

SECTION VII. RELOCATION ASSISTANCE

All CDBG applicants were required to certify in their application that they are **following a Residential Antidisplacement and Relocation Assistance Plan** which agrees to:

1. Replace all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to another use in connection with a CDBG assisted activity. (See One-For-One Replacement Section in **Chapter VI. ACQUISITION AND REPLACEMENT**)
2. Provide certain relocation assistance to any lower income person displaced as a direct result of the demolition or conversion of a low/moderate income dwelling unit in connection with a CDBG assisted activity.

While a **formal** relocation plan is **not required** for approval of a project to proceed, **relocation planning is required**. Suggested steps to follow in your planning process are:

1. **Prepare an inventory** of characteristics and needs of individuals, families, business or farms to be relocated.
2. **Survey real estate market** to determine if an adequate supply of comparable replacement housing and suitable replacement locations for businesses and farms are available.
3. **Anticipate potential problems** or special advisory services that may be necessary for the displaced persons.
4. **Develop possible solutions** to these problems.

It is important that a locality, **prior to proceeding with any relocation, or acquisition activities**, have in place a standard set of procedures which assures that the process will be fair and equitable to all involved parties. In particular, the locally developed procedures should include means by which the locality **will address grievances by impacted individuals**.

NOTE: If only temporary displacement occurred as a result of voluntary participation in a project, such as an owner-occupied rehabilitation project, no relocation benefits are required under the Uniform Relocation Act, HOWEVER, the grantee may provide optional relocation assistance ONLY IF they have adopted a written relocation policy which is made available to the public and is consistent in its treatment to all parties. Failure to do so will result in a finding of noncompliance.

RELOCATION REQUIREMENTS

Relocation assistance **must be provided under one of two** federal regulations: the **Uniform Act (URA)**, which applies to all persons being displaced, and, **Section 104(d)** which applies only to lower-income persons who qualify. Many of the benefits and qualifying requirements are similar, however, there are some basic differences. See **EXHIBIT VII-A** for a summary of differences. **Persons eligible for assistance under Section 104(d) are also eligible for URA assistance, the displaced person makes the choice.** In order for such persons to make an informed decision, local agencies must determine and inform the person of the amount of assistance available under **both** Section 104(d) and under the URA.

URA REQUIREMENTS

To be eligible for relocation assistance under the URA, a person or business qualifies as being displaced if he/she moves personal property from the real property as a direct result of any of the following:

- a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of such real property in whole or in part for a project,

- rehabilitation or demolition for a project, or,
- a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, other real property on which the person conducts a business or farm operation for a project.

URA GUIDELINES

A. "Initiation of Negotiations":

- usually means the delivery of the initial written offer of just compensation by the agency to the owner or owner's representative, to purchase the real property for the project;
- whenever the displacement occurs as a direct result of rehabilitation, demolition or acquisition of the real property, the "initiation of negotiations" means the notice to the person explaining that he or she will be displaced, or, if there is no such notice, the actual move date of the person;
- if the agency issues a notice of its intent to acquire the real property and a person moves after that notice but before delivery of the initial written purchase offer, the "initiation of negotiations" means the actual move date of the person from the property.

B. Written Notice Requirements:

1. **General Information Notice** - must contain the following:

- informs person of possible displacement as a result of the project,
- generally describes the payments for which person may be eligible including eligibility requirements and procedures for obtaining services and payments,
- assures person that advisory services will be given including referrals to replacement properties as well as other assistance,
- informs person that at least one comparable replacement dwelling will be made available before they are required to move,
- informs person that at least 90 days advance written notice will be given before they are required to move, and
- explains the right to appeal if they do not agree with the agency's determination regarding eligibility and assistance provided.

HUD has published informational booklets that describe the relocation payments and other relocation assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act. They contain most of the information required in the general information notice and are available for displaced businesses, nonprofit organizations, farms, displaced homeowners and tenants displaced from their homes. Please contact Teri Davis, in the Department of Local Affairs, for copies or you can print off the internet at <http://www.hud.gov/offices/cpd/library/relocation/publications/index.cfm>.

