce your name correctly? Is it "Viverito?"

**STATEMENT OF THE HONORABLE MELISSA MARK-VIVERITO,  
DISTRICT 8 COUNCIL MEMBER, NEW YORK CITY COUNCIL**

Ms. MARK-VIVERITO. Thank you. Chairwoman, if you would just give me a 1-minute preamble and not take it from my time—I just wanted to say on behalf of myself and Speaker Christine Quinn, and to the Chair of the Public Housing Subcommittee and members, thank you very much for holding these hearings here in our chambers and you are very welcome to have them in the future. It's a great pleasure to meet you. And, obviously, we appreciate your team leadership as well as Congresswoman Velazquez on behalf of public housing and residents. Thank you very much.

Chairwoman WATERS. You are welcome.

Ms. MARK-VIVERITO. Good morning, Chairwoman Waters, Representative Velazquez. My name is Melissa Mark-Viverito and I'm a member of the New York City Council representing the 8th Council District, embracing the area of East Harlem, Manhattan Valley, and a portion of the South Bronx.

I want to really thank Representative Velazquez and the members of the subcommittee for the opportunity to testify at this hearing regarding two important pieces of legislation.

Within my district, I represent about 20 housing developments comprising about 12,500 units. The public housing is one of the largest concentrations of public housing in the City of New York. So, this is becoming a passion of mine and it becomes a real issue of concern and priority to me, personally.

Having represented the district for over 3½ years—and I'm just speaking with unfortunate familiarity of the difficulties that many of my constituents have in obtaining training for jobs that provide useful career-oriented employment and the challenge at stake by this constituents in seeking and receiving health care services.

Representative Velazquez's Together We Can Act—together we can act to establish that pilot program, which concurrently tackles two of the major hardships affecting public housing residents today: the lack of training and skills that leads to gainful employment; and the equally dire need for greater supervision and care for elderly or disabled public housing residents, to which I referred earlier.

The pilot program that this bill creates will allow many unemployed and underemployed public housing residents who lack the necessary skills to find work in the current economy, to be trained in a profession with high demand.

The competitive grant program will be run by HUD and this pilot program will also generate opportunities for a broad array of entities, which are public companies, agencies, community health centers, home care provider organizations, as well as faith-based and legal organizations, of which many applied to receive these funds.

One thought that I would like Representative Velazquez to consider is that the bill would require that the grant funds be spread out among two or more different types of organizations in each area in which the pilot program take place. It's better to evaluate the effectiveness of each type of organization's training program and the quality of care that results from it.

Another change to the bill that we would like for you to consider is ensuring that in each of the four target areas—urban, rural, Native American, and non-State populations—a statistically significant minimum number of residents in public housing are both trained and cared for through the pilot program in order to more realistically gauge and accept on a wider scale, even if greater appropriations are necessary.

And it must also be said that despite our present economic difficulty, the authorized appropriation—which I have mentioned, the \$2.5 million—we think it's really—and I'm sure you will agree as well. Now, we would love to see that increase to have the great impact that this legislation merits.

I believe that these changes will help to improve the pilot program that it implements, and it would not in any way detract from the fact that the proposed legislation marks an important step for achieving two important goals, increasing useful training and employment for public housing residents.

Now, the second piece of the legislation, the Earnings and Living Opportunities Act, substantially amends Section 3 of the Housing and Urban Development of 1968, an important section that tends to generate employment and training opportunities to low- and very-low-income individuals. And we had hearings on that, as well. I hear this a lot from residents with regard to Section 3, Section 3, and having that money come back to the community as a way of uplifting our community.

So, it's an important issue. And it becomes more important now that we have \$400 million coming from the Reinvestment Act into NYCHA for capital improvements, to see that money impact our communities directly.

The bill addresses and tends to rectify a number of the major problems of Section 3 since its adoption in 1968, including the lack of oversight and noncompliance with these regulations. The proposed legislation establishes a series of substantive and procedural elements should provide a sharper focus with the program's efforts.

The first, mandating the creation of an office within HUD designed exclusively for the administration of Section 3, will better assure compliance with the program, establishing clear statutory priorities with respect to who is to be trained by recipients of HUD funds, and then employed by HUD, will better assure that residents of the development where the funds are expended, followed by residents of the neighborhood, are the biggest beneficiaries of the on-the-job-training programs.

The proposed legislation goes further and sets explicit percentages for low- and very-low-income persons who are newly hired by recipients of HUD funding and mandates that they be given paying work. This is an important improvement that has real potential for benefiting those who Section 3 was designed to help and is further enhanced by requiring that at least 10 percent of the value of contracts for work performed using HUD funds be allocated to businesses controlled by persons of low and very low income.

Additionally, the report to Congress that the HUD Secretary and the GAO must provide should serve as an added incentive to ensure compliance at the local level. The bill also creates an arsenal of sanctions, though it would perhaps be beneficial to create or enhance mechanisms to ensure that the sanctions are sufficiently utilized when appropriate.

So, thank you very much. I thank you for the hearing. My testimony is in the record. You will have your recommendations.

[The prepared statement of Ms. Mark-Viverito can be found on page 60 of the appendix.]

Chairwoman WATERS. Thank you all very, very much. I'm going to recognize myself for just one question and then I'm going to return it to Ms. Velazquez. I think she probably has lots of questions that she would like to ask, so I would rather direct my question to Mr. Trasvina.

In your testimony, you note the abysmal level of compliance with Section 3, requiring reporting it at only 25 percent. Although this is an increase from 4 percent in 2007, perhaps more troubling is the fact that in more than 80 percent of reports submitted, the recipient failed to comply with Section 3 and didn't provide a reason for the failure.

Basically, these entities received Federal funds but failed to hire public housing residents as the law requires. Is the Department planning to take action against those entities that submitted Section 3 reports and clearly made no effort to comply with Section 3 hiring requirements? What type of actions can the Department do?

Mr. TRASVINA. Thank you, Madam Chairwoman.

In the immediate term, the three Secretaries who are most relevantly affected by this are Community Planning and Develop-

ment, Public and Indian Housing, and Fair Housing and Equal Opportunity. We will be advising all of the public housing entities of their requirements to comply with the law. And we will seek their compliance right away.

I believe that the current abysmal rate that you quoted, and I think it's correct, does not reflect the actual conduct of the public housing entities, but it reflects the reportings. And they have received what we believe is not accurate guidance in the past about the requirements to fill out the forms.

We don't know whether that rate is so small. It can actually mean that they are not hiring or they're not reporting that they are hiring.

In either way, because of the language of "to the greatest extent feasible," we have found that the best way of obtaining greater results is not so much by requiring enforcement of any particular recipient's requirements, but by increased training—and training so that they will better report what they are actually doing. But right away, within the next 60 days, I'm sure we're taking other steps particularly on our money and to make sure that we get greater results.

Chairwoman WATERS. Thank you very much. As you know, the Housing Authority convenes in Washington regular conferences. And Ms. Velazquez and I can remind them that they have a responsibility to report it so we'll know what is going on. We look forward to working with you again.

Mr. TRASVINA. Thank you very much.

Chairwoman WATERS. I will now recognize Ms. Velazquez.

Ms. VELAZQUEZ. Thank you, Chairwoman Waters.

You know, in the last 8 years, we heard so much about transparency and accountability. But when it comes to Federal programs serving low-income communities, if we measure results, there was neither transparency nor accountability.

I promise you that in the next 8 years, there's going to be transparency and accountability. And for those who try to use the fact that by putting oversights and legal teeth into legislation, that we are punishing residents because when we say we are going to cut funding until you get it right, well, you have just one order of business and that is to get it right. So, we are giving you an opportunity for local authorities to make it right on behalf of public housing residents.

And so, I have been working on Section 3 for almost 17 years. And if we look at the numbers—the numbers, if we have any numbers because there hasn't been any data collection. So, how do we in Congress introduce legislation to address shortcomings of programs if we don't have any data to base our reaction assessment or reforms to those programs? But this 8 years, we promise we are going to be on top of it.

So, Chairman Rhea, you say that jobs targeting of the Earnings and Living Opportunity Act punish residents because housing authorities will find it hard to comply with. However, targets will make the recipients and their contractors accountable to the community.



So, how do you suggest we bring more accountability and transparency to this program? How can housing authorities work with unions and their contractors to achieve this?

Mr. RHEA. Thank you, Representative Velazquez.

First, I would like to comment that I share your passion and amendment to ensure that Section 3 had more teeth in it and had a more effective form moving forward in the years to come and the months to come.

I also share your opinion, that I don't have patience for excuses for not implementing Section 3 within New York City Housing Authority components that we control.

The comment that I made and suggestions to have teeth around unions and contractors, because there are pieces of these economies that would change and NYCHA does control it as a direct manager. Where we have led by example, I would like to point out that over 25 percent of current NYCHA employees are public housing residents. Where we have that ability, we aggressively employ our residents. Over 65 percent of our new hires have been current NYCHA residents.

In terms of putting more teeth in the legislation and in the process, we created, as a panelist mentioned, an apprenticeship program with the unions 3 years ago, in which we targeted 300 new jobs that would be created by bringing members of public houses into the union as apprentices.

They have only been able to hire about 225 people over that 3-year period, so they have come up short on the 300 target. And of the 225, only roughly 150 or so are still actively employed as members of the union. Others are out of it or are sitting on the bench just given the nature of the economy.

So, we are looking to have the apprenticeship program be a major component of Section 3 legislation going forward in the way we're going to implement it. And we want to have those targets be publicly identified and to honestly report how we're performing against them.

Some of the challenges that the union has pointed out are that the apprenticeship programs with the unions are really for, you know, uncles, cousins, brothers, and sons, and not for public housing residents.

So, ultimately, we have to work very hard with the union to change that perception.

Ms. VELAZQUEZ. Well, we have to change that culture.

Mr. RHEA. Exactly. And I believe that—I'll partner with you and we need your help to change that culture, but we can't act like that culture doesn't exist and it doesn't impede our ability to make progress.

Having said that, as we look at the work we have done with the unions, we believe that putting very stiff penalties, so if they don't get those targets, for example, to create a fund in which they would pay into. And that fund will be used for the training of public housing residents. So, that there's actually even if they come up short, there's real economic penalties. And the economic penalties actually go to help public housing residents.

Ms. VELAZQUEZ. Okay. Thank you, Mr. Rhea.

Mr. Musolino, you have a particularly interesting background. You were executive director of the Troy Housing Authority and now you are the New York State—you're working for the New York State Department of Labor. So, in your experience, how can we make the Section 3 Program work best and how do we best connect residents of public housing and subsidized housing with the job opportunities in their communities? How can we get the unions to the table so that they too understand that we are all in this together?

Mr. MUSOLINO. Thank you, Congresswoman. That's a great set of questions. I'll give you a couple of things.

In my experience with the Troy Housing Authority, I will tell you honestly that the Section 3 program is something we talked about a lot; but I would be lying to you if I told you that we made it the top priority in our housing authority.

At the time I was at the Housing Authority in Troy, we suffered very dramatic budget cuts during the previous Administration, as you well know, because you fought them and we appreciate your record on our behalf in that world.

There were such dramatic budget cuts that we were concerned about, literally, about being able to maintain our facilities; and that's what we focused on. We had very little in the realm of supportive services for our residents. So, we would try to partner with other agencies.

In some places, that probably works well; in other places, that doesn't work so well. There is not a tremendous connection at all between housing authorities, and I spoke with my colleagues in up-state New York all the time.

Between housing authorities and the Workforce Investment Act System—Workforce Investment Boards—I think there's a critical component that we shouldn't underestimate the role that they can play here. And I think the fact that the Secretary of HUD and the Secretary of Labor sent joint letters out to folks saying, "We should get together, talking to each other would be a big help." And we can work with the Department of Labor as well and try to build some of that into our grant program; and we will do that.

The labor question is also a difficult one. If people see a win-win situation, I believe that they will of course move forward. And labor unions around the State are starting to see that they do need replacement workers, that the old network we all recognize consisted of the cousins, the brothers, the whatever, isn't actually providing the replacement workers who were needed in this economy.

One of the issues that I'll pose, which is very important, is to enter into the apprenticeship programs, there are barriers—sometimes they are educational barriers. Most apprenticeship programs require at least the GED or a high school diploma.

So, we should work very hard at pre-apprenticeship programs. Those are the kinds of things we should actually partner with housing authorities around the State to put right into the facilities to develop these pre-apprenticeship programs that will allow us this gateway—this entry point into labor unions.

Ms. VELAZQUEZ. So, there will be a time for a coordinated effort between Federal, State, and City Governments, especially in this program.

Secretary Trasvina—I love to call you Secretary Trasvina—congratulations and thank you for all the work that you did on behalf of the workers' rights in this country through the work you did with MALDEF.

You mentioned in your testimony that HUD entered into a memorandum of understanding with the Department of Labor to better serve public housing residents. How will the Earnings and Living Opportunities Act help your efforts to connect residents with employment opportunities?

But also, based on your experiences, do you think that this approach will further the goal of Section 3 or hinder it?

Mr. TRASVINA. The proposed legislation certainly will advance the goals. One of the most important parts of the legislation is the idea of the registry of Section 3 businesses. That is critical, to take away the excuse of "We can't find the workers," or "We can't find the—." Providing that is very, very important.

Second, in terms of the partnership between the Department of Labor and HUD, it's critically important following up on that. And we know that in many of the occupations that we talked about in Section 3, many of those are male-dominated industries. We need trainings to bring women into those industries. I'll speak with the women of the Department of Labor to see what we can do on training, what can we do to publicize the opportunities.

So, I would say that in a number of areas, the legislation goes very far to advance and make Section 3 more than a promise, to make it a reality. I would hesitate, though, about creating an office within HUD, separate from where it is now.

While Section 3 is not about fair housing, it strikes at the core of equal opportunity. And what has been lacking in the past is a coordination among departments as well as within HUD. And you now have a commitment from the Secretaries, certainly, the Assistant Secretaries, to take it on in a meaningful way.

And I would like to have the opportunity to make some changes within our compliance, within our strategies to make it work and really put some accountability and have it as part of Fair Housing to make more opportunity.

Ms. VELAZQUEZ. Thank you for that, Mr. Trasvina.

I worked with the President and his Administration in the provisions that were included in this American Incorporated Pre-Investment Act related to small businesses. And every time that I work on a provision that was included, they ask me, "For this amount of money, how many jobs you will be creating?" So, we need to justify. So—and do all mathematical analysis.

My question to you is, you say that about \$7.8 billion are Section 3 eligible. How many jobs do you expect will be created? And can you explain for the benefit of those residents who are here in the audience, how can they access these jobs?

Mr. TRASVINA. It is very difficult to ascertain. Putting \$7.8 billion into a number of jobs, because it talks of new hires, rather than people being brought on otherwise.

Also, one of the other glaring obstacles, Section 3 compliance, is just in terms of stating the annual reporting. We have noted the lack of reporting. But even in terms of when an entity is supposed to report, some report on a calendar year, some report on a fiscal

year, some report on the anniversary of their receipt of HUD funding.

So, we have myriad ways of calculating the jobs that are going to be presented for other funding.

One of the other benefits of your legislation, the new legislation in effect, for Fiscal Year 2008, Section 3 should have covered \$17.5 billion of HUD funding.

Under your legislation, it would cover almost double, \$35 billion. So, we will see a dramatic increase in the results, the number of jobs that are going to individuals who are in public housing or live in those areas.

Chairwoman WATERS. Let's focus on the stimulus package. Are all of the public housing developments (inaudible).

Mr. RHEA. No, they are not.

Chairwoman WATERS. In the stimulus package, who made the special effort to put the writing in there for broadband? And I know a lot of people think of it as raw arrogance, but that's for underserved areas, and that is job creation. I would hope that New York City will use that money because that's job creation, to put broadband in.

Mr. RHEA. The New York City Housing Authority is currently working with Mayor Bloomberg's team to jointly submit applications with competitive money for broadband activity. It's obviously both in the homes and as well as in our community centers. We can do it in a joint, easily addressable community location. So, we're looking at both.

Chairwoman WATERS. Thank you.

Ms. VELAZQUEZ. Chairman Rhea, you say in your testimony that 36 contracts totaling \$130 million will be awarded by December of this year. How many of those are Section 3 eligible and how many of the jobs created with this money will go to public housing residents.

Mr. RHEA. To date, of the \$423 million in stimulus funding, we have already awarded 39 contracts for \$145 million. And we project somewhere between 150 and 200 jobs directly created by that. Remember that the headline numbers look at the total value of a contract. Obviously, a significant percentage of that is not for employment but for goods and services.

And so the employment we are striving, we have targeted the term that we use, for all contract over \$500,000, we mandate that 15 percent of the labor cost be given to the new hires in Section 3.

Ms. VELAZQUEZ. When you put out a contract for contractors, did you request as part of the agreement a job contracting job goal in terms of Section 3.

Mr. RHEA. Yes. That's what I was referring to. In the 39 contracts we have put out for bid, we have stated the number of new jobs that will be created by that—

Ms. VELAZQUEZ. With the public housing residents.

Mr. RHEA. That's true. And then the number that will be available to public housing residents. And that's an important factor of our analysis and evaluation bids.

Ms. VELAZQUEZ. So, we can come back and hold a hearing here to measure how many jobs were created? What type of oversight

NYCHA will have in place to make sure that they did, not the best effort, but really will show what kind of action NYCHA will be taking with those contractors who fail to achieve those goals?

Mr. RHEA. I would welcome working with you on that on an ongoing basis, and I would welcome a hearing that looked very deeply at what NYCHA was or was not able to achieve and some very direct explanations for why we did what we did.

Ms. VELAZQUEZ. We're talking here nationwide, \$4 billion. You didn't see that type of investment in public housing in the last 8 years, never. So, this is your one shot that we have to empower low-income people who live in public housing who are seeking jobs. And we have to help and make it right. And we will do everything that it will take. And I am sure that, under the leadership of Congresswoman Waters, we will have the oversight that was lacking in the last 8 years.

And I have the last question to Assistant Secretary Henriquez.

What do you consider to be the primary need of elderly public housing residents? Is it access to disability-friendly apartments? Help with everyday living assistance? Or is it something else?

Ms. HENRIQUEZ. I think I should say yes to all of those. I think the greatest need for seniors right now across city housing and public housing is the access to services so that they can live independently longer in their own homes.

We have seen that time and time again—and I don't have empirical data, but when you have a senior who has to be relocated and displaced into a different facility, it does tend to shorten their lives.

And so, if you can keep them longer where they're familiar in their neighborhoods, etc., then it is better to build a basket of services around them so they can be with friends and family and well-known communities that they're familiar with.

And that link helps their ability to want to continue on. I think that's the most important part of the work you're proposing in your bill. It really goes to do that, to help neighbors helping neighbors, if you will, to extend a whole variety of things but delivers the staff and the services for seniors and really connects intergenerationally.

Ms. HENRIQUEZ. On the second panel, we're going to have experts testify to the fact that many elderly are being moved out of their apartments. They have this network of friends, neighbors that they know. This is where they feel comfortable. And they are being moved out of those apartments because there's no services in terms of health care. And it is a problem.

We are getting phone calls into our offices from their children complaining that their mental health is also impacted by this type of action.

Thank you very much—

Ms. MARK-VIVERITO. Can I add something to that? One of the issues that we have also taken to heart here at the City Council is the NARCs, the National Retirement Communities, which is basically allowing elderly people to age in place by providing support networks. And we have committed some money to it and we find it be very useful.

I think public housing is the next frontier for that. There are a lot of people who are aging in our public housing developments, and we're not providing them adequate support services.

To whatever extent your legislation proposal could also speak to that, naturally occurring retirement communities—I know the Department for the Aging is very committed to that, as well. And that's an aspect that we're speaking to.

Chairwoman WATERS. Thank you very much.

I would like to thank this panel for your presentations and the time that you have spent with us. We're going to look at those contractors who failed to comply, even after the regs they had agreed, to push from the Federal level to help you realize your goals.

The Chair notes that some members may have additional questions for the panel which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record. This panel is now dismissed.

And I would like to welcome our second panel.

Thank you very much.

Before we get started, I would like to announce that Congressman Ed Towns regrets that he will not be able to attend today and he wanted me to share that with you.

Also, we just got a message that Congressman Meeks is just getting off the airplane and he is on his way here. We expect him at any moment.

Ms. VELAZQUEZ. Chairwoman Waters?

Chairwoman WATERS. Yes.

Ms. VELAZQUEZ. I would like to recognize New York City Housing Authority Board Members, particularly Ms. Lopez who has been fighting Section 3 for so many years. And she was a member of the City Council and is now a member of the New York City NYCHA's board.

Thank you.

Chairwoman WATERS. Welcome.

I'm pleased to welcome our distinguished second panel. Our first witness will be Mr. David Jones, president and CEO of the Community Service Society of New York City.

Our second witness will be Mr. David Rammner, attorney and director of Government Relations, National Housing Law Project.

Our third witness will be Ms. Lisa Burris, director of organizing, Good Old Lower East Side.

Our fourth witness will be Mr. Douglas Rice, policy analyst, Center for Budget and Policy Priorities.

Our fifth witness will be Ms. Carol Rodat, New York policy director, Paraprofessional Healthcare Institute.

Our sixth witness will be Ms. Suleika Drinane, president and CEO, Institute for Puerto Rican/Hispanic Elderly Incorporated.

Our seventh witness will be Mr. Larry McReynolds, executive director, Lutheran Family Healthcare.

And our eighth witness will be Mr. Keith Joseph, vice president, Home Care Division, Service Employees International Union 1199.

Without objection, your written statements will be made a part of the record. You will now be recognized for a 5-minute summary of your testimony. When I first hit the gavel, it will indicate that you have a minute left.

Okay. With that, let us start with Mr. Jones.

**STATEMENT OF DAVID R. JONES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, COMMUNITY SERVICE SOCIETY OF NEW YORK CITY**

Mr. JONES. Thank you, Chairwoman Waters. And I would also like to give special thanks to Congresswoman Velazquez.

I have been head of the Community Service Society for 23 years. And literally, the entire time the Congresswoman has stood firm on this issue to improve public housing, and also on Section 3. So, I would like to thank you. I didn't think we would get this far, frankly. We have been hitting at this for so long and it seemed like it was going nowhere.

Again, thank you for letting me testify on Section 3. CSS has long been concerned with the scale and effectiveness of Section 3, particularly at the New York City Housing Authority (NYCHA).

More than \$1 billion in HUD dollars is spent each year on management, operation, and capital improvements. And this year, NYCHA, of course, as has been said, is going to get an additional \$423 million in economic stimulus funds, which would open up, we hope, for some further opportunities.

We have issued a report that is timely in this case that really gives lots of statistics on unemployment and labor participation rates of the residents of NYCHA that comes together fortuitously. And of course, we submitted it. But let me just summarize some of the things particularly worry us.

We estimate that only 51 percent of NYCHA's 23,000 working age residents participated in the labor force in 2005. At present, we estimated that between 20,000 and 30,000 residents are currently unemployed and now are actively seeking work in a recession time that's considerably worse than any time since the Great Depression of 1930.

Most are Black and Latino women, many under the age of 24, or men of color between 18 and 34. And the fact that over 36 percent don't have a high school diploma undermines the importance of the GED issue, which also raises critical questions about what kinds of jobs they're going to be able to get, if we don't work at this in terms of Section 3.

Last week, our New York City comptroller estimated that 400,000 New Yorkers are currently going to be out of work before the end of the recession. And we see worse coming.

In the Community Service Society report, we think that the efforts to strengthen Section 3 provisions to—the ways that are suggested are extraordinarily important. It accords the first hiring and training priorities to residents in developments where HUD funding is expended.

It's extraordinarily hard, and we see it as a real danger to New York, if residents facing perhaps more than 20 percent unemployment rates are going to be looking at enormous surges of capital construction with no jobs for them. This is not safe for the City of New York. And we have to do more than just the couple of hundred to date.

The legal right of action is necessary to really go after this. Government has failed too often, and people have been left out. And, also, the requirements for hiring for agencies and contractors re-

ceiving HUD funds. And finally, Section 3, all we think is critically important.

Let me summarize and then stop. We think, however, what's missing has to be strengthened. We need performance incentives to actually get NYCHA and other housing authorities to actually do this. They'll run big deficits. This is a unique skill set, actually, to recruit, train, and place workers, even in facilities where work is going on.

They're basically managers of facilities. They're not particularly good at this. So we think incentives that would actually make it possible for them to put money into the recruitment, training, and placement would be critically important.

Finally, I am worried that we have two different problems. We have sort of touched upon the problem of the construction trades, which are going to get a lot of the money here. I think people are being very nice about it. New York has one of the worst records in discriminatory practices in construction trades anywhere in the country.

And while that is falling away, we recognize now that to expect an immediate reaction of the construction trades is going to take most of my lifetime. We need a—that work has vital importance. This a wonderful opportunity to start that negotiation, coming half-way with the union.

We need immediate work. If I have so many people out of work in 2010, I need job core kinds of operations. I need immediate work opportunities. And we have models all over the country that are available to do just that.

So, I see this in two parts. Let's engage the construction trades for those kinds of work. But then let's come up with worker core ideas that are all over the country, where we can mobilize young and old in work force development projects that are useful, and people can see immediate gain, but also can give wage and some effort in the very short term until we get through this recession.

Thank you.

[The prepared statement of Mr. Jones can be found on page 58 of the appendix.]

Chairwoman WATERS. Thank you very much.

We now recognize Mr. David Rammler.

**STATEMENT OF DAVID T. RAMMLER, ATTORNEY AND DIRECTOR OF GOVERNMENT RELATIONS, NATIONAL HOUSING LAW PROJECT**

Mr. RAMMLER. Chairwoman Waters, thank you very much for this opportunity to testify on behalf of the National Housing Law Project with respect to Section 3.

We have produced "An Advocate's Guide to the HUD Section 3 Program" to assist legal services and other attorneys and advocates across the country to do this kind of work. And we have been involved in this kind of work for many years. This opportunity which we now face, approximately \$12 billion of recovery funds, and approximately \$14 billion of funds which could, in one way or another, be channeled through HUD to the communities that we speak of, is an opportunity which we cannot let pass.



And so we applaud this bill and many of the provisions of it. And we want to help you move forward in any way we can.

The bill, we suggest, has several very good broad perspectives. It broadens the applicability of Section 3, it eliminates confusion about differences between public housing, community housing and other HUD recipients of funds. And it just speaks of recipients of funds administered by HUD. So, we think that's important.

It clarifies the expected performance standards, as has been mentioned earlier. This "greatest extent feasible" standard from the 1968 law has just not worked, because "greatest extent feasible" was whatever you want to put into it. And if you're focused on something else, it just doesn't happen.

So, we think not only the continuation of the 30 percent of new hires, but particularly the 30 percent hours of work is critical.

We have all been involved in projects where, at the end of day, you saw the contractors hire 30 percent of their hires 2 weeks before the project is over, or give them 3 hours of sweeping up work to do at the end of a construction day.

We were not involved in jobs beyond construction, computer jobs and management jobs and all the other kinds of things which HUD spent money on.

So, we think the broadening of the scope of the work, the broadening of the requirements to 30 percent of hours, and coupled with the 30 percent of new hires is a working structure which greatly improves this provision.

We think that—as we have heard, there has been virtually no reporting. It's very hard to figure out what happened and whether the law was complied with.

So, increasing the reporting period from once a year to twice a year and, in some, cases requiring quarterly reports in situations where there are questions, is a dramatic improvement.

Along with that, requirement that housing authorities report and provide their Section 3 plans, in their 5-year plans or annual plans, the MTW programs and other kinds of plans that they provide to HUD, that's also critical.

There is going to be public light shone on this process on the behaviors of people within the statute. Then on top of that, the reporting now allows people to know what's actually happening. We believe that the sanctions and private rights of action are a critical pieces to make this a reality. If people know what their housing authorities are doing and what the other housing recipients are doing and have the ability to enforce it, that's important.

Secretary Trasvina indicated that he wished that the operation oversight would remain at his office. I'm not sure I have a particular opinion on that—and we usually see new blood in Washington and we take heart in that in almost every meeting I go to.

Its history, however, is that it has not gotten the attention it needs. And so, I think they should be very careful with respect to the Secretary. But we do think that the sanctions and the private right of action are critical. It has to be in the bill, you well know, because in the past 10 years, there have been a number of court cases which have said, "If you don't spell it out, we're not going to give it to the residents, we're not going to give it to the citizens,

we're not going to give it to other people in this country." So, it's just critical.

The old days of what we used to think of as 1983 actions, 20 years ago, are gone. So, then, with these new improvements in the structure, we believe that the mechanisms which you put in the bill to implement this new vision are great support, and we support the following issues.

There is a requirement that the Section 3 coordinator on a local level be engaged, whether to share with multiple recipients, that's fine. And we may develop a little cottage industry, but it's a critical piece. As has been said, it's not what housing authorities do.

We think that the bill emphasizes long-term training and real job development and career development and future development for people's families. The 5-year provision for workers to remain eligible for jobs—

[The prepared statement of Mr. Rammler can be found on page 81 of the appendix.]

Chairwoman WATERS. Mr. Rammler, we will have your testimony on the record. Thank you very much.

If I just may take 30 seconds, you just reminded me that we have a separate—that is moving through the Congress. It's the Moving to Work portion of it that is causing us the greatest difficulty. If you want to move to work, you have to make sure that you are doing the job; right?

The light just came on. Thank you very much.

Ms. Burris?

**STATEMENT OF LISA BURRIS, DIRECTOR OF ORGANIZING,  
GOOD OLD LOWER EAST SIDE**

Ms. BURRIS. That's the solution.

So, on behalf of Good Old Lower East Side, GOLES Incorporated, I want to thank Chairwoman Waters and the members of her staff who worked tirelessly, and also my Congresswoman, Nydia Velazquez, who, just like they say, has been the champion of public houses across the country. Also, the director of Good Old Lower East Side, lifelong residents of the Lower East Side, and constituents of District 12.

GOLES is a neighborhood housing and preservation organization that has served the Lower East Side of Manhattan since 1977 and which is dedicated to tenants' rights, homelessness prevention, economic development, and communication revitalization.

GOLES is also an affiliate of the National People's Action, a network of metropolitan, regional, and statewide organizations that works to build racial and economic justice. We work with public housing leaders across the country to protect the rights of tenants and ensure the future of public housing.

GOLES wholeheartedly supports the Together We Care Act and the Earning and Living Opportunity Act. Both bills will increase both job opportunities and health care access to residents in public housing and subsidized housing.

