


Section 3: How does it work and what's new? (Round II)




NATIONAL HOUSING LAW PROJECT
 (NHLP)
 JULY 13, 2010
 Presenters: Catherine Bishop, NHLP
 Scott Strawbridge, Hous. Auth.
 Fort Lauderdale, FL
 Benjamin Beach, Community
 Benefits Law Center
 Rafiq Munir, HUD

HOUSING JUSTICE


National Housing Law Project
 www.nhlp.org

Welcome and Logistics of Webinar



- Welcome to the Webinar**
 - Begin recording *2
- Logistics**
 - Webinar will begin at 11:00 AM PDT
 - PLEASE DO NO PLACE US ON HOLD—
 - (Instead if necessary, hang up and call again)
 - Every attendee must mute their phone by using * 6 to block out background noise and *6 to unmute
 - Information from this call will be posted on our website (attorney/advocate resource center/Section 3)
 - <http://nhlp.org/resourcecenter?tid=115>

Logistics



- Click the link that you were sent in your email to join the Webinar: This link **should not be shared** with others; it is unique to you.
- Join the conference call:
 Dial: 1-888-387-8686
 Access Code: 6382036

Presenters

4

- Catherine Bishop
 - Staff attorney at the National Housing Law Project
 - Please note that there is additional information about Section 3 on our website at <http://nhlp.org/resourcecenter?tid=115>
- Scott Strawbridge
 - Director of Development and Facilities for the Housing Authority of the City of Fort Lauderdale
 - Step Up Apprenticeship Initiative is an integral part of these operations.

Presenters

5

- Benjamin Beach
 - Staff Attorney for the Community Benefits Law Center, the legal program of the Partnership for Working Families
 - He provides legal advice to and advocacy on behalf of local campaigns, including community benefits agreements, and policy regarding affordable housing, targeted hiring, green jobs, redevelopment and health care.
 - He also co-teaches the Community Economic Development Clinic at UCLA School of Law.
- Rafiq Munir—(will be available to respond to questions)
 - Program Analyst, HUD, Office of Fair Housing and Equal Opportunity, Economic Opportunity Division

Agenda for the webinar

6

- Overview of Section 3—Catherine Bishop
- Implementation of Section 3 by the Fort Lauderdale Housing Authority—Scott Strawbridge
- Role of Project Labor Agreements in Advancing Section 3-Based Targeted Hiring Efforts in Construction—Benjamin Beach
- Section 3 Complaint Process Generally and the City of St. Paul Vol. Compl. Agrmt.—Catherine Bishop
- Question and Answer

Review and Overview of Section 3

7

- Purpose of Section 3
 - The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, **shall, to the greatest extent feasible**, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide such opportunities to low and very low-income persons.

Numerical Goals

8

- *At least* 30% of new hires supported by PH funds and supported by other HCD funds used for construction and rehabilitation should be low-income households
 - At all job levels
- At least 10% total dollar amount of all covered contracting opportunities and 3% of total dollar amount of other contracting opportunities should go to Section 3 businesses
- Safe harbor for compliance determinations
- Recipient may set higher goals
- Applies to entire project regardless of the amount of PH or HCD funding
- Applies to recipients of funds as well as contractors & subs.
- There are applicability dollar thresholds for non PH funds

Definitions

9

- Section 3 residents are low and very low income residents of the metro or non metro area
 - Preferences for certain Section 3 residents, such as PH residents, residents of the neighborhood, homeless, etc
- Section 3 businesses
 - 51% or more owned by Section 3 residents
 - Section 3 residents are 30% or more of the full-time permanent employees, *or*
 - Commits to subcontract in excess of 25% of dollar award of all subcontracts to businesses that meet one of above 2 qualifications
- Must certify or provide evidence of status

Individual Complaint

10

- Who can make claims under Section 3?
 - Individuals
 - Business concerns
 - Personally or by authorized representative
 - And on behalf of others similarly situated
- Guidelines for determining if claim is strong
 - Individual
 - Meets the qualifications for the position 24 CFR 135.34(c)
 - Business
 - Is responsible and has the ability to perform successfully under the proposed contract 24 CFR 135.36(c)

