

# SECTION C: ACQUISITION/ANTIDISPLACEMENT/RELOCATION

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## ACQUISITION/ANTIDISPLACEMENT/RELOCATION

### ACQUISITION

#### INTRODUCTION

When utilizing CDBG funds for real property acquisition, Grantees are required to follow certain federal statutory and regulatory requirements. The primary of these are The Uniform Relocation Assistance and Real Property Acquisitions Act (URA) and Section 104(d) of the Housing and Community Development Act.

The URA is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The URA (or sometimes Uniform Act for short) applies to acquisition activities and displacement (temporary or permanent). URA imposes requirements on HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers or others; AND, real property acquisition for HUD-assisted projects (whether publicly or privately acquired) must adhere to URA-established provisions.

Section 104(d): Section 104(d) of the Housing and Community Development Act of 1974 requirements may be triggered by demolition or conversion of residential units with CDBG funds. This law modifies and supplements requirements imposed by URA. This law has an impact on both acquisition and the determination of relocation benefits for low- and moderate-income households.

This section covers the acquisition requirements of:

- URA: CDBG projects involving acquisition, rehabilitation, or demolition are subject to the provisions of the Uniform Act (URA). Key requirements of the law include voluntary and involuntary acquisition processes, appraisals and the use of eminent domain.
- Section 104(d) of the Housing and Community Development Act applies to CDBG and other HUD funded programs. Key requirements of the law include,
  - 1) a Residential Anti-displacement and Relocation Assistance Plan for Grantees,
  - 2) required relocation assistance for displaced low- and moderate-income persons, and
  - 3) one-for-one replacement of occupiable, affordable dwelling units.
- 24 CFR 570.606 provides the CDBG implementing regulations, which require compliance with the regulations, in the bullets listed above, in addition to other federal requirements.

[49 CFR Part 24](#)

[Housing and  
Community  
Development Act of  
1974](#)

[24 CFR 570.488](#)

[24 CFR Part 42](#)

[24 CFR 570.606](#)

These laws include requirements for relocation assistance to be provided to displaced persons, businesses, nonprofit organizations, and farms. Those requirements are covered in the Relocation sub-section below.

## ADDITIONAL HUD GUIDANCE

HUD's Real Estate Acquisition and Relocation website provides access to HUD Handbook 1378 as well as a variety of HUD brochures including, *Relocation Assistance to Tenants Displaced From Their Homes* and *When a Public Agency Acquires Your Property* under the section "Publications." Informative training videos can be found on the HUD the URA Way webpage.

[HUD Real Estate Acquisition and Relocation](#)

[URA the HUD Way](#)

[HUD Handbook 1378](#)

## APPLICABILITY OF THE UNIFORM ACT

Oftentimes, LCDBG funded projects require the acquisition of real property such as parcels of land, servitudes, leases, and rights-of-way. Grantees may acquire the needed real property from owners by voluntary or involuntary means. Under the URA, an acquisition is considered to be involuntary when an agency acquires property under threat or use of eminent domain. Eminent domain is the power of the government to take private property for public purposes with payment of just compensation.

[Uniform Relocation Assistance and Real Property Acquisition Policies Act](#)

## GENERAL ACQUISITION REQUIREMENTS

For the purposes of this chapter, "property to be acquired" refers to any kind of permanent interest such as fee simple title, land contracts, long-term leases (50 years or more), and rights-of-way (including both temporary and permanent easements). Grantees should also be aware that all methods of acquisition (e.g., purchase by willing sellers and donations) are covered by the URA.

[49 CFR 24.101](#)

There are two types of acquisition transactions under the URA – voluntary and involuntary. It is critical that the Grantee understand the differences between them to ensure compliance with all applicable rules. There are protections for sellers in both voluntary and involuntary sales. This chapter describes those differences and the protections for sellers under each transaction type.

Grantees should not be confused by the terminology of acquisition for URA.

- Voluntary acquisition is not the same as just a willing seller. Voluntary acquisition must meet several requirements that are clarified in this section.
- Involuntary acquisition is not the same as eminent domain. Involuntary acquisition may occur with or without eminent domain. Also, involuntary acquisition may occur even if the buyer does not have eminent domain powers. Involuntary acquisition is defined, and the required procedures described later in this section.

The following examples illustrate common types of acquisition that are subject to the Uniform Act:

- A parcel of property owned by John Doe is needed by the local government for construction of a fire station. LCDBG funding has been awarded for the project. The acquisition of this parcel by the local government **would** be subject to the Uniform Act.

- A parcel of property owned by Private Enterprise, Inc., is needed for the installation of a water well involving an LCDBG funded project. The life expectancy of the water well is estimated to be as much as 40 years. Private Enterprise, Inc., is willing to enter into a lease with the local government for the long-term use of the parcel for a water well. Acquisition by means of a leasehold agreement with Private Enterprise, Inc., by the local government **would** be subject to the Uniform Act.
- The local government needs to obtain permanent roadside rights-of-way for sewer lines that are part of the installation of a new sewer system that is funded, in part, with LCDBG funding. Some of the rights-of-way are expected to be donated while others are expected to be purchased. Acquisition of such rights-of-way, whether by donation or purchase, **would** be subject to the Uniform Act.

**CAUTION: If an acquisition took place prior to application submission, it can be subject to the URA if OCD-LGA finds clear evidence that the purchase was done in anticipation of obtaining CDBG funds for an activity. The URA also applies if an agency has reimbursed itself for the acquisition with non-federal funds (i.e., general funds) if the project's end result is a federally assisted project. Acquisition activities are subject to the URA if there is intent to acquire property for a federal or federally assisted project at any point during the course of a project.**

[49 CFR 24.101](#)

[HUD Handbook 1378, Chapter 5, Paragraph 5-4 A](#)

**Grantees must also adhere to environmental review requirements as they relate to acquisition including the requirements regarding options and conditional contracts. Refer to [Section A: Program Administration, Environmental Review](#) for detailed guidance.**

Local governments are required to provide documentation of property ownership for property involving an LCDBG project. Property will include property owned by the local government before a specific LCDBG project was considered, property obtained in anticipation of an LCDBG project, and property obtained as part of an LCDBG project.

Proof of property ownership must be documented by an attorney's opinion or a copy of the title to the property as recorded at the parish courthouse. For streets, there is an additional option that will prove ownership under Louisiana Revised Statute 48:491. LRS 48:491 allows maintenance logs or other substantial written proof of maintenance for at least the preceding three years to be considered as written documentation of ownership of the respective streets.

Property acquired for an LCDBG project must be legally recorded. Such a recordation is to be filed at the parish courthouse.

#### Temporary Easements/Construction Servitudes

A construction easement should be obtained for any temporary construction to be undertaken on private property and is subject to the Uniform Act. **However, there is an exception that allows for temporary easements to not be covered under the Uniform Act. The exception is for "temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached."** The acquisition of temporary easements that do not satisfy the exception above remain subject to the Uniform Act and its requirements.

[49 CFR 24.101\(c\)\(2\)](#)

[HUD Handbook 1378 Section 5-2](#)

### Acquisition By Private Entities

Even though private entities do not have condemnation powers, LCDBG economic development project acquisitions are covered by the Uniform Act, including acquisitions funded by the private entity. The following is an example of acquisition by a private entity that would be subject to the Uniform Act:

[49 CFR 24.101\(b\)](#)

- The local government, on behalf of Widget, Inc., has been funded for an LCDBG economic development project. A parcel of land is to be acquired by Widget, Inc. The OCD-LGA will provide funds for infrastructure associated with the expansion, but Widget, Inc., will be the entity that acquires the parcel of land.

### Additional Rights-Of-Way—Street Projects

If a road or street is being widened or extended it will often be necessary to obtain additional rights-of-way. The local government may own the street and a small right-of-way along the street but not the larger right-of-way needed. This additional right-of-way, when obtained from private individuals or entities that do not have Eminent Domain, would be subject to the Uniform Act.

### Timing

The timing of an acquisition can also make it subject to the Uniform Act. Regardless of the source of funds, any acquisition made by a local government after submission of the LCDBG application to finance an activity on that property is subject to the Uniform Act. Also, an acquisition that took place before the application submission may be subject to the Uniform Act if there is clear evidence that the acquisition was done in anticipation of obtaining LCDBG funds.