In New York City, public housing residents and Section 8 voucher holders comprise 7.7 percent of the population. The average income for a family who lives in public housing is \$22,728, less than \$700 above the national poverty rate. The poverty rate is 21 per-

cent citywide, and in the Lower East Side, it is 27.3 percent. Furthermore, unemployment rate is rising and it's currently at 9.5 percent.

These are startling numbers, but which are in line with the kind of activities GOLES sees on the ground in our communities to address.

More specifically, GOLES receives dozens of calls every week from residents looking for employment as well as help with keeping their apartments as they face eviction due to rental arrears stemming from unemployment.

We recently received a request for assistance from a public housing resident who is currently under threat of eviction due to rent arrears, and she has to choose between caring for her disabled child and going to work. No one should have to be in this position of choosing between their livelihood and the wellbeing of their family.

Given these stories and these facts, GOLES puts its full support behind these pieces of legislation proposed by Congresswoman Velazquez. These two bills are being put forward at a crucial time in this economic crisis. As mentioned earlier, the national unemployment rate is 9.5 percent, and this week the Federal Reserve projected that it would reach 10 percent by the end of the year.

Lower-income Americans have been affected by un- and under-employment for longer than this current recession.

The Earning and Living Opportunities Act and Together We Care Act take great steps to address the unemployment needs of low-income communities in the neighborhood counties. There's a great need in these communities to improve employment opportunities.

These bills provide not just short-term jobs, but training towards actual careers that have the potential to lift people out of poverty, while taking strides to protect and strengthen the communities in which they live.

GOLES commends the Section 3 amendment, the Earnings And Living Opportunities Act, for many reasons. First, it provides meaningful training to provide actual careers to residents of public housing. Training and employment together form a complete system that go a long way in improving people's lives.

In the introduction to the Together We Care Act, the untenable position of choosing between work and caregiving responsibilities at home is highlighted. Families are not only suffering from the emotional aspects of caring for elderly and disabled families, they also struggle to adjust their work schedules and often lose or leave employment due to the lack of access to quality and/or affordable home care for seniors and disabled loved ones.

Both nationwide and in NYCHA housing, seniors represent over 35 percent of the residents in public housing, and the unemployment rate is at its highest in 26 years. The Together We Care Act tackles both of these issues simultaneously, providing a benefit that is greater than the sum of its parts.

By training public housing residents for careers as aides and in home-based services, the Act addresses unemployment and lack of skills prevalent in low-income households, but it also goes beyond

that, making it possible for elderly and disabled residents of public housing to get needed care, and it will keep communities together.

For an elderly woman to be able to receive care from a neighbor, for a woman to care for her disabled daughter and not fear losing her job, these are incredible benefits.

Thank you for your time. I welcome any other questions as Good Old Lower East Side's on the ground residents address various issues.

[The prepared statement of Christy Yanis, member-leader of Good Old Lower East Side, Inc, can be found on page 122 of the appendix.]

Chairwoman WATERS. Thank you.

Mr. Rice?

**STATEMENT OF DOUGLAS RICE, SENIOR POLICY ANALYST,  
CENTER FOR BUDGET AND POLICY PRIORITIES**

Mr. RICE. Good morning. And thank you very much for the opportunity to appear here today. I'm going to speak briefly about why and how to reform Section 3 requirements.

When implemented effectively, Section 3 can accomplish three important objectives. First, it can reduce poverty. As you know, public housing residents, for example, experience very high rates of unemployment. Section 3 can improve personal job skills and make more jobs available to them, thereby boosting their income.

Second, Section 3 can overcome spatial barriers to employment. For many decades, jobs were moving away from the inner cities, where most low-income people live. And Section 3 addresses this mismatch by opening more job opportunities within low-income neighborhoods.

And third, Section 3 can reduce Federal cost. When the incomes of people receiving Federal housing assistance grow up, the Federal housing subsidies go down. Each \$1,000 in extra income earned by a resident reduces Federal cost by roughly \$300.

Unfortunately, while some communities are meeting Section 3 requirements successfully, the general agreement in Section 3 failed to fulfill its potential. Many jurisdictions, especially city governments, appear not to realize or understand their obligations under the statute of HUD and the capacity to monitor compliance effectively. Despite these problems, it's well worth the time and effort to make Section 3 work.

To do this, we focus on three core areas. First, improve Section 3 compliance. Even without legislation, HUD can do more to educate grantees about this Section 3 obligation, train grantees to implement Section 3 successfully, provide better incentives for compliance, and require grantees to submit data to facilitate monitoring.

HUD should also encourage the grantee to use existing local resources to monitor Section 3 compliance. Large public housing agencies in most cities already have that staff available to monitor compliance in government contracts in this core area. They need to do the job up to Section 3, as well.

We need HUD to encourage local grantees in an area to identify a single grantee to monitor Section 3 compliance for all of them. The draft of the Earnings and Living Opportunities Act could also encourage and improve Section 3 compliance.

The Act would allow the HUD Secretary to award performance bonuses to grantees that exceed the numerical goal set by the law. And the Act could also put it into statute if we work by the standards for measuring Section 3 compliance; the hours worked for business, in particular.

Second, revise the statute to maximize the opportunities for federally-assisted households. In HUD funding projects, other than public housing, Section 3 obligations apply only to constructional rehabilitation and not to activities like maintenance, organization, and regular operations.

Congress should apply Section 3 obligations to all HUD funding streams used for management and administration. In addition, public housing residents now receive first preference for job opportunities under Section 3.

To increase the potential savings for Federal housing programs, Congress should expand the first preference to include recipients of any kind of Federal rental assistance. And the Earning and Living Opportunities Act does this, of course.

Third, help grantees build capacity to meet Section 3 obligations. And this is probably Section 3's biggest challenge. Many communities have successfully implemented Section 3 requirements, designated a coordinator to link Section 3 residents and contractors for training and opportunities. And the Earnings and Living Opportunities Act would require each grantee to do this.

In addition, when Congress reauthorizes the Workforce Investment Act, it should give local workforce boards the explicit responsibility for meeting Section 3 job training requirements. Workforce for the unemployed develops training opportunities, career counseling, and linkages to employers, but they haven't yet played any formal role in Section 3.

Taken together, these will enable more recipients of Federal housing assistance to get the jobs and skills they need to build a better life for themselves and their families. And because the Earnings and Living Opportunities Act includes many of these reforms, we consider it very important step forward.

Thank you.

[The prepared statement of Mr. Rice can be found on page 95 of the appendix.]

Chairwoman WATERS. Thank you.

The next witness will be Ms. Rodat.

**STATEMENT OF CAROL RODAT, NEW YORK POLICY DIRECTOR,  
PARAPROFESSIONAL HEALTHCARE INSTITUTE (PHI)**

Ms. RODAT. Thank you, Chairwoman Waters and Representative Velazquez, for this opportunity to testify today about the Together We Care Act of 2009.

I'm here on behalf of PHI, which is national organization dedicated to improving the quality of jobs and long-term care. We believe that the quality of care is directly affected by the quality of the job. Now, I'll say more about that in a moment.

I think you have heard people testify this morning about the importance of our changing demographic in this country. The number of people who have reached age 55 and older, 60, 70, and now liv-

ing into late age need a number of supportive service in their community if they wish to stay there.

The problem is that the demographic shift means that there are fewer people of working age to match the needs of those who are older.

We have already heard that New York is the third in the Nation in terms of older adults. What you may not know is that if you live to be 65 in New York, you will have at least one chronic medical condition. And if you are 75 years old, you will have three chronic medical conditions and take at least four medications.

Two-thirds of our older adults will need some form of long-term care and 11 percent will require that care for 2 years or more.

There are two main groups who take care of elderly and those with disabilities in our society. The first is family. They provide at least 80 percent of hands-on care. The second is direct care workers, home care aides, and home attendants, and they provide 80 percent of the paid hands-on care. We also use nurses and therapists, but they do not provide the majority of care. That is why we support the Together We Care Act. We recognize the needs of two sets of individuals, which involves also critical timing that you have brought today for us to consider.

In New York, we are projected to need 93,000 more home care jobs between now and 2016, 65,000 of which are in New York City. Taken together, home health aides and personal care aides constitute the largest occupational group in the New York economy.

They outnumber our needs for our RNs, for high school teachers, for cashiers, for firefighters. This is something unrecognized in our society.

So, let me turn now to the opportunities and some cautionary notes. I have heard this morning about your goals of self-sufficiency, accountability, and transparency. One of the things we need to be cautioned about is that you not provide grants to employers who do not provide you that same accountability and transparency with respect to wages, benefits, and supports. PHI affiliated with a 25-year-old worker-owned corporation of the Bronx and employs 1,500 home health aides and home attendants.

Our turnover rate is one of the lowest in the City. We can tell you that there are many employers who do not provide the access to public benefits and supports that are needed. The majority of the turnover on home care, which is anywhere from 40 to 50 percent, occurs in the first 3 months. You must have supports for people re-entering or entering for the first time as workers.

This work is not easy. It requires a lot of training and support if you're going to succeed. So, I would urge you today to use this important legislation to not only improve the quality of these jobs, but to also ask for advancement opportunities for these workers and ask for the kind of practices by employers that make them succeed.

One other note I wanted to mention. Since Chairwoman Waters mentioned broadband, New York is the first State in the country to actually use Medicaid funds to pay for telephonic monitoring. So, this would be an important adjunct. We have programs right here in New York City where we train home care aides to use that technology and to apply it to patients with these chronic needs.

Again, thank you, and we welcome the opportunity to work with you to implement this important legislation.

[The prepared statement of Ms. Rodat can be found on page 108 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. Drinane?

**STATEMENT OF SULEIKA CABRERA DRINANE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INSTITUTE OF PUERTO RICAN/HISPANIC ELDERLY, INC.**

Ms. DRINANE. I want to thank you for holding this meeting today. I am the founding president of the Institute for the Puerto Rican/Hispanic Elderly, which is a nonprofit minority-based, multicultural and multilingual citywide human services network of programs and services that serve Latino, African-American, Asian, and other ethnic minority seniors and their families.

I am proud to appear today before this subcommittee on behalf of the Institute, as well as its Hispanic Senior Action Council, in full support of Congresswoman Nydia Velazquez's legislative proposals under consideration by this committee.

The Together We Care Act, as well as the Earnings and Living Opportunities Act, are each an example of Congresswoman Velazquez's longstanding support and tremendous concern for our poor and low-income families and seniors in the City, State, and Nation.

I want to thank the subcommittee for this opportunity to declare our full support for these two worthy proposals, and to speak on several issues that are very much the core of the Institute's mission and are my passion.

First, elimination of health disparities for our Latino, African-American, and minority communities.

Second, securing fair share and access to real job training and employment opportunities. And that also includes the health benefits that home care workers need; because they give you the job but they don't give you the benefits after 29 hours of just working.

And third, protection of older adults to ensure that they get the full benefits and entitlements as well as the critical supports and services necessary to age in place within the community and with dignity, rather than suffer displacement, isolation or discontent.

The institute has come a long way over the last 31 years. Today we serve over 100,000 seniors annually through our citywide network of programs—senior centers, the majority of which are located in public housing.

Another housing development we have a fully-licensed home care agency with all the provisions, so we provide the home care but we also do the advocacy so that the clients could get access, too.

And we also have licensed mental health, psycho-education social groups that are so important for our community. However, we also have a strong Hispanic senior action council, which is a very strong advocacy arm. And we're proud of their accomplishments. We won the SSI today from the State; an inspiration.

However, our gains for Latino, elderly, and other minorities over the years are today seriously compromised by the economic crisis. And the worse things we have, like poverty, health disparities, un-

employment, and sickness and homelessness, which plague our communities and they have not been professionally and systematically addressed.

The institute experience in New York City—a disproportioned grave burden for disease, disability, and death experience by racial and ethnic minorities, With significant concentration of poor and low-income seniors and families within public housing and other subsidized developments that lack adequate service and support for job training and employment, let alone aging in place, which is so important.

There is no doubt that the number of seniors which increased over the last decade will continue to do so exponentially in public housing. Already, there is a serious issue of isolation of presence, lack of adequate nutrition yielding unhealthy aging and development.

By the same token, the rate of unemployment over the last batch of job training to matches to good jobs to residents of public housing, is a major crisis.

There is no doubt that the legislation proposal on the table goes a long way to form the basis of a great model that can have a significant impact and lay the groundwork for replication in many more deserving public housing developments.

If I may say, the only disappointment I encountered in my reading of each proposal is that I believe that the appropriation for each is too low, given the potential and promise of the intervention, in the face of the substantial problem it intends to tackle.

Nonetheless, it could be said that, given the support and resources, besides the community health centers, the community organizations such as us and other organizations are best suited and instrumental in providing the training and services to public housing residents and to the elderly as addressed in the proposal.

I just want to commend the committee and Congresswoman Velazquez for conceptualizing and proposing what we believe can be a significant model worthy of broader replication, tackling two fundamental but complementary dilemmas in public housing: elderly residents who need homecare; and fellow residents who need good jobs with benefits in a growing employment sector.

The institute is ready to assist you. You can now get another recommendation.

[The prepared statement of Ms. Drinane can be found on page 46 of the appendix.]

Chairwoman WATERS. Thank you.

Mr. McReynolds?

**STATEMENT OF LARRY McREYNOLDS, EXECUTIVE DIRECTOR,  
LUTHERAN FAMILY HEALTH CENTERS**

Mr. McREYNOLDS. Distinguished Congressional Representatives, good morning. My name is Larry McReynolds, and I am executive director of the Lutheran Family Health Centers, the largest federally qualified community health center in the Nation.

Like all federally qualified health centers, our mission is to increase access to quality health care and to decrease health disparity. Persons living in public and subsidized housing are among



our target population, and these residents are most definitely underserved, underinsured, and have little access to health care.

In 1991, the Department of Health established the public housing primary care program, recognizing that community health centers were uniquely positioned with skills to meet the unique needs of those in housing.

However, the next step is the further success of these programs by adding the funding and the training to allow residents to help themselves and their fellow residents.

Community health centers can be instrumental in providing training and services to public housing and subsidized housing residents and to the elderly in the following ways:

Directly providing a contract for training home health aides. Many health centers have a strong base of existing certified home health aides, vocational, residencies, and other training programs upon which to build.

Health centers are primarily located in low-income neighborhoods and have staff who understand the unique need of this population, possess the cultural competence to implement realistic health care plans, and have existing infrastructure for program oversight.

Health centers have a longstanding record of achieving great outcomes with minimal Federal dollars. Health centers are best positioned to serve as the medical home for this population.

Community health centers can be instrumental in providing services because, frequently, centers have facilities proximate to the housing facility, have a thorough knowledge of Federal and State assistance programs, and have a billing structure that is sustainable. They can deliver on-site or off-site service systems, have electronic medical records, which facilitate the communication of care plans between the home and the provider.

Statistics show that residents need care and will access care if given information in a culturally competent and accessible manner. By supporting home health aides who are peers, who will understand and know the residents, their lifestyles, and their barriers, residents will feel more comfortable in accessing care.

Challenges and obstacles associated with facilitating home health services are: gaining acceptance by seniors who do not want strangers in their home; working with the residents to practice preventive care; follow up supporting documentation to assist with medical assistance application; overcoming environmental barriers, which slow medical progress such as absence of support of family, lack of phone, fresh air, lack of food; and maintaining eligibility for services.

Challenges and obstacles that residents face in accessing home health care services are: limited access to transportation; language barriers; lack of societal engagement; fear of new places, people, and ideas; knowledge of qualification for services; and the denial that they need assistance because of their personal desire to maintain their independence.

The legislation will lower the cost of elderly and disabled health care through increased compliance of care plans, while giving the residents the assistance to comply with the care plan, linking the residents to a medical home, enabling the patient to age in place

and maintain their health status and independence as long as possible, thus avoiding costly nursing home and hospital admissions.

Reduces chronic illness. Residents have rates of chronic illness double the prevalence rate of the community. Therefore, diabetes, hypertension, and asthma have many more unnecessary emergency room visits and inpatient admissions because of its prevalence rate. Simply by aiding residents with these illnesses alone can save the system money, offering quality supportive services in the right place, at the right time, and at the right level of care.

A review of emergency room departments says that more than 40 percent of hospital ED visits are for unnecessary non-emergent conditions. Through training the home health aid to work with the care team, this number can be reduced.

Through this program, people will be put to work who largely otherwise would not work. These are neighbors and friends who care about their neighbors and understand their needs.

The pilot program of community health centers, which started in 1966, has shown over and over again that residents are the best one to design programs to meet their health care needs. Now the community health center movement is the safety net of the Nation. We need to take the next step to provide peer supportive services for our most vulnerable. Together we care, now let's act.

[The prepared statement of Mr. McReynolds can be found on page 68 of the appendix.]

**STATEMENT OF KEITH JOSEPH, VICE PRESIDENT, HOMECARE DIVISION, 1199 SEIU UNITED HEALTHCARE WORKERS EAST**

Mr. JOSEPH. Good morning. My name is Keith Joseph. I'm the Vice President for (inaudible).

We wish to thank Chairwoman Waters, Congresswoman Velazquez, and the committee for allowing us to testify today.

1199 SEIU represents over 90,000 health care workers in New York, Massachusetts, Maryland, and Washington, D.C.

To me, what is written here is a little—I don't think it really gets to what I really represent and what this introduction is—

Chairwoman WATERS. You have our permission to throw it away.

Mr. JOSEPH. Sometimes you follow the script, and it doesn't get to what you want.

I represent health care workers. And the workers who take care of—for me, the most valuable people in—I don't know exactly—which is the elderly, the disabled who needs assistance. And we ask these workers to do actually everything, and they go out and do it without quarrel. When you ask who takes care of these workers, nobody does—actually, no one does.

But somehow there is money in the system that someone is making—for these workers. They're making a lot. And when you ask who makes money off the system, no one gets up and says actually, because everyone hides.

I think the reality is that if you introduce any legislation that will put workers in a field, there has to be oversight to take care of these workers. Most importantly, the oversight has to be there so that the employers who have the most fancy name for the agency that they represent so dear, actually does nothing.

All of them who handle it, Patient Care, People Care, Best Care—who go out there and actually do—supposed to be providing care for these workers.

And when you ask if there's—for these workers together with patients in their homes 24 hours a day, and you ask them what they actually make, how much they make, most of them make the minimum wage, which is low, as low as \$7.15. They have no health care, no medical benefits.

You sit and you battle with these employers day in and day out to try to actually give these workers what they actually deserve. And you fight literally for years, for pennies, to get these workers to get what they want.

And so if you introduce any legislation, if you don't have the oversight back to a system where the employers continually exploit these workers—they are immigrants, most of them come from the third world countries, who do not speak the language and they capitalize on the fact that these workers do not speak the language and can't actually communicate, because they take care of these patients in homes and there is no communication.

The hospitals, the nursing homes and—who actually give the business, who subcontract this business to these licensed agencies.

And when you go to them and you say, "How could you do business with these agencies continually exploiting workers daily?" And they turn around and say to them that, "We can't do anything about it." Or, "They are the ones." You have to have (inaudible) to regulate the system. To make sure that they have the (inaudible) which is—they certify the home care agencies. Do not allow licensed agencies to exploit these workers.

Whatever legislation that you put in, the oversight is key to make sure that these workers will get decent wages, get the benefits that they—continue to provide the valuable service that they provide—questions about. And thank you for the opportunity.

[The prepared statement of Aida Garcia, executive vice president, Homecare Division, 1199 SEIU United Healthcare Workers East, can be found on page 53 of the appendix.]

Chairwoman WATERS. Thank you all so very much for your presence here today and for your testimony, as real advocates for the people who need to be spoken for, not only in the halls of Congress but every legislative body. I appreciate all of your comments.

Mr. Jones, I think what you did was—well, you gave a warning that you cannot continue to have this kind of unemployment, and people without access to resources. That's a concern to be worried about, what does that cause? And I certainly hope that you continue to sound that alarm in the hope that people are listening.

Mr. Rammler, you triggered my thinking about Moving to Work, as a much more colorful concept as we try and pass several—and I'm worried, because some of our housing authorities seem to work as a way of making people act in their own best interest, punishing people who don't get a job when they think they should get a job.

Conceptually, it is not well-thought through. But you just forced me to think about how we can say to those who believe in these various things that they have about Moving to Work, and all the housing authorities have different rules and ways by which to do it.

The first thing they should be doing is living up to Section 3, and making sure that the jobs are made available for all of the services and the work that's done for and about public housing. That if they are first to step up to the plate and offer and make jobs, maybe they have some legitimacy and jobs moving to work.

So we have not passed that bill out of committee, and taken a look at that aspect of it. I think that we can move on that pretty quickly.

But also I'm glad Ms. Velazquez is here, because what can be more timely than talking about, this is the economy, where people are suffering, so without any hopes for employment.

Also, I recognize that the recommendations and the legislation that talks about a coordinator, someone with responsibility for Section 3, that's happened to bring the resources in and to get training done and to help many of our residents, just mainstream; some of whom have never worked before.

You can say what you want to say, but if you are 20, 24, or 25 years old, and you have never had a job, it's one thing to say, "We're going to put you out of public housing if you don't get a job." And it's another thing to say, "Let us recognize that we need to put some resources in here to do some training to make sure that people have the opportunity to realize their full potential. So we here, with many of you today, helps to refocus me. I have worked for many years in public housing and I think that we really do need to bring all of these issues more to the attention to the Congress of the United States.

I think we got lulled a little bit into complacency because the attack on the poor was so profound, so strenuous that they made us believe that we were just there to rob the public coffers as tax and spend liberals. And I think we backed off. Now it's time to back up again and get on this.

I'm very pleased that Nydia brought me here today so I could hear from all of you.

With that, Representative Velazquez.

Ms. VELAZQUEZ. Thank you, Chairwoman Waters.

I want to take this opportunity to thank each and every one of you here. Your testimony is so compelling and it's just so difficult to be sitting here listening to you and I have to ask myself, Why is it that people don't get it? Either they're in Washington, bureaucrats, a Federal agency, or here at the State and city level, everyone is just—this morning when I went to pick up—I said to her, "I was reading the news and it's so depressing. It's so depressing. Here we are, we are spending \$750 billion, and how much money have we given to those big institutions too big to fail?"

And yet unemployment rate continues to go up. And what is it going to take for everyone to come together in a comprehensive way to see how can we maximize the resources that we're putting there, in poverty, to those who are most vulnerable.

Mr. Jones, your report is an incredible one. I just would like to ask you, what else would it take in terms of the unemployment rate among minorities? Describe how education is so critical for unemployment. How can the Earnings and Living Opportunities Act proposal address this issue, if it does?

Mr. JONES. I think we have to recognize that—and I was talking about construction firms. Obviously, that's going to eat up the lion's share of resources, certainly for \$423 million.

The difficulty that I raised, really, was historical. My father was one of the first Black lawyers to sue the New York Sheet Metal Workers because of discriminatory practices.

But the more critical abuses of the construction trades have begun to fall. It's not a unified solid wall anymore. The carpenter's union, the laborer's union, actually made big strides.

The difficulty now is that the skilled trades require a fairly high level of educational attainment, even to get into their apprenticeships. So, if you look at the apprenticeship test for carpenters and electricians and plumbers, frankly, I don't think many college students could meet it.

And now we have to recognize that pre-apprenticeship programs are going to have to be worked out very carefully and not necessarily totally under the union control. That is, start a pipeline that will prepare. So it's one of the things we have to talk about.

The GED, which is one of the criteria for many of the tests, we have one of the lowest categories of the GED anywhere in the Nation. We don't even get to Alabama State. This is sort of the dregs of the educational system. It has become the problem of many young Black kids. That's all they get or contain, because they have been pushed out and dropped out of high school. We have a lousy graduation rate in the City of New York.

One of the ways you can start to address—to start to look at the sort of cohort of young people in public housing, which reflects their surrounding community, and start to organize those young people into teams of workers to do basically the work, and at the same time, start them on the road on getting back on the educational bandwagon so they can have a future. People will pay and they line up.

If you look at summer youth employment and the rest, which is not bright right now, people line up by the dozens, by the hundreds, by the thousands to get those jobs. We have to make those year-round jobs in public housing that combines this issue of a wage—it doesn't have to be a pretty wage—and educational work that brings them back into line so they can have a future.

So just to leave them out there with no hope, it's not only a danger to them, it endangers everyone in public housing. What a depressing landscape; no one employed and the young people have no future. We have to use this opportunity to break through in that discussion.

Ms. VELAZQUEZ. Mr. Rice, Mr. Rammler, I don't know which one of you mentioned that this is a win-win, if we get Section 3 for a housing authority to comply with.

What else will it take for managers of local housing authorities to understand the positive economic impact that this Section 3 application will have, in terms of revenues and the rentals that increase in the rent that they are paying, and the subsidies the Federal Government has to come up with?

Mr. RICE. That's a good question and I would answer that part of the concern—part of public housing authorities is that when I

talk about savings improved, those savings accrued to the Federal Government and not on the public housing authority in particular.

And as I understand it, your legislation tends to address it in part by providing extra incentives for housing authorities and other local agencies who exceed the existing targets. But perhaps, more needs to be done.

I would assume that—I don't know that for sure, but I would assume, based on Mr. Rhea's comments, for example, the recurrent public housing operating formula does not take into account the cost of Section 3. So that might be something worth looking at.

Mr. RAMMLER. A second, ma'am.

In fact, Mr. Rice and I were discussing this before the session started, in anticipation of Mr. Jones' testimony.

But it strikes me that perhaps the housing authorities see a resident who has increased income, but then in their operating cost, they get penalized for that. So, perhaps, the way to do it is to remove that part of the operating funds formula, so that when a resident can lower their share—the housing authority share for rent—the housing authority doesn't just lose the money.

And perhaps, it was suggested by another speaker this morning, in terms of creating a fund, you know, perhaps the housing authorities could be encouraged and directed to use public money in ways to further the goal. But it's money they can use within their operating program.

Ms. VELAZQUEZ. To the rest of the panel, I would like to talk to you about your proposal in terms of health care.

In your work with seniors or the aging population, do the needs of elderly residents seem to be uniform across-the-board? Or do some require special services as the result of their ethnicity, for example—

Ms. DRINANE. Another recommendation, perhaps, in terms of centering the Act was to include the cultural competency in linguistic—cultural linguistic competency must be included with evaluation criteria for a competitive grant. That to make a difference, you have to understand the person that you are working with in order to understand what kind of service and how to deal with a person that comes from a war or just running away from their country.

Look at the diversity of the Hispanic. We don't see everybody the same, even though there's a lot of language (inaudible). And then there is a diversity—but I think the elderly seniors, what you also have to do—in particular, the Hispanic elderly—is really be able to talk to them in an informal way.

And they—if you find it familiar and talk to you—you talk first, I will give you a quick review. You talk first about—when you're talking to them, let's say about the family, you have to deal with the family, you have to deal with the language, you have to deal with the culture and you also have to deal with dignity and respect.

And if you deal with that, you can get the answers that you need in order to assist them. You have to go—and then it's not a one shot deal. If the person comes with multiple problems—income, health, housing, they want to have a car, they want all of that—

and then you have to figure out what to give them and work with all of that in order to help them.

Ms. VELAZQUEZ. Is there a difference in the quality of life for a senior who received home health care as opposed to services in a nursing home?

Ms. RODAT. Oh, yes. There are numerous differences. Most seniors, I would bet that 99 percent of the people you would ask, if you ask them if they wanted to stay and to live the remainder of their life either in a nursing home or in the community, the answer is the community.

And while you can create a nursing home that has a good quality of life—and in fact, New York City has several that, with other States in this Nation right now, are changing the culture in nursing homes. And they're doing that to make nursing homes more homelike, and yet it is still not the same as living in a community with your family, your neighbors, and close to your friends. It is simply not the same.

One of the things I just would like to add to the previous question, you can do the minimum amount of training for home care aides, and you can teach them tasks and you can teach them skills. But at its heart, this work—whether you're in a nursing home or you're in the community, this is about relationships. It's about good relationships.

And that requires you to develop the skills of listening actively, learning how to communicate, learning how to respect diversity, and learning how to problem solve.

Ms. VELAZQUEZ. In your work with tenants, public and subsidized housing, does there seem to be an appreciation for the special needs of elderly residents? And can you also tell us a little bit about how did older residents—as they age, for example, do they move to buildings with a higher population of seniors? Do they rely on younger family members for care and assistance?

Ms. DRINANE. We see with the senior population, including anything from language barriers to also not having access to loved ones who are employed. A lot of times, seniors in public housing are asked to verify, because they are (inaudible) apartments, which has to be the resident, the whole family, and now they have to move to a smaller private apartment on a lease.

A lot of residents are put in a more vulnerable position. The family members (inaudible) of options, which are putting them in hospital for permanent assistance or moving them to one-bedroom apartments and hoping they can be able to provide—

Ms. VELAZQUEZ. In your experience in dealing with public housing residents, do you think that NYCHA, the New York City Housing Authority, has been responsive to the needs of the aging population? Do they actually have a specific program targeting the specific unique needs of the aging population who lives in public housing?

Ms. DRINANE. Currently, no. With the housing authority (inaudible) community service centers, which provide resources to seniors. But what we (inaudible) a lot of times, residents, seniors face eviction, in instances (inaudible) told to move small type apartments and refuse APS, Adult Protective Services.

Oftentimes, our office is bogged down trying to connect social services (inaudible) apartments with these seniors, ensuring that they get types of support (inaudible). Oftentimes, APS and other—they work with the social services department (inaudible).

We have occurring right now a resident facing eviction who has cancer. It has been hard for (inaudible) what is going to happen in connecting services for them.

Ms. VELAZQUEZ. Mr. McReynolds, you have mentioned that you are providing a lot of services to public housing residents. My concern is that with the health care reform legislation that we are dealing with, there is not specific language regarding 12 million undocumented people.

Where do you think they are going to go?

Mr. McREYNOLDS. I share the same concern. There is no solution about things coming out of Washington. I think it is a very, very large problem. It will leave 12 million people without an answer and that means they go without care or go without access—

Ms. VELAZQUEZ. Or they will come to you, community health centers.

Mr. McREYNOLDS. Right. Or they will go to the emergency departments. A lot of them don't understand how to work the system, so they go to an emergency department, the most expensive level of care.

And then I try to work with emergency departments to find people who don't have a primary care doctor, don't have the coverage, and then try to educate them about community health care.

Ms. VELAZQUEZ. So in our Nation, people started to realize that there is no distinction between, violence, attacking illegal, undocumented or an American citizen, right? So it's a public health issue and we'll see.

Thank you, Chairwoman Waters.

Chairwoman WATERS. Thank you very much.

I would like to thank the panelists for being here today, for giving your time. I certainly thank you for your knowledge and for your advocacy. And I think that, in addition to the support that you are offering for this legislation, you have inspired me to take a look at a number of things—I mentioned Moving to Work.