Obligations of recipient of funds with Section 3 obligation

11

- Notify Section 3 residents about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities
- Notify contractors about Section 3 requirements and ensure their compliance
- Place Section 3 clause in all solicitations and contracts
- Facilitate training and employment of Section 3 residents and award of contracts to Section 3 businesses so as to meet the numerical goals

Obligations of recipient of funds

12

- Document compliance with the Section 3 goals or the results of actions taken, and impediments (such as why it was not feasible to meet the numerical goals), if any
- File annually HUD form 60002
- Assist the AS in obtaining compliance of contractors and subs.
- Refrain from entering into contract with contractor has been found in violation of 24 CFR 135
- If a county that distributes to local government, notify them of obligations, assist and monitor

Process for filing a complaint

13

- HUD form 958 Complaint Register Under Section 3
- Additional information that could be filed with an individual complaint
 - Longer statement of facts
 - Evidence of non compliance by recipient or contractor with Section 3 obligations
 - Resume of applicant
 - References
 - Job listing/description
 - Job application

Process for filing a complaint

14

- Additional information that could be filed with a business complaint
 - Longer statement of facts
 - Evidence of non compliance by recipient or contractor with Section 3 obligations
 - Qualifications of the business
 - References/other contract experience
 - The request for qualifications (RFQ) or proposal (RFP)
 - The application/proposal of the Section 3 business

Timing once complaint is filed

15

- HUD must respond within 10 days as to whether complaint sets forth sufficient information that if proven would qualify as non compliance
- Recipient has 30 days to respond to HUD, if it believes that the complaint lacks merit or 60 days to resolve the matter with complainant
- If the complaint is not resolved within 60 days, the complaint is referred to the AS for Fair Housing
- AS may seek voluntary resolution or imposed resolution

City of St. Paul

16

- Complaint filed by a Section 3 business
- HUD response: a general review of City's compliance
 - Found non compliance with Section 3
 - No Section 3 plan
 - Could not document compliance with greatest extent feasible
 - No procedures to
 - Notify residents and/or Section 3 businesses
 - Notify contractors so as to ensure compliance
 - Use Section 3 contract clause
 - Facilitate training and employment of residents and contracts with Section 3 businesses
 - Document actions taken to comply with Section 3, results of actions and impediments, if any

Voluntary Compliance Agreement

17

- Specific Provisions
 - Hire staff to oversee compliance
 - Develop system to ensure that contract clause is in all contracts
 - Create Section 3 implementation and fund with \$650,000 for year one and year two
 - Additional sources of funding for the fund, \$175,000 request from city council and any penalties paid by developers or contractors
 - Semi-annual reports to HUD for period of VCA , 4 years

Section 3 Plan

18

- Develop within 60 days a Section 3 Plan
 - 10% of construction and 3% of non construction contracts
 - Include specific information about contractors current workforce, plans for hiring additional employees, anticipated subcontracting needs and strategies for targeting Section 3 residents and business concerns
 - Process by which City will certify residents and businesses
 - Maintain list of Section 3 businesses and provide it to contractors
 - Annual list of Section 3 training events for contractors, subs., grantees and residents

Plan to enhance capacity of Section 3 residents and businesses

19

- Plan will fund activities, such as
 - Develop a program to evaluate Section 3 businesses and provide services to improve their success
 - Provide training in business consultation (TA for expansion, outreach and advertising), the City's project development process, insurance and bonding
 - Helping to establish relationships between business and banking
 - Info on tax credits for hiring Section 3 residents
 - No interest revolving fund for Section 3 businesses
 - Job preparation for construction work—class room and field
 - Scholarship fund for residents for union initiation, dues, equipment, etc.

