

CHAPTER 14 RELOCATION/TENANT ASSISTANCE

14-1 INTRODUCTION. This Chapter explains the requirements governing the treatment of persons (families, individuals, businesses and nonprofit organizations) occupying the site of a Rental Rehabilitation project--both persons who will be permitted to remain in occupancy and persons who will be displaced. This Chapter also describes the protections for these persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), the program regulations at 24 CFR 511.14, and implementing policies in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. Additionally, under 24 CFR 511.14(d), if CDBG funds are used to pay any part of the cost of the rehabilitation activities as described in 24 CFR 570.202(b), the project is subject to the requirements of Section 104(d) of the Housing and Community Development Act of 1974, as amended (see Paragraph 14-6 of this Handbook for additional information). Exhibit 14-1 of this Handbook provides a useful chart showing the relationships among the various relocation requirements for the RRP.

The grantee is responsible for ensuring that tenants receive timely notices of proposed and actual rehabilitation activities and otherwise complying with this Chapter. If the grantee chooses to delegate this responsibility to the owner, nothing in that delegation will relieve the grantee of its responsibilities. Similarly, for such notices as well as for other program obligations, if the grantee chooses to operate through other entities, such as State recipients, county recipients, designated public agencies or contract agents, nothing in those arrangements shall relieve the grantee of its responsibility. For simplicity of reference in this Chapter, the term "grantee" will be used for all entities collectively performing any function for which the grantee is responsible.

14-2 TIMELY NOTICES TO TENANTS.

A. Privately Owned Projects.

1. General information notice at time of application. As soon as feasible after the owner's submission of the application to the grantee, the grantee shall issue a general information notice to all occupants of the property, or ensure that the owner issues such a notice. The notice shall meet the requirements

of Paragraph 2-3.a. of HUD Handbook, 1378. The notice shall include a copy of the Tenant Assistance Policy (TAP) and caution the tenant not to move prematurely because the tenant either: (1) will not be displaced by the project, or (2) if displaced, will not be eligible for relocation assistance if a premature move is made.

2. Notice at Time of Execution of Agreement. Promptly after the execution of the agreement with the owner, the grantee shall issue to each person residing in the property either a:
 - a. Notice of Nondisplacement. This notice shall explain the reasonable terms and conditions under which the tenant may lease and occupy the real property upon completion of the rehabilitation, the rent after rehabilitation, and the steps to be taken to obtain Section 8 assistance. (See Paragraph 2.3.b(1) of HUD Handbook No. 1378.) NOTE: If this notice is not provided on a timely basis, the tenant may move and qualify as a displaced person (see Paragraph 14-4 for information on who is eligible for relocation assistance); or
 - b. Notice of Eligibility for Relocation Assistance. This notice shall indicate the tenant's eligibility for relocation assistance and must conform to Paragraph 2-3.b(2) of HUD Handbook 1378. If applicable, the notice shall indicate the steps to be taken to obtain Section 8 assistance as described in Chapter 13 of this Handbook.
- B. Publicly-Owned Projects. To ensure that tenants do not move unnecessarily or prematurely, the grantee shall keep tenants informed about the project, as appropriate, and caution them not to move. Immediately after the project has been committed (as defined in 24 CFR 511.2), or earlier, the grantee shall issue each tenant the appropriate notice as described in Subparagraph A.2 above. Grantees shall follow the instructions in Subparagraph C below as to the manner of notices.
- C. Manner of Notices. Each notice shall be personally served or sent by certified or registered first-class

mail, return receipt requested, and documented in the grantee's files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice (e.g., illiterate, foreign language or impaired vision) must be provided with appropriate communication and counseling. Each notice shall indicate the name and telephone number (including the TDD number, if applicable) of a person who may be contacted for answers to questions or other needed help. Grantees should refer to Paragraph 2-3.d. of HUD Handbook 1378 for detailed instructions.

14-3 RELOCATION ASSISTANCE TO DISPLACED PERSONS.