But I'm sitting here thinking about our health care reform activity, the debate that we are embarked upon, and nowhere have I heard anything about home health care workers, people who do very difficult work, taking care of people who absolutely need that assistance.

They're reducing the cost to the system that—people staying in their homes instead of staying in institutions. So, imagine, working all day and you don't have health care yourself, and you're trying to help someone who needs your assistance or needs somebody's assistance with their health care needs.

So, thank you for not only speaking on behalf of people in public housing and poor people and immigrants, but thank you for reminding these legislators that, no matter how good think you are, you can do better. Thank you very much.

Ms. VELAZQUEZ. Mr. Joseph, we hear you loud and clear. We understand your passion and your commitment. We are committed to



making sure that people who work in the home health care industry get a decent wage.

Chairwoman WATERS. The Chair notes there may be additional questions for this panel that members may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to the witnesses and to place their responses in the record.

Thank you. This panel is now dismissed.

We are adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]



# **A P P E N D I X**

July 20, 2009

TESTIMONY BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES  
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY  
Hon. Maxine Waters, Chairwoman

HEARING ON  
LEGISLATIVE PROPOSALS TO INCREASE WORK AND HEALTH CARE  
OPPORTUNITIES FOR PUBLIC AND SUBSIDIZED HOUSING RESIDENTS

PRESENTED BY  
Suleika Cabrera Drinane  
President/CEO  
Institute for the Puerto Rican/Hispanic Elderly, Inc.  
105 East 22<sup>nd</sup> Street Rm 615  
New York, NY 10010  
212.677.4181

Good morning, my name is Suleika Cabrera Drinane. I am the Founding President and Chief Executive Officer of the Institute for the Puerto Rican/Hispanic Elderly, which is a not for profit minority-based, multicultural, and multilingual citywide human services network of programs and services that serves Latino, African American, Asian and other ethnic minority seniors, and their families.

I am proud to appear before this Subcommittee today on behalf of the Institute, as well as its Hispanic Senior Action Council, in **full support** of **Congresswoman Nydia Velázquez'** legislative proposals under consideration by this Committee.

**The Together We Care Act**, as well as **the Earnings and Living Opportunities Act**, is each an example of Congresswoman Velázquez' longstanding support and tremendous concern for our poor and low income seniors, and families, in this city, state, and nation.

I want to thank the Sub-Committee for this opportunity to declare our full support for these two worthy proposals, and to speak on several issues that are very much at the core of the Institute's mission, *and are my passion*—First, the elimination of health disparities for our Latino, African American and minority community,

**Second**, securing **fair-share and access** to real job training and employment opportunities, and, **Third**, protecting our older adults to ensure that they get their **full benefits and entitlements** as well as the critical supports and services necessary to **age in place** within their community and **with dignity** rather than suffer displacement, isolation or institutionalization.

**The Institute has come a long way over the last 30 years.** Today we serve over **100,000 seniors** annually through our city-wide network of programs, 11 senior centers—the majority of which are located in **public housing**; senior and other housing developments; a fully licensed Homecare Agency, and State licensed Mental Health Clinic. **The Institute's 5000-member Hispanic Senior Action Council** has become a strong advocacy arm, and we are proud of our accomplishments. However, our gains for Latino and other minority seniors over the years are today seriously compromised by the economic crisis and the worsening levels of poverty, health disparities, unemployment, and homelessness, which plague our communities and that have not been successfully and systemically addressed.

In the late 90's, the **Clinton Administration's National Disparities Initiative**, released the **"Healthy People 2010 Report"** as a strategic plan to eradicate these disparities as well as increase the numbers and the status of **minority health professionals** in the Health System across the country.

A subsequent report issued in 2002 by the **Institute of Medicine**, *Unequal Treatment*, beyond documenting the [quote] "deep and pervasive disparities in health and health care for racial and ethnic minority populations in the United States" [closed quote], also noted how **little** had been done to date to meet this challenge. It noted that the Clinton

Administration's *National Disparities Initiative* had given the problem an **"appropriate moral urgency"** and had provided a national platform to demonstrate the stark and disproportionately greater burden of disease, disability, and death experienced by racial and ethnic minorities. **It was nationally documented that:**

- Hispanics were twice as likely to suffer diabetes as whites,
- THAT, 26 percent of mainland Puerto Rican Americans between ages 45 and 74 have diabetes.
- THAT, the number of uninsured Hispanics nearly doubled from 1990 to 2002—from 6.9 to 12.8 million.
- THAT, African-American women are four times as likely to die in labor and delivery as their white counterparts.
- THAT, African-Americans males over 65 years are twice as likely to have prostate cancer.
- THAT, dramatic disparities in adult immunizations, which speaks to lack of access and education indicate that while Forty-seven percent (47%) of whites receive the pneumococcus vaccine, thirty-four percent (34%) of Hispanics, and thirty percent (30%) of African-Americans, over the age of 65 years are vaccinated.

The Institute's experience in New York City evidences an **even more serious dilemma** with significant concentrations of poor and low income minority seniors and families within Public Housing and other subsidized developments that lack adequate services and supports for job training and employment, let alone healthy aging and aging in place.

**New York City has the largest concentration of Public Housing in this nation.** For Example, two communities among the many that we work in, *East Harlem (El Barrio)* and *the Lower East Side (Loisaida)*, have some of the largest concentrations of Public Housing in this City. Our most recent analysis of New York City Housing Authority (NYCHA) data shows that in many of the large developments within these two sample communities, Heads

of Households that are 62 years of age and above already account for well over 40 percent of all Households. Some developments present figures as high as 63 percent!

There is no doubt that the number of seniors has increased over the last decade, and will continue to do so **exponentially** in Public Housing. Already, there is a serious issue of isolation, depression, lack of adequate nutrition, and generally unhealthy aging in these developments.

By the same token, the rate of unemployment and the lack of adequate job training and access to good jobs for residents in Public Housing is a major crisis.

**There is no doubt that the legislative proposals on the table today, go a long way to form the basis of a great model that can have a significant impact and lay the ground work for replication in many more deserving Public Housing developments.**

**If I may say, the only disappointment I encountered in my reading each proposal is that I believe that the appropriation for each is too low given the potential and promise of the intervention, in the face of the substantial problem it intends to tackle.**

Nonetheless, we believe that given the support and resources, community based organizations, such as the Institute and others like community health centers are best suited and can be instrumental in providing the training and services to public housing residents and the elderly as described in these proposals. We know how to make this work at the community level and with the active participation and support of local residents.

Time does not permit a full reading of our testimony. Therefore, as suggested by the Sub-Committee, we have attached as part of this testimony, more specific answers to the issues and questions your invitation posed to us, and that we address as organizations and

practitioners that are on the frontline working every day with the elderly and their families in Public Housing.

**We commend Congresswoman Velazquez for conceptualizing and proposing what we believe can be a significant model worthy of broader replication, for tackling two fundamental but complementary dilemmas in Public Housing—elderly residents who need homecare, and fellow residents who need good jobs, with benefits in a growing employment sector. The Institute stands ready to assist in any way to ensure that both proposals are affirmed.**

**Thank you.**

INSTITUTE FOR THE PUERTO RICAN/HISPANIC ELDERLY

Attachment

**Specific Issues/Questions:**

1. We believe that community based organizations, such as the Institute and others like community health centers can be instrumental in providing training and services to public housing residents and the elderly. For example, the Institute can do so both on-site within our senior centers (many of which are already in public housing) or off-site at the individual housing sites in the community, when warranted. Training and provision of services is usually provided through partnerships with local hospitals that usually go into the communities to perform regular screenings to include blood pressure and glucose monitoring. Bone density, vision, hearing, and podiatry screenings are also offered.
2. Besides senior centers, the Institute has various housing developments and outreach/satellite offices strategically located citywide as well as private home care agency that



accepts referrals for and places home health aides and home attendants in the client's homes.

Within the community, staff is appropriately trained to assess, make referrals, and facilitate a client's application for home health care. At times, clients are in need of but are resistant to care. IPR/HE staff is knowledgeable and provide counseling to clients to explain the process and all options available to the client including health care.

Staff facilitates medical appointments scheduling and obtaining transportation. They provide follow-up with the client to ensure the physician has completed referral forms and will mail or hand-deliver the application to CASA for processing. If necessary, social work staff will strengthen the application by providing an additional advocacy summary explaining the clients need for homecare. Often, this additional summary is very persuasive and influences the final favorable decision granting homecare services to the client. The staff follows up with the client and counsels them on the process, next step, to accessing care carefully explaining all the client should anticipate. When referred to the city, it can take up to 30-45 days for the client to be seen and their papers to be processed.

3. The Institute follows the client throughout the process, evaluates the client's satisfaction upon placement of the home attendant, and will follow up with regular recertification. The Institute can be more hands - on whereas local community clinics will instruct clients on what to do and expect the client or caregivers to follow through on their own, which presents various issues such as,

- Clients may be isolated and not able to access care due to not getting to the doctor because of lack of transportation/ lack of money/ language barriers.
- They may not be aware these services are available or how to access them.

- Clients are resistant to accepting care because they feel their independence will be taken away.
- The application process is too long and confusing.
- The referral form (M11Q) is valid only for 30 days only before it expires. If it expires, the client must go back to the physician to get another referral form completed.
- In subsidized housing, the rooms may be too small. CASA will not allow 24 hour care in an SRO (Single Room Occupancy).
- On occasion, clients are discouraged due to costs i.e. over-income and must pay for a spend-down. Most do not know about spend downs. Also, if they qualify, a spend-down may be a hardship for them. Even worse is pooled income trust which is very confusing.
- Clients do not know their eligibility or their rights.
- Clients are discouraged by family members who may be taking advantage of them.

4 & 5. In theory, it is somewhat innovative. Optimally, the workforce will be increased to accommodate the increased numbers of older adults. Revenue for NYCHA will be increased. Currently, the New York City Department for the Aging (DFTA) takes older unemployed Public Assistance recipients and trains them to become home health aides. A partnership with a program like DFTA with an already established training program should be explored as they have certified trainings and standards in place (which the legislation has not identified). DFTA can increase the number of participants that reside in Public Housing as they are training and direct the certified home health care workers to NYCHA developments. Funds can be directed to re-employing Service Coordinators who are the first line responders to coordinate care.

**TESTIMONY OF AIDA GARCIA****Executive Vice President, Homecare Division, 1199 SEIU United Healthcare Workers East**

PRESENTED TO THE FINANCIAL SERVICES COMMITTEE  
SUBCOMMITTEE ON HOUSING  
FIELD HEARING  
JULY 20, 2009

Good morning. My name is Aida Garcia and I am the Executive Vice President of the Homecare Division of 1199 SEIU. We wish to thank Chairwoman Waters, Congresswoman Velazquez and the Committee for allowing us to present this testimony today. 1199 SEIU United Healthcare Workers East represents 90,000 homecare workers in New York, Massachusetts, Maryland and Washington D.C. In New York City alone, 1199 represents over 50,000 homecare workers who provide home-based care to the elderly and disabled.

1199 SEIU fully supports and applauds the Together We Care Act of 2009 introduced by Congresswoman Nydia Velazquez. The aging baby boomer generation will require healthcare attention that will exceed the current supply of long term care healthcare providers. We must create new possibilities and new opportunities now in order to be prepared to care for seniors and those who live with disabilities in the future. This legislation is a critical step forward in addressing this need and preparing the homecare workforce to care for families and their loved ones throughout the country.

How we prepare for the future demand facing our healthcare system is one of the most critical challenges facing our country today. The reality is -- we will need another 2 million newly trained healthcare workers in order to be ready for comprehensive healthcare reform.

There are 47 million people living without health insurance, many more are underinsured, and many more who do not access services they may be eligible to receive. If our healthcare system is to increase our capacity to deliver high quality care, we must dramatically increase education and training opportunities for existing healthcare workers, as well as those who are called to this honorable and rewarding profession.

We need to ensure that for everyone who wants to enter the healthcare field, there are education and training options that are affordable and accessible.

Most seniors prefer to remain in the comfort and familiarity of their own home. Studies have consistently shown that home-based care improves patient outcomes and increases lifespan for the elderly and disabled. In addition, it is far more cost effective to provide home-based care versus in-patient care in an institutional facility.

Many families struggle to balance the responsibilities of work and caring for a grandparent, parent, or sibling who needs affordable and continuous care. Far too many low-income residents do not have the resources they need to take advantage of the quality care home-based caregivers provide. Instead, they often rely on family and friends, or worse, go without care entirely.

This places an incredible stress on families, and it can lead to real complications in care – all of which can be prevented by offering sustained and professional care options in the home. This legislation will ease the minds of those families, and allow those who need care to remain in their homes, and to lead independent lives.

As healthcare workers, we know that having reliable, professional care at home can make all the difference. It can greatly improve the quality of life for our seniors and those living with disabilities – allowing them to stay within their homes and communities. This is a choice that so many people would make if it were an option and if they could afford it.

With this legislation, Congresswoman Velazquez has taken two challenges – that of creating real career options where there is both a gaping lack of opportunity and a growing need, and that of caring for those who want to remain in their homes -- and forged a new path.

Together with US Housing and Urban Development officials and community advocates, she has created a new model that will truly improve the lives of working families across this city and the country.

We thank Congresswoman Velazquez for her outstanding leadership and commitment to our community and the healthcare profession.

Testimony for  
“Legislative Proposals to Increase Work and Health Care Opportunities for Public  
and Subsidized Housing Residents” – Together We Can Act of 2009

Sandra Henriquez, Assistant Secretary, Public and Indian Housing  
US Department of Housing and Urban Development  
before the  
House Subcommittee on Housing and Urban Opportunity

New York City Council Chambers  
City Hall  
New York City, NY

July 20, 2009

Chairwoman Waters, my name is Sandra Henriquez and I am the Assistant Secretary for Public and Indian Housing at HUD. Thank you for having me here today.

I would like to begin by thanking Representative Velazquez for her creative and thoughtful work toward addressing the pressing needs of not only one, but two groups of citizens in need of assistance to become and remain self-sufficient. The Together We Can Act of 2009 proposes a pilot grant program to train work-able adults living in public housing to provide necessary in-home personal care services for elderly and disabled residents of public and assisted housing. Clearly this is a win-win approach.

I also commend the fact that this act allows the services to be provided to residents of both public and various types of assisted housing. Under the leadership of Secretary Donovan, HUD is looking to cross long-standing silos that have artificially divided essentially similar beneficiaries of housing assistance based on the source of funding. To this end, we recommend that the eligible recipients of this training be expanded to Housing Choice Voucher holders as well as residents of conventional public housing.

As can be expected, as the average age of the nation increases, the average age of residents of public housing is also increasing. For elderly and disabled residents on fixed-incomes, public or assisted housing is often housing of last resort. As seniors age, they find themselves in need of assistance with activities of daily living. However, when on a fixed income, many residents of public and assisted housing cannot afford to access the in-home personal care that can be a vital and sustained step between independent living and full nursing home care. A recent HUD study on Service Coordinators in multi-family housing showed that the presence of a Service Coordinator was associated with lengths of resident occupancy that were 10% (or more than 6 months) longer than at facilities without Service Coordinators, controlling for other factors.<sup>1</sup>

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<sup>1</sup>[http://www.huduser.org/publications/hsgspec/serv\\_coord.html](http://www.huduser.org/publications/hsgspec/serv_coord.html) p.9 and 17

The average cost of homemaker services is \$18 per hour. Contrast that with \$187 per day in a shared room in a nursing home. If limited in-home service provision can successfully prevent the costly institutionalization of residents, then it has the potential to create substantial savings.

In the past several years, HUD has modified its supportive services programs to conform, across housing programs, to the Service Coordinator model. This model is one wherein HUD provides the salary for a Service Coordinator position as part of the housing authority or property management staff. The funding provided by HUD no longer goes to provide services, training, and education directly. The role of the Service Coordinator is to bring together services already available in the community to form a wrap-around Program Coordinating Committee. This creates a situation where the housing provider forms collaborative partnerships with state- and locally- funded agencies, non-profits, community colleges, banks and businesses to offer their activities and services to residents. Too often, in the absence of a Service Coordinator, we find that although excellent services may be available in the neighborhood, these residents do not access them. In assisted housing, the presence of these coordinators has been shown to reduce property damage, turn-over and evictions, thus assisting residents to move to self-sufficiency while saving funds for property management.<sup>2</sup> HUD funds Service Coordinators in 202 and other assisted housing properties<sup>3</sup> and this is the model employed by the Family Self-Sufficiency program in both conventional public housing and the housing choice voucher program. In 2008, the Resident Opportunity and Self-Sufficiency, "ROSS," program converted to this model as well.<sup>4</sup>

With the Service Coordinator model in mind, we should ensure that the Together We Can Act's pilot program allows joint applications that could leverage existing programs and services through critical partnerships. For example, a Public Housing Authority (PHA) would apply together with an entity that implements a successful home health aid training program and an entity that employs home health aides and homemakers. We should take advantage of successful training programs and successful businesses already in place instead of expecting a PHA to create a new training program or manage the employment of its residents. Effectively partnering with the local public workforce system, as recently encouraged by Secretary Donovan and Department of Labor's Secretary Solis's joint letter to PHAs and Workforce Investment Boards

<sup>2</sup> ([http://residentservices.org/documents/roof\\_and\\_walls.pdf](http://residentservices.org/documents/roof_and_walls.pdf))

<sup>3</sup> Findings of a recent HUD survey revealed that there are about 1,500 service coordinators funded through the competitive grant program which represents less than one-third of the more than 12,000 eligible housing facilities. Current eligible facilities for these grants are those funded with: Section 202 without Project Rental Assistance Contracts (PRACs); HUD insured Section 221d3, some Section 236s, and project based Section 8 rent subsidies. Service Coordinator programs are split nearly evenly between Section 202 and non-202 projects. Out of the 3,742 programs, 1,858 (49.6%) are in 202s and 1,884 (50.4%) are in non-202 projects. In addition, nearly 2,000 service coordinators are funded through project operations, and over 200 service coordinators are funded through project residual receipts and excess revenues. Unfortunately, many facilities do not have sufficient funds to absorb service coordinators into their operating budget; and it is very difficult to secure the necessary rent increase to enable staffing as a routine part of the operating budget. (FY09 Budget Justifications)

<sup>4</sup> The Administration's budget did not request dedicated funds for the ROSS or Public Housing Family Self-Sufficiency Program in the 2010 budget. Housing authorities that wish to implement or continue these programs can use their general Operating Funds to support Service Coordinator positions.

(WIBs), will also be essential to provide opportunities for residents to continue their path to self-sufficiency once they get a “foot in the door.” Involving a home health agency as the employer also opens that door for further training and advancement along their existing career ladder – something that the PHA as the employer could not provide. Strong partnerships are recommended to execute this program in the most effective manner.

The bill proposes funds to pay for the services to be provided to public and assisted housing residents. Most residents of public and assisted housing will not have the disposable income to hire the in-home personal care services independently. Residents at below 30 % Area Median Income (AMI) will likely qualify financially for Medicaid, but higher-income residents may not. In addition, there are state-specific functional tests to qualify for Medicaid in-home personal care services. Even if the residents qualify, the level of benefits and availability of funding varies by state. We recommend that the State Medicaid Program should be involved as a partner as well.

A last note on one of the minor stipulations in the Act. The section on Regarding Impact of Income on Eligibility for Housing Benefits, while well reasoned, would be redundant with the existing regulations on Earned Income Disregard established by the Quality Housing and Work Responsibility Act of 1998 (QHWRA) which mandates that the increased earned income is disregarded for the purposes of rent calculation for the first twelve months of employment. Following that, 50% of the income is disregarded for the next twelve months. The current provisions of the Act are very similar and in the interest of not increasing the administrative burden for the PHA, the Earned Income Disregard already in place meets the intent of the Act.

Finally, developing a report based on the program's performance after 24 months will be too short of a time frame to make grants, engage partnerships, recruit and train residents and show meaningful results. In addition, there would be no need to establish regulations for a pilot program in the six months required. The program and its requirements could be established through the Notice of Funding Availability and Grant Agreement. Once the program became permanent, a set of formal regulations could be established.

Again, we applaud the thought and effort that went into this bill. We support the intent of the program and we look forward to implementing this creative approach to self-sufficiency for our families and our elderly and disabled residents. Thank you for the opportunity to speak with you today. I look forward to your questions.

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**Testimony of David R. Jones, Esq.  
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on  
The Earnings and Living Opportunities Act  
at  
Congressional Field Hearings  
U.S. House Subcommittee on Housing and Community Opportunity  
City Council Chamber, New York City  
July 20, 2009

Thank you for inviting me to testify on the Earnings and Living Opportunity Act to strengthen Section 3 of the 1968 Housing Act. My organization, the Community Service Society, has long been concerned about the scale and effectiveness of Section 3 efforts, particularly at the New York City Housing Authority (NYCHA), where more than a billion in HUD dollars are spent each year on management, operations, and capital improvements. And this year, NYCHA has already received \$423 million in economic stimulus funds, which opens up further opportunities.

In our latest housing policy report, "Making the Connection: Economic Opportunity for Public Housing Residents," we estimate that 51 percent of NYCHA's 231,000 working-age residents participated in the labor force in 2005. At present, between 20,000 and 30,000 residents are unemployed - and now actively seeking work - in a recession economy considered the worst since the Great Depression of the 1930s. Most are Black and Latino women (62%), many under age 24, or men of color between 18 and 34. That over a third (36%) does not have high school diplomas underlines the importance of a GED component in Section 3 efforts.

The Community Service Society supports the *Earnings and Living Opportunities Act* because it will strengthen existing Section 3 provisions in several ways.

- 1) It accords first hiring/training priorities to residents in developments where HUD funds are being expended, and then to those in the broader community. It is hard for residents to watch large-scale improvements carried out in their developments while family members and neighbors have no access to the jobs being created.



- 2) It provides a “private right of action” that enables aggrieved parties to take legal action against agencies or contractors.
- 3) It sharpens the requirements for hiring and training for agencies and contractors receiving HUD funds.
- 4) It creates a Section 3 Office within the office of the HUD Secretary to monitor local Section 3 efforts. It increases local accountability for reporting on and reviewing agency efforts.

However, we urge Congressional drafters to incorporate incentives for housing authorities to intensify Section 3 efforts.

The proposed legislation speaks to “performance incentives” that can be instituted by the HUD Secretary to reward authorities and agencies who demonstrate high Section 3 performance. Oddly, although many housing authorities, like NYCHA, are running at an operating deficit, there is no fiscal incentive to strengthen Section 3 training and employment.

Ideally, a strong Section 3 program is a “win-win” situation for all parties as the economic pie is expanded, as residents have the opportunity to increase their incomes and skills. The housing authority can command higher rents to offset its operating deficits as residents earn more. HUD can also take credit for a wider tenant income mix in public housing and less reliance on HUD operating subsidies.

However, it doesn’t work that way. HUD estimates what a housing authority’s operating budget should look like - based on the size and age of buildings, and other factors. From that, it subtracts estimated rental revenues and allocates the operating subsidies to cover the gap. As a result, a high-performing Section 3 program has virtually no fiscal impact on the authority’s operating funds — the effects are revenue-neutral.

We urge Congress and the Secretary to consider performance incentives that enable housing authorities to retain a reasonable share of increased rental revenue that is attributable to its Section 3 efforts. In the end, what makes Section 3’s opportunity a reality at the local level is largely a matter of local will and initiative. We believe that effective performance incentives would spur housing authorities to expand and strengthen their Section 3 efforts. This would benefit both individual public housing residents as well as the financial stability of the housing authority.

Thank you and I am more than happy to entertain your questions.

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**TESTIMONY OF NEW YORK CITY COUNCIL MEMBER MELISSA MARK-  
VIVERITO BEFORE THE SUBCOMMITTEE ON HOUSING AND COMMUNITY  
OPPORTUNITY OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON  
FINANCIAL SERVICES  
JULY 20, 2009**

Good morning Representative Waters, Representative Velazquez, Representative Maloney, Representative Meeks, Representative Towns and Representative Weiner.

My name is Melissa Mark-Viverito and I am a Member of the New York City Council, representing the 8<sup>th</sup> Council District embracing the areas of East Harlem, Manhattan Valley and a portion of the South Bronx. I want to thank Representative Velazquez and the members of the Subcommittee and Committee for the opportunity to testify at this hearing on what promises to be two important pieces of legislation.

Within my district are several public housing developments operated by the New York City Housing Authority and, having represented this district for over three and a half years, I can speak with unfortunate familiarity of the difficulties that many of my constituents have in obtaining training for jobs that provide useful, career-oriented employment and the challenges faced by these constituents in seeking and receiving health care services. But before I proceed with my remarks, I would ask the Subcommittee to indulge me in one matter. As I understand it, this hearing was only recently scheduled and because of that there was little time to reach out to potential witnesses. Consequently, there was not enough time for me or my staff to gather data to address some of the specific questions posed in the invitation and I would hope that the record would be kept open in order for me to submit supplemental remarks that more directly address the questions posed.

Representative Velazquez's "Together We Can" Act establishes a pilot program which concurrently tackles two of the major hardships affecting public housing residents today: the lack of training and skills that leads to gainful employment, and an equally

dire need for greater supervision and care for elderly or disabled public housing residents, to which I referred earlier. As the proposed legislative findings note, in New York City, an elderly person is at the head of more than one-third of the households receiving HUD assistance, the highest percentage of any major urban center, matched only by Chicago. Unfortunately, there is a chronic shortage in the availability of providers of home-based health services, and residents of public housing are among the hardest hit as a result of this shortage. The pilot program that this bill creates will allow for many unemployed and underemployed public housing residents who lack the necessary skills to find work in the current economy to be trained in a profession with high demand, with the potential for great personal satisfaction and, at the same time, be able to assist their friends and neighbors.

The competitive grant program that will be run by HUD under this pilot program will also generate opportunities for a broad array of entities, such as public housing agencies, community health centers, and home care provider organizations, as well as faith-based and labor organizations, all of which may apply to receive these funds in order to train this new workforce. That the bill allows for this broad array of organizations to be eligible for training is important, since it ensures that we do not use a one-size-fits-all approach for all communities. One thought that I would like Representative Velazquez to consider is that the bill should require that the grant funds be spread out among two or more different types of organizations in each area in which the pilot program will take place, in order to better evaluate the effectiveness of each type of organization's training program and the quality of care that results from it. Another change to the bill that should be considered is a requirement ensuring that in each of the four "targeted areas" — Urban, Rural, Native American, and "non-State" populations — a statistically significant minimum number of residents of public housing are both trained and cared for through the pilot program in order to more realistically gauge its success on a wider-scale, even if greater appropriations are necessary; and, it must be also said that despite our present economic difficulties, the authorized appropriation for each of the three Fiscal Years involved should be increased beyond the \$2.5 million base amount and the \$2.5 million Secretary's discretionary fund. I would also suggest that with respect to the Secretary's discretionary funds, consideration be given to linking second and third financial assistance grants to the success of a grantee's training program up to that point, in addition to the criteria already set forth in the bill.

I believe that these changes would help to improve the pilot program that it implements, and they would not in any way detract from the fact that this proposed legislation marks an important step towards achieving two laudable goals: increasing useful training and employment options for public housing residents, and ensuring greater care for members of our society that are in desperate need.

Representative Velazquez's second piece of proposed legislation, the "Earnings and Living Opportunities Act" substantially amends Section 3 of the Housing and Urban

Development Act of 1968 — an important Section that is meant to generate employment and training opportunities for low- and very low-income individuals, particularly residents of public housing — but also a section which, unfortunately, as the legislative findings note, has not functioned as well as intended. It is certainly time for this existing legislation to be reformed in order to bring it into greater compliance with its original purpose, i.e., to use the significant amount of federal funds that go to HUD-financed projects in order to increase employment opportunities for those at the bottom of the economic ladder, and to increase contracting opportunities for those businesses that hire and train those who belong to that group. The Federal Government has an excellent opportunity through HUD programming to directly benefit low-income populations through training and employment, and now is an especially appropriate time to ensure that these opportunities are able to be utilized and to succeed, as President Obama's stimulus plan (The American Recovery and Investment Act of 2009) significantly increases the funding available to these programs, and thus amplifies the opportunity to revitalize low-income communities.

This bill addresses and attempts to rectify a number of the major problems that have befallen Section 3 since its adoption in 1968, including a lack of oversight and widespread non-compliance with its regulations. The proposed legislation establishes a series of substantive and procedural elements that should provide a sharper focus for the program's efforts. The first, mandating the creation of an Office within HUD designed exclusively for the administration of Section 3, will better assure compliance with the program. Establishing clear statutory priorities with respect to who is to be trained by recipients of HUD funds, and then employed by them, will better assure that residents of the development where the funds are expended followed by residents of the neighborhood will be the biggest beneficiaries of on-the-job training programs.

But the proposed legislation goes further and sets explicit percentages of low- and very low-income persons among those who are newly hired by recipients of HUD funding and mandates that they in fact actually be given paying work. This is an important improvement that has real potential for benefiting those who Section 3 was designed to help and is further enhanced by requiring that at least 10% of the value of contracts for work performed using HUD funds be allocated to businesses controlled by persons of low- and very low-income. The requirement that all recipients of HUD funding designate a coordinator to ensure that the goals and obligations of Section 3 are met and to increase community awareness of these opportunities, along with the required public hearings and other varieties of public disclosure on the progress and compliance with these sections are mechanisms that should lead to the desired level of compliance, but if there is a failure to comply, a community's residents will now know why.

Additionally, the reports to Congress that the HUD Secretary and the Government Accountability Office must provide should serve as an added incentive to ensure compliance at the local level. The bill also creates an arsenal of sanctions,

though it would perhaps be beneficial to create or enhance mechanisms to ensure that these sanctions are sufficiently utilized when appropriate. Perhaps the creation of the Office within HUD solely to administer Section 3 program will adequately address this concern.

Finally, the appropriation of funds for performance incentives above and beyond the minimum requirements are a useful way of increasing the participation of low- and very low-income individuals in the workforce, providing opportunities for their career advancement, as they offer tangible benefits to fund recipients, instead of relying solely on the threat of sanctions. Similarly, the emphasis, through a 20% set aside for a competitive grant program, that focuses directly on ensuring that low- and very low-income individuals and qualified businesses are being trained in and are focusing on cutting edge or high demand industries, such as energy efficiency, renewable energy, business incubators and healthcare, again offers real opportunities for those suffering the greatest economic deprivation to gain a foothold in the future of the American economy, and is a "non-sanction" incentive which should lead to greater success in the implementation of Section 3.