### Leases Subject To The Uniform Act

Leases that are for a duration of 15 years or longer are subject to the Uniform Act. Leases that are for a duration of less than 15 years but are automatically renewable are also subject to the Uniform Act.

[HUD Memo:  
Acquisition of Real  
Property by Long-term  
Lease](#)

### Lease Approvals

Should the local government decide to lease rather than purchase a piece of property, the local government must come to an agreement of the terms of the lease with the property owner. Prior to the lease, the local government must provide, in writing, to the owner: the details of the lease and an explanation of the terms, the believed fair market value of the property (either by a valuation from a knowledgeable person or the appraisal process), and that it will not acquire the property in the event negotiations fail to result in an amicable agreement. Additionally, the OCD-LGA must be furnished the terms of the proposed lease and an estimate of the property value prior to the execution of the lease agreement.

The OCD-LGA will examine the lease for at least three factors: duration, cost, and compliance with the Uniform Act. The lease should be for a duration that is, at a minimum, as long as the anticipated life of the project improvements. The cost of the lease must be reasonable and will be compared to the cost of an outright purchase. If the duration of the lease is less than 15 years, this office must determine that the duration was not established for the intentional purpose of avoiding the requirements of the Uniform Act.

## VOLUNTARY ACQUISITIONS PROCESS

Voluntary acquisition is an abbreviated process under the URA that can be used in limited circumstances. A common misconception is that "willing seller", or "amicable agreement" means a transaction is "voluntary." This is not true under URA. The applicable requirements of the regulations at 49 CFR 24.101(b)(1)-(5) must be satisfied for a transaction to be considered voluntary.

[49 CFR 24.101\(b\)\(1\)-\(5\)](#)

In order to utilize the voluntary acquisition process, the project cannot:

- 1) Include the use, or the threat, of eminent domain power, even if the entity acquiring the property is a Grantee with such authority.
- 2) Require the acquisition of specific sites or properties for the project.
- 3) Include the acquisition of all, or substantially all, of the property within a targeted area within any specified time frame.

Below are several examples of projects or situations and how they meet or do not meet the requirements for a voluntary acquisition. Those that do not meet the requirement become involuntary acquisitions:

- No Eminent Domain Requirement:

*Voluntary Example:* Subrecipient working on behalf of a Grantee issues notice to owner of intent to acquire a property. The notice includes a commitment that the Grantee will NOT use eminent domain powers to acquire if the subrecipient cannot reach an agreement on sale of property. The Grantee makes a good faith effort to reach an agreement. If an agreement cannot be reached the Grantee moves on to other potential properties.

[HUD Handbook 1378, Chapter 5, Paragraph 5-3 A](#)

*Involuntary Example:* Grantee issues notice to owner of intent to acquire a property but does not include a commitment to not invoke eminent domain. The owner is a willing seller and agrees to the offer of just compensation from the Grantee.

- Not Site-Specific Requirement:

*Voluntary Example:* Grantee plans to build a new community center but will seek an alternative site if negotiations fail to result in an amicable agreement.

*Involuntary Example:* Nonprofit that is expanding an existing community center by acquiring an adjacent property is a site-specific project.

*Voluntary Example:* Nonprofit conducts a feasibility study and multiple properties are possible, but one is most desirable due to financial reasons.

*Involuntary Example:* Nonprofit conducts a feasibility study that shows only one site is possible/feasible to meet program requirements.

- **Not Acquiring All Properties:**

*Voluntary Example:* Nonprofit is acquiring 15 homes as part of a city-wide rehab for resale program.

*Involuntary Example:* Grantee plans to acquire 15 of 20 homes in a redevelopment plan area for new housing construction.

The steps of voluntary acquisitions and the URA requirements are generally described as follows:

1. **Determine Property and Ownership:** The first step should include a review to determine property acquisition needs and identify any properties to be obtained. Activities such as street widening, water and sewer improvements, or sidewalk construction do not have an obvious property acquisition requirement but may necessitate acquiring easements. The Grantee must provide proof of ownership for the easement, land, or building by conducting a title search of properties and easements to be acquired for the project. The Grantee should obtain either an attorney title opinion letter, or purchase title insurance. Grantees should require owners to transfer the property with clear title.

2. **Notify Owner:** As soon as feasible, the Grantee shall notify the owner in writing of the Grantee's interest in acquiring the real property or easement using federal funds. The Voluntary Acquisition Notice (VAN) must state that if a mutually satisfactory agreement cannot be reached, the Grantee will not buy or condemn the property for the same purpose.

[Voluntary Acquisition Notice \(VAN\) with Power of Eminent Domain](#)  
[VAN without Power of Eminent Domain](#)

HUD has provided a sample VAN letter for Grantees with the power of eminent domain or subrecipients acting on behalf of such Grantees. HUD has also provided a sample letter for subrecipients that do not have the power of eminent domain and are not representing a Grantee that does. Both sample letters include a proposed sales price. This provision may be removed when providing early notice before the determination of value has occurred.

The Grantee should indicate that owner-occupants are not eligible for relocation benefits in the VAN and the acknowledgement form should be attached to the purchase offer.

[49 CFR 24.2\(a\)\(9\)\(ii\)](#)

While owner-occupants of a property acquired through voluntary acquisition are not eligible for relocation benefits, all tenants in legal occupancy (including non-residential occupants are protected by the URA and are eligible for relocation benefits under the URA.

[49 CFR 24.2\(a\)\(9\)\(i\)](#)

(See several sections below regarding relocation for more information.)

3. **Determine Value:** A formal appraisal is **not required** by the URA in voluntary acquisitions. However, the purchase may involve a private lender requiring an appraisal. While an appraisal for voluntary transactions is not required, Grantees may still decide that an appraisal is necessary to support their determination of market value. Grantees must have some reasonable basis for their determination of market value.

If an appraisal is not obtained, someone with knowledge of the local real estate market must make this determination and document the file. That person should demonstrate knowledge through holding a real estate broker license recognized by the state of Louisiana.

4. **Make Offer:** Grantee shall make a written offer to the owner to acquire the property for the amount determined. There is nothing in the regulations to preclude negotiations resulting in agreements at, above, or even below the agency's estimate of market value after the property owner has been so informed. Grantees cannot take any coercive action in order to reach agreement on the price to be paid for the property. When making a written offer to the owner to acquire a property, the notice should include all the following:
  - Amount offered which also must inform the property owner of what the Grantee believes to be the market value of the property. The offer amount may be different than fair market value based on negotiations.
  - Description, location, and identification of the real property and the interest in the real property to be acquired (e.g., fee simple, easement, etc.).
5. **Complete Acquisition or Decide Not To Acquire:** The Grantee should discuss the offer to purchase with the property owner, including the basis for the fair market value and offer made. The owner should be given a reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and/or to suggest modifications in the proposed terms and conditions of the purchase.

Once the property owner has accepted the written offer, a purchase option agreement must be signed. No binding purchase agreements may be signed until the environmental review process has been completed. (See [Section A: Program Administration, Environmental Review](#))

If the local government decides not to buy or expropriate a property at any time after the Preliminary Acquisition Notice has been sent to the property owner, written notification must be sent to the owner and any tenants occupying the property that the local government does not intend to acquire the property and that any person moving from the property thereafter will not be eligible for relocation payment and assistance. This notice must be sent within 10 days of the decision not to acquire ([Exhibit C-5](#), Sample Notice of Intent Not to Acquire Property).

**CAUTION: Voluntary acquisition is a useful technique in certain situations, but it should not be used as a way to circumvent the Uniform Act. The OCD-LGA staff can provide advice, early in the process, which can assist in structuring the local government's policy and public solicitations to avoid potential problems.**

## INVOLUNTARY ACQUISITION PROCESS

### Steps For Meeting LCDBG And Uniform Act Acquisition Requirements

Certain steps regarding acquisition of property are necessary to meet LCDBG and Uniform Act requirements. The steps for the purchase of property under the Uniform Act and the order in which they should occur are as follows:

1. Determine ownership.
2. Send the Preliminary Acquisition Notice.
3. Determine if an appraisal and review appraisal will be required.
4. Obtain a valuation of the property.
5. Prepare the Statement of Just Compensation.
6. Send the written offer to purchase.
7. Conclude final negotiations.
8. Prepare a sales contract and complete the sale.
9. Provide a Statement of Settlement Costs.
10. Record the Title.

