NACCED

National Association for County Community and Economic Development
An Affiliate of the National Association of Counties

May 31, 2019

Regulations Division
Office of the General Counsel
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0500
Via regulations.gov

RE: Docket No. FR-6085-P-01

The National Association for County Community and Economic Development (NACCED) was established as an affiliate of the National Association of Counties (NACo) in 1978 to develop the technical capacity of county government practitioners that administer federally-funded affordable housing, community development, and economic development programs benefiting low- and moderate-income households.

While NACCED is pleased HUD has issued the proposed modernization of Section 3 rules, NACCED urges HUD to consider the following comments and recommendations:

Separating the agencies which fund Section 3 projects from Public Housing Authorities (PHAs) allows for flexibility and more accurate reflection of the work they are performing and the people they are hiring. We thank HUD for recognizing the differences especially in size and capacity between the two. However, understanding the differences in capabilities should correlate to different standards for meeting the required benchmarks. Many NACCED members are small organizations, funding small Section 3 Projects, including CDBG- and HOME-funded projects. Due to their size, these counties already struggle to keep up with the current Section 3 regulations and creating a 25% benchmark would further hinder their ability to be effective.

The proposed definition of both "Section 3 Workers" and "Targeted Section 3 Workers" gives broader opportunity to identify low-income construction employees for Section 3 Projects. While we support this proposal, it presents the challenge of requiring additional information from contractors who are already burdened by paperwork. Requiring contractors to comply with the census tract designations of employees means additional paperwork, staff hours, and creates a deeper financial constraint on the contractor and the Section 3 Project. Many small construction businesses are unable to take on these additional burdens, which could result in fewer contractors participating in Section 3 projects.

Furthermore, NACCED does not support the current proposal's use of "labor hour worked" and "new hire" as defined in its current form. The proposal will place a larger strain on the small entities whose projects may not ever require them to hire new employees due to the size and scope of their projects. Many of them retain their same staff from project to project and do not possess the capabilities or finances to hire a new staff each project. Also, twenty-five percent of targeted workers could mean that the projects will be delayed even longer or that they will not occur at all.

Finally, under the proposed rule, Section 3 compliance will be required for housing construction or other public construction projects, paid for with federal funds, which exceed a $200,000 per project threshold. NACCED would recommend that the $200,000 per project be increased to a higher threshold, which would not have a negative impact on smaller grantees and contractors in implementing projects within their communities.

NACCED would like to again thank HUD for issuing proposed rules for Section 3. We are grateful this administration has taken initiative in revamping programs for low-income populations. If you have any questions regarding these comments, please do not hesitate reaching out to me at ldemaria@nacced.org.

Sincerely,

Laura DeMaria
Executive Director
National Association for County Community and Economic Development