Both of Representative Velazquez's proposed bills have the potential to be beneficial for the poorest New Yorkers, particularly those who are public housing residents, as they provide important opportunities for training and employment in especially trying economic times, and I believe that they should be enacted.

**U.S. HOUSE FINANCIAL SERVICES HOUSING SUBCOMMITTEE  
CONGRESSIONAL FIELD HEARING:  
LEGISLATIVE PROPOSALS TO INCREASE WORK AND HEALTH  
CARE OPPORTUNITIES FOR PUBLIC AND AFFORDABLE  
HOUSING RESIDENTS AND TO REFORM HUD'S SECTION 3  
REQUIREMENTS**

**TESTIMONY OF BROOKLYN BOROUGH PRESIDENT MARTY  
MARKOWITZ**

**MONDAY, JULY 20, 2009**

Good morning Congresswoman Velasquez and everyone here today. I am grateful for the opportunity to represent Brooklyn Borough President Marty Markowitz, and to present this testimony on his behalf.

First, I want to thank Congresswoman Velasquez for your distinguished record of leadership and for recognizing the need to find creative approaches to increase job opportunities and health care access for residents in public and subsidized housing; as well as increasing access to training, jobs, and contracting opportunities for low and very low income recipients of housing assistance.

Let me begin by addressing the "Together We Care Act" which will target Medicaid eligible seniors and the disabled by providing them with needed home health care assistance, while at the same time providing skills training and job opportunities in the home health care field for residents in public housing so they can work with those seniors.

Brooklyn stands to benefit from this program in many ways. First, according to New York City Housing Authority, as of May 2009, Brooklyn had the greatest number of conventional public housing in New York City with 100 developments and 58,452 apartments.<sup>1</sup>

Second, our borough is home to the highest concentration of seniors in New York City with 280,610 in 2005.<sup>2</sup> The Department of City Planning projects that by the year 2030, the borough will have as many as 410,000

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<sup>1</sup> New York City Housing Authority *Fact Sheet*, May 2009

<sup>2</sup> New York City Department of City Planning *The Changing face of Brooklyn*, Population Division, June 2008

elderly residents – a forty five percent increase since the last census in 2000.<sup>3</sup>

In nearly every category -- income, housing costs, disability, and linguistic isolation, Brooklyn's elderly residents face greater health challenges and are hospitalized at higher rates for most major diseases compared to other older New Yorkers.<sup>4</sup>

Of course we know that people, particularly the elderly who live in poor socio-economic conditions, frequently have difficulty accessing medical and preventive services, and experience barriers in obtaining assistance to manage their chronic health conditions so that they can stay active and enjoy optimum health.

Recruiting and training home health aides from public housing to offer a variety of elder care services will serve many purposes.

It will undoubtedly be a cost effective and dignified way of enabling people who are elderly, disabled, or ill to live in their own homes instead of health facilities or institutions. These home health aides will help to provide medical, physical and psychological support which can add greatly to the quality and quantity of life for the elderly.

In addition, the fact that participants for the program will be drawn from public housing and provided with skills training and job opportunities, will not only ensure that they have an income, but also an expeditious route to self-sufficiency.

Further, as the baby boomer generation begins to retire, the need for this training program will become more pronounced as they will require more healthcare services. We already have a shortage of home-based health workers therefore this program will fill a critical gap.

Also, dollars that will go into these communities for training will create jobs and strengthen the budgets of the community-based organizations that are currently losing funding.

Clearly, this is a win-win situation for all stakeholders involved. However, in addressing these critical needs, the program's success will

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<sup>3</sup> SUNY Downstate Medical Center *Brooklyn Community Health: Report on the Elderly*, 2008

<sup>4</sup> *ibid*

ultimately be judged by its benefits and performance, and we offer the following recommendations:

- That the program in its efforts to recruit participants, increase retention and encourage self-sufficiency; provide home health aides with financial incentives or earnings comparative to industry standards, so that these paychecks will be more attractive than a welfare check.
- That financial literacy initiatives are included in the training, aimed at increasing program participants' knowledge about money management, and how to build the personal and financial resources they need to achieve and maintain self sufficiency.

Finally, seniors are the backbone of our city and they deserve the best we can give them even in times of economic crisis. What is required, is for all of us to be as creative as possible in meeting the needs of our increasing senior population.

Now, let me address the second piece of the proposed legislation that will affect over 2.5 million Brooklyn residents<sup>5</sup>. Again, with the highest concentration of public housing, Brooklyn proves to be a major beneficiary of this legislation.

The reforms outlined in the "Earnings and Living Opportunities Act" will strengthen HUD's resolve to assist our low-income residents. By focusing on monitoring, enforcement and building capacity with relevant agencies, more low-income families can access HUD's opportunities during these difficult financial times.

We applaud your efforts to ensure that the legislation is thorough in its methods to make HUD more effective. For example, awarding performance bonuses may help provide an incentive for compliance. And, focusing on "hours worked" for all full-time employees will more accurately reflect the time section 3 residents have worked on a project.

As a way to improve compliance through monitoring, this legislation suggests the use of existing local resources rather than creating new

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<sup>5</sup> US Census, 2008 Estimates



bureaucracy. I would like to suggest that the downtown brooklyn advisory and oversight committee, the (D-B-A-O-C), be added to a list of local resources for HUD. This Borough Hall Committee, has overseen the construction of over 13 large private developments in the last 20 years, achieving major goals for minority and women business contracting, as well as hiring of local residents.

Finally, when government invests large amounts of funding into a community, maximum social and economic benefits are guaranteed.

Again, I thank Congresswoman Velasquez for her leadership, in what can become a replicable service model. The Borough President looks forward to working with all involved to make this program a reality for Brooklynites.

Testimony for Committee on Financial Services  
Subcommittee on Housing and Community Opportunity  
By  
Larry McReynolds  
Executive Director, Lutheran Family Health Centers  
Brooklyn, NY

Attn: Work and Healthcare Opportunities Field Hearing  
Office of Rep. Nydia Velazquez  
16 Court Streets, Suite 1006  
Brooklyn, NY 11241

Good Afternoon. My name is Larry McReynolds, Executive Director of the Lutheran Family Health Centers, a federally qualified health center network of 23 primary care sites in southwest Brooklyn which serves as the primary care provider for 89,500 people generating 550,000 billable visits annually. We are one of the largest and oldest federally qualified health centers in the nation. Our health center's mission, like all federally qualified community health centers, is to increase access to quality health care and to decrease health disparities. Persons living in public and subsidized housing are among our target population as these residents are most definitely underserved, underinsured, have little access to health care and usually experience health disparities because of lack to resources, knowledge of resources and/or generally have been disenfranchised for a lifetime.

- 40% of residents in public housing are children (842,000)
- 2.3 million children live in Section 8 housing
- 330,000 or 15% of residents in public housing are seniors and approximately 400,000 or 8% of residents of Section 8 housing are seniors
- 33% of public housing and 35% of Section 8 housing households include a member who is disabled.

The Environmental Landscape of Public Housing shows:

- High rates of unemployment
- Generations of poverty
- Consistent threats of violence
- Pest infestation and other environmental hazards
- Lack of transportation
- Little space for physical activity
- Few grocery stores and healthy food options available

In 1991 the Department of Health and Human Services, Health Services and Resources Administration (HRSA) established the Public Housing Primary Care Program recognizing that community health centers were uniquely positioned with skills to need the unique needs of those in public and subsidized housing and thus dedicated these additional federal funds. These programs, like all community health center programs, provide high-quality, comprehensive, case-managed and family-based preventive and primary health care services to residents. The federal government has made a small investment in the value of services that health centers can provide to public housing and subsidized housing residents through the Public Housing Primary Care program but has funded enough of these programs nationally or taken the next step to provide engagement services or support services to get/keep residents in care.

1) Community health centers can be instrumental in providing training and services to public housing and subsidized housing residents and to the elderly in the following ways:

- Directly providing or contract for training of home health aides—many health centers have a strong base of existing certified health aide, vocational, residency and other training programs upon which to build. Health centers hire from the community that they serve, have a larger percentage of minority employees, and concentrate on employees that want to offer services in their own community. At Lutheran we have a history of providing similar training programs through city council funding, job preparedness grants and stimulus grants.
- Health centers are primarily located in low income neighborhoods, have staff that understand the unique need of this population, possess the cultural competence to implement realistic health care plans, have infrastructure and history of providing health care and support services, and hold a long-standing of integrity for achieving great outcomes with minimal federal dollars. In short, health centers know the pharmacies, grocery stores, police, and other support services that residents need and use. Health centers are best positioned to help care for the medical issues which the resident and their family may have and to serve as a medical home.
- 2) Community health centers can provide be instrumental in providing services because:
  - Frequently centers have facilities somewhat proximate to the housing facility
  - Have experienced staff that speak, understand and are trained to meet the needs of the housing population.
  - Have a thorough knowledge of federal/state assistance programs that can assist the resident in maximizing their ability to “age in place” and achieve a high quality of life
  - Have a billing structure that is sustainable—home visits, enabling visits and nursing visits are reimbursable
  - Health centers can deliver services on site, off sites
  - Health centers have electronic medical records which facilitate the communication of medications, care plans, immunization records and test results which can be accessed in the home and in the health center.

- In 2006 58% of residents were uninsured. This number clearly reflects that residents do not know and/or have not access the health care system. The majority of residents should be eligible for assistance programs. Through intervention prior to a catastrophic event health centers can help enroll residents in assistance programs and start the course of preventative care.
- In housing sites that have on site health care, there has been a remarkable increase in residents that access care:
  - 34% increase in diabetic visits
  - 35% increase in asthma visits
  - 40% Increase in contraception visits
  - 23% increase in hypertension visits
  - 32% increase in Health Supervision 0-11 yo visits

Clearly the above statistics show that residents need care and will access care if given information in a culturally competent, accessible manner. With the increase of supportive home health aides that are peers, understand and know the residents, their lifestyles and barriers, residents will feel more comfortable in accessing care.

3) Challenges and obstacles associated with facilitating home health care services are:

- Gaining acceptance by seniors that do not want strangers in their homes
- Working with the “if it ain’t broke, don’t fix it” mentality. That is, helping residents to practice preventative care vs. waiting until a crisis occurs.
- Residents may be unfamiliar with the health system, new treatments and medicines, and services available
- Clients often lack supporting documentation to assist with medical assistance applications, have a lack of supportive family, and have cultural and/or linguistic barriers
- Clients often have environmental barriers to receiving care and or getting better (lice, rats, fleas, lack of phone, fresh air, clean water, lack of food)
- Clients often do not keep current on their eligibility for assistance programs thus making interruptions in services frequent

4) Challenges and obstacles that residents face in accessing home health care services are:

- Little access to transportation thus resulting in waiting for an ambulance ride to an ER
- Paranoia about accepting assistance
- Many residents will not access care to due bad weather, darkness, etc. making keeping appointments nearly impossible
- Language barriers
- Lack of societal engagement

- Physical disability—the very fact that it takes so much energy just to get dressed and leave the facility to get medical care
- Fear of new places/people/ideas
- Money to get drugs, transportation, etc.
- Knowledge of qualification for services
- Denial that they need assistance because of their personal desire to maintain their independence
- Lack of telephone/documents

5) The legislation will lower the cost of elderly and disabled health care through:

- Emphasizing compliance with care plans while giving the resident the assistance to comply with the care plan
- Tying the resident to a medical home
- Enabling the patient to “age in place” and maintain their health status and independence as long as possible, thus avoiding costly nursing home admissions
- Assisting residents adhere to care plans that will increase compliance with treatment protocols.
- Prevalence of chronic illness is double for almost every category in black women in housing vs. black women in the community. Therefore, diabetes, hypertension, and asthma have many more unnecessary ER visits and inpatient admissions because of the prevalence rate. Simply by aiding residents with these illnesses alone would save the system money.
- Through review of medications, increased compliance with care plans and working with clients with co-morbidities the cost of care and transportation of care will decrease.
- Currently the system requires an “identifiable event” which is usually a crisis event. Through putting the emphasis on prevention and avoidance of the “identifiable event” residents will maintain their health in their own homes longer. Quality in the right place, at the right time, at the right level of care. A review of ED visits shows that more than 40% of hospital ED visits is for unnecessary, non-emergent conditions. Through training the home health aide to work with the care team this number of avoidable ED visits can be reduced.
- Because of the delayed entry into care, the condition is worse requiring more resources. Through early intervention, education and compliance there will be decreased falls, increase in diabetics under control, decrease of Chronic Heart Failure and Chronic Obstructive Pulmonary Disease presentations in EDs, and earlier intervention with senior that have depression/dementia.

Through this program, people will be put to work that largely otherwise would not work. These are neighbors and friends that care about their neighbors and understand their needs. Through creating a community that cares about their community, health status will increase, satisfaction with living in a housing community will increase and the overall health status will increase. The pilot program of community health centers started in 1966 has shown over and over again that residents are the best ones to design programs to meet their health care needs. Now, the community health center movement is the safety net of the nation. We need to take this next step to provide early access, supportive services for our most vulnerable.

July 20, 2009

**"Legislative Proposals to Increase Work and Health  
Care Opportunities for Public and  
Subsidized Housing Residents"**

Testimony to the House Committee on Financial Services  
Subcommittee on Housing and Community Opportunity

Mario Musolino,  
Executive Deputy Commissioner

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Testimony for  
Executive Deputy Commissioner Mario J. Musolino  
New York State Department of Labor

July 20, 2009

House Committee on Financial Services  
Subcommittee on Housing and Community Opportunity

**“Legislative Proposals to Increase Work and Health Care Opportunities  
for Public and Subsidized Housing Residents”**

Good morning, Chairwoman Waters, Representative Velázquez and members of the committee. Thank you for the opportunity to comment on these legislative proposals on behalf of New York Governor David Paterson and State Labor Commissioner Patricia Smith.

We share the goals that the “Together We Can Act” and the “Earnings and Living Opportunities Act” aim to realize - addressing the need to connect some of our most vulnerable citizens with gainful employment to forge a pathway out of poverty and providing adequate health care for the substantial and growing segment of our population that is elderly, disabled or ill. Both proposals aim to expand training opportunities for the unemployed and underemployed, especially those living in public housing and federally-assisted rental housing.

New York State has many communities that would benefit from these initiatives – unemployment rates and the percentages of those living in poverty are on the rise. For example, the latest available data available from the U.S. Census Bureau’s 2005 – 2007 American Community Survey (ACS) estimates that from 2000 to 2007, the percentage of families living in poverty has risen dramatically. In Binghamton, the percentage jumped from 16.5 percent to 23.7 percent; in Syracuse, the percentage rose from 21.7 percent to 25.5 percent; and in Utica, the ACS estimates that in 2007, 23.5 percent of families were living below the poverty line, as compared to 19.8 percent in 2000.

Unfortunately, these alarming statistics are not uncommon – they reflect a widespread problem affecting every part of our state, rural and urban alike. It is a problem we share with states across the nation.

Persons with low incomes constitute the largest percentage of the unemployed in New York. In June of 2009, 42.3% of New York State’s unemployment insurance beneficiaries were low-wage earners.

Many of those living in poverty, and low-wage earners, are residents of public housing or occupy rental housing subsidized by the federal government.

The pilot program proposed in the Together We Can Act to train public housing residents for home- and community-based health care occupations affords an opportunity to “field test” a plan that serves two purposes: providing training and job creation for the



unemployed and underemployed; and expanding the supply of direct-care workers to assist the elderly and disabled.

The need for direct-care providers is rapidly growing as the “Baby Boom” generation ages. The Paraprofessional Healthcare Institute (PHI) produced an April 2008 analysis of the of U.S. Department of Labor Bureau of Labor Statistics (BLS) national occupational projections for 2006 – 2016 that suggests:

- “...demand for direct-care workers over the next decade, particularly in home- and community-based settings, will continue to outpace supply dramatically;” and
- “...the employment estimate for the direct-care workforce exceeded three million in 2006 and projected demand calls for an *additional one million new positions* by 2016.”

The BLS also projects that Personal and Home Care Aides and Home Health Aides will be the second and third fastest-growing occupations in the country between 2006 and 2016, increasing by 51 percent and 49 percent, respectively.

The BLS notes that the majority of direct-care workers are currently employed in home- and community-based settings. The proportion working in these types of settings will continue to increase over the next decade – home- and community-based direct-care workers are expected to outnumber those workers in facilities by almost *two to one*.

These statistics and findings strongly demonstrate opportunities for low-wage earners to learn to provide home-based health services to residents of public housing and federally-assisted rental housing.

States have various ways to train home health aides. Federal regulations apply to home health agencies certified to provide services to Medicare and Medicaid recipients. Those regulations serve as the basis of New York State’s guidelines for approving and monitoring home health aide training programs. In New York, a home health aide training program must include a minimum of 75 training hours, including 16 hours of supervised, practical training.

There are more than 350 organizations statewide approved to operate home health aide programs. Their employees must receive certification from the state. A recent state law requires that all individuals that complete home care training be listed on a public registry, beginning this September. All approved training programs will be required to register everyone they certify.

While the state believes that the scope of existing home health care trade programs includes residents of public or subsidized housing, New York State currently has no home health care trade programs specifically serving that target population.

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As I stated previously, providing pathways out of poverty is very important to us and our partners in New York’s workforce development system.

Our department is the state's administrative agency under the federal Workforce Investment Act (WIA) of 1998 and the Wagner-Peyser Act, the two funding streams that largely support our training programs for adults, dislocated workers and youth. The majority of these funds (approximately 85%) are distributed via formula to 33 workforce investment areas. Training supported by this funding source must be focused on preparing individuals for occupations that are in demand in the local areas.

A key challenge for all of our workforce training programs is limited resources. The extra influx of funding through the Recovery Act temporarily enables the system to support many more individuals in training, but the need far surpasses the available funds. Both the United States Department of Labor (USDOL) and the State Labor Department are emphasizing that Recovery Act funding should be used to boost the provision of training. And with the downturn in the economy, we have found that individuals are willing to go into longer-term training to acquire industry-recognized credentials and educational degrees.

The Recovery Act also emphasizes the importance of providing services to those most in need of employment and training services. The funding for adult training services provided under the Act requires that low-income individuals and public assistance recipients receive priority. These low-income individuals often need basic- and work-readiness skills development in addition to occupational training. They usually have many needs for support services as well. Residents in public housing would meet the eligibility requirements for these WIA programs.

The State Labor Department issues Requests for Proposals (RFPs) to procure training services. We are currently reviewing 100 applications received in response to our Emerging and Transitional Worker RFP, which solicited training program proposals to serve low-income, unemployed adults in construction, health care, transportation, and advanced manufacturing industries. We will soon be issuing an RFP to solicit training to serve youth ages 14 to 24.

I would also like to note that we are implementing a sector-based approach to workforce development in New York. Our state is participating in a multi-state National Governors Association Sectors Policy Academy – an effort to transform how the state supports workforce development and aligns workforce policies. The Policy Academy focuses on three sectors: green/renewable resources, health care and advanced manufacturing.

We also promote the provision of wrap-around, supportive services for our clients – transportation and child care services often are barriers to the under-employed and unemployed individuals we serve – as well as mechanisms to gradually transition low-income earners from living with public assistance to self sufficiency. ARRA funding can also be used to provide supportive services such as child care, transportation and financial support to individuals in training, and we are maximizing those funds for this purpose.

A guiding principle and philosophy of our workforce strategy is to assure that the jobs created in our state generate career pathways that provide family-sustaining wages for individuals in economically-distressed communities.

While training efforts are not specifically targeted to residents of public and subsidized housing, our system gives priority to training low-income individuals and strives to develop the skills and education for all participants in need of such services.

To help accomplish that, the department has taken the lead in developing partnerships and collaborations, and relies upon these partnerships to align and leverage our state-level resources.

For instance, Public Housing Authorities (PHAs) and local Workforce Investment Boards (WIBs) work together to form the connections that work best for their local communities. Recently, the United States Department of Housing and Urban Development (HUD) and USDOL issued a mass mailing to all PHA and WIB directors encouraging collaboration, particularly in job posting and skills development. It should be noted that under the Workforce Investment Act (Section 121(b)) employment and training activities carried out by the HUD should be accessible through One-Stop systems, so coordination between PHAs and WIBs is authorized and encouraged. We do not specifically track whether individuals are public housing residents in our training programs. We do collect information to determine whether individuals are low-income or whether they are public assistance recipients.

At the state level, our agency and the Division of Housing and Community Renewal have worked very closely to develop training programs for weatherization and energy efficiency projects. In addition, we have been working with the Dormitory Authority of New York State.

Key to our collaborative resources are 79 One-Stop Career Centers located across our state. The One-Stop Career Centers provide skills assessment, career counseling, career planning, training and job placement services to under-employed and unemployed individuals – both adults and youth. Both our department and our local partners provide staff for the One-Stop Centers in our joint effort to engage workers in viable career pathways.

The Workforce Strategy Center defines a career pathway as “a series of connected education and training programs and support services that enable individuals to secure employment within a specific industry or occupational sector, and to advance over time to successively higher levels of education and employment in that sector.”

“Career Pathways” initiatives also target jobs in industries of importance to local economies – jobs that meet the demands of communities.

For example, in New York, the Department of Labor and the Office of Temporary and Disability Assistance (OTDA) are partnering on a Career Pathways initiative, using \$2.5 million in TANF funds and \$2.5 million in WIA funds.

The program is designed to expand access to education and occupational training services to low-income individuals aged 16 and over, with the goal of developing the skills needed to secure employment with a defined career pathway in a high-growth or high-demand industry that is vital to the state’s economic vitality.

The Together We Can Act could provide funding for a pilot program that emulates the Career Pathway model in the health care industry, to provide workers with sustainable,

living-wage careers in this high-demand industry. It addresses many of the objectives of our workforce development strategy and those of states across the nation.

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The Earnings and Living Opportunities Act (ELOA) would enhance HUD's monitoring and enforcement of compliance with Section 3, designed to provide low- and very-low-income persons, especially recipients of housing assistance, with access to training, jobs and contracting opportunities that result from the expenditure of HUD funds in their communities.

ELOA's guiding principle is one which we support – creating additional economic opportunities for low-income individuals by affording them a portion of the benefits created by HUD-funded projects.

Currently, responsibility for hiring, training, and connecting public housing and subsidized housing residents with jobs Section 3 compliance falls largely to the local PHAs and prime recipients of HUD Section 3 covered assistance. HUD monitors compliance.

In order to maximize the achievement of Section 3 goals by our local partners, DHCR conducts annual workshops, offers technical assistance and provides informational materials to encourage greater participation. DHCR developed and disseminates the "Utilization of Section 3 Residents and Businesses" reporting form. The form requires all recipients to provide documentation of all good faith efforts undertaken to utilize area residents as trainees and employees and to award contracts to businesses located within the Section 3-covered project area.

New York State Division of Housing and Community Renewal (DHCR) tracks Section 3 compliance for the HOME and HOME LPA Programs, as well as for CDBG non-entitlement communities. Participation goals are established and evaluated by DHCR and incorporated into all Section 3 covered assistance contracts. Each recipient of such funding is required to take action to increase participation in its projects. DHCR received approximately 145 Section 3 compliance reports in 2008. The data captured from these reports is analyzed and submitted to HUD.

The Act presents a framework for reforming and enhancing Section 3 by encouraging compliance through expanded monitoring and the introduction of sanctions, and building the capacity of grantees to meet Section 3 requirements. However, this will require additional resources for entities that implement and monitor HUD-funded projects – HUD, DHCR, public housing authorities, local governments and other grantees and their contractors.

We applaud the proposal's provision of grants to hire Section 3 coordinators to enhance the capacity of HUD funding recipients to track and meet Section 3 goals. It also allows for administrative expenses, including oversight and technical assistance to recipients, contractors, and subcontractors. If fully funded, these provisions will go a long way to helping strengthen Section 3 in a workable way.

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ELOA also recommends consultation with, among others, local labor organizations. We would encourage these discussions, in order to adequately assess the

viability of meeting the Act's goals for hiring low-income individuals for skilled construction jobs and ensuring training, employment and contracting opportunities. Local, state and national labor organizations could provide critical input that would help assess and advance Section 3 compliance.

Our experience shows that state-approved apprenticeship programs provide an excellent source of training that leads to enhanced economic opportunities for participants. They allow people with limited skills an opportunity to learn a new trade while continuing to earn wages, and provide them with a nationally recognized, portable credential when they finish the program. New York's registered apprenticeship program has approximately 900 sponsors, 300 apprenticeship occupations and 21,000 active apprentices.

Apprenticeship is a potential pathway out of poverty, but there are obstacles that may limit participation in an apprenticeship program. For instance, many programs require that apprentices have a high school diploma or a GED in order to qualify. Some programs may require apprentices to have their own mode of transportation or a NYS driver's license to use company vehicles.

In New York City, an alliance called the Trade Unions & Residents for Apprenticeship Development and Economic Success (TRADES), made up of organized labor, public housing residents and community activists, partnered with the New York City Housing Authority (NYCHA). They developed the CM/Build Program that required builders to offer state-approved apprentice programs and pay prevailing wages. The carpenters, painters, laborers, and plumbers unions agreed to place residents of public housing in their apprenticeship programs and hire them for NYCHA and other construction projects. The Housing Authority also worked to strengthen enforcement of Section 3 compliance.

This alliance demonstrates a cooperative effort to recruit and retain low-income, women and minority workers in higher-level road construction jobs.

It should be noted that Section 3 alone was ineffective at moving NYCHA residents out of poverty. Requiring that workers reside in the complex where the work was taking place ensured that when the work was finished and the contractor moved on to other projects, the workers were laid off.

The Earning and Living Opportunities Act also gives special consideration to persons in state-approved apprenticeship programs. We would encourage discussion on developing a means to encourage and support efforts to enroll recipients of federal housing assistance in these programs. And we should ensure that current public housing residents that are in existing apprenticeship programs have opportunities to gain employment.

Because of widespread recognition of the obstacles to Section 3 implementation articulated by local PHAs and contractors that are recipients of Section 3 covered assistance – lack of skills, temporary nature of many of jobs generated in the rehabilitation of housing – there has historically been wide latitude on issuance of waivers by HUD. DHCR would welcome a partnership to strengthen Section 3 compliance initiatives, but cautions that there are insufficient resources at the state level to enhance compliance monitoring.

We believe that efforts are underway to connect Section 3 residents with employment opportunities in New York State in the context of our comprehensive workforce training programs, but recommend that any introduction of sanctions to improve compliance be gradual, in order to allow development of supply-side workforce development programs to prepare Section 3 residents for employment. We see a need for Section 3 to work in tandem with both occupational and pre-employment and job-readiness skills preparation of Section 3 residents to enable them to take advantage of the opportunities that Section 3 could present.

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In summary, we support the intent of these two acts.

We are very interested in working with congressional staff to best align the aims of the legislation with existing local, regional and state workforce development programs, institutional infrastructure and funding sources.

At the federal level, we support a concerted effort to consolidate the many employment and training programs and funding streams into a focused system, with state authority to align these resources with state-level needs, priorities and goals.

Aligning resources will enable a coordinated approach to training under-employed and unemployed workers. A coordinated approach also will promote the ELOA's goal of leveraging present funding sources to provide training opportunities and jobs.

We also recommend that any action proposed to enhance and expand training opportunities and provide new employment opportunities, particularly for low-income earners, have mechanisms that create career ladders that provide pathways out of poverty.

We must create employment opportunities that move low-wage workers into self-sufficiency, improve distressed communities and foster a renewed sense of self-respect and empowerment.

Lastly, we'd like to reiterate the importance of forming partnerships and collaborations to advance workforce training and job creation and retention strategies.

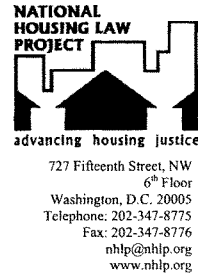
Educational institutions, training providers, organized labor, community-based organizations, the Small Business Administration and state economic development entities, among others, must work together to leverage resources, achieve economies of scale and assure that both worker and employer needs are addressed.

Our efforts and those of the workforce systems around the nation must be flexible and responsive to the ever-changing needs of workers and employers.

We welcome the opportunity to discuss how the Together We Can Act and the Earnings and Living Opportunities Act can help workforce professionals provide new opportunities for workers, meet projected demand in growth industries and grow local and regional economies.

We commend Representative Velázquez for her effort to address the needs of low-wage earners, and elderly and disabled residents of federally-subsidized housing. Our agency looks forward to assisting the subcommittee.

Thank you.



**Testimony in Support of the Earnings and Living Opportunities Act**  
**David Rammler,**  
**Attorney and Director of Government Relations at the**  
**National Housing Law Project**

**July 20, 2009**

**Hearing Before the Subcommittee on Housing and Community Opportunity**

Good morning, Congresswoman Velázquez and other members of the Subcommittee. My name is David Rammler and I am an attorney and Director of Government Relations at the National Housing Law Project in Washington, D.C. The National Housing Law Project thanks you for this opportunity to express our support for the changes to the Section 3 program to be introduced by Representative Nydia Velazquez (D-NY) through the Earnings and Living Opportunities Act (ELOA). The proposed legislation comes at a critical time for the Section 3 program, when HUD is distributing and monitoring the expenditure of roughly \$12 billion in stimulus funds<sup>1</sup> and \$14 billion in Fiscal Year 2009 appropriations that are subject to the requirements of Section 3.<sup>2</sup>

The purpose of the Section 3 program is to provide economic and employment opportunities to low- and very low-income individuals.<sup>3</sup> The program was enacted as part of the Housing and Urban Development Act of 1968, with the purpose of providing “a decent home and a suitable living environment for every American family.”<sup>4</sup> Integral to the fulfillment of this purpose was the creation of programs such as Section 3, which focuses training and jobs to public housing residents and other low-income residents living in areas where HUD funds 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 oversight by HUD and the absence of enforceable rules. As a result, a multitude of projects have failed to

<sup>1</sup> Under 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.

<sup>2</sup> These FY 2009 Appropriations Funds consist of \$4.455 billion for the Public Housing Operating Fund, \$3.9 billion for the Community Development Fund, \$2.45 billion for the Public Housing Capital Fund, \$1.825 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.

<sup>3</sup> 12 U.S.C.A. § 1701u(b) (Westlaw July 13, 2009).

<sup>4</sup> Housing and Urban Development Act of 1968, Pub. L. No. 90-448, § 2, 82 Stat. 476, 476 (1968).

generate the quality and quantity of employment opportunities that were originally intended by Congress. ELOA promises to strengthen the Section 3 program and address deficiencies in current Section 3 implementation.

