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### **Applicability**

All HOME/HTF/NSP activities must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The HOME Department reserves the right to deny or withdraw funding from any project activity that would cause or require permanent displacement of any person or business.

Regulations 49 CFR Subpart B, 49 CFR 24.101 (b) (1-5) and the HUD Handbook 1378 and 1374.

Reasonable steps must be taken to ensure persons with limited English proficiency have meaningful access to the Voluntary Sales Disclosure and URA process.

### **ACQUISITION OF REAL PROPERTY**

#### **Establishing Value of Land**

Donation of land- Multi-family rental properties are subject to an appraisal to establish market value.

1. Greater than Fair Market Value- The purchase price may exceed the amount offered as just compensation when reasonable negotiations for the market value amount have failed. Written justification explaining the basis for the settlement is required and subject to approval by IHFA.
2. Less than Fair Market Value- The purchase amount may also be less than the amount offered provided the seller acknowledges in writing they received notice of the fair market value and chooses to donate a portion of the value to the project by selling the property for a lower price.

#### **Market Value**

**Multifamily Rental properties-** The Market Value is established by a Member of the Appraisal Institute (MAI) appraisal.

**Single-family Rental & Homebuyer properties-** Market Value can be established by one of two methods:

- Appraisal or
- Property valuation conducted by a professional familiar with the neighborhood market area and current conditions. This method can be used to establish initial listing or purchase price and subsequent listing/ purchase price, as needed.

#### **Fair Market Value**

The final sales price accepted by a willing buyer and willing seller, as approved by HOME Programs Department. *This is only applicable at the time of sale to the buyer from the developer when federal funds have been used for the development of the housing unit.*

#### **Voluntary Sale**

When neither the buyer nor seller has the power of condemnation or eminent domain. Voluntary Sale Disclosures (below) must be made to seller prior to, or at the time the purchase offer is signed.

#### **Voluntary Sale Disclosure**

The following disclosures must be made to the seller in writing, prior to or at the time a purchase agreement is signed. See [Annual Administrative Plan- Admin Plan Exh O- URA and Voluntary Disclosure Forms](#) for sample forms.

**\*Note:** Failure to provide these disclosures in writing prior to signing a purchase agreement may jeopardize the use of federal funds.

- Buyer and seller do not have the power of eminent domain
- No specific site needs to be acquired
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within a specified time limit
- The buyer cannot acquire the property if negotiations fail to result in an amicable agreement and the seller is informed in writing; and
- The buyer has informed the seller in writing of what the buyer believes to be the market value of the property prior to or at the time the purchase agreement is signed.

### **Involuntary Sale**

When the buyer or the seller has the power of condemnation and/or eminent domain.

## **UNIFORM RELOCATION**

### **Section 104(d) of the Housing & Community Development Act of 1974**

HOME/NSP/HTF funding can never be used to reduce the supply of low-income housing units. Section 104(d) requires replacements of affordable units lost.

Section 104 is triggered when:

- 1) A low-income household is occupying a low-income housing unit. *A low-income housing unit is defined as paying less than Fair Market Rent.* If these criteria are met **and** the housing unit is demolished or converted to another use; then the tenant is eligible for rent, relocation, and moving expenses eligible under Section 104.
- 2) A vacant unit is habitable AND is demolished or converted to a unit with market rents above *Fair Market Rent*, or to a use no longer for permanent housing.

A housing unit may not need to be replaced if:

- 1) It does not meet above criteria; and
  - 2) Is a substandard housing unit not suitable for rehabilitation AND has been vacant for over three months
- The recipient must have a residential anti-displacement and relocation assistance plan (RARAP) is for: (1) occupied and vacant “occupiable” low-and moderate-income dwelling units demolished or converted to another use; (2) provide relocation assistance to low or moderate-income housing.

Recipients must follow their RARAP and work with the HOME department.

### **Project**

For tenant relocation purposes, a project is defined as an activity or series of activities funded with Federal assistance, received or anticipated. URA covers all tenants permanently displaced as a direct result of the activity, regardless of their income, including the unit(s) not “tainted” with federal funds.

### **Relocation and Displacement**

URA requirements cover all persons/businesses in the project that will be permanently displaced as a direct result of rental acquisition and/or rehab, regardless of their income.

In almost all cases, displacement and relocation can be avoided with careful planning.

Displacement is defined not only as the physical displacement of persons and businesses, but also includes "rent burdened", the inability of an existing tenant to afford the new higher rent for their unit after completion of the assisted acquisition or rehabilitation. Displacement occurs when a person/business must move as a DIRECT RESULT of an acquisition, demolition, or rehabilitation activity. **Note:** A permanent move within the same project is not considered displacement.