[49 CFR 24.102](#)

[HUD Handbook 1378  
Section 5-4](#)

Notices, letters, and other documents regarding acquisition must be sent by certified or registered mail, return receipt requested, or hand-delivered with receipt documented.

If the owner or occupant does not read or understand English, the local government must provide translations and assistance. Each notice must give the name and telephone number of a person who may be contacted for further information.

#### Determine Ownership

The local government is responsible for determining ownership of property that may be needed for an LCDBG project. A title search to determine ownership is often necessary.

#### Send the Preliminary Acquisition Notice

As soon as the local government decides that it wants to acquire property, a Preliminary Acquisition Notice must be sent to the owner ([Exhibit C-1](#), Sample: Preliminary Acquisition Notice/Brochure). One important element of the Preliminary Acquisition Notice is that it explains that it is not a notice to vacate and does not establish eligibility for relocation payments or assistance. The Preliminary Acquisition Notice must be accompanied by the brochure, *When a Public Agency Acquires Your Property* (included in [Exhibit C-1](#)), which is usually the local government's acquisition policy.

If the local government chooses to adopt a different policy, it must at least be as stringent as the Uniform Act; it must be written and sent to the owner along with the Preliminary Acquisition Notice.

### Determine if an Appraisal and Review Appraisal Will Be Required

Generally, either of two conditions will require an appraisal:

- (1) the value of the property is estimated to be more than \$10,000, or
- (2) the owner of the property wants an appraisal. In certain instances, the costs of appraisals may begin to exceed acquisition costs.

In a case where the valuation of the property is uncomplicated and the anticipated value is estimated at \$10,000 or less, it is up to the discretion of the Office of Community Development-Local Government Assistance (OCD-LGA) to determine if appraisals are necessary. If a property owner requests an appraisal, however, an appraisal is always required. If an appraisal is necessary, a review appraisal will automatically be required, and the owner of the property must be invited to accompany the appraisers.

### Obtain a Valuation of the Property

Regardless of whether an appraisal is required, it will be necessary to obtain a valuation of the property to prepare the Statement of Just Compensation as discussed in Step 5.

If an appraisal and review appraisal are required, the valuation will be based on the appraisals. However, the review appraisal, if higher in monetary valuation than the first appraisal, is the controlling document.

If an appraisal and review appraisal are not required, a knowledgeable person may provide a written opinion as to the value of the property. It should be signed and dated and made a part of acquisition records. It does not have to be notarized. A knowledgeable person may be a real estate broker, salesperson, banker, or some other type of locally recognized authority on the value of local property. The scope and cost of the service should be substantially lower than the cost of an appraisal and review appraisal. The written valuation does not need to be complicated or detailed. The written opinion is not required to be based on a selection of chosen “comparables” as is often the case with a formal appraisal. The knowledgeable person should state the following in the written opinion:

- (1) his/her qualifications in one short paragraph,
- (2) a brief description (but not an official legal description) of the property, and
- (3) an estimate of the value of the property.

### Prepare the Statement of Just Compensation

After valuation of the property, the Sample Statement of the Basis for the Determination of Just Compensation ([Exhibit C-2](#)) must be prepared. The amount determined to be just compensation must be based on the fair market value as determined in the valuation. It must contain the following elements:

- Legal description and location of the property.
- Description of the interest to be acquired (e.g., full ownership, servitude, etc.).
- Inventory identifying the building, structures, fixtures, etc., which are considered to be a part of the real property.
- The amount of the offer.

- A statement to the effect that the amount offered is the full amount believed by the local government to be just compensation, is not less than the fair market of the property, disregards any increase or decrease in the fair market value attributable to project for which the property was acquired, and does not include any consideration or allowance for relocation costs.
- Definition of fair market value.
- Explanation of the method used to value the property.
- In the case of tenant-owned improvements, the amount determined to be just compensation for the improvement and the basis as set forth in Handbook 1378. [HUD Handbook 1378](#)
- In the case of owner retention of improvements, the amount determined to be just compensation for these improvements and the basis as set forth in Handbook 1378.
- Any purchase option agreement should be attached.
- If only a part of the parcel is to be acquired, a statement apportioning the just compensation between the actual piece to be acquired and an amount representing damages and benefits to the remaining portion.

#### Send the Written Offer to Purchase

Send the owner a Written Offer to Purchase ([Exhibit C-3](#)), along with the written Statement of the Basis of the Determination of Just Compensation. In addition to the amount of just compensation, the offer must specify the date on which negotiation for the sale of the property will begin. This date must be the same date as the written offer. As with all notices, it should be sent certified or registered mail, return receipt requested.

If the property is tenant- or owner-occupied, a written Notice of Displacement must be issued within 30 days of the date specified for the initiation of negotiation. For more details on Relocation Procedures and Anti-Displacement under section 104(d) of the Act, refer to the information on Relocation and Anti- Displacement in this section of the handbook or the HUD Handbook 1378. [HUD Handbook 1378](#)

#### Conclude Final Negotiations

The sale is then negotiated. The owner may accept the fair market value and the local government can enter into an agreement. The owner must be provided an opportunity to discuss the offer and propose a higher value and document that higher value. Any amount that exceeds fair market value must be examined and approved by the OCD-LGA before signing the contract of sale if acquisition is to be paid with LCDBG funds. Approval or disapproval by this office is to be evidenced either by e-mail communication or faxed copy of the documentation dated and initialed by the acquisition specialist of the LCDBG staff. The use of LCDBG funds that are in excess of fair market value and are not approved by the OCD-LGA prior to disbursement will be disallowed. The local government may consider an offer exceeding fair market value, obtain a new valuation, initiate condemnation proceedings, or decide not to acquire the property. Documentation of negotiation proceedings should be placed in the project acquisition file.

### Prepare a Sales Contract and Complete the Sale

Following successful negotiations, an act of sale must be prepared and executed and transfer of documents secured. The local government must also reimburse the owner to the extent deemed fair and reasonable for incidental costs associated with transfer of title (i.e., recording fees, transfer taxes, penalty cost, or other charges for prepayment of any pre-existing recorded mortgages, etc.).

### Provide a Statement of Settlement Costs

The local government must give the owner a Statement of Settlement Costs ([Exhibit C-4](#)) that identifies all settlement costs regardless of whether they are paid at, before, or after closing and must clearly separate charges paid by the owner. If a title or escrow company is used, their standard form is acceptable. The Statement of Settlement Costs must be dated and certified as true and correct by the closing attorney or other person handling the transaction.

The local government must also be able to prove the payment of the purchase price by retaining a copy of the canceled check and the Act of Sale.

### Recordation of Title

Once the acquisition process has been completed and all settlement costs have been finalized, the title, which is now owned by the local government, must be filed and recorded at the parish courthouse so that proof of ownership is officially on record.

## DONATIONS

If a property is to be fully donated, the local government should inform the owner of his rights under the Uniform Act and obtain a signed waiver. A sample waiver form is included as [Exhibit C-6](#) (Property and/or Servitude Acquisition Waiver). The owner must be given a copy of the HUD brochure, *When a Public Agency Acquires Your Property* (included in [Exhibit C-1](#)). If property is to be partially donated, the local government must follow the procedures of the Uniform Act as detailed in the steps herein, and the property owner must sign a waiver of his/her rights for the donated portion of the property.

[49 CFR 24.108](#)  
[49 CFR 24.102\(c\)\(2\)](#)  
[HUD Handbook 1378](#)  
[Section 5-5](#)

An appraisal will not be required if the property is donated under the following conditions:

- (1) the property owner signs a written waiver releasing the local government from its obligation to appraise the property and has been informed of his entitlement to receive no less than the fair market value of the property, and
- (2) the local government determines that an appraisal is unnecessary because:
  - (a) the property valuation is uncomplicated, and
  - (b) the anticipated value of the proposed acquisition is estimated at \$10,000 or less based on a review of available data by a person with sufficient understanding of the local real estate market. Should the local government determine that an appraisal is unnecessary, it must thoroughly document the valuation process used in making such a determination.

If donations are being made by elderly, very poor, functionally illiterate, or non-English-speaking persons, the local government should carefully document the efforts made to ensure the owner understands their rights in order to demonstrate the owner is not persuaded or coerced into donating their property.