The committee asked me to address some of the legal barriers preventing implementation of a successful Section 3 program, how the legislation offered by Representative Velázquez will address the issues with the current program, how resident involvement helps the implementation of the Section 3 program and provide information regarding successful Section 3 programs. My testimony is organized to highlight the benefits of a number of the provisions of the proposed legislation in the context of the legal problems that have confronted the Section 3 program. As currently structured, there is a lack of clarity regarding what entities are subject to Section 3 and for what type and level of funding. In addition, there has been a very significant lack of reporting and HUD oversight and sanctions or incentives related to performance. Finally a significant failure of the Section 3 program is the lack of coordination with other federal agencies that are responsible for jobs, training and business development. Thus, we recommend that:

- The standards for Section 3 compliance be broadened and simplified. All recipients of HUD funds should be subject to Section 3 and the obligation should be mandatory including a preference in employment and training for residents who receive housing assistance from HUD and that qualified businesses are preferred for at least ten percent of the contract dollars.
- Sanctions, incentives and reporting should be geared to achieving the stated objectives of Section 3. In the event that the objectives of the Section 3 cannot be achieved an analysis of the barriers and strategies for overcoming those barriers should be included in any reports.
- Cooperation with other federal agencies that are responsible for jobs, training and the development and assistance to small and disadvantaged businesses is key to a full and robust Section 3 program.

#### **Mandatory Obligation Can Strengthen Program, Close Loopholes and Simplify**

*ELOA broadens the applicability of Section 3.* ELOA contains a number of provisions to broaden the applicability of Section 3. Most significantly, it imposes a mandatory obligation on all recipients of HUD funds. The present Section 3 statutory and regulatory requirements has created confusion (and thereby noncompliance) because Section 3 applicability currently depends upon the agency type and program type, with differing requirements for each. The statute now distinguishes between public and Indian housing agencies and “other programs,” and names certain types of projects—three discrete projects for public and Indian housing authorities, and three broad categories of projects for other programs—for which Section 3 applies.<sup>5</sup> These nuanced exceptions can make it difficult for a recipient to know if it is subject to Section 3. ELOA eliminates such confusion by speaking in broad terms about Section 3’s applicability to

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<sup>5</sup> § 1701u(c)(1)(A), (c)(2)(A), (d)(1)(A), (d)(2)(A).



“recipients of funds administered by [HUD]”<sup>6</sup> and by removing any distinction in requirements based on whether a recipient is a public or Indian housing agency or otherwise.

ELOA clarifies the standard. ELOA eliminates confusion surrounding the manner in which it applies. Currently, the Section 3 statute requires only that recipients comply with requirements “to the greatest extent feasible.”<sup>7</sup> Some courts, and undoubtedly numerous recipients, have construed this language as allowing recipients to circumvent the Section 3 obligations in certain circumstances.<sup>8</sup> If “greatest extent feasible” standard continues to operate as a term of art, recipients may not feel compelled to exert their greatest efforts to meet the program requirements or may fall back upon claims that an effort is sufficient despite the fact that year after year the intended outcomes are not achieved. ELOA provides a statutory fix to the confusing impression of the current statute and regulations, removing nearly all of the “greatest extent feasible” and “best efforts” language and plainly requiring compliance *as a “condition of [HUD] assistance.”*<sup>9</sup> These mandatory obligations add much needed strength to the statute.

ELOA requires 30% of all hours worked. ELOA also corrects provisions that often undermine Section 3’s effectiveness. The Section 3 regulations outline minimum numerical requirements through which fund recipients can demonstrate they have met this “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 must be Section 3 residents and 10% of the dollar amount of building trade contracts and 3% of all other contracts must go to Section 3 business concerns.<sup>10</sup> One loophole to the safe harbor presumptions has become 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. On at least one such occasion, HUD issued a Determination of Non-Compliance letter ordering the recipient to submit a plan in “clear and convincing detail” as to how it would restore all Section 3 employment and business opportunities within the next three years.<sup>11</sup> ELOA fixes 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.<sup>12</sup>

ELOA provides a high priority for all recipients of HUD housing assistance. When Section 3 was initially enacted, the major housing program that met the needs of the lowest income families was the public housing program. In the subsequent forty years, Congress created and increased funding for other housing programs. ELOA addresses this reality by creating a top priority for recipients of “housing assistance from the Department of Housing and Urban Development.”<sup>13</sup>

<sup>6</sup> Earnings and Living Opportunities Act, H.R. \_\_\_\_\_, 111th Cong. § 3(e)(1), (f)(1) (2009) (Discussion Draft, June 25, 2009).

<sup>7</sup> See, e.g., § 1701u(b).

<sup>8</sup> See, e.g., *Ramirez, Leal & Co. v. City Demonstration Agency*, 549 F.2d 97 (9th Cir. 1976) (reversing a trial court decision that found the City met the “greatest extent feasible” standard when it did not award a contract to the only of four Section 3 businesses bidding whose initial bid was the lowest of the group).

<sup>9</sup> Earnings and Living Opportunities Act, at § 3(e)(2)(A), (f)(2)(A) (emphasis added).

<sup>10</sup> 24 C.F.R. § 135.30 (2009). For definitions of “Section 3 resident” and “Section 3 business concern,” see § 135.5.

<sup>11</sup> Letter from Carolyn Peoples, HUD Assistant Secretary for Fair Housing and Equal Opportunity, to Heather A. Mahood, Long Beach, CA, Deputy City Attorney (April 26, 2004) at 11-13.

<sup>12</sup> Earnings and Living Opportunities Act, at § 3(e)(2)(A).

<sup>13</sup> *Id.* at (g)(1)(A).

*ELOA requires HUD to issue regulations.* Over the years, HUD, housing advocates, and recipients of HUD dollars subject to Section 3 have recognized weaknesses in the Section 3 program. Efforts have been made to address these problems by revising and finalizing the Section 3 regulations. In 2003, HUD committed to revising and finalizing the Section 3 regulations.<sup>14</sup> But to date, 15 years after the interim Section 3 regulations were adopted, the rules have not been revised and finalized.<sup>15</sup> ELOA addresses that issue by requiring the Secretary to issue regulations implementing the revisions to the statute within 120 days.<sup>16</sup>

#### **Sanctions, Incentives, and Reporting Can Increase Compliance**

*ELOA highlights the importance of sanctions.* In the same lackadaisical spirit as the safe harbor presumptions, current regulations lack teeth to enforce Section 3 requirements. The current regulations allow, but do not mandate, sanctions for noncompliance: “debarment, suspension, and limited denial of participation *may be applied*” “where appropriate.”<sup>17</sup> For the most part, the regulations leave sanctions to be specified by the contract through which the HUD funds are provided or else by regulations governing the particular HUD program.<sup>18</sup> Until recently, HUD did not regularly inform fund recipients of its authority to impose sanctions.<sup>19</sup> ELOA, by contrast, mandates strict sanctions. Recipients, contractors, and subcontractors who do not comply with Section 3 “shall be sanctioned” by the HUD Secretary.<sup>20</sup> These sanctions include reduction of future HUD funds, debarment, suspension, limited denial of participation in HUD programs, or such other sanctions as the Secretary deems necessary to discourage noncompliance.<sup>21</sup> Clear sanction will more than likely have the salutary effect of improving up-front compliance.

*ELOA prohibits contracting with entities that violate Section 3.* ELOA also tightens its 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 clarifies 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.<sup>22</sup> ELOA further makes Section 3 compliance “part of any performance standard” in reviewing recipients and their contractors.<sup>23</sup>

<sup>14</sup> OFFICE OF INSPECTOR GENERAL, UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SURVEY OF HUD’S ADMINISTRATION OF SECTION 3 OF THE HUD ACT OF 1968 4 (Audit Case # 2003-KC-0001) (2003).

<sup>15</sup> *Id.* at 8.

<sup>16</sup> Earnings and Living Opportunities Act, at § 2(b).

<sup>17</sup> 24 C.F.R. § 135.74(d) (emphasis added). *See also* § 135.76(g).

<sup>18</sup> § 135.74(d).

<sup>19</sup> 2 C.F.R. part 2424 authorizes HUD to impose sanctions such as debarment and suspension for failure to comply with applicable regulations, but the NOFAs for various HUD programs vary widely and often do not contain information on Section 3 compliance sanctions. HUD only recently added this information to the General Section of its Notices of Funding Availability (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).

<sup>20</sup> Earnings and Living Opportunities Act, at § 3(k)(1).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at (k)(2) (emphasis added).

<sup>23</sup> *Id.* at (h).

*ELOA empowers Section 3 individuals and businesses to enforce the provision.* Under the present system, Section 3 complaints can often take years to resolve and may never result in meaningful outcomes for intended Section 3 beneficiaries. In one case, Section 3 residents filed a complaint with HUD in 1998 and did not obtain a letter outlining a restitution plan until 2004.<sup>24</sup> In another example, a Section 3 business concern filed a HUD complaint in 1997 and did not receive a final appellate decision until 2003.<sup>25</sup> By that time, the company had gone out of business. Given this climate, a major improvement of ELOA over current law is its explicit grant of a private right of action for enforcement, with the statement that the Administrative Procedure Act, Chapter 7 of Title 5 and 42 U.S.C. § 1983 are available to aggrieved parties for pursuing such actions.<sup>26</sup> Statutory clarification 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.<sup>27</sup> In addition, such a provision recognizes the reality that there is a very substantial number of recipients of HUD dollars that are subject to Section 3 and HUD cannot effectively oversee compliance by all such recipients<sup>28</sup> and would be assisted if aggrieved parties could individually seek enforcement. By adding a private right of action, ELOA makes clear that Section 3 must and will be enforced, a critical message given that current complaint procedure can afford little effective relief even when HUD issues a determination of noncompliance.<sup>29</sup>

ELOA affords further protections by specifying that the federal statute does not preempt State and local laws that might provide more favorable methods and protections for achieving Section 3 goals.<sup>30</sup>

*ELOA requires reporting and an analysis of impediments.* A major difficulty with Section 3 enforceability under the current system is the paucity of available, accurate information. Anecdotally, HUD has informed advocates that it often cannot analyze Section 3 effectiveness because recipients do not submit reports as required. A 2003 report from the Office of Inspector General found that HUD had not effectively implemented the recipient reporting system or other methods of recipient monitoring.<sup>31</sup> Without this information, HUD cannot possibly know whether recipients are properly carrying out Section 3. Currently, Section 3-covered recipients must submit information on Section 3 activities to HUD annually.<sup>32</sup> And

<sup>24</sup> For more information on this example, involving 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).

<sup>25</sup> *Mannarino v. Morgan Twp.*, 64 F. App'x 844 (3d Cir. 2003). See also *Mannarino v. HUD*, 2009 WL 918355 (W.D. Pa. Apr. 2, 2009) (slip op.).

<sup>26</sup> Earnings and Living Opportunities Act, at § 3 (k)(3).

<sup>27</sup> See *McQuade v. King County Hous. Auth.*, 203 F. App'x 823 (9th Cir. 2006); *Williams v. HUD*, 2006 WL 2546536 (E.D.N.Y. Sept. 1, 2006) (unreported) and 2008 WL 5111105 (E.D.N.Y. Dec. 4, 2008) (unreported); *Nails Constr. Co. v. City of Saint Paul*, 2007 WL 423187 (D. Minn. Feb. 6, 2007) (unreported).

<sup>28</sup> OFFICE OF INSPECTOR GENERAL, *supra* note 14 at 3-4.

<sup>29</sup> In one instance involving the Chapel Hill Housing Authority, for example, a Section 3 business concern did not win a contract award despite being the only Section 3 business competing and having the lowest bid. HUD's FHCO office concluded that the Housing Authority violated the Section 3 regulations, but the bidder never obtained the ultimate contract. For more information, see AN ADVOCATE'S GUIDE TO THE HUD SECTION 3 PROGRAM, *supra* note 24, at 14-15.

<sup>30</sup> Earnings and Living Opportunities Act, at § 3 (k)(3).

<sup>31</sup> OFFICE OF INSPECTOR GENERAL, *supra* note 14 at 3-4.

<sup>32</sup> 24 C.F.R. § 135.90.

though HUD has the ability to sanction recipients who fail to submit reports, its failure to mention reporting sanctions prior to the 2009 Notice of Funding Availability (NOFA) indicates that it does not do so with regularity.<sup>33</sup> ELOA, by contrast, requires reporting “at least twice a year,” with quarterly reports mandated for those quarters in which a recipient, contractor, or subcontractor failed to meet the numerical requirements, including information on the steps taken to meet the requirement.<sup>34</sup> In addition and 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. These additional accountability standards take the form of requirements that recipients include Section 3 compliance information in their 5-year plans, annual plans, or similar alternative plans,<sup>35</sup> that the HUD Secretary submit annual reports to Congress summarizing Section 3 recipient report information,<sup>36</sup> and that recipients conduct annual community hearings to obtain citizen input on their Section 3 performance.<sup>37</sup>

*ELOA provides incentives for compliance with Section 3.* At the opposite end of the spectrum, ELOA incentivizes recipients to comply with Section 3 through performance incentives to all recipients who exceed the baseline numbers.<sup>38</sup> The proposed bill also authorizes \$5 million, which may be used to fund efforts to implement and improve local Section 3 programs, such as the provision of incentives.<sup>39</sup>

#### **Centralization and Capacity Building and Working with Residents Can Improve Programmatic Outcomes**

A great hallmark of ELOA is its recognition that Section 3’s success hinges on centralized support for its administration and coordination with other federal agencies.

*ELOA requires a Section 3 coordinator at the local level.* ELOA creates the unprecedented requirement that all Section 3-covered recipients “designate, employ, or contract with” a Section 3 coordinator.<sup>40</sup> Given current limitations in obtaining adequate remedies and the mixed messages that HUD sends regarding Section 3 applicability, requiring a discrete coordinator whose sole purpose is to monitor Section 3 implementation may be ELOA’s most powerful step toward fulfilling Section 3 goals on the ground. Studies of the few jurisdictions that have already made such a move of their own accord 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. Under this new structure, the City quickly turned its operations around such that in 2006 it

<sup>33</sup> See 74 Fed. Reg. 79,552, *supra* note 19.

<sup>34</sup> Earnings and Living Opportunities Act, at § 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. *Id.* at (f)(2)(B)(ii).

<sup>35</sup> *Id.* at (h).

<sup>36</sup> *Id.* at (j)(2).

<sup>37</sup> *Id.* at (i)(2).

<sup>38</sup> *Id.* at (e)(2)(A).

<sup>39</sup> *Id.* at (n)(1).

<sup>40</sup> *Id.* at (g)(4)(A).

exceeded its aggressive goal of placing 50 Section 3 residents into full-time employment positions and awarded over \$2 million in contracts to Section 3 business concerns.<sup>41</sup>

*ELOA creates a stand-alone Section 3 office.* ELOA makes another significant structural change to increase centralized oversight of the program. ELOA more clearly defines the Section 3 organizational structure by removing the program from its current location in HUD's Office of Fair Housing and Equal Opportunity and creating a separate Section 3 office in the Office of the Secretary.<sup>42</sup> This change has the potential to increase the effectiveness and outcomes for Section 3. Currently, the Section 3 office within HUD has no line authority over the HUD departments that control and allocate the majority of the HUD funds. Moving the Section 3 office should result in a broader achievement of Section 3 goals and requirements.

*ELOA emphasizes training and long-term employment objectives.* ELOA further improves Section 3 outcomes through its emphasis on particular types of training and contracting opportunities. In its "Employment" subsection, ELOA states that "special consideration shall be given to persons enrolled in State-approved apprenticeship programs."<sup>43</sup> In the training arena, ELOA requires the HUD Secretary to provide incentives to those recipients and contractors whose training programs promote career advancement for qualifying Section 3 individuals.<sup>44</sup> 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 creates a separate category for "qualified businesses that provide significant training and job opportunities to low- and very-low income persons," irrespective of whether those persons live in a particular location or development, and irrespective of the geographic location of the business.<sup>45</sup> In addition, the redefining of a Section 3 individual to include retaining such definition for five years promotes long-term employment and skill development.<sup>46</sup> ELOA thus aims to ensure that Section 3's impact will not be limited to the short-term but will create meaningful advancement toward the goal of "produc[ing] significant employment and other opportunities" for low- and very low-income communities residing in areas where HUD funds are expended.<sup>47</sup>

*ELOA requires resident participation and input.* In several ways, ELOA calls for resident participation and requires recipients to consider resident input. ELOA requires recipients to conduct annual community hearings to obtain citizen input on their Section 3 performance.<sup>48</sup> These hearings must accommodate non-English speaking residents "where a significant number of non-English speaking residents can be reasonably expected to participate."<sup>49</sup> In addition, residents are also able to provide input through the public housing (or other similar) planning process, for which ELOA now mandates a specific Section 3 component.<sup>50</sup> Finally, recipients are held to greater public accountability standards in reporting, as discussed further below. Given HUD's difficulty monitoring compliance on the ground,<sup>51</sup>

<sup>41</sup> AN ADVOCATE'S GUIDE TO THE HUD SECTION 3 PROGRAM, *supra* note 24 at 21-22.

<sup>42</sup> Earnings and Living Opportunities Act, at § 3(c).

<sup>43</sup> *Id.* at (e)(2)(A).

<sup>44</sup> *Id.* at (d)(3).

<sup>45</sup> *Id.* at (g)(2)(B).

<sup>46</sup> *Id.* at (f)(3).

<sup>47</sup> § 1701u(a).

<sup>48</sup> Earnings and Living Opportunities Act, at § 3(i)(2).

<sup>49</sup> *Id.* at (i)(2)(B).

<sup>50</sup> *Id.* at (h).

<sup>51</sup> See OFFICE OF INSPECTOR GENERAL, *supra* note 14 at 3-4.

resident involvement is important as it provides for local monitoring, enforcement and improves the outcomes. Residents and the organizations that they are members of are often familiar with local residents and businesses in their own and neighboring developments, and they may be in the best position to monitor whether Section 3's benefits are truly reaching the intended beneficiaries. They may also be in a position of identifying or referring individuals who have training needs and job skills. Coupled with the creation of a private right of action, ELOA taps into the currently underutilized potential of resident involvement as a compliance tool. NHLP is familiar with the extensive engagement of residents and the city-wide resident council for the Housing Authority of Kansas City during the period of the redevelopment of public housing in Kansas City. The tenant organization had a member on an oversight committee that met monthly and every two weeks during periods of substantial redevelopment with the developer and the public housing authority staff. The residents referred other public housing residents for jobs and training, the resident representative on the oversight committee review weekly payrolls and the resident council was involved in the creation and support of a resident business, which received Section 3 contracts. Such efforts helped to achieve the Section 3 goals.

*ELOA Requires Coordination Among Federal Agencies.* The current Section 3 statute requires the HUD Secretary to coordinate among federal agencies. Up until very recently, that coordination did not occur. ELOA now requires that the HUD Secretary enter into "formal collaborative agreements regarding training, employment, contracting or other areas" within 180 days and to report to Congress regarding the changes that these and other agencies to "facilitate the effective implementation and outcomes of the [Section 3] program." This coordination is essential for a full and robust implementation of Section 3 and to substantially improve the likelihood that the objectives of the program are fully met.<sup>52</sup>

### Further Suggestions

We support Congresswoman Velazquez's proposed amendments to the current Section 3 program. In the course of developing this testimony, we have created a list of proposed, minor changes to further strengthen and clarify Section 3 provisions. First, for maximum effectiveness, and in light of stimulus funding awards, we strongly suggest that ELOA be expanded to apply Section 3 to non-HUD funds as well. At a minimum, Section 3 should apply to funds expended for housing work, such as weatherization and green retrofits and LIHTC housing, regardless of the federal agency distributing or facilitating the creation of the funds. Second, to avoid confusion, ELOA should define what it means to be a recipient of "housing assistance from the Department of Housing and Urban Development" and thereby qualify for the top employment and training priority. This priority should be broadly defined so that all participants in federal housing programs are included in the Section 3 prioritization, regardless of their assistance type. It may be better to refer to these individuals as residents, so as to avoid any confusion with the term recipient, which is defined in the proposed legislation.

### Conclusion

<sup>52</sup> BARBARA 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), available at [www.cbpp.org](http://www.cbpp.org) (noting the lack of any formal role of Work Force Investment Boards (WIBs) in Section 3 implementation and suggesting that should be changed).

Section 3 reform is needed now more than ever. In February 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA), allocating nearly \$14 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, enacted over four decades ago. 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 begins distributing the ARRA funds. These changes are crucial to ensuring that HUD funds are used to assist low- and very low-income residents to obtain economic opportunities.

Thank you again for inviting me to present these views before this Subcommittee.

**John B. Rhea, Chairman of the New York City Housing Authority**  
before the  
**House Subcommittee on Housing and Community Opportunity**

**New York City Council Chambers**  
**City Hall**  
**New York City**

**July 20, 2009**

Chairwoman Waters, Representative Velázquez, other Members of the Subcommittee and the New York Congressional Delegation, I am John Rhea, Chairman of the New York City Housing Authority ("NYCHA" or "the Authority"). I want to welcome the Subcommittee to New York City and express my appreciation for the opportunity to appear before you to discuss NYCHA and its programs to address economic opportunities for the advancement of our residents, and quality of life for the elderly and disabled.

NYCHA is the largest provider of low- and moderate-income housing in the United States, managing 178,489 apartments that provide accommodations to approximately 402,722 New Yorkers. The Authority also administers the nation's largest Section 8 rental assistance program that serves nearly 97,426 households. Through these two programs, NYCHA provides housing to one out of thirteen New Yorkers.

NYCHA is proud of its historic and enduring commitment to the long term viability of affordable housing for current and future New York City residents, including those with special needs, such as homeless families and individuals, victims of domestic violence, the elderly and disabled, and those who are either unemployed or under-employed. Public housing has remained viable in large part because working families (a historical high of 46.3%) account for a large percentage of NYCHA's public housing households. At the same time, NYCHA is committed to increasing the opportunities available for even more people to enter and participate in the workforce.

Now celebrating our 75<sup>th</sup> anniversary, the Authority has been a powerful force and economic engine for the citizens of the City for decades. NYCHA's \$3.4 billion a year annual budget is spent locally in operating programs and maintaining its properties. A recent study by the *Econsult Corporation* concluded that every \$1.00 of capital expenditures generates \$2.12 in economic return for the local economy through job creation, spending by vendors and suppliers, purchases of goods and services, and increased consumer demand. Similarly, the Syracuse Housing Authority (Syracuse, NY) estimates that for every federal dollar received, there is a multiplier impact to the Syracuse economy of \$3.00. In addition to the infusion of dollars into the local economy through contracting, procurement and wages, NYCHA is committed to developing meaningful employment opportunities for our constituents who are a vital part of the fabric of the City of New York. In order to counteract the effects of the current recession and increase economic opportunity for residents NYCHA strongly advocates for legislation that will increase training and employment opportunities.

*NYCHA's Section 3 Accomplishments*

In furtherance of the goals of Section 3, NYCHA has a wide range of programs that go beyond mere employment in the construction and capital-modernization industries. For example, NYCHA itself employs 3,016 residents as full-time employees, which constitutes more than 25% of the Authority's total work force. These residents hold a wide range of positions from central office to field operations at the



developments. They include community service workers, clerical and administrative staff, caretakers, groundskeepers, housing assistants and trades personnel. In addition, many of the Authority's senior managers grew up in public housing and started their careers at NYCHA in entry level positions. Moreover, additional NYCHA residents are hired seasonally to perform work in the areas of grounds and janitorial maintenance from June through October, and to work with children attending NYCHA's community center summer programs. This year, we are hiring 875 residents for seasonal employment; to date 841 are on board.

Over the last seven years, NYCHA has implemented new program models and imposed mandates on its contractors in an effort to ensure compliance with Section 3. For contract awards between \$100,000 and \$500,000 to the greatest extent feasible 30% of all new hires of contractors must be Section 3 residents. Where the contract is valued at \$500,000 or more, 15% percent of a contractor's total labor costs must go towards employing or training NYCHA residents. With the implementation of NYCHA's Construction Management/Build ("CM Build") Program in 2005, agency contractors and subcontractors under the program are required to establish one State-approved apprenticeship slot for every \$2 million in task orders issued, and prepare residents for the apprenticeship positions that are created from the CM Build contractual requirement.

In 2006, NYCHA contracted with the Edward J. Malloy Initiatives for Construction Skills to operate the Pre-Apprenticeship Training Program ("P-ATP"). NYCHA's P-APT seeks to create highly-skilled and highly-paid apprenticeship jobs as well as a pool of qualified residents in the building and trades industry. The contract provides for six weeks of training, placement in union apprenticeship programs, and retention support services. As of July 10, 2009, 358 participants have completed the P-PATP and 221 have been placed in apprenticeship programs.

NYCHA maintains a Department of Resident Employment Services ("RES") to oversee the Authority's Section 3 efforts. Not only does RES monitor contractors, but it also provides them with viable employment candidates by assisting with referrals of qualified NYCHA residents to employment. NYCHA's departments that bid contracts and/or procure services are required to ensure that bids include a Section 3 hiring plan. RES is responsible for approving both the plan and monitoring compliance. NYCHA requires that all new construction, modernization and maintenance contracts enforce Section 3 requirements.

Recently, NYCHA's Section 3 program expanded to include non-construction contracts, bringing employment opportunities also to service contracts; such as security guard services. Where NYCHA has contracts for private property management, contractors are required to hire clericals, receptionist and maintenance workers. This is far beyond the requirements of the current law. See, 12 USC §1701u(c).

Training is critical to preparing our residents for work. Our collaborations with a range of training vendors through both contractual obligations and collaborative partnerships, allow the Authority to offer a diverse portfolio of training opportunities to prepare residents for employment. NYCHA is partnering with providers who offer not only job skills training for NYCHA residents but also offer job placement for students who successfully complete training. In 2008, RES training programs resulted in 307 job placements and as of July 10, 2009, RES programs resulted in 153 job placements this year.

NYCHA also partners with the New York City Human Resources Administration ("HRA") to provide a *Back to Work* ("BTW") resident employment initiative for Authority residents. BTW offers job seekers career counseling and a network of employment opportunities. Services range from job placement and job readiness, to educational and training services, as well as career advancement and financial planning.

NYCHA, the Center for Economic Opportunity ("CEO"), Manpower Demonstration Research Corporation ("MDRC"), HRA and City University of New York ("CUNY") are collaborating to implement *Jobs Plus* at Jefferson Houses. Jobs Plus is a development-based, on-site employment and training program to assist public housing residents in becoming economically self-sufficient. This nationally recognized model has demonstrated success in six other cities by intensely focusing on recruitment and job placement in a specific development. Core components include: employment-related services and activities, financial incentives for work and community support. Implementation is scheduled for fall 2009.

There are two draft bills before the Subcommittee addressing the employment of public housing residents. I am here to express NYCHA's general support for these goals and to present comments that we believe would strengthen these proposals.

#### *Home Health Care Training*

NYCHA was honored that Congresswoman Velázquez chose to launch her proposed pilot program involving Home Health Care Training at the Lower East Side I Community Center. NYCHA is excited about this opportunity since it will enable us to expand a program that the Authority has undertaken with LaGuardia Community College, to train residents as Home Health Aides.

The proposed bill, the *Together We Can - Act of 2009*, establishes a competitive grant program to train public housing residents as home health care aides and as providers of home-based health care services.

Societies are often measured by how well they care for their elderly and disabled. Few policy goals are more honorable than preventing the displacement of our elderly and disabled with otherwise unnecessary or premature institutionalization. Over 35.2% of NYCHA households are headed by an individual over 62 years of age. In addition, Social Security, SSI or pensions support 40.9% of NYCHA families. Perhaps more telling is the fact that the number of seniors has grown from 14.6% (67,132) of the population in 1990 to 17.7% (71,304) in 2008. The number of seniors in public housing living alone has grown 4% in the last five years, from 35,467 in 2004 to 36,958 in 2009. The number of NYCHA-based NORCS (Naturally Occurring Retirement Communities) has grown from 7 in 2005 to 11 in 2009—resulting from an increasing number of elderly residents who are aging in place. The need for trained and licensed home health care workers is great and is growing.

We therefore applaud this proposed program because it recognizes not only the needs of our aging and disabled population, but targets a growth industry where there is a pressing need for trained para-professionals. It is an innovative way to create jobs for public housing residents while providing meaningful assistance to other residents in need of such services.

The cost of hospital care has forced hospitals to substantially reduce intensive inpatient care services. Home health care addresses this gap and offers a more personalized approach to health care service delivery. It also permits individuals to age in place and receive services that would otherwise require institutionalization. It is an essential service for those requiring assistance with basic living needs such as cleaning, bathing, taking of medication, getting to medical appointments, and cooking, etc.

While the economy has lost jobs in manufacturing and other blue collar industries, the health care sector continues to grow. To meet this demand, para-professionals need to be trained and certified. In the case of public housing residents, it is important to have health care aides that are close at hand, who are comfortable with the neighborhood and who can understand and be understood by their clients. By certifying workers, they gain the opportunity to earn a decent living in a growth industry. Trained public housing para-professionals will not be limited to assisting fellow residents but their skills will enable them to work anywhere. This bill authorizes funding for employment training as home health care aides for public housing residents, as well as transportation, child care and other associated costs that often impede individuals of modest means when seeking educational and training opportunities. The pilot authorizes \$2.5 million in appropriations for FY2010, FY2011 and FY2012.

Our principal comment is that greater funding should be provided for the pilot program. Based on our knowledge of similar training programs we recommend an initial funding level of \$20 million for each of the three consecutive fiscal years, providing an estimated \$5 million per grantee.

Finally, given the diversity of the population of public housing residents, we recommend additional consideration be accorded to grant applications involving residents whose native language is not English.

### *Section 3 Reform – Earnings and Living Opportunity Act*

The *Earnings and Living Opportunities Act* would substantially modify the current provisions of Section 3 of the Housing and Urban Development Act of 1968.

While NYCHA supports the goals of Section 3, it has been a challenge to implement, and has long been an unfunded mandate requiring the Authority and other housing authorities to divert increasingly scarce operating resources to administer the program. The funding provided in this bill is welcomed by NYCHA. NYCHA currently spends approximately \$2 million for staff directly associated with resident employment and Section 3 compliance. With dedicated funding, housing authorities' capacity to carry out Section 3 goals and objectives will be enhanced. Additional staff monitoring the program will assure greater compliance and thus provide more employment with contractors, additional training options in a more diverse set of industries, as well as more timely placement of residents into jobs. This in turn should result in increased earnings for residents, greater self-sufficiency with less dependence on federal subsidies and lifting more families out of poverty. However, to make the legislation meaningful, we recommend that the funding level should be significantly increased from \$5 million to at least \$50 million nationwide. Additionally, we believe that housing authorities should be allowed the flexibility to include other recipients of HUD assistance, such as Section 8 participating families, in the employment priorities. We also recommend a set-aside to fund a resident mentoring program to work with residents as they participate in Section 3 training and to encourage them to complete the course of training.