### **Displacement as a Direct Result of an acquisition, demolition, or rehab activity**

- The person is required to move from the property after the property owner issues a notice to vacate or refuses to renew a lease in order to avoid relocation assistance (at application or site control if later).
- A person who leaves prior to the date described above who HUD or the grantee determines was displaced as a direct result of rehabilitation, demolition, or acquisition
- The person leaves for whatever reasons after initiation of negotiations\* AND the necessary notices to assure that the person was fully informed about relocation rights and assistance were not given or were not given in a timely fashion.
- The person leaves the property after initiation of negotiations because a decent, safe, and sanitary and affordable unit in the property was not offered.
- The person leaves the property because of unreasonable temporary relocation requirements or unreasonable terms for permanent moves within the property.
- A non-residential (a business, non-profit, or farm leasing property) tenant who receives a "Notice of Non-displacement" but moves permanently if the terms and conditions of remaining are not reasonable.
- A tenant of a dwelling who moves from a residential structure permanently as a direct result of leasing the other units in the structure for a HUD-assisted project that change the residential character or use of the structure to a public character (e.g. certain homeless or supportive housing uses).

\*The initiation of negotiations is defined as, "the execution of the loan or grant agreement between the HOME Department and the person owning or controlling the real property. In the absence of a loan or grant agreement, the execution of the Purchase and Sales Agreement covering the acquisition, rehabilitation, or demolition."

### **Displaced Person**

- A person who chooses to move into the property after the Initiation of Negotiations has begun.
- The person has no legal right to occupy the property (e.g. squatters).
- The person occupied the property for the purpose of obtaining relocation benefits.
- The person retains the right of use and occupancy of the property following acquisition (life estates).
- The person, after being fully informed of their rights, waives them.
- The person was required to move out for a short period to facilitate emergency repairs, as long as certain conditions were met.
- The person is an owner-occupant of the property who moves from the property as a result of an arm's length (voluntary) acquisition or as a result of voluntary rehabilitation or demolition.
- The person leaves due to code enforcement, unless the code enforcement results in rehabilitation or demolition for an assisted project.
- The person, after receiving a notice of eligibility, is notified in writing that they will not be displaced.
- The person is an alien, not lawfully present in the United States as defined in 8 CFR 103.12, unless the agency concludes that denial would result in "exceptional and extremely unusual hardship" to such person's spouse, parent, or child who is a citizen or lawful alien.
- Public Law 105-117 prohibits the use of Federal funds for payment of URA-level benefits to persons not lawfully present in the United States.
- All displaced persons must certify that they are lawful resident of the unit to qualify for URA benefits. The head of household may certify for the entire family.
- Benefits will be denied to someone who refuses to certify or if the certification is determined to be invalid.

**Who is not a Displaced Person**

The person has been evicted for cause based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable federal, state, or local law, or other good cause; and the HOME Department or HUD determines the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. Due process must be followed in compliance with state tenant-landlord laws.

**Initiation of Negotiations**

URA eligibility is potentially triggered at the "initiation of negotiations". The initiation of negotiation is defined as the delivery of an initial written offer of compensation to the owner or owner's representative to purchase the real property. From the point initiation of negotiations begins, all tenants who move from the project are potentially eligible for relocation benefits.

**Step #1-At Initiation of Negotiations (to purchase property)****Perform a tenant survey**

This is a preliminary survey to determine the eligibility of existing tenants to occupy assisted units, to identify any potential economic displacement issues and to determine if there are any commercial tenants. (See Sample Survey Exhibit "O").

**Develop a Relocation Plan**

In the event of possible displacement/relocation issues, a project sponsor is advised to contact the HOME Programs Technical Assistance Officer immediately at [LauraL@ihfa.org](mailto:LauraL@ihfa.org)

The following information is necessary to help determine a course of action or if a relocation plan is needed:

- For what purpose was the subject property purchased
- Describe and all persons who have occupied the project site in the past three months
- Determine if a temporary or permanent relocation plan is needed.
- Are tenants required to move permanently?
- Are the tenants required to move temporarily during the course of rehabilitation/construction?
- How will the move be accomplished and each tenant compensated for moving or related expenses?
- Does overcrowding exist in any of the units?
- Can displacement be minimized?
- Will your staff help tenants move and/or comply with the rules and eliminate unnecessary expenditures for relocation?
- Have actions already been taken as outlined in the Relocation Plan?
- Are any tenants disabled?
- Will the rehabilitated units be affordable to the current tenants?
- What is the source of funds to accomplish the payment of relocation/temporary relocation benefits?
- Who is responsible for completing all of the actions regarding relocation, temporary relocation, and the provision of notices to avoid displacement?
- Does the individual or agency designated to carry out the relocation activities have the expertise?