## APPRAISALS UNDER THE UNIFORM ACT

### Selecting Appraisers

The local government must select an independent appraiser. The appraiser should have no interest in the property or be related to, or in business with, anyone having any interest in the property to be acquired. The appraiser should be qualified, reputable and professional. Generally, only people who obtain at least 50 percent of their income from performing appraisals and who belong to a professional association that has a code of ethics should be considered. Appraisers who have had experience performing the types of appraisals needed should be sought after. An appraiser who usually establishes values for vacant, unimproved land may not be appropriate for establishing accurate values of houses. State-certified or licensed real estate appraisers eligible to perform appraisals for federally assisted projects must be listed on the [Louisiana Real Estate Appraisers Board website](#).

[49 CFR 24.103\(d\)](#)

[HUD Handbook 1378  
Section 5-4, J.8-9](#)

[Louisiana State Certified  
Appraisers General  
Appraisal List](#)

The local government must follow procurement procedures described in [Section A: Program Administration](#), and employ only qualified appraisers. A minimum of one appraisal is required; however, if the project is potentially controversial (as with an unwilling seller or a conflict of interest involving a public official) or where property values exceed \$100,000, it is recommended that two independent appraisals be conducted. A review appraisal must be prepared for each appraisal conducted.

### The Contract for Appraisal Services

The local government must execute a professional services contract with the independent appraiser.

[Exhibit C-7](#), Agreement for Appraisal Services (Acquisition), is a sample appraisal contract that has the required elements for use in the LCDDBG program. Other contract formats may be used if they contain the elements found in [Exhibit C-7](#). The contract must require the appraiser to invite the property owner to accompany the appraiser during the property inspection and not to consider race, color, religion or the ethnic characteristics of a neighborhood in estimating the value of residential real property.

Compensation for an appraisal shall not be based on the amount of the valuation.

[Exhibit C-8](#), Uniform Appraisal Standards for Federal Land Acquisitions, sets forth standard requirements for appraisals involving federally funded acquisitions.

### Property Valued at \$250,000 or More

A contract (fee) appraiser making a detailed appraisal on property valued at \$250,000 or more must be certified and licensed in accordance with state law implementing [Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 \(FIRREA\), P.L. 101-73](#), and must be currently active on the Louisiana State Certified Appraisers General Appraisal list.

The review appraiser must also be certified and active on the State Certified Appraisers General Appraisal list.

[Louisiana State Certified  
Appraisers General Appraisal  
List](#)

## Property Valued at Less Than \$250,000

For property valued below \$250,000, the local government may use a General Appraiser or a Residential Appraiser for the appraisal and review appraisal.

### Owner Invitation

Before the first appraisal is undertaken, the local government or the appraiser on behalf of the local government must formally invite the property owner to accompany the appraiser during inspection of the property ([Exhibit C-9](#), Sample Invitation to Accompany an Appraiser). This notice must be in writing and a copy placed in the property acquisition file along with evidence of receipt by the owner. The requirement to invite the property owner to accompany the appraiser is optional for the review appraisal.

### Servitude Appraisal Forms

[Exhibit C-10](#) (Short Appraisal Form for Servitude Takings) is an example of a short form that can be accepted as an appraisal establishing the value of servitudes. This form summarizes the complete documentation that the appraiser must have on file.

### The Review Appraisal

Once the appraiser has prepared and submitted the appraisal, a review appraisal must be obtained. The review must be conducted by a qualified staff appraiser or an independent fee appraiser. The review appraiser is required to visit the property. The review must be written, signed, and dated. It should assess the adequacy of the original appraiser's supporting data, the appraisal procedures used, the soundness of the appraiser's opinion of fair market value, and the reviewer's recommendation of the fair market value of the property. [Exhibit C-11](#), the Review Appraisal Report, contains the required elements needed in a review appraisal. If the review appraiser disagrees with the fair market value of the original appraisal, the locality can request that the original appraiser modify and document any changes in the original report. When differences in the first appraisal and the review appraisal are not resolved by the modification of the first appraisal, the review appraisal is authoritative. The local government also has the option of obtaining another appraisal and review appraisal.

### Acquiring Property Without an Appraisal

If the local government can determine that the valuation of a parcel of land or servitude does not exceed \$10,000, and if the owner does not desire an appraisal, then an offer can be made to the owner(s) of the property without a formal appraisal, but a written valuation of the property by a knowledgeable person will be required. If an appraisal is not required, then a review appraisal will not be required. Additionally, in certain instances where appraisal costs begin to approach or exceed acquisition costs, the OCD-LGA may decide on a case-by-case basis to waive the appraisal process (provided that the valuation of the property is uncomplicated, the fair market value of the property is estimated to be \$10,000 or less, and the owner of the property has not requested an appraisal).

[49 CFR 24.102\(c\)\(2\)](#)

An option to increase the \$10,000 valuation amount to \$25,000 may be requested in writing from the OCD-LGA.

## EXPROPRIATION (Eminent Domain)

### Expropriation Proceedings

If the local government cannot negotiate the sale, expropriation proceedings may be instituted. Expropriation is not necessarily cheaper than negotiated sales. Expropriation can be substantially more expensive than negotiation as courts may be very generous toward property owners, and the local government is required to pay the amount established by the court.

[Article I, Section 4, Louisiana Constitution](#)

### Initiation Of Expropriation Proceedings

Expropriation is a legal action and must be carried out by the local government's attorney. The local government should authorize the proceedings by resolution. Copies of surveys and maps relating to the subject property in the parish are recorded. Expropriation proceedings can then be initiated in the district court of the parish in which the property is located. The court will establish compensation to be paid for the property. The judgment of the court will vest full ownership title to the property expropriated in the local government. When title is vested, the local government may enter upon the property taken and takeover and dispose of existing improvements. The local government will deposit the amount determined to be just compensation in escrow with the court.

## PROCEDURES REQUIRED FOR ACQUISITION NOT SUBJECT TO THE UNIFORM ACT

Requirements for acquisition of property that is not subject to the Uniform Act generally include the following:

- Determination of ownership
- Valuation of the property
- Offer and acceptance
- Act of sale or transfer
- A statement of settlement costs
- Recordation
- Any documentation of acquisition activity from start to finish in general
- Proof of at least one public advertisement if property is obtained via voluntary acquisition

[49 CFR 24.101\(b\)\(1\)](#)  
[HUD Handbook 1378 Section 5-3](#)

## ACQUISITION RECORDKEEPING

### List Of Parcels

For each project, the Grantee's files shall include a list identifying all parcels to be acquired for the project. Such a list may be maintained in a computer-generated format that also indicates, for project management purposes, progress made in carrying out the acquisition program.

### Acquisition Case File

Acquisition notices, letters and other documents that are mailed are required to be sent by registered or certified mail, return receipt requested. If hand delivered the delivery should be evidenced by signature and date. An Acquisition Composite List ([Exhibit C-12](#)) must be completed on LCDBG projects having any acquisition. A Real Property Acquisition Checklist ([Exhibit C-13](#)) must be completed for each parcel acquired.

For each parcel acquired the Grantee files shall include the following:

- ✓ Identification of property and property owner(s)
- ✓ Determination of ownership
- ✓ If applicable, evidence that owner received a Preliminary Acquisition Notice accompanied by the notice entitled “When a Public Agency Acquires Your Property”
- ✓ A copy of valuation for each parcel obtained by purchase whether by appraisal or opinion of a knowledgeable person
- ✓ If applicable, a Statement of the Basis For the Determination of Just Compensation
- ✓ If applicable, a copy of the written purchase offer and documentation of the date of delivery
- ✓ If applicable, as in the case of a donation, a Property and/or Servitude Acquisition Waiver
- ✓ Copy of a Contract of Sale or Act of Donation
- ✓ Copy of a Statement of Settlement Costs and evidence (via a copy of a cancelled check) that the owner received net proceeds (if applicable) due from sale
- ✓ Copy of recordation at the appropriate parish courthouse
- ✓ If applicable, a copy of an appeal or complaint filed and agency response

### MONITORING ACQUISITION

At the time of monitoring, the OCD-LGA will review the local government’s acquisition files in conjunction with the Acquisition of Property checklist included in the Onsite Monitoring Checklist ([Exhibit E-3](#)). Please note that for projects that do not include acquisition, documentation of ownership of all properties or maintenance of all streets involved with the project is required to satisfy part 1 of the acquisition checklist. The three most common forms of proof of ownership are the following:

- Attorney opinion – A signed and dated statement from an attorney that the records for the property indicate ownership by the local government.
- A copy of the title of the property(ies) as recorded at the courthouse.
- For streets – Proof of maintenance for at least three years (under Louisiana Revised Statute 48:491). [LRS 48.491](#)
- Construction cannot begin until all acquisition documentation is completed.