I would like to highlight additional considerations with respect to the proposed legislation. Economic constraints and local labor conditions make it difficult to achieve the numbers contemplated by Section 3. However, the provisions of the bill setting an immediate requirement that 30% of *new hires* and 30% of *the hours worked* be performed by residents, creates a target that places housing authorities in a difficult position of not being able to comply with Section 3. We recommend that 30% of new hires be the standard as it is an achievable goal given the contractor's in-place workforce, and the total percentage of hours worked by Section 3 employees should be prescribed in the contract as determined during negotiation.

Another concern is the draft bill's contract compliance provision. It requires the contractor, *after* contract award but *before* commencing work, to "clearly demonstrate" how compliance with Section 3's targets will be achieved. We recommend that such demonstration occur prior to contract award. The format proposed by the bill will lead to unnecessary disputes between contractors that have been awarded a contract and the reviewing agency that then examines a compliance plan only to find it insufficient. That review should be done before any award is made. Otherwise, we face the prospect of contract delays and potential litigation.

Finally, we are particularly concerned that the proposed sanctions include the reduction of future funding for housing authorities unable to meet the hiring and contracting targets. The bill would punish residents residing in developments belonging to non-compliant housing authorities. Sanctioned agencies will incur reductions in funding that will adversely affect their ability to maintain core services, thus resulting in fewer resident services. We believe sanctions should be directed at contractors and unions that are unwilling to participate in Section 3 programs. We also observe that many of the skilled apprentice programs are run exclusively by the unions that are unable to provide the required training for the number of residents contemplated by this bill. The bill imposes requirements that will reduce opportunities for otherwise qualified contractors, particularly *Minority and Women owned Business Enterprises* (MWBE). Many such contractors are unable to absorb the hiring requirements contained in the draft bill.

### *NYCHA's Implementation of the 2009 American Recovery and Reinvestment Act*

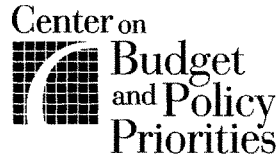
This focus on Section 3 is timely as it ensures that the employment possibilities provided by the American Recovery Reinvestment Act (ARRA) will reach our residents. This infusion of funding will allow NYCHA to modify and expand our Section 3 efforts thus providing greater opportunity to residents seeking employment. The Authority received \$423.3 million in stimulus funding through ARRA for capital improvements including badly needed major interior renovations, brick repair and roof replacement,

mechanical and electrical system upgrades and elevator replacements. Employment opportunities generated from contracts awarded with ARRA funding are expected to provide meaningful employment opportunities offering skilled residents valuable work experience. Most jobs will be construction related and pay prevailing wages. Other employment opportunities will range from back office work to security and management assistance on construction sites. Residents will be able to build a resume of experience and be competitive when applying for their next employment opportunity.

To date, 36 contracts have been awarded totaling \$130 million. We anticipate awarding approximately \$100 million in contracts by the end of September 2009 and the remainder by the end of December 2009. RES and NYCHA's Capital Division are working closely with contractors to ensure that commitments for resident hires are met in accordance with NYCHA's Section 3 standards.

Over the past seven and a half decades, the New York City Housing Authority has been given the gift of overseeing a tremendous legacy - a decent and affordable place for millions of low- and moderate-income citizens of the City of New York to nurture and raise their families. We must ensure that the opportunities that enabled so many who grew up in public housing to lead lives of accomplishment, such as Judge Sonia Sotomayor, are extended to the widest possible group of residents. Our mission is not just to provide core services but also to offer programs that assist our families to gain self-sufficiency. NYCHA meets that commitment every day as we connect and preserve the entire continuum of community – our working families, our youth, our elders and disabled residents.

Thank you again for allowing me to address these important measures and I welcome such questions as you may have.



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**Testimony of Douglas Rice**  
**Senior Policy Analyst, Center on Budget and Policy Priorities**  
**before the**  
**House Financial Services Subcommittee on**  
**Housing and Community Opportunity**

Thank you for the opportunity to testify. I am Douglas Rice, a Senior Policy Analyst at the Center on Budget and Policy Priorities. The Center is an independent, nonprofit policy institute that conducts research and analysis on a range of federal and state policy issues affecting low- and moderate-income families. The Center's housing work focuses on improving the effectiveness of federal low-income housing programs, and particularly the Section 8 housing voucher program.

This is an important time to reform "Section 3," the federal requirement that low-income individuals receive a portion of the economic benefits created through federal investments in affordable housing. Not only is rising unemployment creating added hardship, but federal recovery funds are being distributed to projects across the country that are subject to the Section 3 requirement, and the Obama Administration and Congress are contemplating funding increases for some housing programs for fiscal year 2010. Policymakers can leverage these additional federal investments to create more economic opportunity for vulnerable populations.

Section 3 of the Housing and Urban Development Act of 1968 requires certain projects funded by the Department of Housing and Urban Development (HUD) to meet, "to the greatest extent feasible," specific goals for contracting, hiring, and training low-income people to work on these projects. Today, Section 3 could leverage a substantial portion of more than \$20 billion in federal housing investments — \$13 billion in the 2009 budget and nearly \$8 billion in the recovery package<sup>1</sup> — into economic opportunities for low-income people.

<sup>1</sup> \$13 billion represents the enacted budget authority for fiscal year 2009 for public housing operations, the public housing capital fund, public housing revitalization (HOPE VI), the Community Development Fund, the HOME block grant, and the Housing Opportunities for Persons with AIDS (HOPWA) program. Some line items within these programs, however, are not subject to Section 3 obligations. Under the Administration's proposed 2010 budget, funding for these programs would increase to \$13.5 billion. The American Recovery and Reinvestment Act of 2009 provided approximately \$7.8 billion for programs subject to Section 3 requirements. See Department of Housing and Urban Development, "Guidance on ARRA and Section 3: HUD Economic Stimulus Funding and the Creation of Jobs, Training, and Contracting Opportunities," [http://portal.hud.gov/portal/page?\\_pageid=153,1&\\_dad=portal&\\_schema=PORTAL](http://portal.hud.gov/portal/page?_pageid=153,1&_dad=portal&_schema=PORTAL).

Thus far, Section 3 has not fulfilled its promise to expand economic opportunities available to low-income Americans. But with modest reform, it has the potential to improve the employment status, earnings, and long-term economic prospects of such individuals. Reform should concentrate on three core areas:

- enhancing HUD's monitoring and enforcement of compliance with section 3;
- maximizing economic opportunities for households receiving federal housing assistance through statutory changes; and
- building the capacity of grantees to implement the requirements and provide low-income residents with job training, through increased collaboration with other HUD grantees and with workforce investment boards funded by the Department of Labor.

Such reforms will require cooperation between the Administration and Congress. Rep. Nydia Velazquez (D-NY) has circulated a discussion draft of legislation (the Earnings and Living Opportunities Act, or ELOA) that would make major progress by encouraging compliance with Section 3, increasing economic opportunities for federally assisted households, and building grantees' capacity to meet Section 3 requirements. In addition, there is much that HUD can do administratively without waiting for new legislation.

### **Section 3's Mission and Potential Benefits**

Congress included Section 3 in the Housing and Urban Development Act of 1968 because it recognized that government investments in affordable housing can also be a tool to expand economic opportunities for low-income families. In addition to providing basic shelter, federally funded housing initiatives can help address unemployment and underemployment and thereby reduce poverty.

The mission of Section 3 is to utilize existing federal funding streams for low-income housing to maximize economic opportunities to low-income individuals. The law is narrowly tailored to provide preferences in employment, training, and contracting to low-income individuals on projects designed to benefit low-income people. This policy recognizes that the problems of housing affordability, employment status, and earnings are intertwined.

If effectively structured and implemented, Section 3 can reduce poverty, overcome spatial barriers to employment, and reduce federal costs, as explained below.

### **Reducing Poverty**

Section 3's most obvious potential benefit is to increase the incomes of low-income people by making more jobs available to them. Public housing residents, who receive first preference for Section 3 opportunities on HUD-funded public housing projects, experience high levels of unemployment. HUD reports that 42 percent of families living in public housing that are headed by a person who was not elderly or disabled had no earnings in 2008.<sup>2</sup>

<sup>2</sup> HUD 2010 Budget, Congressional Justifications, p. H-3.

### Section 3 Basics\*

#### What is Section 3?

Section 3 is a set of legal obligations established by the Housing and Urban Development Act of 1968. It requires public housing agencies and local governments to meet numerical goals for hiring, training, and contracting with “Section 3 residents” and “Section 3 business concerns” on certain types of projects that receive federal housing funds. A Section 3 office exists in HUD’s Office of Fair Housing and Equal Opportunity, but there is no Section 3 “program.” Local agencies receive no federal funds dedicated to meeting the obligations.

#### Who qualifies as a Section 3 resident?

All public housing residents qualify as Section 3 residents, as do all low-income individuals (those with annual incomes of less than 80 percent of area median income) living in a metropolitan area or nonmetropolitan county that contains a covered project. Section 8 assisted families are *not* automatically conferred Section 3 status by receiving assistance but can qualify on the basis of their incomes.

#### What projects carry Section 3 obligations?

Section 3 applies to all HUD-funded public and residential construction projects valued at over \$200,000. It also applies to some activities funded by the Community Development Block Grant, HOME, and Housing Opportunities for Persons with AIDS programs. For public housing only, the \$200,000 threshold does not apply, and Section 3 obligations apply not only to construction but also to development, maintenance, modernization, and operations. Even if HUD funds account for only a portion of a project’s costs, Section 3 requirements apply to the *entire* project. Requirements apply to contractors as well as grantees.

#### What are the Section 3 requirements for hiring?

On Section 3 projects, grantees must, “to the greatest extent feasible,” ensure that at least 30 percent of new, full-time hires are Section 3 residents. (This obligation does not apply if a project results in no new employees being hired.) Hiring goals apply to private companies and public agencies performing Section 3 work. Some projects give preference to categories of Section 3 residents; public housing residents, for example, receive the highest preference on public housing work. Grantees are to provide training and apprenticeship opportunities to residents in conjunction with employment.

#### How does Section 3 affect the companies that grantees contract with, using HUD funds?

Goals must be met for contracting with “Section 3 business concerns,” which are defined as companies owned by Section 3 residents or that have a high percentage of Section 3 residents as employees. Unlike programs providing opportunities to minority- and women-owned enterprises, participation in the Section 3 contracting program is dependent on the income of the owners or employees.

#### Is compliance with Section 3 required?

Yes, to “the greatest extent feasible,” though there are few sanctions for failure to achieve goals. Grantees have flexibility in the means by which they achieve the goals. Courts have interpreted the “greatest extent feasible” language to mean that other procurement considerations must be subordinated to fulfilling Section 3 obligations, and have held cost considerations to be insufficient grounds for awarding work to firms that were not Section 3-compliant. Local jurisdictions are required to certify annually to HUD that they are in compliance, but HUD has not placed a high priority on verifying the information in these certifications.

\*For more detailed information on Section 3 regulations and requirements, see: *An Advocate’s Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Housing Law Project, 2009; 24 CFR Part 135; *Frequently Asked Questions and Answers About Section 3 of the Housing & Urban Development Act of 1968*, U.S. Department of Housing and Urban Development, April 3, 2009, <http://www.hud.gov/offices/fheo/section3/FAQ08.pdf>.

Nonetheless, a 1999 survey found that the overwhelming majority of working-age, non-disabled heads of household living in public housing had participated in the workforce at some point.<sup>3</sup> This suggests that the high levels of unemployment that public and other assisted housing residents face is due in part to lack of job opportunities.

By helping members of federally assisted households obtain jobs, Section 3 could increase their earnings, possibly lifting some out of poverty. In 2006, the median household income for public housing households was just \$8,788, far below the poverty line. Section 8 voucher holders were only marginally better off, with a median household income of \$9,924.<sup>4</sup>

Section 3 can also enhance the long-term employment prospects of public and assisted housing residents. Possessing basic job skills has a positive impact on an individual's short- and long-term earnings.<sup>5</sup> Unfortunately, many low-income people lack access to the job training programs that teach these skills. Section 3 is intended to provide this access, as grantees must make training or apprenticeships available on covered projects.

### Overcoming Spatial Barriers to Employment

For decades, jobs have moved out of central-city neighborhoods and areas with high concentrations of low-income residents.<sup>6</sup> Recent research by the Brookings Institution shows this trend has continued unabated. In addition, jobs in sectors that are most hospitable to the skill profiles of low-income residents, such as the manufacturing and retail sectors, tend to be located farthest from city centers.<sup>7</sup> This creates a "spatial mismatch" between where low-income people live and where job opportunities are.

This problem is especially acute for public housing residents. Though public housing developments are much less likely to be located in highly segregated, extremely poor neighborhoods than they were a decade ago,<sup>8</sup> they are still disproportionately found in urban cores and areas with limited job growth.

Section 3 is designed to address this spatial mismatch by opening more job opportunities within low-income neighborhoods and, for residents of assisted developments, where they live.

Nearby job opportunities address other barriers to employment as well. More than half of public housing households, and nearly half of Section 8 voucher households, include a person who is

<sup>3</sup> John Martinez, *The Employment Experiences of Public Housing Residents: Findings from the Jobs-Plus Baseline Survey*, Manpower Demonstration Research Corporation, 2002.

<sup>4</sup> *Seventh Annual Report to Congress on Public Housing and Rental Assistance Programs: Demographics, Income and Work and Rent*, U.S. Department of Housing and Urban Development, 2008.

<sup>5</sup> Karin Martinson and Julie Strawn, "Built to Last: Why Skills Matter for Long-Run Success in Welfare Reform," Center for Law and Social Policy, 2003.

<sup>6</sup> William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York: Vintage Books, 1996).

<sup>7</sup> Elizabeth Kneebone, "Job Sprawl Revisited: The Changing Geography of Metropolitan Employment," The Brookings Institution, 2009.

<sup>8</sup> Barbara Sard and Will Fischer, "Preserving Safe, High Quality Public Housing Should Be a Priority of Federal Housing Policy," Center on Budget and Policy Priorities, revised October 8, 2008.



elderly or has a disability.<sup>9</sup> Many of these households include individuals who are able to work but also have care-giving responsibilities for the elderly or disabled members of the household, which limits their flexibility in pursuing job opportunities. Families with young children face a similar quandary. By creating access to jobs on-site or within the neighborhood, Section 3 makes it easier for residents to juggle work with other responsibilities.

### Reducing Federal Costs

Public housing residents generally pay 30 percent of their income in rent, with federal subsidies paying the rest. As residents' incomes rise, the rent payments they make rise as well, so the federal housing subsidy declines. The same pattern holds for Section 8-assisted households.<sup>10</sup>

Section 3 thus can reduce the cost of federal housing assistance by increasing the incomes of assisted households. Each \$1,000 in extra income they earn will reduce federal costs by roughly \$300. Since the HUD grants used to pay their wages would be expended *regardless* of whether the agencies and contractors hire federally assisted households, Section 3 effectively uses federal housing funds for double duty — meeting the need for housing investments and reducing the costs of providing affordable housing to low-income Americans.<sup>11</sup>

Section 3 can also reduce a development's maintenance costs. Employees who live and work in the same development are likely to be more vested in their community and thus likely to take greater care of their units and public spaces, reducing maintenance outlays.<sup>12</sup>

### Section 3's Shortcomings and Successes

There is general agreement that Section 3 has failed to achieve its objectives, though lack of data has precluded a comprehensive national analysis. HUD commissioned a 1996 report on Section 3 implementation; its investigation was limited in scope but highlighted that grantees face significant challenges in making Section 3 work.<sup>13</sup> Anecdotal evidence compiled by legal services agencies pursuing individual instances of non-compliance suggests that Section 3 implementation has been spotty at best.<sup>14</sup>

<sup>9</sup> CBPP tabulations of data from HUD's Resident Characteristics Report, as of March 31, 2009.

<sup>10</sup> Subsidy rules for vouchers are slightly different than for public housing. Local agencies establish caps on the subsidy they will pay for modest units rented using vouchers. If rental costs exceed the maximum amount, the tenant is required to pay the difference in addition to the standard contribution of 30 percent of income.

<sup>11</sup> Some tenants' incomes might rise significantly enough that they leave public housing, opening a unit for a household with a lower income. While this would reduce the program's fiscal advantages, it would enable another needy family to receive assistance, and there would be some short-term monetary gain for the federal government in any event.

<sup>12</sup> Arthur Napatstek, Robin Smith, and Dennis Dooley, *Community Building in Public Housing: Ties That Bind People and Their Communities* (Washington: U.S. Department of Housing and Urban Development, 1997).

<sup>13</sup> Maxine Bailey, Suzanne Lynn, and Fred Doolittle, *Lessons from the Field on the Implementation of Section 3* (Washington: U.S. Department of Housing and Urban Development, 1996).

<sup>14</sup> For more details on legal actions pursued by Section 3 residents, see *An Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Housing Law Project, 2009.

Many jurisdictions, especially city governments, are unaware of or misunderstand their obligations under the statute. Some mistakenly believe that Section 3 hiring and contracting goals are subordinate to other procurement policies. Although HUD's Office of Fair Housing and Equal Opportunity (FHEO), the division responsible for Section 3 enforcement, has made efforts in recent years to monitor compliance more vigorously, it lacks the capacity to do so effectively.

As recently as 2003, HUD's Inspector General found that the Department lacked basic controls for ensuring Section 3 compliance.<sup>15</sup> To its credit, FHEO moved quickly to put those controls in place and increase the number of monitoring reviews, but FHEO's efforts remain largely reactive. In general, hiring and procurement are responsibilities of local agencies over which FHEO (in contrast to other HUD divisions) wields minimal leverage. When grantees do not hew to Section 3 guidelines, FHEO has few enforcement options. In the rare cases where FHEO has compelled compliance, it has almost invariably been because Section 3 residents initiated complaints.

### **Proposed Reforms**

Despite these problems, the benefits of Section 3 are significant enough that it is worth the time and effort needed to make the law work. Policymakers of both parties have consistently recognized Section 3's potential to push the federal government to make smarter choices in its spending, capitalizing on existing investment to achieve multiple national objectives — including providing housing assistance, boosting employment, promoting social mobility for low-income people, and moderating the costs of the housing programs by raising tenants' incomes.

Recognition of the need to improve Section 3 has also been bipartisan. HUD secretaries under Presidents George H.W. Bush, Bill Clinton, and George W. Bush all pursued reforms. Today, rising unemployment, increased federal investment in housing, and the benefit of lessons learned from successful local implementation make this an opportune time to revisit Section 3.

As detailed below, reforms should be concentrated in three areas:

1. enhancing HUD's monitoring and enforcement to improve compliance with Section 3 requirements,
2. revising the statute to maximize opportunities for federally assisted households, and
3. building grantee capacity to meet Section 3 obligations.

#### **1. Improve Compliance**

Federal monitoring and enforcement of Section 3 have not been sufficient. As noted, HUD's Office of Fair Housing and Equal Opportunity has made recurring efforts to be more vigilant but has faced institutional constraints. Grantees have typically improved compliance only in the face of strong pressure from local legal services and housing advocates. Aware that enforcement is not a federal priority, grantees have had little incentive to pursue compliance independently of such pressure. Better enforcement could thus have a major impact.

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<sup>15</sup> Office of Inspector General, U.S. Department of Housing and Urban Development, "Survey of HUD's Implementation of Section 3 of the HUD Act of 1968" (Audit Case #2003-KC-0001), 2003.

HUD can improve its monitoring and enforcement fairly quickly, at relatively modest expense and with no change in governing law. Such improvement requires administrative changes at HUD and better guidance to grantees. HUD should:

- **Encourage grantees to use existing local resources to monitor compliance rather than creating a new bureaucracy.** Larger public housing agencies and most mid-sized and large cities already have staff charged with monitoring compliance with government contracting requirements, such as “first-sourcing” and utilization of minority and women’s business enterprises. The mechanics of monitoring Section 3 compliance are essentially the same as the work these staffers already do. HUD should encourage grantees to use these staff for Section 3 monitoring purposes, such as collecting documentation of compliance, preparing performance reports to submit to the Office of Fair Housing, and making findings easily accessible by the public.

Not all grantees have this capacity. Therefore, HUD should encourage cooperation among an area’s grantees to identify one that will be responsible for monitoring Section 3 compliance for multiple local recipients. Cities and counties receiving Community Development Block Grant (CDBG) funds may be the logical choice for this role; since they all have populations of at least 50,000, they are large enough that they likely have existing monitoring capacity. Agencies should collaborate with states where no local agency has this capacity.<sup>16</sup>

Even where multiple local grantees have internal monitoring capacity, HUD should encourage them to collaborate. This would allow grantees to take advantage of economies of scale, minimizing the time and expense of effective monitoring.

- **Remind grantees of their obligations and establish incentives for successful Section 3 implementation.** In a promising initial set of actions, HUD has issued guidance to recipients of funds from the recent economic recovery legislation on their Section 3 obligations, and in late May Secretary Donovan sent a joint letter with Labor Secretary Solis to public housing agencies and Workforce Investment Boards encouraging them to work together to create employment opportunities for residents of HUD housing. In addition, HUD has included training on Section 3 obligations as part of a webcast regarding civil rights requirements for implementation of recovery act funding.<sup>17</sup>

<sup>16</sup> Most public housing authorities serve cities and counties that receive CDBG funds, and most of the housing authorities that do *not* are located in states that administer CDBG funds. (The one exception is Hawaii, where HUD directly administers the CDBG program outside of the more populous areas that receive their own grants.)

<sup>17</sup> The guidance is available on the HUD Recovery Act home page, [http://portal.hud.gov/portal/page?\\_pageid=153.1&\\_dad=portal&\\_schema=PORTAL](http://portal.hud.gov/portal/page?_pageid=153.1&_dad=portal&_schema=PORTAL), which also has links to the June 9 civil rights (and other) webcasts. The HUD-DOL letter is at [http://portal.hud.gov/pls/portal/docs/PAGE/RECOVERY/TRANSPARENCY\\_RESOURCES/DOL%20-%20HUD%20WIR%20PHA%20LETTER%20FINAL.PDF](http://portal.hud.gov/pls/portal/docs/PAGE/RECOVERY/TRANSPARENCY_RESOURCES/DOL%20-%20HUD%20WIR%20PHA%20LETTER%20FINAL.PDF).

### Capacity and Enforcement Matter: Successful Programs In Kansas City and Oakland

Problematic as Section 3's implementation has been, there is cause for measured optimism. Two "best practice" examples demonstrate that where grantees are committed to the program, build capacity to perform Section 3 tasks, and make enforcement a priority, Section 3 can yield real benefits for low-income individuals and communities.

Kansas City, Missouri is one of the few cities to aggressively seek fulfillment of Section 3 goals. It created its own Section 3 Office within its Human Relations division to link contractors with potential employees, alert Section 3 business concerns to opportunities, and monitor and enforce compliance. Because the local public housing agency is independent, the city's efforts have concentrated on projects funded through city-administered grants like CDBG and HOME. Like many other cities, Kansas City experienced a major development boom before the recent recession. The Section 3 office was a vital part of ensuring that low-income people were able to access some of the economic opportunities created through local investment during that boom. In 2006, for example, the city met its goal of placing 50 Section 3 residents in full-time employment and awarded \$2 million in contracts to Section 3 business concerns.<sup>a</sup>

The Oakland Housing Authority (OHA) is a success story among public housing agencies. Through the HOPE VI public housing revitalization program, OHA has received nearly \$84 million in grants for residential construction since 1994. The agency was committed to meeting Section 3 goals but realized that many tenants lacked the skills to gain construction employment in opportunities created by HOPE VI investment. Since OHA did not have the capacity to provide job training itself, it partnered with a local construction training umbrella organization. That organization had links to local building trades unions, which used it to recruit participants into apprenticeship programs and construction-related employment. Since 1994, the OHA initiative has yielded union construction jobs for 177 Section 3 residents.<sup>b</sup>

<sup>a</sup> "Program Planning and Interpretation: Kansas City, Missouri Section 3 Program," U.S. Department of Housing and Urban Development, <http://www.hud.gov/offices/fheo/section3/planning.cfm> accessed May 5, 2009; *Kansas City, Missouri's Department of Human Relations Section 3 Guidebook*; *Advocate's Guide to the HUD Section 3 Program: Creating Jobs and Economic Opportunity*, National Law Housing Project, 2009.

<sup>b</sup> *Economic Opportunities Policy*, Oakland Housing Authority, 2001; *Advocate's Guide to the HUD Section 3 Program*.

Beyond the implementation of the recovery act programs, HUD should also offer training to grantees on Section 3 implementation, develop methods of incentivizing compliance, and require submission of data to facilitate monitoring. ELOA, the draft legislation Rep. Velazquez has circulated for discussion, would allow the HUD Secretary to award performance bonuses to grantees that exceed the numerical goals set by the law (see the box on page 3), although Congress would have to provide funds for this purpose. Without additional funding, HUD could include Section 3 compliance as one of its measures of the management performance of public housing agencies. HUD could also consider incorporating Section 3 compliance into the application process for competitive grants that it awards, thereby benefiting applicants that are Section 3-compliant and penalizing those that are chronically non-compliant.

- **Revise regulations to use "hours worked" as the test of Section 3 compliance.** Current regulations specify only that, to count for Section 3 compliance purposes, a contractor's new hires must be full-time employees. 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. This violates the spirit, if not the letter, of the law.

The Office of Fair Housing has held that compliance should be measured by the percentage of the project's total work-hours that Section 3 residents perform.<sup>18</sup> This is a sensible standard and also would benefit low-income parents who are raising young children and able to work less than full time. But the "hours worked" standard is not included in any of the regulatory or statutory language on Section 3. HUD should revise the regulations to explicitly include it as the measure of compliance. The draft Velasquez legislation would write this change into the statute.<sup>19</sup>

## 2. Maximize Benefits to Federally Assisted Households

Other Section 3 reforms will require legislation. Although Section 3 is tailored to provide economic opportunities to low-income populations, it can be refined to better serve those who are most vulnerable and to create greater social benefit. Congress can strengthen Section 3 and maximize benefits for families receiving federal housing assistance by:

- **Broadening Section 3 to apply to all HUD-funded projects.** Section 3 obligations currently exist on all HUD-funded projects to construct or rehabilitate residential housing, including public housing. But Section 3 obligations are more expansive in the public housing program, where they also apply to funds spent on maintenance, modernization, and operations. These inconsistent requirements make it more difficult for grantees to understand Section 3 requirements, and result in a failure to fully leverage federal investments in HUD programs other than public housing. In 2008, for example, two out of every five CDBG dollars did not carry Section 3 obligations.<sup>20</sup>

Congress should apply Section 3 obligations to all HUD funding streams used by agencies or their contractors for management and administrative activities.<sup>21</sup> In addition, funds used to provide services, such as child or elder care, should carry the same job-creation obligations that currently apply to public housing funds.<sup>22</sup> This would not be unprecedented: until 1992,

<sup>18</sup> Office of Fair Housing and Equal Opportunity, "Section 3 Complaint: Determination of Non-Compliance, Carmelitos Tenants Association, *et al. v. City of Long Beach*" (Case #09-98-07-002-720), 2004.

<sup>19</sup> Some have called for the reorganization of the federal staff charged with overseeing Section 3. Since its inception, Section 3 oversight has been housed in the Office of Fair Housing and Equal Opportunity. ELOA, the draft legislation that Rep. Velasquez has circulated, would elevate Section 3 responsibilities into the Office of the Secretary. (HUD could also accomplish this administratively, without legislative action.) Such a change could potentially signal an increased emphasis on enforcement and could minimize the conflicting Section 3 guidance that grantees sometimes receive from HUD offices.

<sup>20</sup> Authors' calculation of HUD's CDBG expenditure data as of September 30, 2008 for Program Year 2008. CDBG grantees spent almost \$1.7 billion on acquisition, administration/planning, economic development, public services, and "other" activity types that are not subject to Section 3 obligations.

<sup>21</sup> Section 8 funds used by public housing agencies to cover the administrative costs of the housing voucher program would be covered by this proposal; funds used to provide rent subsidies to private owners would not be.

<sup>22</sup> CDBG economic development activities are supposed to create or retain employment opportunities for low-income people, but this requirement is not an adequate substitute for Section 3. The calculation method for CDBG is far less rigorous than the one used by Section 3 and inflates claims of job creation for low-income residents. Unlike Section 3,

Section 3 covered a range of activities in programs other than public housing comparable to those suggested here.<sup>23</sup> Consistent with this proposal, the draft Velasquez legislation would expand the scope of activities with Section 3 obligations to include all management, administrative, and professional services on HUD-funded projects.

- **Include all HUD-assisted tenants in the preference system.** Currently, Section 3 gives public housing tenants special preferences over other recipients of HUD-funded housing assistance and over other low-income people. Public housing residents receive first preference for employment opportunities at the developments where they live, and only public housing residents are defined as Section 3 residents simply by virtue of receiving housing assistance (without regard to their income). Most recipients of other HUD-funded housing assistance qualify for Section 3 as well because of their low incomes, but they receive no preference over *unassisted* low-income residents for employment opportunities that arise on HUD-funded projects.

Congress should revise the Section 3 “preference pyramid” to categorically define as Section 3 residents — and thus give priority to — recipients of *any* form of federal rental assistance, including families holding Section 8 vouchers, residents of project-based Section 8 units, and residents of public housing.<sup>24</sup> Residents of the development where expenditures are being made should receive first priority, then other assisted households, then unassisted households.

Such a step would recognize that other federally assisted households face many of the same barriers to employment as public housing residents. It would give Section 8-assisted families in communities with public housing enhanced access to billions spent on capital repairs, operations, and maintenance. This is particularly important where public housing funds are unlikely to generate work opportunities for residents of the public housing development because most or all residents of the development are elderly or have disabilities.<sup>25</sup>

In communities with no public housing, CDBG represents the primary source of Section 3 employment opportunities. Without the benefit of this preference pyramid, federally assisted households fail to benefit from the employment opportunities created by the \$300 million in CDBG expenditures that these communities make each year.<sup>26</sup>

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which requires proof of income of employees on covered projects, CDBG simply *assumes* that all jobs created in low-income neighborhoods go to low-income residents or that any worker living in a low-income census tract is low-income.