Revise contract and procurement policies

20

- Post upcoming contracting opportunities on website to all certified businesses or individual notice at option of Section 3 business
- Convenient times for presentation of bids, etc.
- Break out work items into smaller economically feasible units
- If 10% or 3% goal is not met
 - Require additional efforts—App. III to 24 CFR 135
- If 10% or 3% goal is not met or no employment of Section 3 residents
 - Contribute funds to the Section 3 Implementation Fund

Employment and Training

21

- Review City hiring practices for full time employees to determine compliance with Section 3
 - Revise practices to comply with Section 3, include preference for Section 3 FT and PT applicants
 - Annually review and identify barriers to hiring Section 3 residents, if applicable
 - If hiring goals are not met at end of 12 months, require "first source" hiring agreements
- Effects of non compliance with VCA
 - Grounds to impose debarment, limited denial of particp.
 - HUD may seek specific performance
 - HUD may require City to hire consultant

Thank you for participating

22

NATIONAL HOUSING LAW PROJECT
WWW.NHLP.ORG
510-251-9400

VISIT OUR WEBSITE FOR MORE
INFORMATION REGARDING
SECTION 3
[HTTP://NHLP.ORG/RESOURCECENTER?TID=115](http://NHLP.ORG/RESOURCECENTER?TID=115)

Complaint Register

Under Section 3 of the Housing
And Urban Development Act of 1968

U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0043

(Expires 11/30/2010)

Name of Complainant (Person or organization)	Home Phone
Street Address	Work Phone
City, State, Zip code	
Against whom is this complaint being filed?	Business Phone
Name of organization or company	
Street Address	
City, State, Zip code	
Name and identify others (if any) who violated the law in this case	

You are (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> A. Low/Very low income | <input type="checkbox"/> D. Section 3 business concern |
| <input type="checkbox"/> B. Public housing resident | <input type="checkbox"/> E. A representative of B |
| <input type="checkbox"/> C. A representative of A or B | |

Complaint is against (check one or more boxes)

- | | |
|---|--|
| <input type="checkbox"/> A. Applicant | <input type="checkbox"/> D. Recipient |
| <input type="checkbox"/> B. Sub-Recipient | <input type="checkbox"/> E. Contractor |
| <input type="checkbox"/> C. Subcontractor | <input type="checkbox"/> F. Other (please specify _____) |

Basis for non compliance with Section 3

- | | | |
|--|--|---|
| <input type="checkbox"/> Denied Training | <input type="checkbox"/> Denied Employment | <input type="checkbox"/> Denied Contracting |
|--|--|---|

What did the person you were complaining against do? (Check all that apply – provide documentation)

- | | |
|--|--|
| <input type="checkbox"/> A. Failed to meet numerical goals, as set out in the Section 3 regulations | <input type="checkbox"/> F. Failed to incorporate the Section 3 clause in Section 3 solicitations or contracts |
| <input type="checkbox"/> B. Failed to ensure that its contractors and subcontractors comply with Section 3 | <input type="checkbox"/> G. Failed to train and/or employ Section 3 residents |
| <input type="checkbox"/> C. Failed to notify Section 3 residents about training and/or employment opportunities | <input type="checkbox"/> H. Failed to award contracts to Section 3 business concerns |
| <input type="checkbox"/> D. Failed to notify Section 3 business concerns about contracting opportunities | <input type="checkbox"/> I. Contracted with a contractor found to be in violation of applicable statues and/or HUD regulations |
| <input type="checkbox"/> E. Failed to notify potential contractors for Section 3 covered projects of the requirements of Section 3 | <input type="checkbox"/> J. Failed to provide preference to Section 3 residents in training and or contracting opportunities. |
| | <input type="checkbox"/> K. Failed to provide preferences for Section 3 business concerns in contracting opportunities |

When did the act(s) checked above occur? (Include the most recent date if several dates are involved):

Identify HUD assistance program(s). (Check all that apply)

- | | | | |
|--|---|--|---------------------------------------|
| <input type="checkbox"/> A. PIH/DEV | <input type="checkbox"/> B. PIH/MOD | <input type="checkbox"/> C. PIH/OPER | <input type="checkbox"/> D. Other PIH |
| <input type="checkbox"/> E. 202/811 | <input type="checkbox"/> F. Other Housing | <input type="checkbox"/> G. CDBG | <input type="checkbox"/> H. HOME |
| <input type="checkbox"/> I. Homelessness | <input type="checkbox"/> J. Other CPD | <input type="checkbox"/> K. Lead-based Paint | <input type="checkbox"/> Other |

Summarize what happened? Attach additional information if necessary

Signature

Date

I declare under penalty of perjury that I have read this compliant (including any attachments) and that it is true and correct.

