

HUD RAP

(Relocation & Acquisition Policies)



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Q: If our Agency provides federally-funded homebuyer assistance to an individual or family (e.g., downpayment or closing cost assistance through HOME, CDBG, or other HUD-assisted homebuyer programs), is the homebuyer's acquisition subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)?

A: Yes. As a general rule, the URA will apply to any acquisition of real property for a federally-assisted program and project. This may include a federally-assisted acquisition by a person¹ participating in a HUD-assisted homebuyer program. The URA will apply in these situations even if the HUD financial assistance is made available to the individual or family through a State, local government, for-profit, or non-profit agency program.²

If the homebuyer complies with the voluntary acquisition procedures set forth in the URA regulations at 49 CFR 24.101(b) (1) through (5), the full acquisition requirements of 49 CFR Part 24, Subpart B will not apply (e.g., appraisal requirements or treatment of the owner-occupant as a displaced person). In most cases, a homebuyer will want to use the exception procedures described at 49 CFR 24.101(b)(2). Under these procedures, the homebuyer (or his/her

¹ The URA regulation at 49 CFR 24.2(a)(21) defines *person* to include *any* individual, family, partnership, corporation, or association.

² Exceptions: The term "HUD financial assistance" means a grant, loan, or contribution provided by HUD, including various HUD loan guarantee programs (such as Section 108, etc., see applicable program regulations and/or NOFA requirements). It does not include any other Federal guarantee or contracts of insurance (such as FHA mortgage insurance), any interest reduction payment to a family or individual in connection with the purchase and occupancy of a residence by that family or individual, downpayment assistance under the American Dream Downpayment Initiative (ADDI) or relocation payments provided to a displaced person.

representative) must clearly inform the property owner in writing that: (1) the property will not be acquired in the event negotiations fail to result in an amicable agreement, and (2) what is believed to be the market value of the property.

When the URA voluntary acquisition requirements are met, an owner-occupant who willingly sells his/her property is not eligible for relocation assistance under the URA. However, any tenant-occupant (residential or nonresidential) displaced as a result of a voluntary acquisition would be eligible for relocation assistance and payments under the URA.

Q: How can our Agency assist a homebuyer who will use our homebuyer assistance program to fulfill the voluntary acquisition requirements of the URA and minimize displacement?

A: An Agency can best assist its homebuyers by advising them and/or their real estate agent or other representative that certain disclosures must be made in writing to the owner of the property prior to making an offer to purchase the property. The Agency may provide a brief form letter for use by the homebuyer to make these disclosures:

- (1) That the property will not be acquired in the event negotiations fail to result in an amicable agreement, and
- (2) the dollar amount the offeror believes to be the market value of the property.

In structuring its homebuyer assistance programs, the Agency should educate potential homebuyers (and/or their real estate agents or other representatives) on the URA and the financial consequences of displacement. The Agency should also consider how it plans to fund relocation assistance to tenants displaced as a result of homebuyer acquisitions. The Agency should inform the homebuyer whether additional funding will be available for such costs. If an Agency does not plan to provide such additional funding, the Agency should adopt procedures designed to minimize displacement of tenants, such as excluding tenant-occupied properties from its HUD-assisted homebuyer programs and instructing each homebuyer not to offer to purchase a property that is currently tenant-occupied or was formerly tenant-occupied, if the owner required that a tenant move out in order to sell the property as vacant.

In situations where tenant-occupied property will be acquired, the URA has specific tenant notification requirements which the Agency will need to assure are met. *See* URA regulations, Appendix A - 49 CFR 24.2(a)(15)(iv) and HUD Handbook 1378, Chapters 1-5 for additional information and guidance. Each Agency is reminded that, as the HUD recipient, it is responsible for ensuring compliance with the URA and related requirements notwithstanding any third-party's contractual obligation to the Agency.

Q: Are there any other tenant-related issues that we need to be aware of in structuring our homebuyer assistance programs?

A: Yes. If a grantee's program will enable homebuyers to purchase foreclosed property using Neighborhood Stabilization Program (NSP) funds, the grantee and homebuyer need to be aware of the tenant protection requirements in the American Recovery and Reinvestment Act of 2009 (ARRA) after February 17, 2009. After May 20, 2009, other HUD-funded homebuyer assistance programs which involve foreclosed properties will be subject to the tenant protection requirements of the Protecting Tenants at Foreclosure Act of 2009 (PTAF) (these provisions will currently sunset on December 31, 2012). Both Acts provide similar (but not equal) protections for statutorily-defined "bona fide" tenants who occupied property during the foreclosure process and subjects the immediate successor in interest to the foreclosure to the remaining term of a bona fide lease and requires a minimum of 90 days notice to vacate to such tenants. In many cases, foreclosed properties may remain occupied for extended periods of time and will require additional caution and due diligence when federal financial assistance will be involved in purchasing such properties.

For additional information on the implications of the tenant protections for NSP, see Q&A's posted on HUD's NSP website at: www.hud.gov/nsp.