<sup>23</sup> In 1992, at the urging of the Bush Administration and then-HUD Secretary Jack Kemp, Congress modified Section 3 requirements. The thrust of the changes was to expand Section 3 obligations on public housing agencies to apply to operations and maintenance positions and contracts. At the same time, however, the amendments limited the obligations that applied to community development funding and the new HOME block grant to funds used for construction activities.

<sup>24</sup> Congress could also consider including recipients of Department of Agriculture rural rental housing assistance in the preference pyramid, if the Department of Agriculture’s housing programs were made subject to Section 3.

<sup>25</sup> More than 300,000 public housing units are in developments in which residents are predominantly elderly or disabled. Since these residents are unlikely to work, no federal savings can be captured from increased earnings that lead to lower rent subsidies. Ensuring that other HUD-assisted households have access to employment opportunities at these developments is important if HUD is to capture those savings.

<sup>26</sup> CBPP estimate based on CDBG allocations and Voucher Management System data.

ELOA (the draft Velasquez legislation) would revise the current preference pyramid to include all recipients of HUD housing assistance.<sup>27</sup> Revising the pyramid would make Section 3 a more powerful tool to expand opportunity to socially and historically disadvantaged groups. And because Section 3 — unlike other initiatives to accomplish these goals — is based on income rather than race or gender, it is more likely to withstand any legal challenges.<sup>28</sup>

### 3. Build Capacity at Grantees and Through Collaboration with Workforce Agencies

The preceding recommendations can have only limited success unless HUD also helps build the capacity of its grantees. The lack of grantee capacity to perform Section 3-related tasks is the single biggest impediment to effective implementation.

While the provision of job training and employment services is central to the mission of Section 3, it is *not* central to the mission of most public housing agencies or local governments. As a result, even the best-intentioned grantees generally are unable to perform essential tasks efficiently, such as coordinating employment services for Section 3 residents or providing job training. (Some agencies are capable of performing some of these tasks; in these instances, HUD should encourage other grantees in the region to tap into that capacity.)

To provide job training, policymakers should look outside of the housing “silo” to the workforce investment system. It makes more sense to access an existing system than to create a duplicative one within HUD grantees. Building job training capacity would not only facilitate compliance with Section 3 requirements but also benefit low-income people by enhancing their long-term employability. Evaluations of Section 3 implementation have found that residents have difficulty making the transition from the short-term employment afforded by the program to long-term employment. Providing job training to residents can help address these issues.

Efforts to build capacity for Section 3 implementation should:

- **Establish Section 3 coordinator positions at the local level.** One of the recurring “best practices” in successful Section 3 implementation plans is the creation of Section 3 coordinators. Coordinators do the daily work of linking Section 3 residents with employment opportunities created by federal housing investments: making Section 3 residents aware of job openings, facilitating the qualification process, and interacting with contractors. ELOA would require each HUD grantee to designate a Section 3 coordinator.

<sup>27</sup> ELOA would grant the preference to assisted households “who live in the service area or neighborhood where the assistance is being expended.” ELOA differs from the recommendation made here in that it gives no preference to assisted households when the expenditure is made outside their neighborhood. Still, Section 8-assisted households who live in public housing service areas could benefit from the ELOA provision. Nearly \$2 billion in annual public housing capital investment occurs in areas served by agencies that administer both public housing and a Section 8 voucher program (CBPP estimate based on Public Housing Capital Grant and Voucher Management System data).

<sup>28</sup> Most recipients of federal rental assistance are poor. A small share, however, are not. For example, 10 percent of families in public housing and 4 percent of families in the housing voucher program have incomes over 50 percent of the area median income. HUD 2010 Budget, Congressional Justifications, pp. H-3 and F-4. It may make sense to impose an income criteria on the preference for federally-assisted households for opportunities outside of the development in which they reside.

While coordinators are important, the ELOA requirement may be an inefficient means to accomplish the goal. Particularly in areas with multiple smaller grantees, HUD should encourage agencies to partner with one another to take advantage of economies of scale to reduce costs. Even for large recipients, partnership with other agencies to have one agency serve as the Section 3 coordinator for all HUD grantees in the area is valuable because it creates a central contact for residents. This is particularly desirable in metropolitan areas, where eligible Section 3 residents can come from any jurisdiction in the area.

HUD should explore mechanisms to provide federal funding for Section 3 coordinators. It could incorporate their cost into the annual public housing operating subsidy formula. To encourage smaller grantees to collaborate, HUD might fund coordinators based on the amount of covered HUD funding made available in an area through different programs, and allow grantees in an area to compete for the additional funding. Where CDBG recipients perform coordination functions for other HUD grantees, Congress could allow HUD not to count these costs towards the CDBG limit on administrative and planning expenses.<sup>29</sup>

- **Use the workforce investment system to provide job training services.** Many residents lack the specialized skills needed for some Section 3 jobs, especially construction. Providing them with training and apprenticeships opens these opportunities, while also improving their potential long-term earnings and employment success.

Since public housing agencies and local governments generally are ill-suited to meet Section 3's job training requirements, recipients should tap into the capacity of local workforce investment boards for these services. Created by the Workforce Investment Act to take primary responsibility for workforce services, local boards administer "one-stop centers" that provide unemployed and underemployed adults with training opportunities, career counseling, and linkages to employers. Yet workforce boards have played no formal role in Section 3 implementation. The recent joint letter from Secretaries Donovan and Solis to public housing agencies and workforce investment boards recognizes the need for greater cooperation to expand HUD-assisted residents' economic opportunities through programs covered by Section 3 and more broadly in "green jobs" funded through the recovery act.

When it reauthorizes the Workforce Investment Act (which may occur this year), Congress should mandate that local workforce boards become responsible for Section 3 job training requirements.<sup>30</sup> Changes in how local boards administer job training vouchers and the appointment of dedicated Section 3 staff at workforce agencies may be necessary. Additional funds may be needed for these purposes.<sup>31</sup>

<sup>29</sup> CDBG recipients may not spend more than 20 percent of their grants on administrative and planning expenses. This cap is not included in the authorizing statute, but Congress has included it in annual appropriations acts since 1978.

<sup>30</sup> ELOA requires that job training be provided by programs "approved" by some level of government or by an endorsed trade association, but it does not explicitly mandate the involvement of the workforce investment system. If ELOA were to include changes to the Workforce Investment Act, the legislation likely would have to be considered by the Education and Labor Committee, as well as the housing committees (Financial Services in the House and Banking in the Senate).

<sup>31</sup> Workforce agencies have suffered years of budget cuts (although they received substantial funding in the stimulus package). They may be reluctant or unable to provide Section 3-specific services without additional funding.



Concurrently, HUD should direct its grantees to develop coordination plans with workforce investment boards, and the Administration should consider further parallel changes in housing and workforce development policy that would foster collaboration between the relevant agencies. Such policy changes should address the apparent lack of solid performance by many local workforce boards in delivering training opportunities to low-income residents of assisted housing.<sup>32</sup>

Many workforce boards are regional in nature, allowing them to create economies of scale and respond to Section 3's metropolitan mandate. (Any low-income resident of a metropolitan area that contains a Section 3 project is eligible for Section 3 resident status, regardless of the particular jurisdiction in which he or she lives.) Nearly 70 percent of the more than 600 local boards have jurisdiction over more than one county; another 25 percent are countywide and generally cover a number of municipalities.<sup>33</sup> Boards in 39 regions are already undertaking enhanced regional workforce development initiatives, some of them crossing state lines.<sup>34</sup> Capitalizing on this regional training system would be simpler, less costly, and more effective than requiring each of the more than 4,000 HUD grantees to develop its own training capacity.

## Conclusion

Section 3 aims to leverage federal investments in housing and community development programs to help low-income people make the transition to permanent, decent-paying jobs in the private sector and thereby to reduce poverty. The reforms described above would help accomplish that goal by allowing more residents of low-income communities generally — and more people who live in assisted housing in particular — to build job histories and obtain the jobs experience and skills they need to succeed in the labor market. Strengthening Section 3 would be consistent with the Obama Administration's commitments to make job training available to those who need it most and to create a path of economic opportunity for Americans struggling with unemployment and low incomes.

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<sup>32</sup> For a review of ways that workforce investment agencies could better serve low-income individuals, see Allegra Baider, "Congressional Action Needed to Ensure Low Income Adults Receive Critical Employment and Training Services under the Workforce Investment Act," Center for Law and Social Policy, 2008.

<sup>33</sup> Authors' calculation.

<sup>34</sup> U.S. Department of Labor Employment and Training Administration, "WIRED," <http://www.doleta.gov/wired>.

**Testimony of Carol A. Rodat, NY Policy Director for PHI  
Legislative Proposals to Increase Work and Health Opportunities for Public and  
Affordable Housing Residents  
House Financial Services Housing Subcommittee  
Congressional Field Hearing  
Monday, July 20, 2009  
New York City, New York**

My name is Carol Rodat, and I am the New York Policy Director for PHI, formerly known as the Paraprofessional Healthcare Institute, ([www.PHInational.org](http://www.PHInational.org)). PHI is a national organization, located in the South Bronx, that works to improve the lives of people who need home and residential care—and the lives of the workers who provide that care. Using our workplace and policy expertise, we help consumers, workers, employers and policy-makers improve long-term care by creating quality direct-care jobs. Our goal is to ensure caring, stable relationships between consumers and workers so that both may live with dignity, respect, and independence.

PHI endorses the “Together We Care Act of 2009” and improvements to Section 3 of the Housing and Urban Development Act of 1968 in the “Earnings and Living Opportunities Act” (ELOA) that are the subject of this hearing and which are designed to increase job opportunities and improve health care access for residents of public and subsidized housing. We appreciate the invitation to testify at this first field hearing, particularly since the intent is to create jobs in home and community-based care. We have considerable expertise in employment strategies and practices that are necessary to ensure the creation of quality jobs and better care and are pleased to be able to share our perspective with the Committee. In addition, this hearing also provides an opportunity to highlight the importance of the direct care workforce not only for our health care system, but also for our economy as a whole.

PHI has had significant experience in workforce development and the practice and policies that create a strong direct care workforce. PHI is one of three national advisers to the Centers for Medicare and Medicaid Services (CMS) Direct Service Worker Resource Center. In that role, we provide technical assistance to states that wish to stabilize and improve their home and community-based services workforce. PHI helped to craft a *Quality Care through Quality Jobs* school of thought, advocating and demonstrating at the national and state level that a “high investment, low turnover, high return” business model meets the goals of the health care and the workforce

development systems. Most recently, our president, Steven Dawson, advised the Institute of Medicine's (IOM) Committee on the Future Health Care Workforce for Older Americans, which published findings and recommendations in April 2008 in the landmark study, "Retooling for an Aging America: Building the Health Care Force." Mr. Dawson now serves as the co-convener of the Elder Workforce Alliance, a national coalition of organizations dedicated to promoting the recommendations of the IOM study.

Recognizing the future needs of this state and city, PHI staff authored "Addressing New York City's Care Gap," a study for the New York City Workforce Investment Board on the demographic trends shaping the home care workforce. That study, and our subsequent Labor Market report which is attached to this testimony, project a need for an additional 65,000 new home care jobs in New York City, and another 18,950 home health aides and 9,870 personal care aides for the rest of the state. Recognizing the importance of health insurance to this workforce, we recently finished two reports on the health insurance coverage of the home care aide workforce in New York - "Is New York Prepared to Care?" and "Health Insurance Coverage of New York's Home Care Aides," which provide a comprehensive analysis of the coverage rates, access to coverage, state programs designed to improve coverage, and the ways in which coverage can be expanded and enhanced. All are available on the New York page of PHI's PolicyWorks at: [www.PHIinational.org/policy](http://www.PHIinational.org/policy).

PHI is also affiliated with Cooperative Home Care Associates (CHCA), a twenty-five year old worker-owned licensed home care services agency, also located in the South Bronx. CHCA trains and employs home health aides and home attendants and currently employs over 1,500 aides. Our other affiliate is Independence Care System, a Medicaid Managed Long Term Care Program that serves over 1,300 individuals living with physical disabilities in the metropolitan area. We are also consultants to several nursing homes and long-term care systems. These direct experiences provide us with a perspective that is unique and attuned to the challenges and rewards that are part of both an employment and service model.

Between 1995 and 1997, CHCA secured funding from the New York City Housing Authority's (NYCHA) Allied Health Careers Training Services program to enroll approximately 10 participants in each of our four-week training cycles from among NYCHA residents. As of 2008, 6 percent of the aides in CHCA's training program were residents of NYCHA buildings, and 75 percent were hired into full-time positions as home health aides; of these, 81 percent retained employment for at least three months after graduating from our training program. Our experience with this approach has been extremely positive and we would welcome a renewal of this approach to recruiting, training and serving within public housing.

#### **Home and Community-Based Care – a Labor Market Force**

Home and community-based care, a component of eldercare/disability services, will provide tremendous job growth in the years to come. Within home care, it is the home care aides – personal care aides, home attendants (the term of choice for personal care aides in New York City), home health aides and consumer-directed personal assistants – who provide 70 to 80 percent of the paid hands on care for older persons, people living with disabilities and chronic care needs, and those with intellectual and developmental disabilities.

The latest employment estimates, from 2006, show that nationally the direct-care workforce at the national level surpasses the 3 million workers and projected demand calls for an *additional 1 million new positions* by 2016. Once it achieves a size of 4 million workers, this workforce will exceed RNs (3.1 million), teachers from kindergarten through high school (3.8 million), cooks and food prep workers (3.3 million), waiters and waitresses (2.6 million) and cashiers (3.4 million). Over the next decade, personal care and home health aides will be the second and third fastest-growing occupations in the country, outpacing all but network systems and data communications analysts and well ahead of nursing aides and orderlies who work in nursing facilities and hospitals. While 54 percent of the direct care workforce worked in home and community-based settings in 2002, by 2016, it is estimated that 64 percent will work in home and community-based settings. The growth in consumer-directed care amplifies these trends.

In New York, these projections hold true. Today, New York City's direct care workforce constitutes probably the largest occupational group in the economy, and these jobs in the City are projected to increase by 42 percent over the decade beginning in 2006. Home attendants and home health aides are among the small handful of jobs in New York City that meet the criteria of being both the fastest growing and generating the most job openings. Together, these two occupations will add about 65,000 jobs to the New York City economy between 2006 and 2016. Attached to this testimony, you will find a copy of our national occupational data as well as our New York City Labor Market Projections.

#### **Differences in the Nursing Home and Home Care Workforce**

There are several differences between the home care and nursing home care workforce, beginning with the training requirements. The federal government sets the minimum requirements for training of certified nursing assistants (CNAs) and home health aides, but states are free to exceed the minimum. The federal minimums for each are:

*Certified Nursing Assistant (CNA)* – 75 hours, CNAs must pass a competency exam for certification. CNAs are listed on a state registry.

*Home Health Aide (HHA)* – 75 hours, Aides must pass a competency evaluation for certification that involves a written or oral exam and observation of demonstrated

tasks. Not all states have a home health aide registry; New York is in the process of implementing a registry.

There is one additional difference between the training for CNAs and home health aides in that the training costs for CNAs is included on the cost reports and is reimbursable. Home health aide training is not included on the cost reports, although some states make additional monies available, as in the case of New York which has workforce recruitment and retention add-ons to the Medicaid rates.

There are no federal minimum requirements for personal care aides, and in fact, some states have no minimum requirements for the training of personal care aides, leaving it up to the provider or employer. There are also no minimum requirements for home care workers who serve people with intellectual and developmental disabilities, although they do receive training over the course of their employment and several states are using the online College of Direct Support Professionals to train this workforce.

New York State, however, not only has a minimum requirement of 40 hours for personal care aides, but recently extended the hourly minimums to assisted living facilities as well. The following chart provides some of the key differences in the occupations, although there are many similarities in the training, skills and duties of direct care workers in any of these occupations and settings.

<b>Nursing Home and Home Care Occupations</b>	<b>NYS Basic Training Requirements</b>	<b>Number of Direct Care Workers in NYS (2006)</b>	<b>Projected Increase by 2016</b>
Nursing Aides, Orderlies <sup>1</sup>	100 hours minimum, comprised of at least 70 hours of actual classroom and lab training plus 30 hours of supervised clinical training time with residents in a nursing home	104,210	11%
Home Health Aides	75 hours minimum, including 16 hours of supervised practical training	138,290	37.8%
Personal Care Aides/Home Attendants	40 hour minimum	74,680	35%

<sup>1</sup> Labor force statistics aggregate these two titles, thereby mixing nursing home and hospital workers. PHH has recommended that data related to these occupational titles be collected separately.

Employment estimates for aides are for 2006. These data and occupational projections are taken from the NYS Department of Labor (NYS DOL) Occupational Employment Statistics (OES) Program, available at: <http://www.labor.state.ny.us/workforceindustrydata/demand.asp>.

In addition to the differences in hours of training, there are specific areas of the training that the direct care worker in a facility would need to learn that home care workers would not. For example, a CNA receives training in resident rights, facility safety and emergency procedures (e.g., evacuation of resident), isolation precautions, avoiding the use of restraints, incident reporting, the use of certain facility equipment that would not be found in most homes (e.g., whirlpool bath), fluid intake and output recording, and post-mortem care.

The difference between a home health aide and a personal care aide resides in the health-related tasks that a home health aide is allowed to perform: preparation of meals in accordance with modified diets or complex modified diets; administration of medications; provision of special skin care; use of medical equipment, supplies and devices; change of dressing to stable surface wounds; performance of simple measurements and tests to routinely monitor the patient's medical condition; performance of a maintenance exercise program; and, care of an ostomy after the ostomy has achieved its normal function.

A state's Nurse Practice Act identifies those tasks and duties which can be delegated by a nurse to a home health aide. These vary from state to state. For example, in New York, a home health aide may not change dressings or apply prescription or non-prescription medications to a patient with an unstable wound; give injections except for pre-filled insulin; fit, adjust or repair equipment; provide nasogastric or mix, hook up or infuse solutions used in total parenteral nutrition (TPN). There are, however, special circumstances in which a home health aide may undertake certain tasks or functions and these are only when the aide is working with a self-directing patient who has need for the task for routine maintenance of health, cannot perform the task themselves due to a disability, and has no informal caregiver.

#### **Population and Need for Home Care Aides**

Recent changes in state health policy in New York as well as initiatives at the federal level to "re-balance" the long-term care system towards home and community-based care have served to downsize the institutional sector, lowering the future projections for certified nursing assistants, the direct care worker in nursing facilities.

The proposed legislation targets not only public housing residents who would be trained and employed as home care aides, but the elderly and people living with disabilities who have need of care at home. New York is home to 3.4 million individuals aged 60 or older, ranking New York third in the nation in the number of older adults. By 2015, older people will constitute 20-24 percent of the county

population in 35 NY counties and 25-29 percent of the county population in 17 other NY counties. About a third of older New Yorkers live alone and more than a third also suffer from at least one disability. More than three-quarters of adults over 65 years suffer from at least one chronic medical condition, while an average 75 year old has 3 chronic conditions and takes 4 medications. These trends support the fact that two-thirds of older adults will need some form of long-term care at some point, while 11 percent will require care for more than 2 years. Twenty-five percent will rely on family for at least 2 years, 35 percent will need residential care and 5 percent will spend more than 5 years in a nursing home.

As the population grows, individuals with impairments will also increase, requiring a comprehensive array of services and supports. A trained and ready workforce will be needed to serve not only those who wish to age in place, but also those with disabilities, chronic disease and functional limitations. Throughout the state, 11 percent of the population aged 21 to 64 years is living with a disability; however, this rate is much higher in New York City. In addition, 12 percent of the City's non-institutionalized civilian population has two or more disabilities compared to 7 to 9 percent in the rest of the state.

On an annual basis there are approximately 300,000 individuals receiving home and community-based care in New York through a variety of home care programs: the Medicaid-funded personal care services program, consumer-directed personal assistance, the various Medicaid home and community-based waiver programs (e.g., the Long Term Home Health Care Program, the Traumatic Brain Injury Program, the Nursing Home Transition and Diversion Program), the Expanded In Home Services for the Elderly (EISEP), the Medicaid Managed Long Term Care Program, the Program of All-Inclusive Care for the Elderly (PACE) and of course, the Medicare home health benefit. There are ample opportunities for home care aides to find work in a widely diverse field of programs serving a variety of individuals throughout the City and state.

#### **Family Challenges**

Family caregivers make up the largest contingent of home care workers. In New York, it is estimated that there are 2.2 million family caregivers providing over \$24 billion economic value of unpaid labor. Families today face numerous challenges and obstacles in accessing adequate home care – even in a state like New York that leads the nation in home care programs and related expenditures:

- Access to services is predicated upon adequate personnel: RNs, therapists, and home care aides. Outside of the metropolitan New York City area, there are parts of this state with limited access to home care due to the inadequacy of the workforce.

- There is a growing and unfilled need for home care workers who speak Spanish, Russian, and various Chinese dialects as well as workers who can demonstrate cultural competency and sensitivity.
- There is a shortage of aides who can work nights and week-ends or who are willing to “live-in.”
- Outside of the NYC area, transportation to and from a client’s home is a severe challenge.

There are several ways in which these challenges can be addressed:

1. Strengthen the home and community-based workforce by improving the wages and benefits of the home care aides. Home health aides in New York City lack parity with personal care aides who fall under the “Living Wage” and a minimum living wage standard for home care aides would benefit those in need as well as their families and the workers.
2. Establish a fair and transparent rate-setting process between home care contractors and providers that limits overhead and maximizes the percentage of the rate that goes to compensation (i.e., wages and benefits).
3. Ensure access to stable, affordable health insurance coverage for home care aides.
4. Improve the entry-level training for home care aides, using an adult learner centered approach to education which draws on the life experiences of the adult trainee and incorporates the skills needed to deliver person-centered care.
5. Provide supports for the newly trained and hired as transition into this workforce can be difficult. Ongoing access to public benefits and other services such as child care are important to the new aide. Establishing a Peer Mentor program can also provide the kind of counseling and support that improves the work experience.
6. Provide opportunities for advancement through either a management track or through increased training in specific diseases and conditions, thereby creating a “Senior Aide,” occupational title.
7. Improve state collection and reporting of core direct-care workforce data and calculate key indicators of workforce stability (e.g., turnover rates, compensation) in order to gauge progress in building and stabilizing the home and community-based workforce and identifying shortage areas.
8. Invest in programs that support family caregivers, including those which focus on service providers, enabling them to assist families, such as the United Hospital Fund’s *Next Step in Care* ([www.nextstepincare.org](http://www.nextstepincare.org)) that developed tools for both providers and family caregivers.

#### **Together We Care Act of 2009**

These data make a strong case for this proposal which is a timely and efficacious response to today’s labor market and demographic needs. Rep. Velazquez’s bill will



actively address the needs of HUD and its grantees to meet the legal obligations of Section 3 of the Housing and Urban Development Act of 1968.

However, I would be remiss if I did not emphasize several of the elements critical to success, some of which are addressed in the draft bill, and others that fall within the purview of the Secretary:

- **The Role of HUD in Relation to Other Agencies.** The states vary widely in their home care programs and the regulatory framework for those programs and their workers. Moreover, the health, aging, disability and mental health systems all have some role to play in home and community-based care. Add to this complexity the workforce development component that recruitment and hiring brings to the situation and you have various systems which more often than not lack any means of adequately communicating or coordinating their goals and objectives. The goals and policies of state and local Workforce Investment Boards (WIBs) also need to be considered. Home care providers are often quite removed from the workforce development system, a system that nursing homes have made greater efforts to engage. Moreover, it has been our experience that the WIBs are often reluctant to use their funding for home care jobs because the pay is low and there are few opportunities for advancement – two criteria that often drive decisions around training funds and other grants.
- **Retention of Public Benefits and Continuity of Care.** The legislation includes a graduated treatment of income earned by home care aides for purposes of eligibility for benefits. This is an important feature as aides are acutely aware of the tension that exists between wages and public benefits. Any improvements in wages or additional hours can increase their rents, leading them to refuse additional hours which can work against the needs of their clients.
- **Recruitment/Outreach.** Outreach is critical to a strong recruitment effort for the pilot to work. Such outreach should include information that lets the potential trainee know that their benefits will not be jeopardized as well as an appraisal of their desire to care for others and a realistic preview of the job and its duties. While we applaud this pilot, we think it would be a mistake to hire people who are not inclined towards this kind of work simply to meet numerical targets.
- **Entry-Level Training and Support.** The draft bill states that there is a shortage of training programs in health care and long-term services that focus on home care. While this is certainly true in rural areas of the country, for Indian reservations and in the territories, there are ample training programs in most urban areas. The problem in areas with ample numbers of training programs, such as New York which has 160 companies operating home care training programs in New York City alone, is not access to training, but adequacy. PHI

has documented the case and evidence for quality training as a key to preparing the worker to do the job correctly and safely and to obtain the confidence needed to work in a largely unsupervised setting. Many workers leave the field within days of starting because they don't feel prepared for the reality of the work. Programs such as a Peer Mentoring Program, booster sessions, and meetings of the graduating class of aides help build confidence, smooth the transition, and assist in problem solving which is so critical to job stability.

- **In-Service and Advanced Training.** The population needing home care is marked by a variety of diseases, conditions and disabilities – often in multiples for the same individual. Those who reach 80 years of age stand a 50 percent chance of having some form of cognitive impairment. There are curricula, skills training and new techniques that can be used to better prepare the aide to be an active partner in the care team. Aides need more than the entry-level training; however, advanced skills and competency should be accompanied by a different occupational title and increased pay. Because the rates for home care aide services are often curtailed by state and federal budgets, employers often take the easiest path for meeting annual in-service training requirements – using videos or readings to further the training. Sound training is experiential and makes use of the learning from the time on the job while also preparing the aide in communication, active listening, problem-solving, and self-management. Task-based training is necessary, but it is not sufficient for the challenge of high quality home care services.
- **Asset Building.** One of the stated goals of this pilot and Section 3 of the Housing and Urban Development Act of 1968 is the training and hiring of low-income individuals for economic security. Few home care employers focus on the specific needs of their aides with respect to financial literacy, savings, pension and equity. There are a variety of practices that can assist aides, including allowing them to cash their check without paying fees to check-cashing vendors.
- **Grantees.** The legislation would provide grants for a geographic mix of sites and would consider the ability of an eligible entity to provide training that leads to high quality care. The workforce practices of the eligible entities such as wages and benefits, rates of turnover, hours of training, full-time work and retention efforts should be taken into consideration. Otherwise, the pilot program might train people who would still lack a quality job.
- **Evaluation.** The metrics that provide a picture of the quality of the job should also be collected in addition to numbers of public housing residents trained and residents served. Satisfaction with the job and the service are important measurements. HUD is also advised to carefully monitor the rates of payment for aide services and other state policies that can either restrict or enhance the

wages and benefits of these new aides. A copy of PHI's recommended workforce measures can be found appended to this testimony.

#### **Recommendations within the Larger Policy Context**

We would urge passage of the "Together We Care Act of 2009," but ask recognition of the fact that initiatives of this kind fit within the larger national context of health reform. The growing need for a well-trained stable workforce can be achieved through improved wages and benefits, better training and support, and opportunities for advancement. Proposals for national health insurance need to target the direct care workforce, including them in the grant programs to states and allowing the use of these funds for:

- Development of state workforce development plans
- Expansion and upgrading of training programs and development of an infrastructure for direct-care workers across long-term settings and programs
- Implementation of direct-care worker data collection and workforce monitoring systems (see appendix A, attached to this testimony)
- Establishment of recruitment and retention programs, including initiatives to enhance direct-care worker wages and benefits
- Creation of structures and coordinating resources to support workers and consumers in consumer-directed programs
- Development of programs that promote the role of direct-care workers in new cost-effective models of chronic care that include approaches such as remote monitoring, integrated continuing care across settings, and wellness and prevention.

PHI thanks the subcommittee and especially Congresswoman Velazquez and her staff for this opportunity to testify on this valuable proposal that is designed to meet the needs of public housing residents – those needing care at home, and those interested in home care employment. This legislation seeks to design an intervention that will make better use of our HUD's financing and authority. We urge you, however, to use this opportunity not only to create a new program, but to create a program that improves the quality of these jobs. On behalf of the staff at PHI, I look forward to working with the subcommittee, Congresswoman Velazquez and the staff at HUD to make this initiative a success.

**WRITTEN TESTIMONY OF  
JOHN D. TRASVIÑA  
ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY  
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
ON  
STRENGTHENING THE EFFECTIVENESS OF SECTION 3**

**[HEARING ON LEGISLATIVE PROPOSALS TO INCREASE WORK AND HEALTH  
CARE OPPORTUNITIES FOR PUBLIC AND SUBSIDIZED HOUSING RESIDENTS]**

On behalf of the U.S. Department of Housing and Urban Development (HUD), I am pleased to join Assistant Secretary Sandra Henriquez to discuss the importance of fostering job opportunities in public housing and the Department's responsibilities related to Section 3 of the Housing and Urban Development Act of 1968 (Section 3). At the outset, I would like to thank Chairwoman Maxine Waters, Congresswoman Nydia Velázquez, and the Subcommittee for holding this hearing, for their dedication to creating economic opportunities for low-income persons, and for giving the Department the opportunity to share its expertise and views on this issue.

Chairwoman Waters and Congresswoman Velázquez, you both represent metropolitan areas that have significant populations of low-income residents—the very populations that Section 3 is design to assist with economic opportunities.

Thus, it is fitting to hold this field hearing in New York City, to hear how Section 3 currently works in real communities and how we can do better. It is extremely important that we improve employment opportunities for low-income residents, and I pledge my cooperation to work with you on a legislative proposal that does just that. We must ensure that HUD funds result in meaningful employment, training, and contracting opportunities for low-income persons throughout the country.

My testimony describes HUD's efforts to implement Section 3 and our continued efforts to improve compliance with Section 3 requirements. The new leadership at HUD is ready to make this happen and we appreciate the reforms Representative Velázquez offers in the Earnings and Living Opportunities Act to further this effort.

**Importance of Section 3 at HUD**

Just about every community in America has benefited from HUD-funded housing, rehabilitation, infrastructure improvements, and public facilities such as community centers, parks, and libraries. But as a Department, our job is not done without going beyond the “bricks and mortar” of communities to establish economic opportunities and self-sufficiency for residents of these communities. This HUD-funded construction and rehabilitation results in new employment and contracting opportunities within the community. Congress passed Section 3 to ensure that low- and very low-income residents benefit from those opportunities, multiplying the effect for HUD's investment in local economies in the form of wages to residents, contracts to businesses that are owned by or employ them, and sales revenue for those in the community that provide services to these persons.

Section 3 requires that when certain HUD-funded recipients hire new personnel that they give preference to low- and very low- income persons and/or businesses owned by these persons or that substantially employ these persons, and that 30 percent of these new hires be Section 3 covered persons.