## ANTI-DISPLACEMENT

### INTRODUCTION

On August 17, 1988, HUD published an interim rule (53FR31234) setting forth policies and requirements governing displacement, relocation, real property acquisition, and replacement of low/moderate-income housing under the CDBG programs. One of the major purposes of the rule was to implement revisions to section 104 (d) of the Housing and Community Development Act of 1974 (the "Act") made by section 509 of the Housing and Community Development Act of 1987, approved February 5, 1988. The revised section provides that grants under Sections 106 and 119 of the Act may be made only if the Grantee certifies that it has adopted and is complying by following an Anti-Displacement and Residential Relocation Plan.

[24 CFR 42.325](#)

### RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

Every Grantee is required to adopt a Residential Anti-Displacement and Relocation Plan before any funds may be dispersed to that Grantee. This plan must be adopted by resolution through the governing body and must designate in the plan a contact person for Anti-Displacement Activities. (See [Exhibit C-14](#), Residential Anti- Displacement and Relocation Assistance Plan)

[24 CFR 42.325\(b\)](#)

The plan contains two components:

1. A requirement to replace all occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than low/moderate-income housing in connection with an activity assisted under the Housing and Community Development Act.
2. A requirement to provide certain relocation assistance to any lower income persons displaced as a direct result of (1) the demolition of any dwelling unit or (2) the conversion of a low/moderate- income dwelling unit to a use other than a low/moderate-income dwelling in connection with an assisted activity.

[24 CFR 42.375](#)

[24 CFR 570.606\(c\)](#)

### DISPLACED PERSONS

The term "displaced person" means any lower income family or individual that moves from real property or moves his/her personal property from real property, permanently and involuntarily, as a direct result of the conversion of an occupied or vacant occupiable low/moderate-income dwelling unit or the demolition of any dwelling unit in connection with an assisted activity.

[49 CFR 24.2\(a\)\(9\)](#)

Examples:

- A person who moves permanently from the real property, after receiving a notice from the agency to move permanently, is considered displaced if the move occurs after the agency initially submits a request for financial assistance that is later provided for the requested activity.

Whenever the agency is a private property owner, e.g., a private developer or nonprofit organization, the request for financial assistance is the initial application by the property owner (or person in control of the site) that is submitted to the Grantee (includes state recipient).

Whenever the agency is the Grantee (includes state recipient), the request for financial assistance requires an initial submission of an application to the State by the state recipient requesting assistance.

- A person who moves permanently from the real property before notification is considered a displaced person if HUD or the Grantee (includes state recipient) determines that the displacement resulted directly from the conversion of an occupied or vacant occupiable low/moderate-income dwelling unit to another use or the demolition of any unit in connection with the assisted activity.
- Each tenant-occupant of a dwelling unit who will be temporarily displaced must be provided timely notice and reimbursed for any out-of-pocket expenses. Any such tenant who moves permanently from the real property will qualify as a displaced person if any one of the following situations has occurred:
  - The tenant moves permanently after the execution of the agreement without prior written notice offering the tenant the opportunity to occupy a suitable decent, safe, and sanitary dwelling unit in the same building/complex following the completion of the project under reasonable terms and conditions.

Reasonable terms and conditions include (a) no unreasonable change in the character or use of the property, and (b) monthly cost for rent and utilities that does not exceed the greater of the tenant's monthly rent and estimated average monthly utility costs before the execution of such agreement and the "Total Tenant Payment" for that person.

- The tenant was required to relocate temporarily for the project, but (a) the tenant was not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses to and from the temporary unit and any increased housing costs, or (b) other conditions of the temporary relocation were not reasonable. (If the tenant returns to the building/complex, he or she is not a displaced person. However, this does not relieve the agency of its obligation to reimburse the person for such out-of-pocket expenses.)
- The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

### RELOCATION ASSISTANCE UNDER SECTION 104(D)

The basic relocation assistance payments under section 104(d) that an individual can receive are either at the Uniform Relocation Assistance (URA) levels or at greater levels under section 104(d).

Guidance on this subject is provided in the HUD Handbook 1378, available on HUD's website. The level of assistance required under section 104(d) should be reviewed closely before any individual is displaced under the LCDBG program.

[HUD Handbook 1378](#)

Prior to any demolition or displacement of any individuals covered by section 104(d), you must contact the OCD-LGA for instructions on how to proceed.

## RELOCATION

### INTRODUCTION

"Displacement" means the involuntary movement of persons (individuals, families, businesses, organizations, or farms) from their properties as a result of:

1. an activity assisted in whole or in part with CDBG funds; or
2. a non-CDBG assisted activity, where such activity is a prerequisite for an activity carried out with CDBG funds (e.g., acquisition of land with local funds for a neighborhood facility to be constructed with CDBG funds).

Title I of the Housing and Community Development Act of 1974 as amended through 1983 requires states to have their local government recipients certify that they will minimize displacement of persons as a result of activities assisted with Title I funds.

### DEVELOPING A LOCAL RELOCATION POLICY

When the CDBG-funded project or activity results in the acquisition of real property or the displacement of persons as a result of CDBG funded acquisition activities, the Uniform Act and its implementing regulations set forth in 24 CFR 42 shall apply. If there is no real property acquisition involved in the displacement of persons resulting from CDBG-funded activities the displacement is not subject to the Uniform Act.

The recipient must adopt a written policy available to the public setting forth the relocation payments and assistance it elects to offer and providing for equal payments and assistance within each class of displaced person.

**NOTE: Such payments and assistance may be higher than the levels established in the Uniform Act; however, the recipient can make such payments and assistance only upon a written determination that the payments are appropriate.**

The policy must insure fair, consistent, and equitable treatment of persons displaced as a result of CDBG-funded activities regardless of race, color, religion, national origin, sex, age, handicap, status, or source of income.

The State requires, at a minimum, that the local relocation policy provide for the following:

- The payment of reasonable moving expenses.
- The provision of advisory services, as needed to help the displaced person in moving, include the following:
  - Replacement site requirements.
  - Need for outside specialists required for move.
  - Early identification and resolution of realty/personal property issues.
  - Estimated time needed to vacate.
  - Anticipated difficulty in locating replacement site.
  - Identification of advanced relocation payments required for the move.

- For residential tenants and owners, financial and advisory assistance sufficient to enable the persons displaced to obtain decent, safe, and sanitary housing at an affordable rental cost. In providing advisory assistance to displaced persons to obtain such housing, recipients shall advise them of their rights under the Federal Fair Housing Law (Title VIII) and of replacement housing opportunities in such manner that, wherever feasible, the displaced persons have a choice between relocating within their own neighborhoods consistent with the recipient's responsibility to affirmatively further fair housing.
- Under the local policy, rental cost shall be considered to be affordable if the rent plus the cost of utilities when not included in the rental rate does not exceed the greater of the rent plus utilities paid by the tenant prior to the displacement activity or does not exceed 30 percent of the gross monthly income of all adult members of the tenant's household, including supplemental income from other public agencies, whichever is higher.
- Purchase cost shall be considered affordable if the monthly housing cost, including the cost of all mortgage payments, real property taxes, and reasonable utility charges, does not exceed the greater of the monthly housing cost paid by the displaced person prior to the displacement activity or does not exceed 30 percent of the displaced person's household, including supplemental income from other public agencies, whichever is higher.
- The basis for determining the amount of relocation payments.
- A relocation plan to provide decent, safe, and sanitary housing at affordable costs.
- Transportation to inspect replacement housing.
- The Grantee cannot propose or request a displaced person to waive his/her rights or entitlements to relocation assistance and benefits provided by the Uniform Act and this regulation.
- Elements that must be included in the local policy are:
  - The conditions under which displacement may occur.
    - A statement that identifies the community development program that will cause displacement to occur and the area in which the displacement will take place and basis for displacement (both temporary and permanent), e.g., acquisition, code enforcement, specifying codes involved, relocation/demolition, or rehabilitation.
- Eligibility requirements for benefits and assistance.
  - Conditions for eligibility.
  - Conditions for providing temporary relocation payments.
  - Occupancy requirements for benefits and assistance (including types of occupancy, e.g., owner/renter, and term of occupancy of at least 180 days for homeowner occupants and 90 days for tenants).
- Benefits and assistance.
  - Types and amounts of payments for owner/renters.
  - Conditions of each type of payment.