Instructions for the Complaint Register

Section 3 of the Housing and Urban Development Act of 1968

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

The information is given voluntarily and provides the basis for HUD's investigation of the complaint to determine if the allegations of noncompliance are valid. The Department will use the information provided as the basis for its determination of jurisdiction over a complainant's allegations. All information collected complies with the Privacy Act of 1974 and OMB Circular A-108. The information is not of a sensitive nature. The information is unique to the processing an allegation of noncompliance with the section 3 statute or implementing regulations.

This form is to be used to report allegations of noncompliance with Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations at 24 CFR Part 135.

What does Section 3 of the Housing and Urban Development Act of 1968 provide?

The law describes the HUD programs directly affected by Section 3, receiving Federal financial assistance from the department, and dictates how these programs are to provide employment and other economic opportunities for low and very low income persons.

What does the law cover?

Section 3 applies to any public and Indian Housing programs that receive: (1) developmental assistance pursuant to section 5 of the U. S. Housing Act of 1937; (2) operating assistance pursuant to section 5 of the U.S. Housing act of 1937; or (3) modernization grants pursuant to section 14 of the U.S. Housing Act of 1937 and to housing and community development assistance extended for: (1) housing rehabilitation (including reduction and abatement of lead based paint hazards); (2) housing construction or (3) other public construction projects; and for which the contract and subcontract exceeds \$100,000.

What can you do about violations of the Law?

Remember, Section 3 applies to the awarding of jobs, training programs, and contracts, generated from projects receiving HUD financial assistance. If you believe that, as a low-income person or a Section 3 business concern, the responsibilities to provide economic opportunities under Section 3 have been violated, you have a right to file a complaint within 180 days of the last alleged occurrences of noncompliance.

Complain to the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, by filing this form by mail or in person. The information received will be used by HUD to determine jurisdiction under Section 3.

HUD will send the complaint to the appropriate HUD recipient for resolution. If resolution by the recipient fails, HUD will investigate. If HUD finds that the complaint has merit, it will try to end the violation by informal resolution. If conciliation fails, HUD may initiate other steps to enforce the law, including but not limited to suspension and debarment of the recipient or contractors as applicable.

You can obtain assistance in learning about Section 3 or in filing a complaint at the HUD Office listed below:

Assistant Secretary
HUD Fair Housing and Equal Opportunity
451 7th Street SW
Washington, DC 20410
(202)-708-3633

Privacy Act of 1974 (P.L.93-579)

Authority: Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1968, as amended by the Housing and Community Development Act of 1992, U.S.C. 1701u and implementing regulations at 24 CFR Part 135.

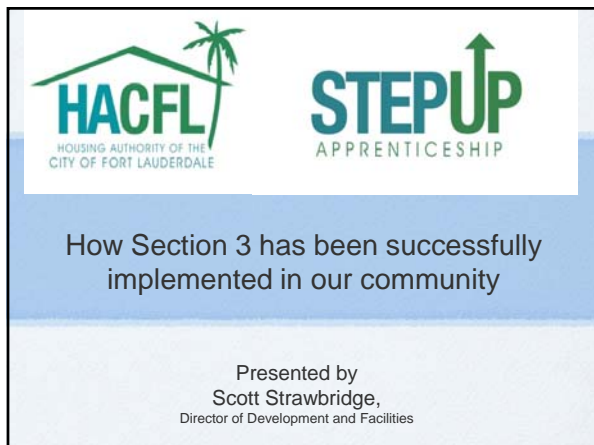
Purpose: The information requested on this form is to be used to investigate and process Section 3 complaints.

Use: The information requested will be used to process complaint filed under Part 135. HUD may disclose certain information for Federal, State, and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law.