HUD ensures compliance with Section 3 in three ways. First, the Department requires all Section 3 covered businesses to submit yearly reports of their Section 3 activities. The Department monitors these reports for compliance. Second, as an additional check, the Department conducts compliance reviews of entities subject to Section 3. Third, the Department investigates complaints from individuals alleging that a recipient or contractor failed to comply with Section 3. If an entity is found to be in noncompliance with Section 3, the Department works to achieve an informal resolution before taking more aggressive sanctions.

In an example of one compliance review, the Department conducted a compliance review of Kansas City, MO, after several complaints of alleged noncompliance. The compliance review resulted in a number of corrective actions that the Department instructed them to implement to address these findings. Kansas City not only took the Department's findings seriously, it dedicated a significant amount of time and resources to the development of policies and procedures that has resulted in an impressive number of employment and contracting opportunities for Section 3 residents and business concerns. Specifically, in 2007, Kansas City provided 49 new jobs Section 3 residents (39 percent) and awarded 26 percent of the total dollar amount of all contracts to Section 3 business concerns.

#### **Recent Section 3 Implementation Activities**

More than 5,000 direct recipients of HUD funding totaling approximately \$12.1 billion each year are required to comply with the requirements of Section 3. However, the Department cannot effectively monitor recipient compliance without basic information about their participation. Section 3 covered recipient agencies are required to submit annual reports on their Section 3 activities. Prior to 2006, FHEO received reports from only about 4 percent of covered recipient agencies. Since that time, the Department has taken a number of steps to improve this reporting and has increased reporting to 25 percent; however, in more than 80 percent of the reports submitted, the recipient failed to meet the minimum goals and did not include valid explanations for this failure. As an incoming Assistant Secretary, I was dismayed to learn this, but today's leadership at HUD is committed to do better, and bring about meaningful compliance with Section 3.

In the past year or so, the Department had already begun to take steps in this direction by increasing Section 3 training, technical assistance, and outreach activities. Specifically, the topic of Section 3 has been included in a number of national conferences, including the Annual Conference of the Public Housing Authorities Directors Association and the National Council of State Housing Agencies. In addition, the Department has begun using webinars and satellite broadcasts to provide consistent training on the requirements of Section 3 to large audiences of recipients and HUD staff. As Assistant Secretary, I will continue and bolster these efforts to ensure that recipients understand the requirements of Section 3.

We are also working to educate all of the program areas within HUD on Section 3 and its requirements. To that end, on July 30, 2009, we will hold webcast training for all Departmental

employees on Section 3. To further increase compliance, we are revising the annual reporting form for reporting Section 3 activities in an effort to improve the quality of Section 3 data received by the Department. We will also remind recipients of their duty to comply with Section 3. However, if education on the requirements and outreach to assist recipients do not increase compliance, the Administration will explore the available consequences and sanctions for noncompliance.

To further establish incentives to create economic opportunities, on May 28, 2009, Secretary Donovan entered into a partnership with Labor Secretary Hilda Solis aimed at providing employment opportunities for residents of public housing. Specifically, this partnership encourages public housing agencies to coordinate with local DOL Workforce Investment Boards (WIB) to create employment opportunities to achieve the requirements of Section 3. We will also explore establishing similar partnerships with other agencies. There may be ways in which these agencies can use their resources to produce economic opportunities in the communities where their funds are spent, and HUD will explore the creation of such opportunities with them.

The Department has made additional efforts to ensure compliance by recipients of the HUD funding under American Recovery and Reinvestment Act of 2009 (ARRA). Two key purposes of ARRA are to *(1) preserve and create jobs and promote economic recovery; and (2) assist those most seriously affected by the current economic downturn*, which are directly in line with the intent of Section 3.

Through ARRA, Congress provides the Department \$13.6 billion, of which approximately \$7.8 billion or 57 percent are subject to the requirements of Section 3. To ensure these economic opportunities would be properly directed to local residents with the greatest financial needs, and the businesses that employ these persons, the Department immediately issued guidance to recipients of HUD's ARRA funds regarding their Section 3 obligations. In addition, the Department provided training on Section 3 obligations as part of its webcast on civil rights requirements and ARRA funding.

#### **The Road Ahead**

I agree with the Subcommittee that a more robust Section 3 program at HUD is necessary to foster more economic opportunity for low-income persons.

We now have a leadership team at HUD that is committed to more aggressive outreach to HUD recipients to advise them of their obligations under Section 3, and will work collaboratively with FHEO to achieve compliance. Also, as suggested in the Discussion Draft of the Earnings and Living Opportunities Act, the Department has already gone beyond the four walls of HUD to collaborate with other federal agencies on joint efforts to integrate Section 3 into the wide range economic-recovery activities supported by programs throughout the federal government. We welcome the opportunity to exchange ideas with the Subcommittee on where HUD can seek greater collaboration.

We are also exploring the full range of sanctions available to us to address those entities who still fail to comply. The draft legislation recognizes the limits of the current law, and seeks ways to strengthen compliance and HUD's ability to compel such compliance. We are

committed to working with this Subcommittee to seek the reforms, statutory or otherwise, that will give the law and compliance process more teeth. We also invite further discussion on what rights to private action individuals should have under the law and what remedies should be available to persons injured by a violation of the law.

**Conclusion**

In summary, thank you for bringing long needed attention to ways to strengthen the promise of Section 3 and make economic opportunity a reality for more public housing residents and companies who employ them. HUD is encouraged by Congresswoman Velázquez's efforts to reform Section 3 and we look forward to working with you on this and other measures to strengthen this program.

Again, I would like to thank the Subcommittee on Housing and Community Opportunity for allowing me to provide this testimony. I look forward to answering your questions.

**Testimony to  
House Financial Services Subcommittee on  
Housing and Community Opportunity  
United States House of Representatives  
New York City Field Hearing**

**Presented by Christy Yanis, member-leader of  
Good Old Lower East Side, Inc. (GOLES)  
July 20, 2009**

On behalf of the Good Old Lower East Side, Inc. (GOLES), I want to thank Chairwoman Waters, New York City Member Velázquez and members of the Housing and Community Opportunity subcommittee for holding this important field hearing and inviting our testimony today. I am a resident of Baruch Houses, a public housing development in the 12<sup>th</sup> congressional district on Manhattan's Lower East Side and a member of GOLES.

GOLES is a neighborhood housing and preservation organization that has served the Lower East Side of Manhattan since 1977 and is dedicated to tenants' rights, homelessness prevention, economic development and community revitalization. GOLES is also an affiliate of the National People's Action, a Network of metropolitan, regional, and statewide organizations that work to build racial and economic justice. We work with public housing leaders across the country to protect the rights of tenants and ensure the future of public housing.

GOLES wholeheartedly supports the Together We Care Act and the Earnings and Living Opportunities Act. Both bills will increase both job opportunities and health care access for residents in public and subsidized housing.



In New York City Public housing residents and Section 8 voucher holders comprise 7.7% of the population. The average income for a family living in public housing is \$22,728, less than \$700 above the national poverty rate. The poverty rate is 21% citywide, and in the Lower East Side it is 27.3%. Furthermore, the unemployment rate is rising and is currently at 9.5%.

These are startling numbers, but which are in line with the kind of activity GOLES is seeing on the ground and in our community. More specifically, GOLES receives dozens of calls every week from residents looking for employment as well help with keeping their apartment as they face eviction due to rental arrears stemming from unemployment. We recently received a request for assistance from a public housing resident who is currently under threat of eviction due to rent arrears as she has to choose between caring for her disabled child and going to work. No one should have to be in this position of choosing between their livelihood and the well-being of their family.

Given these stories and these facts, GOLES puts its full support behind these pieces of legislation proposed by Congresswoman Velázquez. These two bills are being put forward at a crucial time in this economic crisis. As mentioned earlier, the national unemployment rate is 9.5 %, and this week the Federal Reserve projected that it would reach 10% by the end of the year.

Low-income Americans have been affected by un- and under-employment for longer than this current recession; the Earnings and Living Opportunities Act and the Together We Care Act take great steps to address the employment needs of low-income families living in public housing. There is a great need in these communities to improve employment opportunities in meaningful ways, and these

bills provide not just short-term jobs, but the training towards actual careers that have the potential to lift people out of poverty, while taking strides to protect and strengthen the communities in which people live.

GOLES commends the Section 3 amendment—the Earnings and Living Opportunities act—for many reasons. Firstly, it provides meaningful training to provide actual careers to residents of public housing. Training and employment together form a complete system that can go a long way to improving people's lives.

This, of course, was the original intent of Section 3, which has long failed to yield significant training and job opportunities for residents. For example, in 2002 less than 1% of jobs on NYCHA construction projects went to public-housing residents.

It has been hard to enforce compliance with Section 3 in the past, but this amendment makes significant provisions for accountability, including reporting requirements and community involvement. NYCHA has been more compliant with Section 3 obligations when there has been community pressure; this bill enhances accountability on all levels by requiring that recipients, contractors and subcontractors work with the community to develop proposals and allow public examination and appraisal. Allowing key community stakeholders to provide indispensable participation greatly improves the potential for the success of the program. This is ensured by strict reporting guidelines that must reflect the Housing Authority's endeavors to include public input, making the information accessible to non-English speakers, and providing public review of progress.

It is this care for the community that make these bills not just about economic justice, but also about improving the quality of life for low- and very-low-income Americans. In the introduction to the Together We Care Act, the "untenable position of choosing between work and care giving responsibilities at home" is highlighted. Families are not only suffering from the emotional aspects of caring for elderly and disabled family members, they are also struggling to adjust their work schedule and often lose or leave employment due to the lack of access of quality and or affordable home care for the seniors or disabled loved ones.

Both nationwide and in NYCHA housing, seniors represent over 35% of the residents in Public Housing, and the unemployment rate is at its highest in 26 years. The Together We Care Act tackles both of these issues simultaneously, providing a benefit that is greater than the sum of its parts. By training public housing residents for careers as aides and in home-based health services, the Act addresses the unemployment and lack of skills prevalent in low-income households, but it goes beyond that, making it possible for elderly and disabled residents of Public Housing to get needed care, and it keeps communities together. For an elderly woman to be able to receive care from a neighbor, for a woman to care for her disabled daughter and not fear losing her job--these are incredible benefits that really meet the needs of the communities we serve. This initiative is able to greatly improve the quality of life for many low- and lowest-income families.

Furthermore, both the Earnings and Living Opportunities Act and the Together We Care Act provide the necessary allotment of funds to make their success possible. Without funding, neither of these bill would have any teeth, but as they are proposed by congresswoman Velázquez, housing authorities and community-based

organizations would be able to "hit the ground running," so to speak, and immediately begin to improve the quality of life for public housing residents in New York and beyond.

Thank you.

**Questions to the Lutheran Family Health Centers**

**Re a hearing of**

**The Subcommittee on Housing and Community Opportunity**

**“Legislative Proposals to Increase Work and Health Care Opportunities for Public and Subsidized Housing Residents”**

**On July 20, 2009**

**Mr. Larry McReynolds, Executive Director, Lutheran Family Health Centers**

1. Mr. McReynolds, according to your testimony, 58% of residents in 2006 were uninsured. However, in housing sites that have on site health care, there was a remarkable increase in residents that access care.
  - a. Do you believe that having an on site health center in public housing developments is necessary to connect more residents to health care?  
*Response: I do not believe that it is necessary to have on-site healthcare to connect more residents to health care but I believe that on-site facilities help increase access to healthcare and improve compliance with healthcare plans. In facilities that lack on-site healthcare more education, outreach, partnerships with health centers and use of health care extenders, such as home health aides, etc. can help connect residents to care.*
  - b. What other measures are necessary to ensure more eligible residents receive health care?  
*Response: Residents are frequently disengaged from society and lack a relationship with a primary care provider. Housing facilities that form partnerships with local full service providers who can perform routine screenings/physicals, vaccinations, Medicaid enrollment and social programs would help eligible residents become aware that they are eligible and participate in preventative care/programs.*
2. Mr. McReynolds, you mention in your testimony that clients often do not keep current on their eligibility for assistance programs. What are some of the reasons for this and how can it be addressed?  
*Response: Residents are frequently not involved in preventative care and do not routinely have a relationship with a primary care provider. Because they are not engaged in a preventative health relationship, they see no need to keep up with their Medicaid enrollment. Through ensuring that all residents have a relationship with a primary care provider who will help keep the resident up to date on enrollment, annual screenings, etc. residents will maintain a healthier status and reduce health care expenditures in the long run.*

3. Mr. McReynolds, in your testimony, you list a number of challenges and obstacles that residents face in accessing home health care services. How will the proposed legislation address some of these challenges or obstacles?

*Response: The legislation allows for housing partnerships with community health centers and for the development of training for home health aides. Through education of home health aides on the basics of preventative care and Medicaid eligibility, and by partnering with health centers who will provide the primary care providers, screenings, immunizations and financial screeners, the knowledge and access barriers that residents face in accessing home health services can greatly be reduced.*

## New York State Department of Labor

**Response to Questions from the Subcommittee on Housing and Community Opportunity  
Regarding the Hearing on July 20, 2009: "Legislative Proposals to Increase Work and  
Health Care Opportunities for Public and Subsidized Housing Residents"**

Submitted August 20, 2009

**Question #1**

According to your testimony, the Bureau of Labor Statistics estimates that there will be a need for an additional one million home health care aides by 2016, making this field the third fastest growing occupation in the United States. What is the level of demand for this industry in the state of New York?

**Answer:**

New York State projects that the need for Home Health Aides in our state will increase from 138,290 (2006 figures) to 190,610 in 2016, a 37.8% growth in demand. This is approximately six times faster than the average expected growth in demand for all occupations in New York State. *Annual* openings during this period are expected to be 6,470, of which 5,230 positions are growth and 1,240 are replacements.

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**Question #2**

To become a home health aide in New York, a person must complete a minimum of 75 training hours, including 16 hours of supervised practical training. On average, how many years does it take for someone to complete a training program? How much do these programs cost in tuition and fees on average?

**Answer:**

Home Health Aide (HHA) training programs in New York State must be approved by either the NYS Department of Health or the NYS Education Department.

The Department of Health's Division of Home and Community Care oversees HHA programs conducted by healthcare facilities. These programs allow individuals 60 days from the day they enter the program to complete the 75 hours. The 75 hours are composed of the Home Care Curriculum, which is 40 hours in length, and the Health Related Task Curriculum, which is 35 hours. The 35 hours **includes** 16 hours of supervised demonstration of skills, eight hours in the classroom and eight hours with a patient in the home or in a healthcare facility (not a nursing home).

A home health aide training program approved by the New York State Department of Health may **not** charge tuition, but a program approved by the New York State Education Department **is** allowed to charge tuition. However, programs approved by the NYS Department of Health may charge up to \$100 per participant for required materials.

Alternatively, three NYS Education Department (SED) offices approve HHA training programs: the Bureau of Proprietary School Supervision; Professional Education Program Review (Community Colleges and Business Institutes); and the Office of Curriculum and Instructional Support, Career and Technical Education Team (high school and BOCES secondary and adult programs).

SED-approved programs require 65 hours of didactic training and 30 hours of clinical (20 hours in home or acute care settings and 10 one-hour, in-home visits supervised by an RN). Programs approved by SED are allowed to charge tuition (with the exception of high school programs).

While the Department of Health programs have a limitation on the issuance of a certificate, the SED-approved programs vary in length depending on to whom and where they are delivered. For example, an adult in a community college program may spend as few as three-four weeks or as many as 15 weeks, while a BOCES high school student may be in a year-long program, as there are other curricular requirements and HHA instructional hours may overlap with other health occupations instruction.

The NYS Department of Labor's Eligible Training Provider List provides information on Home Health Aide training providers in areas throughout New York State. Costs will vary by provider and location.

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**Question #3**

In your testimony you note that a new state law requires that individuals who complete training be listed on a public registry. How will this registry add more oversight and accountability to this fast-growing industry?

**Answer:**

A public registry provides easy access to and disclosure of information to everyone. This transparency incorporates an inherently higher standard of accountability. When the public can view what you are doing, how you are doing it and what you are spending, an expectation of greater responsibility exists. A healthcare registry provides a public forum for personal accountability in providing quality healthcare services.

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**Question #4**

You note that the state promotes “wrap around services,” i.e. transportation and child care services to assist persons in achieving their employment goals. In what ways should this bill address “wrap around services”?

**Answer:**

Consideration should be given to providing funding to Workforce Investment Boards that is specifically targeted to those individuals involved in Section 3 projects, in order to provide them with wrap around services.

Wrap around services are typically services that enable individuals to participate in training programs, or programs that are required to obtain or maintain employment that cannot be obtained through other means. These services may include, among other things, child care and transportation assistance. By including these services, many barriers to employment and training are removed. Those who are in need of work-readiness skills, occupational skills or skill upgrades are thereby enabled to receive the training they need. These services also help return job-ready individuals to employment sooner.

**Question #5**

In your testimony, you express reservations about Section 3’s ability to move public housing residents out of poverty. Specifically, you note that when the work was finished, the workers residing in the development where the work was taking place were laid off. How can this bill address this problem?

**Answer:**

People who are laid off in New York State, and who are collecting unemployment insurance benefits, must register and work with our system of One-Stop Career Centers in order to continue to receive benefits. This is a universal requirement.

However, we must ensure stronger connections between all those who work on public housing projects and the One-Stop Career Centers – not just those who are laid off and collecting unemployment insurance benefits. One-Stops provide an entry point for sustainable career pathways, by offering work-readiness and support services along with training and employment referrals. Collaborations and robust linkages between Workforce Investment Boards and Public Housing Authorities are a key component in resolving this issue. Consideration should be given to requiring those working on public housing projects to register with their local One-Stop Center prior to the completion of the project to assure access to services that will help them maintain continued employment. This also would necessitate modifying One-Stop tracking systems so that Section 3 participants are flagged and their progress is monitored.

**Question #6**

You mention that apprenticeships are not available to everyone, particularly people without a state driver's license or a high school diploma or GED. How can New York's apprenticeship program be expanded and improved to include more public housing residents? In what ways should the Section 3 program include apprenticeships?

**Answer:**

Pre-employability and work experience programs, such as pre-apprenticeship training programs operated by many community-based organizations, can enhance the skills of low-income individuals and prepare them for the workforce. Consideration should be given to require, as part of Section 3 compliance activities, referrals of public housing residents to pre-apprenticeship programs.

These pre-apprenticeship programs can connect with New York State's Registered Apprenticeship Training Programs by developing an agreement to refer successful program graduates to sponsors of apprenticeship training programs via a Direct Entry method. Direct Entry allows sponsors to bypass their existing rank list of candidates to select qualified individuals for entry into a program.

Since many municipalities currently require contractors on publicly funded projects to have New York State Registered Apprenticeship Training Programs, consideration could be given to establishing goals for the participation of public housing residents in these apprenticeship programs, similar to the way in which MWBE goals are employed elsewhere.

As stated in the answer to question #5, our current One-Stop tracking system does not identify whether apprentices are residents of public housing. Were this change to be implemented, it would require confirmation by USDOL that it is in compliance with their apprenticeship training regulations.

**Questions to the National Housing Law Project  
Re a hearing of  
The Subcommittee on Housing and Community Opportunity**

**“Legislative Proposals to Increase Work and Health Care Opportunities for Public  
and Subsidized Housing Residents”**

**On July 20, 2009**

**Mr. David T. Rammler, Attorney and Director of Government Relations, National  
Housing Law Project**

1. In your testimony you discuss the confusion surrounding who must comply with Section 3. To the best of your knowledge, has HUD ever provided clear, consistent guidance to all recipients of their funds about whether or not they are subject to Section 3? Wouldn't such guidance eliminate some of this confusion?

Response:

The National Housing Law Project is a national policy and advocacy organization. In that capacity, we provide legal assistance to local legal services organizations who in turn advocate with local recipients of HUD funds. We are aware of guidance that HUD publically announces and provides to recipients of HUD funds regarding Section 3.

Recently, HUD posted on its website guidance for recipients of HUD Neighborhood Stabilization Program (NSP) and American Recovery and Reinvestment Act (ARRA) funds. There do not appear to be any HUD sponsored webcasts available on Section 3. Nevertheless, HUD Section 3 staff has willingly participated in webinars that NHLP has sponsored, both of which were available to recipients of HUD funds and are posted on the web. We are aware that Section 3 staff in HUD Headquarters is quite small and thus their ability to provide guidance is limited.

We do believe that HUD ought to provide clear and consistent guidance to all recipients of HUD funds regarding who must comply with Section 3. This need has been identified by the HUD Inspector General. See Survey of HUD's Administration of Section 3 of the HUD Act of 1968, 2003-KC-0001, June 3, 2003 in which the IG found that HUD had not implemented necessary controls for effective oversight of Section 3. In response to the IG Report, HUD committed to remedy the situation, by taking a number of steps, which were to be completed by December 2004. These steps included developing an on line reporting system and a system for tracking receipt of the reporting form, publishing an update to its Section 3 handbook, dated July 1992, and revising the Section 3 regulations, published as interim rules on June 30, 1994, regarding the statutory obligation to provide jobs and economic opportunities to low and very low income individuals "to the greatest extent feasible." HUD has not issued an update to the Section 3 Handbook or revised the Section 3 regulations and it appears that it does not track whether recipients have filed the reporting form or does not sanction recipients for failure to submit the form.

Although providing such guidance would help to eliminate some of the confusion as to who must comply with Section 3, it would be better to provide not only the guidance but also to eliminate the confusion as the proposed legislation does. The proposed legislation accomplishes this by 1) making Section 3 applicable to all HUD funds, 2) removing the distinction between the obligations of recipients that are public housing agencies and other recipients of housing and community development funds, 3) making Section 3 applicable to all funds regardless of their end purpose,<sup>1</sup> and 4) codifying the requirements that contractors must ensure that of 30% of all hours worked by contractors are performed by Section 3 persons and that recipients must ensure that 30% of all new hires are Section 3 persons.

2. The current sanctions available to HUD under Section 3 are limited and rarely used. How would the sanctions allowed in the Earnings and Living Opportunities Act improve compliance with Section 3?

Response:

Compliance would be improved because as proposed by ELOA sanctions are prescribed by statute rather than by regulation and the burden is put on the recipient and contractor to comply and only as a last resort may they explain why they did not. The ELOA also provides clear, mandatory behavioral standards and makes sanctions for failure to comply mandatory rather than discretionary.

The current law does not directly provide for sanctions. Title 12 U.S.C. § 1701u (b) states that Section 3 opportunities be provided: “to the greatest extent feasible.” The regulations mandate compliance but affirmatively provide escape valves. The current regulations allow contractors to avoid the hiring and contracting requirements so long as they certify that such failing was not intended “to circumvent the contractor’s obligations [under the regulations]” 24 CFR § 135.38. E. The burden remains on HUD to prevent abuse on an individual, case-by-case basis.

The draft bill strikes the “greatest extent feasible” language, states that compliance with § 3 shall be “a condition of any contract awarded” (emphasis added) and puts the burden on any contractor to “ensure that all subcontractors performing work in connection with the contract comply with the provisions of this subsection . . . .” Further, the draft requires contractor either to show clearly that they used all feasible means to meet the requirements, or “show why qualified businesses that submitted bid[s] could not feasibly have been awarded contracts.” Sec 3(f)(2)(B). The draft, therefore, removes the escape valves and puts the obligation on the recipient of HUD funds to perform.

Additionally, under the current law, the Secretary is mandated to “require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts,” to enforce the policy underlying the law. This weak directive is reflected in the

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<sup>1</sup> Currently Section 3 is applicable to all HUD funds provided to public housing agencies for public housing but only applicable to other housing and community development funds if those funds are used for construction and rehabilitation or other public works.

regulations (24 CFR § 135.74) which provide only for periodic review of selected recipients and contractors.

ELOA is strict about sanctions. Recipients, contractors, and subcontractors, who do not comply with Section 3 “shall be sanctioned” by the Secretary. Sanctions shall include reduction of future HUD funds, debarment, suspension, limited denial of participation in HUD programs, or other sanctions as the Secretary deems necessary to discourage noncompliance. Sec. 3(k)(1).

Finally, the proposed provision that recipients shall not enter into contracts with any contractor where “the recipient has notice or knowledge that the contractor has violated [Section 3 or its requirements]” (Sec. 3(k)(2)) is a more stringent standard than that required by current regulations, which only prohibits contracting where HUD has found the contractor in violation of Section 3 and has then notified the recipient of the violation.

3. The Earnings and Living Opportunities Act would empower Section 3 residents and business concerns with a private right of action. How will such a right strengthen HUD’s ability to enforce Section 3 requirements?

Response:

Funds subject to § 3 literally go to tens of thousands of recipients, contractors and subcontractors in any single year. With the best of intentions, and allocating all reasonably available resources to the task, it is unimaginable that HUD could review all of the necessary reports or properly investigate each participating entity for compliance with § 3. It is also unlikely that HUD could investigate even situations which are the subject of complaints filed by locally based persons or organizations. It has certainly been the case that such investigation and enforcement have been sorely lacking and slow in the past.

The provision for private challenges to recipients, contractors and subcontractors who violate the law, actionable in court, is the surest way to remedy this debilitating weakness in the present law. There will be those who say that such a remedy will drive recipients and contractors out of the arena. That is a false threat. Recipients and contractors who build relationships with local residents and resident associations, community organizations, local governments and other stakeholders, will not only have the wherewithal to comply with the law, but an environment in which resort to court enforcement will not be the solution of choice by complainants. While compliance may not always be possible, limited availability of legal resources, the judicious allocation of such resources practiced by the legal community and the cost of litigation will militate toward mediatory responses where at all possible. If Section 3 has societal and personal value, then access to the courts by victims of violations should be the desired, not the forbidden course.

Thank you for the opportunity to submit responses to these questions.  
David T. Rammler, National Housing Law Project. August 21, 2009

**Questions to the Center on Budget and Policy Priorities**

**Re a hearing of**

**The Subcommittee on Housing and Community Opportunity**

**“Legislative Proposals to Increase Work and Health Care Opportunities for Public and Subsidized Housing Residents”**

**On July 20, 2009**

**Mr. Doug Rice, Senior Policy Analyst, Center on Budget and Policy Priorities**

1. In your testimony you discuss a spatial mismatch between where low-income communities are and where job opportunities are. How prevalent is this mismatch for residents of public housing? In what ways does noncompliance with Section 3 exacerbate this mismatch and reduce job opportunities for public housing residents?

Response: A number of studies have documented the increasing suburbanization of jobs and how this trend has limited job opportunities for inner city workers.<sup>1</sup> Studies suggest that the consequences are particularly acute for minority workers living in large cities. While public housing developments are less likely today than a decade ago to be located in high poverty neighborhoods, they are still disproportionately found in poor, urban-core areas that are more likely to be segregated from economic opportunities.

Federal programs make investments that, both directly and indirectly, create jobs in urban (as well as suburban and rural) areas, including in low-income communities. When grant recipients fail to comply with Section 3 requirements, this prevents low-income residents from accessing jobs located in nearby communities, thereby exacerbating the spatial mismatch between jobs and low-income communities.

2. In your testimony you state that Section 3 can actually reduce the cost of federal housing assistance by increasing household income. But as families make more, they pay more in rent. In your opinion, does this serve as a disincentive to work and how should Federal housing policy address this?

Response: Income-based rents play a key role in efficiently allocating housing assistance, because they match subsidy levels to the needs of individual families. Moreover, there is little hard evidence that the rent policies of federal housing programs discourage low-income people from working. Indeed, the most rigorous study of the effects of housing

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<sup>1</sup> See Keith Ihlanfeldt and David Sjoquist, “The spatial mismatch hypothesis: A review of recent studies and their implications for welfare reform,” in *Housing Policy Debate* (8), 1998: 849-892.

vouchers on work and earnings – the Welfare to Work study – concluded that housing subsidies had no negative or positive impact on earnings.

Nevertheless, federal policy could strengthen work incentives, and several provisions of the pending Section 8 Voucher Reform Act (SEVRA) would potentially do so. For instance, SEVRA would strengthen the Family Self Sufficiency program to provide employment counseling and financial incentives to more families. SEVRA would also generally require housing agencies to base rents on a tenant's previous year's income, thereby strengthening financial incentives to increase earnings in the current year.<sup>2</sup> It may also be appropriate to allow limited, rigorously evaluated experiments with alternative rent policies, although the Moving-to-Work provision in the Committee-passed version of SEVRA likely goes too far by potentially exposing very large numbers of families to risky rent experiments.

3. In your testimony you suggest that Section 3 should be extended to all HUD-funded projects. Mr. Rammler goes one step further and recommends that all programs related to housing (such as weatherization) be subject to Section 3, even if they are outside of HUD. How many jobs for public housing residents could be created if Section 3 were expanded to other HUD programs or non-HUD programs related to housing?

Response: Unfortunately, we don't have good estimates of the number of jobs that could be created if Section 3 were expanded to other programs, in part because it is difficult to estimate the number of new (versus existing) jobs that are funded under specific federal funding streams. However, expanding Section 3 obligations to apply to management and administration activities under the CDBG and Housing Choice Voucher programs alone would bring more than \$3 billion in annual funding under Section 3 obligations.

4. The Earnings and Living Opportunities Act would establish Section 3 coordinators to facilitate training and to match employers to prospective employees. However, in your testimony you note that this may be insufficient. In what ways should agencies partner with one another to best take advantage of the Section 3 coordinators required by the bill?

Response: Agencies can partner with one another to share the Section 3 coordination function, e.g., where multiple agencies contract with a single agency to handle Section 3 compliance, link residents with employment opportunities, interact with contractors, etc. Such partnering can allow agencies, especially smaller agencies, to administer Section 3 requirements more efficiently. It also has the advantage of providing a single contact for residents and contractors interested in opportunities created by Section 3 requirements.

Housing agencies and other grantees should also be encouraged to partner with local workforce investment boards to provide job training and other services to low-income residents. WIA boards are generally much-better equipped to provide the job training for

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<sup>2</sup> See the testimony of Will Fischer, Senior Policy Analyst, Center on Budget and Policy Priorities, before the House Financial Services Subcommittee on Housing and Community Opportunity, June 4, 2009.

residents that is required under Section 3. At the same time, further changes in housing and workforce policy could improve the performance of some WIA boards with respect to serving low-income residents of assisted housing.<sup>3</sup>

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<sup>3</sup> See For a review of ways that workforce investment agencies could better serve low-income individuals, see Allegra Baider, "Congressional Action Needed to Ensure Low Income Adults Receive Critical Employment and Training Services under the Workforce Investment Act," Center for Law and Social Policy, 2008.