**Step #2 Upon Execution of a Purchase Option Agreement (for the property to be acquired and/or rehabilitated)**

Follow the Language Access Plan for Limited-English Proficient Persons

Distribute URA notices to all residents in all units

(See Chapter 6 for additional information [Current Annual Administrative Plan- Admin Plan Ch 6- Federal Regulations](#))

### **URA Notices**

- **Deliver the General Information Notice (GIN)**

All tenants should immediately receive a GIN notice upon notification of receiving federal funds for the project. All tenants on the lease, or are known to live in the apartment should receive a GIN (this could also include businesses). Sample notices can be found in [Annual Administrative Plan- Admin Plan Exhibit O](#). A notice must be sent certified mail or personally hand-delivered to every resident in every unit, and a written record kept of the delivery of each notice to verify proper delivery to all tenants. A copy of this notice and the documentation to support delivery must accompany the funding application for all projects involving acquisition.

- **Notice to New Tenants**

New prospective tenants must be provided with a written notice informing them of the assisted project under consideration or construction, and advising them that they may be asked to move or pay increased rent and they will not be eligible for relocation benefits. The tenant must sign a form acknowledging receipt of this notice. Failure to provide the notice and obtain verification of delivery can be very costly. (Sample notice in Exhibit O - Notice to New Tenants)

- **Verification Notice to Vacating Tenants**

This notice must be signed by tenant and owner (sample notice in Exhibit O) verifying reason for voluntarily vacating the unit, and that they have been advised of their rights, and they understand they are not eligible for relocation benefits. Documentation must be kept on all tenants that move out after the funding application submission date. A tenant may still be evicted for Good Cause (Idaho Landlord Tenants Law), if properly documented. Eviction to avoid paying relocation benefits is not allowed. A copy of the court order in a "Good Cause" eviction must be retained in the relocation file.

The above notices should accompany the funding application. In the event that the Application for FUNDING Funds does not result in a reservation of funds, a notice that the acquisition will not take place should be sent to all tenants as soon as possible.

### **Step #3 At Project Approval (Conditional Reservation Letter)**

The following notice requirements are based on a project that will not have permanent displacement. Notices can be found in Exhibit O.

- **Updated Tenant Survey**

1. Submit monthly tenant survey (rent roll) to reflect all tenants who have moved in or out, and other new information.
2. Submit updated tenant survey (rent roll) and copies of all tenant move-in and move-out notices to designated project coordinator on a monthly basis until the project is complete.

### **Step # 4 Execution of the Loan**

As soon as possible after execution of the written agreement, a notice must be issued to each tenant who was in occupancy on the date the General Information Notice was distributed to the tenants. The notice is either a Notice of Non-displacement or a Notice of Eligibility for Relocation Assistance. (Samples in Exhibit "O")

- **Notice of Non-displacement**

Tenants that may be moved permanently to another unit in the project should receive a Notice of Non-Displacement that details the terms and conditions including temporary relocation details, including management plan for move tenant belongings, transfer of security/non-refundable deposit, etc,

- **Notice of Temporary Move**

The following rules apply for residential tenants who will be required to relocate temporarily from their unit.

- 1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
- 2) Appropriate advisory services, including reasonable advance written notice of the following:
  - a. The date and approximate duration of the temporary relocation; The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
  - b. The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project.

### **Step# 5 Project Completion**

- Account for all tenants during the life of the project and ensure that all records or relocation actions are complete.
- Maintain a URA file with all tenant notices and rent rolls during the life of the project on-site for five-years. A separate file should be maintained for each displaced tenant, including copies of notices, correspondences, and documentation of comparable unit rents. One file shall be maintained for all tenants when only temporary relocation occurred or where no displacement occurred.
- An acquisition file is required for each individual property acquisition, and if both acquisition and relocation are involved, there must be separate files for the acquisition and each displaced person.

### **Appeal Procedure**

A person who disagrees with their determination or the amount of relocation assistance may appeal.

- 1) Submit request in writing
- 2) Notification of the appeal must be received by the HOME Department within 90 days after the person receives written notification of the Agency's determination.
  - A person has a right to be represented by legal counsel or other representative in connection with the appeal, but is solely at the person's own expense.
  - The HOME Department will promptly review all information submitted in support of an appeal,
  - The HOME Department shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy.
  - The HOME Department shall review the complaint and provide a direct response to the complainant within 15 calendar days of receipt.
  - A person who is dissatisfied with the HOME Department's determination may ask for a review of the determination by the Region X HUD-CPD Office, located in Portland OR.

Additional relocation assistance may be available to low-income residents pursuant to Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)). Section 104(d) requirements focus on the "loss" of low income housing, both rental and owner occupied as a result of the demolition or conversion. It has two distinct components:

- 1) People: 104(d) specifies relocation assistance for displaced low-income families.
- 2) Units: 104(d) requires one for one replacement of low-income dwelling units that are demolished or converted to other use.