2. **Notice of Relocation Eligibility** - persons or businesses to be displaced must be notified promptly of their eligibility for benefits. Since their **eligibility begins on the date negotiations are initiated** for the property acquisition, this notification should be given on the same day or as soon as possible thereafter. **Caution: Eligibility for relocation assistance may also be triggered in the event a person moves after the Notice of Intent to Acquire has been issued, but before negotiations are initiated.**
3. **Notice of Nondisplacement** - persons not to be displaced must be provided a notice explaining the reasonable terms and conditions under which they may lease and occupy the property upon completion of the acquisition or rehabilitation. It is important that this notice be provided as soon as possible.

4. **90 Day Notice** - an occupant **cannot** be required to move unless they have received a written notice, at least 90 days in advance, of the date they may be required to move. **A comparable replacement dwelling must be made available at least 90 days prior to the specified vacate date.** In unusual circumstances, an occupant may be required to vacate the property with less than 90 days advance written notice if the agency determines that continued occupancy would constitute danger to the person's health or safety. If applicable, a copy of the agency's determination shall be included in the case file. Special attention should be provided to low-income and minority groups to ensure that they receive the protections required under the Civil Rights Act. In fact, the local relocation agency **cannot** require a low income or minority to vacate his/her present residence unless he/she has been given opportunities to relocate **in comparable housing that is not located** in an area of low-income and/or minority concentration, if such opportunities are available.

5. **Comparable Replacement Dwelling** - the agency is required to inform a displaced person **in writing** of the specific comparable replacement dwelling used in making the determination including location, the price or rent used for establishing the upper limit of replacement payment and the basis for the determination. If possible, at least 3 comparable units should be made available. Eligibility for payment of moving expenses can be included in this letter.

C. **Relocation Payments -- Persons relocated as a result of CDBG project activities are eligible for two types of relocation payments**, i.e., moving expenses and perhaps a replacement housing payment.

The type of replacement housing payment depends on whether the housing unit was tenant or owner occupied. **Replacement housing payments are in the form of a rent differential or down payment assistance** for relocatees who were tenant-occupants, or **cost and interest differential** if the displaced persons were owner-occupants. Moving expenses can be based on **actual expenses** which may consist of:

- transportation of displaced person and personal property (within 50 mile radius),
- packing, crating, uncrating and unpacking of personal property,
- storage of personal property not to exceed 12 months unless agency determines it necessary,
- disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property,
- insurance for replacement value of property in connection with the move and necessary storage,
- replacement value of property lost, stolen, or damaged in the process of moving (not if through negligence on part of displaced person),
- other moving related expenses as agency determines reasonable **except:** interest on loan to cover moving expenses, personal injury, legal fee or cost for preparing claim for relocation payment, cost of moving any structure or other real property improvement in which the displaced person reserved ownership, costs for storage of personal property leased by displaced person before initiation of negotiations.

As an **alternative** to payment for "**actual**" moving and related expenses, a person displaced from a dwelling is entitled to receive a "**fixed**" **expense and dislocation allowance**. This amount is determined by the schedule approved by the Federal Highway Administration. **Contact Teri Davis with the Department of Local Affairs for a schedule.** After being appropriately notified of both "actual" and "fixed" payment options, the person being displaced is to decide which option to take.

D. **Multiple Occupants** -- When a property is occupied by two or more people, regardless of whether they are members of the same family, the relocation assistance **must be divided** among the parties **on a pro-rated** basis proportionate with each persons' share of the moving and relocation expenses if they are moving to **separate** locations.

- E. **Relocation Assistance is Not Taxable Income** -- Persons required to vacate property should be informed that the relocation assistance payments are not considered to be income for purposes of calculating liability under either the Internal Revenue Code or the Social Security Act.
- F. **Last Resort Replacement Housing** -- If an instance arises where the relocation specialist has been unable to identify comparable and affordable replacement housing, the agency may take the following extraordinary actions to provide replacement units for displaced persons:
 - The agency can rehabilitate an existing structure with project funds to bring it up to conditions that would make it affordable and comparable.
 - The agency can construct new housing with project funds to meet relocation requirements.
 - The agency can exceed the maximum payments provided for in the URA.

In any of the above instances, efforts to identify comparable and affordable housing that is decent, safe, and sanitary must be documented as well as the process by which a determination was made to take one of the above listed actions.