- Moving expenses, including the amount and conditions under which such expenses will be paid or not paid.
- Under which circumstances benefits and assistance will be denied, e.g., early move and relocation into substandard housing.
- Availability of other social services, if applicable.
- Replacement housing.
  - Procedures for selecting safe, sanitary, and decent, including inspections, approval process, use of realtors and Civil Rights statement; counseling, and advisory service to be provided by the recipient to the displaced person in locating replacement housing.
  - Under the local policy, replacement housing need not be functionally equivalent to and substantially the same as the housing from which the displaced person is required to move. However, the replacement housing must be safe, sanitary, and decent and meet local housing and occupancy codes. See HUD Handbook 1378 for the definition of safe, decent, and sanitary. [HUD Handbook 1378](#)
- Claims for payments and assistance.
  - Explanation of how, when, and where claims are to be filed.
  - Claim forms with an explanation of where assistance in completing claims can be obtained.
- Project location maps.
  - A copy of detailed maps showing project location in the jurisdiction and specific location of each activity (houses, streets, etc.).
- Replacement housing inventory.
  - The recipient should maintain a list of all known available housing and realtors who manage and typically list low-cost housing.
- Guidelines for displaced persons.
  - Explanation of displaced person's rights, responsibilities, and privileges.
  - Outline of specific steps they should follow in order to file an appeal.
  - Explanation of how the appeal will be reviewed.
  - Time limits for processing and reviewing appeals.
  - Statement of the displaced person's rights to appeal to the State if he or she is not satisfied with the local agency's decision. This should include identification of the address and telephone number of the Department of Community Affairs.
  - Statement of the displaced person's rights to appeal to the courts if not satisfied with the local agency's decision.
  - Statement of displaced person's rights under the Civil Rights Act (Title VI and Title VII).

When developing the local policy, the recipients may refer to [24 CFR 42.325\(b\)](#), [HUD Handbook 1378](#), and [Real Estate Acquisition and Relocation Overview with HUD Programs](#).

## UNDERSTANDING BASIC RELOCATION REQUIREMENTS

Most relocation in connection with the CDBG project may be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. If the project entails relocation, refer to HUD Handbook 1378, *Tenant Assistance Relocation and Real Property Acquisition*, and copies of the HUD brochures, *Relocation Assistance to Tenants Displaced From Their Homes* and *Relocation Assistance to Displaced Homeowners* ([Exhibit C-15](#)). These brochures are for residential relocation only. There are different requirements for the relocation of farms, commercial, and industrial uses. If the program involves on-residential relocation, OCD-LGA will provide you additional materials and guidance since non-residential relocation is a more complicated process.

[HUD Handbook 1378](#)

Persons displaced may be eligible for two types of relocation payments: moving costs and replacement housing payments. For a summary of relocation eligibility and benefit guidelines, see [Exhibit C-16](#) (Relocation Eligibility and Benefits Chart).

### Moving Costs

All displaced persons are eligible for moving costs if the move occurs after initiation of acquisition negotiations or after acquisition. The displaced person can choose to receive either actual moving and related expenses that are supported by invoices and other documentation or receive a fixed payment. Actual moving and related expenses include the following:

[HUD Handbook 1378](#)  
[Chapter 3, 3-2](#)

- Transportation up to 50 miles for moving him/herself, his/her family, and personal property
- Packing and unpacking personal property
- Disconnecting, dismantling, reassembling, and reinstalling relocated household appliances and other personal property
- Storage
- Replacement value of property lost, stolen, or damaged during the move
- Insurance in connection with move and storage
- Other costs related to move if approved by recipient as reasonable

Alternatively, an eligible displaced person may also elect to take a fixed payment for moving expenses that is based on the Federal Highway Administration allowances.

## Replacement Housing Payments

These payments are available to 180-day owner-occupants and 90-day owner-occupants and tenants. The 180-day owner-occupants must meet the following criteria:

[49 CFR Subpart E](#)

- Owned and occupied the acquired dwellings for 180 days prior to initiation of acquisition negotiations.
- Purchased and occupied decent, safe, and sanitary units within one year after the date of receipt of final acquisition payment or the date of the move from the acquired unit, whichever is later.
- Filed a claim within 18 months of the time the move is completed.

A 180-day owner-occupant who relocates to an ownership unit is eligible for a maximum replacement housing payment of up to \$22,500, unless otherwise stipulated in the Grantee's locally adopted Relocation Policy. The payment represents the combined costs of the following:

- The cost difference between the acquisition price of the acquired unit and the purchase price of comparable replacement housing or the price of the actual unit purchased, whichever is less
- Increased interest costs
- Eligible incidental settlement costs

However, section 205(c)(3) of the URA precludes displacement from a dwelling unless a comparable replacement dwelling is available. Therefore, if the payment exceeds \$22,500, any additional assistance shall be provided, according to the Grantee's locally adopted Relocation Policy.

The 90-day tenants and owner-occupants must meet the following criteria:

- 1) Occupied the acquired units 90 days prior to initiation of acquisition negotiations.
- 2) Relocated into decent, safe, and sanitary unit within one year.
  - a) In the case of a tenant, use the date he/she moves from the acquired unit.
  - b) In the case of an owner-occupant, use the date of receipt of final payment or the date of the move from the displacement dwelling, whichever is later.

- A tenant or owner-occupant that relocates into a rental unit is eligible for a maximum \$5,250 Rental Assistance Payment. This payment represents 42 times the monthly difference between his/her housing cost at the original dwelling and the monthly housing cost of comparable replacement housing, or the actual unit rented, whichever is less. This payment must be made in one payment unless the displaced person specifically requests that the payment be made in installments.

[49 CFR 24.402\(a\)](#)

[49 CFR 24.402\(b\)\(1\)](#)

- A tenant who relocates to an ownership unit is eligible for a maximum \$5,250 Down Payment Assistance Payment. This payment may be increased according to eligible circumstances described in HUD Handbook 1378.

[HUD Handbook 1378](#)

[49 CFR 24.402\(c\)\(1\)](#)

- The Down Payment Assistance Payment must be applied to the purchase price of the replacement dwelling and related incidental expenses. The payment is determined on the basis of the amount required to obtain conventional financing for the decent, safe, and sanitary dwelling actually purchased and occupied.
- Certain benefits may be prorated for unrelated individuals living together. For guidance, check Handbook 1378.

[HUD Handbook 1378](#)

**NOTE: The benefits under the Uniform Act are rights to which the individual is entitled, and all displaced persons must receive the maximum amount of benefit to which they are entitled regardless of income level.**

### Defining Relocation Procedures

The basic benefits described in the sub-section titled “Developing Local Relocation Policy” of this section, must be provided by the local program. The Grantee may choose to provide payments higher than these by formal action of the governing body. If higher benefits are adopted, the local relocation policy must define those higher benefits.

The Grantee must determine how the Uniform Act will be implemented. Procedures should be developed covering responsibility for the following: notification of eligibility and available assistance, processing claims, making payments, handling grievances, and providing documentation.

### Grievance Procedure

The Grantee’s Grievance Procedure must outline the appeals process, including the grounds for filing an appeal, which appeals should be filed in your locality, appropriate time limits, and the right of appeal to the State. Requirements concerning appeals are contained in HUD Handbook 1378. For the LCDBG program, substitute the word “State” each time the word “HUD” is used. Also, the Commissioner of Administration will function in place of the HUD Area Director.

[HUD Handbook 1378](#)

[Chapter 1-10](#)

[24 CFR 24.10](#)

### Providing Information and Counseling

It is the Grantee’s responsibility to inform occupants of their rights, send them the required notices and assist them to find replacement housing. Therefore, identify the people to be relocated as soon as possible. Notice(s) of Eligibility for Relocation Assistance must be sent to all owner- occupants or tenants in occupancy within 30 days of the written offer to purchase the property if the occupant is going to be relocated.