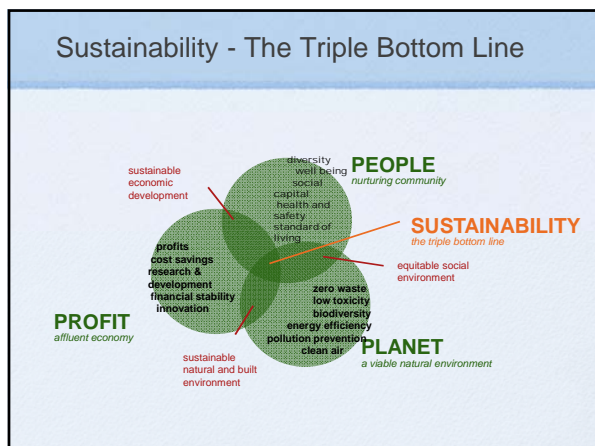
Penalty: Failure to provide some or all of the requested information will result in delay or denial of HUD assistance.

Disclosure of this information is voluntary.











StepUp Apprenticeship program












G.E.D. and Green Building Practices



Green Job Training



Community Service



Employment



Crew Leaders and Maintenance

Green Education



Self Respect



StepUP's Internal Role

- First Call Service Provider for all Maintenance and Modernization Projects
- Acquisition and Redevelopment of Affordable Housing
- Net Revenue Generator- StepUp is a revenue center for HACFL
- StepUP Business Plan Leads us to Self-Sufficiency & Sustainable Capacity - the true goal of Sec. 3

Green Employment



StepUP Operations

- Cabinet Shop
- Landscape and Irrigation
- Drywall and Painting
- Basic Plumbing and Electrical
- Carpentry and Tile work
- Window Installation

Public/Private Partnerships



Neighborhood Stabilization Program



NSP Multifamily

- Initial Award - approx. \$2 million - obligated Q1 - 2010
- Subsequent Award approx. \$1.1 million -
- Obligated Q-2 2010
- Gift of 7 Unit Townhome Project from PNC
- Total New Units: 41
- Anticipated annual net revenue: \$200K

StepUP Cabinet Shop





Dixie Court

Dixie Court - 254 New Units

- Step Up Fabricated and Installed:
- 190 Kitchens
- 350 Bath Vanities
- Also created Community Garden and Wildflower Installation



Sustainable Landscape





Dr. Kennedy Homes



Step Up to Furnish and Install Hurricane Resistant
Doors and Windows & LEED Certified Cabinetry
132 Unit LIHTC Project - Project in Final Permitting



The Village of NW Gardens

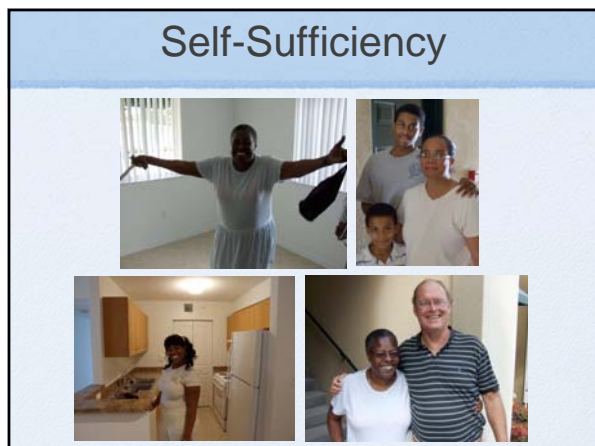
- 145 Acre Transit Village - LEED Certified Housing
- 143 Unit LIHTC Project - Work Has Commenced
- 150 Unit LIHTC Project - Funded and in Permit Stage
- Step Up Contracted to furnish & install Hurricane Resistant Doors and Windows
- LEED Certified Kitchen and Bath Cabinets & Counters
- Multiple Native Wildflower and Community Garden Installations







Preparation for the World of **Work**

- Barriers of Social Isolation & Self-Esteem
- Lack of Skills and Experience
- Pre-Employment and Work-Readiness Skills
- Need for Support Services
- Perceptions and Attitudes that promote mistrust of the Housing Agency





THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE

Scott Strawbridge
Director of Development and Facilities
(954) 556-4100 ext. 1406
sstrawbridge@hacfl.com

STEPUP
YOUTH APPRENTICESHIP




Community Benefits Law Center
A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

The Role of Project Labor Agreements in Advancing Section 3-Based Targeted Hiring Efforts in Construction

Ben Beach, Staff Attorney
Community Benefits Law Center


NHLP Section 3 Webinar
July 13, 2010



Community Benefits Law Center
A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Key Section 3 Requirements

- A recipient of qualifying financial assistance may meet its obligations under Section 3 by committing to employ local low-income residents (especially those receiving federal housing assistance) as at least **30 percent** of the aggregate number of **new hires** on the project. 24 CFR Part 135.30(b)(2)(ii)(C).
- All Section 3 covered contracts must include the "Section 3 Clause" 24 CFR Part 135.38. (Based on definition of "Section 3 covered contract" and related definitions, this applies to all contracts and subcontracts related to construction assisted with HUD housing or community development funds. 24 CFR Part 135.5)
- "Section 3 Clause" requires the parties to the contract to certify that they are "under no contractual or other impediment that would prevent them from complying with" the Section 3 implementing regulations. 24 CFR Part 135.38(B).



Community Benefits Law Center
A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Challenge #1: Complexity of Public Construction Sector

The public/heavy construction industry is very complex, particularly as it relates to hiring.

- Multiple tiers of contractors
- Various bidding processes
- Varying hiring practices in union/nonunion segments
- Various trades
- Various training programs
- Certain aspects heavily regulated (contract awards; apprenticeships; wages)
- Multiple policy goals (contracting, hiring, training, QA)




Community Benefits Law Center

A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Apprenticeship Programs: Key Point of Entry

- Separate programs for each craft, entry requirements and procedures vary
- 3-5 years to graduate and become journey-level
- High quality programs provide vastly superior training and assurance of decent wages, benefits and safety
- Most jointly provided by contractors and unions
- State/Federal regulations govern admittance, ratio of apprentices to journeyman on job




Community Benefits Law Center

A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Challenge #2: Conflicting Obligations

Conflict Between Targeted Hiring Measures and Collective Bargaining Agreements, Apprentice Referral Procedures

- Many agreements involved
- Few, if any, will allow for targeted hiring
- Contractors in a tough position
- Public entities also in a tough position
- Possible Result: "No New Hires"




Community Benefits Law Center

A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Project Labor Agreements (PLAs)

- A pre-hire agreement between labor and management, typically relating to a single construction project.
- Typically provides that union hiring halls will be the primary source of all craft labor, and may permit contractors to bring certain number of core workers onto job.
- Does not exclude non-union contractors from working on the project.
- Typically provides for labor peace through union agreement not to strike or disrupt work.
- Typically supersedes otherwise applicable provisions of collective bargaining agreements.
- Used for decades on large public and private projects.



Community Benefits Law Center
A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

Community Workforce Agreements

CWA: a PLA that includes targeted hiring provisions

Examples: Los Angeles; Port of Oakland; House version of climate change bill

- E.g. L.A. Redevelopment Agency PLA provides that 30% of all construction work hours on covered projects will be performed by residents of high unemployment census tracts in L.A. City

Value:

- Ensures both job quality and equitable access, resulting in construction careers for disadvantaged populations
- Cuts through complexities – all hiring addressed in single agreement that binds relevant parties
- Solves the practical/legal problem of conflicting obligations
- Solves the political problem of community vs. labor



Community Benefits Law Center
A PROJECT OF THE PARTNERSHIP FOR WORKING FAMILIES

More Information

Partnership for Working Families' Construction Career Opportunities Project

- www.communitybenefits.org

AFL-CIO Building and Construction Trades Dept.'s guide to Community Workforce Agreements

- www.communitybenefits.org/downloads/CWA_Guide.pdf

Community Benefits Law Center

- www.communitybenefits.org/legal