- G. **Appeals** -- Displaced persons may appeal relocation action with the grantee if he/she feels: **(1)** that determination of eligibility or amount of payment was erroneous; **(2)** that the grantee did not provide sufficient relocation services including replacement housing referrals; or **(3)** that the grantee failed to comply with any requirement (e.g., notices) of the URA. **The appeal must be filed within six months of the initial Notice of Eligibility and the grantee must make a determination within 30 days of receiving all materials submitted by the person making the appeal.**
- H. **Waiver of Relocation Assistance Payment** -- In the unlikely case that an individual declines to accept relocation assistance payment offered by the local agency, evidence of the person's decision should be included in the case file. This refusal should be in writing.

SECTION 104(D)

To be eligible for Section 104(d) relocation assistance, a person must meet certain criteria. A displaced person under Section 104(d) means:

- **a lower-income person** (a person having an income equal to or less than Section 8 limit established by HUD)
- moves permanently and involuntarily
- moves in connection with an assisted activity as a direct result of conversion of a low/mod unit or **demolition** of any unit.

The following relocation assistance is provided under Section 104(d) for each displaced person:

1. Advisory services (same as under URA)
2. Payment for moving and related expenses, actual or fixed (same as under URA)
3. Security deposits that are reasonable and necessary and required to rent replacement dwelling unit
4. Credit checks required to rent or purchase replacement dwelling unit (also available under URA under "other moving-related expenses")
5. Interim living costs incurred in connection with temporary relocation if person must relocate temporarily because of dangerous situation (same as URA), or person is displaced from low/mod unit and no comparable is available but a suitable unit is scheduled to become available.

6. Replacement housing payment - under Section 104(d), the **grantee has the option** to offer **all or a portion** of rental assistance through a Section 8 certificate or housing voucher **provided that** the displaced person is referred to a comparable unit where owner is willing to participate in Section 8 program. Section 104(d) rental assistance is greater than the URA rental assistance benefit. Downpayment assistance is restricted to certain types of ownership properties.

If Section 8 assistance is offered under Section 104(d) and suitable referrals are offered, the displaced person **cannot** insist on cash rental assistance based on Section 104(d) computations, but **does have the option** of taking the cash assistance offered under the URA.

RELOCATION RECORDKEEPING REQUIREMENTS

The following information must be maintained for at least three years after each owner of the property and each person displaced from the property have received final payment to which they are entitled.

General Information:

- Name and address of all persons occupying real property at the beginning of the project.
- Name and address of all persons moving into the property on or after the date the project began.
- Name and address of all persons occupying the property upon completion of the project.

For Displaced Persons:

- Identification of person, displacement property, racial/ethnic group classification, age, sex and income of all members of household, monthly rent and utility costs for displacement and replacement housing; type of enterprise, relocation needs and preferences.
- Evidence that the person received timely statement describing available relocation payments and basic eligibility conditions, available advisory services, and right to comparable replacement housing (or suitable replacement housing under section 104(d) policies).
- Evidence that the person received timely written notice informing him or her of eligibility for relocation assistance and the location and cost of the comparable replacement dwelling used to establish the upper limit of the replacement housing payment.
- Evidence and dates of personal contacts; a description of services provided.
- Identification of referrals to replacement properties, date of referral, sale price or rent/utility costs (if dwelling), date of availability, 90 day notice and reason(s) for declining referral.
- Copy of 90 day notice and vacate notice if issued.
- Identification of actual replacement property, sale price or rent/utility costs (if dwelling) and date of relocation.
- Replacement dwelling inspection report showing condition and date of inspection.
- Copy of approved claim form(s) and related documentation; evidence that person received payment.
- Copy of any appeal or complaint filed and response.

For Persons Not Displaced:

- Evidence that the person received timely written notice that they would not be displaced by the project.

- Evidence that the person received a timely offer of an opportunity to lease a suitable dwelling in the building upon completion of the project under reasonable terms and reimbursement of any out-of-pocket expenses incurred in connection with any temporary relocation or move to another unit.
- For each person that is not displaced and is provided the information above, but elects to relocate permanently, an indication of the reason for the move and evidence of personal contact to explain available alternatives and that they do not qualify for relocation payments.
- Racial/ethnic and gender information.
- A copy of any appeal or complaint filed and agency response.

This section is provided as a means of information only, **IF YOUR PROJECT INVOLVES RELOCATION, CONTACT YOUR PROJECT MONITOR FOR THE HUD HANDBOOK (#1378) ENTITLED "TENANT ASSISTANCE, RELOCATION AND REAL PROPERTY ACQUISITION"**, which contains sample letters and claim forms as well as complete information regarding requirements of URA and Section 104(d) of the Housing and Community Development Act of 1974.