[HUD Handbook 1378](#)

[Chapter 1-10](#)

[49 CFR 24.203\(b\)](#)

This notice must be accompanied by a copy of the program’s relocation procedures or the appropriate brochure, and a copy of the Grievance Procedure. HUD has provided templates for the following notices:

- [Residential Tenant \(Housing Choice Voucher NOT Available\)](#)
- [Residential Tenant \(Housing Choice Voucher Available\)](#)
- [180-day Homeowner](#)

All notices must be written in plain, understandable language. THEY MUST BE EITHER HAND-DELIVERED WITH RECEIPT DOCUMENTED OR SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED. The notices must also contain the name and phone number of a person who may be contacted for answers to questions or other assistance. The Grievance Procedure should be mailed or hand-delivered with the Notice of Displacement and receipt documented. If there is any reason to believe the recipient may have difficulty understanding the printed materials, hand delivery is preferable. Receipt must be documented.

**NOTE: If relocated persons do not speak or read English, notices must be available in appropriate translations. Some cities have already translated these notices in various languages, and the OCD-LGA can assist in obtaining copies. If another city's translation is used, make sure that its notices/procedures are the same as the Grantee's.**

As soon as these initial notices are sent out, interview each recipient, in person, to determine his/her need for assistance. A sample interview format, the first section of a Sample Household Case Record, is provided to show the type of information that is required ([Exhibit C-17](#)). This includes data identifying the parcel and dwelling; number of individuals and family units; family composition (including age, sex, location of employment, source, and amount of income); description of current dwelling (number and type of rooms); length of time of occupancy; amount of housing payment or rent; replacement housing preferences regarding type of tenure, location, and willingness to increase monthly payments; and other important characteristics (health/disability problems, special needs such as furniture, public assistance, etc.).

The staff conducting these surveys and having personal contact with the individuals to be relocated should be very patient people capable of understanding the distress of displacement and of dealing with the relocated person in a non-threatening, helpful manner.

During the family survey, the relocation process should also be reviewed with the relocated person. Special attention must be given to:

1. the assistance to be provided by the Grantee;
2. the benefits available;
3. the fact that replacement housing payments cannot be made unless the household relocates into a standard unit;
4. the importance of keeping in touch with the Grantee; and
5. the need to notify the Grantee before they move.

All significant contacts with displaced persons must be logged into section 5 of [Exhibit C-17](#), Household Case Record.

### Identifying Replacement Housing Needs

The primary purpose of the household survey is to provide the information needed to determine replacement-housing needs. All replacement housing must be decent, safe, sanitary, and meet local housing or occupancy codes.

The only times that local housing or occupancy codes do not define "decent, safe, and sanitary" are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Existing Housing Quality Standards define "decent, safe, and sanitary." The unit must also be free of lead-based paint hazards and/or architectural barriers, if serving a physically disabled person. A Sample Inspection Report Format is shown as [Exhibit C-18](#).

[Section 8 Housing Quality Standards](#)

### Comparability/Functionally Similar

In addition to being decent, safe, and sanitary, the replacement unit must also be functionally similar to the acquired unit with respect to the number of rooms and living space. The term "functionally similar" means that the comparable replacement unit must perform the same function, provide the same utility, and be capable of contributing to the same lifestyle as the acquired dwelling. While it need not contain every feature of the acquired dwelling, the principal features must be present.

[49 CFR 24.2\(a\)\(6\)](#)

This applies unless additional or larger rooms are needed to meet decent, safe, and sanitary criteria (especially overcrowding). This means that a family of six living in a two-bedroom unit may require a four-bedroom replacement unit to meet local codes or Section 8 standards, if applicable.

On the other hand, a person currently living alone in a three-bedroom unit is entitled to a three-bedroom unit. They may choose a smaller unit but they must be provided with three reasonable choices of comparable replacement units before issuing a 90-day notice to vacate.

### Affordability

Further, the referral units must be affordable; that is, the monthly housing costs shall not exceed 30 percent of the household's income with the replacement housing costs. Since the acquisition price for a substandard house may be low, the purchase price coupled with even the maximum replacement housing payment (\$22,500) may be insufficient to purchase (free and clear) a comparable unit with monthly mortgage, taxes, and utility costs that do not exceed 30 percent of monthly income or established fair market rents.

[49 CFR 24.402\(b\)\(2\)](#)

If comparable, affordable replacement housing using these standards cannot be identified, the project may be jeopardized. Other means of assisting displaced persons is shown under the "Last Resort Replacement Housing" provisions of the regulations.

[49 CFR 24.2\(a\)\(6\)\(viii\)](#)

Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of normal limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the physically disabled in a replacement dwelling.

### Locating Replacement Housing

Having identified the replacement housing needs, the Grantee must begin to inventory available housing resources. In doing this, be aware of affirmative action criteria that must be met when relocating low- income and minority persons. The regulations require that the community make comparable replacement housing available to low-income or minority relocated persons in areas that do not have concentrations of either low-income or minority households if such opportunities are available. This means that if there are vacant, standard, affordable units available in

[49 CFR 24.205\(c\)\(2\)\(iv\)](#)

middle/upper income areas or predominantly non-minority areas of the community, low-income or minority relocated persons must be given at least one replacement housing choice in those areas before the Grantee can give such relocated persons a 90-day notice to vacate.

Furthermore, the Grantee must make available to low-income and minority families counseling and related services (e.g., transportation and escort services). Many cities have focused their search for replacement units in low-income or minority areas because those areas were where the less expensive housing was concentrated. Every community must broaden its search to include middle income and predominantly non-minority areas.

In inventorying available resources, contact landlords, realtors, and movers; read the classified ads; and tour neighborhoods looking for available property signs. Often affordable units are not advertised.

These listings can be inspected and, if found to be decent, safe, and sanitary, placed on a referral list.

The process of finding comparable housing will involve continuous contact with displaced persons to solicit information, establish rapport, provide referrals to rehousing resources, and accompany displaced persons to inspect possible dwellings. Up-to-date information on the availability and prices of comparable sales and rental housing must be provided. All units must be inspected and certified as meeting local housing and occupancy codes before being placed on a referral list.

### Self-Relocations

Some relocated persons will search for their own units and relocate themselves, which can be problematic.

Occupants who relocate themselves risk not receiving the compensation to which they are entitled because:

1. the occupants do not know they are entitled to money and fail to apply;
2. the locality is unable to trace them to their new quarters;
3. the new quarters are substandard (in which the relocated persons still receive moving expenses); or
4. a pre-move inspection of their new quarters does not occur or is ineffective.

If an individual locates or moves into a replacement unit that is not decent, safe, and sanitary, the Grantee must try to upgrade the unit to minimum code in order to entitle the relocated person to benefits. This can include providing any assistance for which the unit is eligible with CDBG funds or securing comparable assistance from other sources. In the event that the Grantee cannot get the unit brought up to code, the relocated persons must be informed that if they remain in, or move to, another substandard unit, they will not be eligible for replacement housing payments but will be eligible for moving expenses. The Grantee must also inform them that if they move into a standard dwelling within one year from the date they received payment for their acquired dwelling or from the date they moved from the acquired dwelling, whichever is later, and file a claim within 18 months, they will be eligible for a replacement housing payment. A sample notification letter is [Exhibit C-19](#) (Sample Letter to Relocate in a Substandard Unit).

[49 CFR 24.403\(b\)](#)

[HUD Handbook 1378](#)  
[Chapter 3-7](#)

### Housing Discrimination in Relocation

Private landlords are sometimes discriminatory in their renting practices. Individual displaced persons who have been discriminated against may not know how to take action on their own, and legal action is often too expensive to be a practical solution for them. The Grantee must provide assistance in cases of housing discrimination and must assist with displaced persons' claims of discrimination. The local Fair Housing Ordinance should be reviewed for guidance.

If a displaced person has been discriminated against, there are two (2) alternatives. A suit may be filed in a federal court, in which case he/she should either consult an attorney or the local Legal Aid Society for assistance. If the court finds in favor of the displaced person, it can halt the sale of the house or the rental of the apartment to someone else and award the displaced person's damages and court costs. Instead of taking his/her complaint directly to court, the second alternative is for the displaced person to send the complaint to OCD-LGA within 180-days of the incident. Upon receipt of the complaint, the OCD-LGA will follow its complaint procedure and forward it to the [Louisiana Department of Justice, Fair Housing Division](#).

### Common Deficiencies

The following are common deficiencies that occur during the relocation process:

- Failure to provide assistance in locating suitable housing
- Failure to provide replacement housing opportunities outside areas of low-income and/or minority concentration
- Failure to provide assistance in identifying and remedying instances of discrimination in sales and rentals of housing units

### Completion Of Relocation

When the Grantee has made choices of comparable replacement housing opportunities available to the relocated person, the Sample 90-DAY NOTICE TO VACATE/30-DAY NOTICE TO VACATE ([Exhibit C-20](#)) should be issued. This notice cannot be issued before the Notice of Displacement has been issued or before a reasonable choice of comparable replacement housing has been made available that meet the criteria described in [Exhibit C-16](#). The notice must state the date by which the property must be vacated and indicate that a second notice will be issued at least 30 days in advance of the date the property must be vacated. The date on which the property must be vacated cannot be less than 30 days after the Grantee has obtained title to the property or legal right of possession, whichever comes earlier.

Prior to and following the 90-day notice, the Grantee will continue to work with the relocated person inspecting units; certifying that they meet code; assisting or preparing mortgage applications, sales agreements, or leases as appropriate; assisting or preparing claim forms which are available from OCD-LGA; processing and verifying claims; documenting claims; and making payments. Every effort to expedite relocation should be made since claims may be filed up to 18 months following the completion of the move.

If there are unsettled relocation cases at the time of program close-out, show maximum payments for each potential claimant as unpaid costs on the Closeout Form.

Claim forms and their instructions for relocation payments can be found online in [HUD Handbook 1378](#). They include the following:

- Residential Claim for Moving and Related Expenses ([HUD Form 40054](#))
- Claim for Replacement Housing Payment for 180-Day Homeowners ([HUD Form 40057](#))
- Claim for Rental Assistance or Down Payment Assistance ([HUD Form 40058](#))

### Timely Payment

Relocation payments should be issued within 30 days following the submission of sufficient documentation to support the claim. The regulations further state that advance payments must be made where they would avoid or reduce a hardship. When advance payments are made, the recipient must sign a letter acknowledging receipt of relocation payments ([Exhibit C-21](#), Sample Letter of Acknowledgement Services and Payments Rendered).

[49 CFR 24.207\(c\)](#)

### Use Of Relocation Payments

Payments for down payment assistance must be applied to the purchase price of a replacement dwelling and related incidental expenses. Payments for rental assistance to owners or renters need not be applied to housing costs. The rental assistance payment must be made in a single payment unless the recipient specifically requests otherwise.

[HUD Handbook 1378](#)  
[Chapter 1-10](#)

### Denying A Claim

If a claim is to be denied because the replacement unit is not free of lead-based paint, notify the OCD-LGA 15 days in advance of the denial and indicate the efforts made to secure compliance with the lead-based paint poisoning prevention requirement. In the sub-section titled “Locating Replacement Housing” of this section, the Grantee’s responsibilities, should a person makes a claim for payment that must be denied because the unit is substandard, were discussed. Inform the claimant why the claim is being denied, indicate the assistance available for bringing the current unit up to code, as well as the ongoing opportunity to qualify for assistance by moving to a standard unit.

Further, inform the claimant that the move to a standard unit must be completed within 12 months of the date of removal from the acquired dwelling or receipt of final payment (if owner-occupant), whichever is later, and that the claim must be submitted within 18 months of the completion of the move. [Exhibit C-19](#) is a sample letter containing this information.

If payments are not made, fully document efforts to provide payments, the reasons payments were not made, and signed waivers of payment if possible.

The regulations mandate that any claim for payment be submitted to the Grantee within a period of 18 months after displacement. Fully document when the Grantee initially notified the recipient of this requirement and all subsequent reminders.

### Waiver Of Relocation Benefits

A tenant's relocation benefits cannot be waived by the owner. Relocation benefits are rarely waived; however, should a relocated person choose to waive relocation benefits, a Waiver of Relocation Assistance must be completed ([Exhibit C-22](#)) and documented in the file. Any case involving a waiver of relocation benefits will be carefully examined to ensure no coercion was involved.

## RELOCATION RECORDKEEPING

A Relocation Composite List ([Exhibit C-23](#)), must be maintained by the Grantee in its project files. Additionally, the Grantee must maintain a separate case file on each displaced household for three years after OCD-LGA closes the grant year from which funds were awarded with HUD. The Relocation File Checklist ([Exhibit C-24](#)) identifies all the information required for each displaced household file. A copy of [Exhibit C-24](#) must be attached to and maintained for each relocation file for tracking purposes and to facilitate state and local review.

### Confidentiality Of Records

Records maintained by the Grantee/agency to demonstrate compliance with the policies in this handbook are confidential. They shall not be made available as public information, unless required by applicable law. Only authorized staff of the Grantee/agency, the State, or HUD shall have access to them. However, upon the written request of an affected person, the grantee/agency shall give the person or his designated representative the opportunity to inspect and copy all pertinent records during normal business hours, except material that the Grantee/agency determines should not be disclosed to the person for reasons of confidentiality.

[49 CFR 24.9\(b\)](#)

In addition, the following information at a minimum shall be maintained for at least four years after each owner of the property and each person displaced from the property have received the final payment to which they are entitled.

- **List of Occupants.** For each project, the Grantee's files shall include a list or lists identifying the name and address of the following:
  - All persons occupying the real property at the beginning of the project. Generally, this is the date of the initial submission of the application for assistance by the property owner to the Grantee or by the Grantee to the State; however, if site control is not obtained until after submission of the application, the date of site control is usually considered the beginning of the project.
  - All persons moving into the property on or after the date on which the project begins but before completion of the project.
  - All persons occupying the property upon completion of the project.

The list(s) may be maintained in a suitable computer-generated format that also indicates, for project management purposes, progress made in carrying out the program.

- **Tenants Not Displaced.** Documentation on tenants not displaced shall include the following:
  - Evidence that the tenant received timely written notice that the tenant would not be displaced by the project.
  - For a tenant-occupant of a dwelling, evidence that the tenant received (a) a timely offer of an opportunity to lease and occupy a suitable, affordable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project under reasonable terms and conditions, and (b) reimbursement of any out-of-pocket expenses incurred in connection with any temporary relocation or a move to another unit in the building/complex.

- For each tenant that is not displaced but elects to relocate permanently, an indication of the reason for the move and any personal contact to explain available alternatives and that the tenant will not qualify for relocation payments as a displaced person. This information must be available for all tenants who occupied the property before project completion but did not occupy the property after project completion and did not receive relocation assistance as a displaced person.
- Racial/ethnic/gender identification as required by program rule (implementing section 562 of the Housing and Community Development Act of 1987 and section 808(e)(6) of the Fair Housing Act).
- A copy of any appeal or complaint filed and Grantee/agency response.
- Displaced Persons. For persons displaced, there shall be separate case files that include the following:
  - Identification of the person's name, address, racial/ethnic group classification, and date of initial occupancy. For residential tenant-occupants, include age, sex, and income of all members of the household and monthly rent and average monthly utility costs for the displacement dwelling. For homeowners, include Grantee/agency acquisition cost of unit. For nonresidential occupants, include type of enterprise.
  - Evidence that the person received early written notice of the possible displacement and a general description of the relocation payments and advisory services for which the person may be eligible, basic eligibility conditions and the procedures for obtaining payments.
  - Evidence that the person received timely written notice of eligibility for relocation assistance and, for those displaced from a dwelling, the specific comparable replacement dwelling and the related cost to be used to establish the upper limit of the replacement housing payment.
  - Identification of relocation needs and preferences, dates of personal contacts, and services provided.
  - Identification of referrals to replacement properties, date of referral, rent/utility costs or sale price (if dwelling), date of availability, and reason(s) person declined referral.
  - Copy of 90-day notice and vacate notice, if issued.
  - Identification (address) of actual replacement property, rent/utility costs or sale price (if dwelling), and date of relocation.
  - Copy of replacement dwelling inspection report showing condition of unit and date of inspection.
  - Copy of each approved claim form and related documentation, evidence that person received payment, and if applicable, Section 8 Certificate or Housing Voucher.
  - Copy of any appeal or complaint filed and Grantee response.

For additional recordkeeping requirements, refer to [Section A: Program Administration, Recordkeeping and Reporting](#).