- A. Advisory Services. In addition to the timely information notices described in Paragraph 14-2 above, the grantee shall provide counseling and referrals to comparable replacement dwellings (CRDs) and other advisory services as described in Paragraphs 2-5 and 2-6 of HUD Handbook 1378. (When providing a Section 8 certificate or housing voucher, the PHA will assist the displaced family by providing a list of replacement dwellings whose owners are willing to participate in the housing voucher or certificate program. Grantees, however, must ensure that CRDs are made available to all displaced persons whether or not they receive Section 8 assistance.) Persons displaced from a dwelling shall be advised of their rights under the Fair Housing Act (42 U.S.C. 3601-20) and of replacement housing opportunities that, whenever feasible, provide a choice between relocating within their neighborhoods and other neighborhoods consistent with the grantee's responsibility to affirmatively further fair housing.
- B. Payment for Moving Expenses.
 - 1. A family or individual displaced from a dwelling may, at their discretion, choose either a Payment for Actual Moving and Related Expenses or the Fixed Moving Expense and Dislocation Allowance indicated in the current Federal Highway Administration schedule. (Copies are available from HUD Field Offices.) These two payments are explained in Paragraph 3-2 of HUD Handbook 1378.
 - 2. A business or nonprofit organization is eligible for a Payment for Actual Moving and Related

Expenses, as described in Paragraph 4-2 of HUD Handbook 1378, and, in some cases, a Payment for Reestablishment Expenses as described in Paragraph 4-3 of HUD Handbook 1378. Certain businesses/nonprofit organizations may qualify to choose a Fixed Payment as an alternative to the payments for moving, reestablishment and related expenses. Fixed Payments are described in Paragraphs 4-5 and 4-6 of HUD Handbook 1378.

- C. Replacement Housing Assistance. It is expected that most displaced tenants who are eligible for and offered a Section 8 certificate or housing voucher will find that resource most advantageous. However, a tenant may, at his or her discretion, elect to obtain cash replacement housing assistance sufficient to enable the person to rent a CRD for a 42-month period, whether or not a certificate or housing voucher is offered. A rental assistance payment may, at the discretion of the grantee, be provided in installments (e.g., monthly or quarterly). If the tenant elects to buy a replacement dwelling, the payment must be in a lump sum amount. The requirements governing rental assistance and down payments to displaced tenants are described in Paragraphs 3-4 through 3-7 of HUD Handbook 1378.
1. For purposes of computing a replacement housing payment, the "initiation of negotiations" means:
 - a. For a privately-owned project, execution of the legally binding agreement between the grantee or State recipient and the project owner under which the grantee or State recipient agrees to provide rental rehabilitation grant amounts for the project.
 - b. For a publicly-owned project, the commitment as defined in 24 CFR 511.2 or such earlier notice as the grantee or State recipient determines to be appropriate.
 2. If the tenant is provided Section 8 assistance at the replacement dwelling and the tenant's monthly rent and estimated utility costs at the displacement dwelling were less than his or her "contribution" for a replacement dwelling (actual or CRD, whichever is less costly), the tenant may qualify for a cash supplement (replacement housing payment) to cover the gap.

14-4 DISPLACED PERSON.

- A. **Basic Definition.** The term "displaced person" means any person (family, individual, business, nonprofit organization or farm) that moves from the real property, or moves his or her personal property from the real property, permanently, as a direct result of the acquisition, rehabilitation or demolition of such real property, in whole or in part, for an RRP project. (See 24 CFR 511.14(g) and Paragraph 1-8 of HUD Handbook 1378.)
- B. **Additional Guidance.** Any permanent, involuntary move of an occupant of the project that occurs as a direct result of rehabilitation, demolition or acquisition for the project is a displacement that results in eligibility for relocation assistance.
1. **Notice to Move Permanently.** A permanent move from the project results in eligibility as a displaced person if the move is made:
 - a. After notice by the property owner, grantee, or State recipient to move permanently from the property, if the move occurs on or after the following date:
 - (1) If the project is privately-owned, the date that the owner (or person in control of the site) submits a request for RRP assistance that is later approved and funded.
 - (2) If the project is publicly-owned, the date of the commitment to a specific local project.
 - b. A move before the date described in Subparagraph B.1.a. above is assumed to disqualify the person, unless either HUD or the grantee determines that the displacement resulted directly from rehabilitation, acquisition or demolition for the project.
 2. **Involuntary Moves.** Involuntary moves include moves resulting from a notice to vacate the premises or the refusal to renew an expiring lease.
 3. **Failure to Inform Tenant in a Timely Manner.** Each tenant (residential and non-residential) is

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entitled to a timely notice explaining whether or not he/she will be displaced. A tenant who will be displaced must be informed of his/her eligibility for relocation assistance and the nature of that assistance; a tenant who will not be displaced must be informed of the terms and conditions under which the tenant may occupy the property upon completion of the project. This information should be provided as soon as feasible, and at some point further delay places an unacceptable burden on the tenant. The date by which this information should be provided is:

- a. For privately-owned projects, the execution of the rehabilitation agreement between the grantee and the person owning the property; and
- b. For publicly-owned projects, the commitment to a specific local project.

If the tenant-occupant of a dwelling moves permanently from the property after this date and the grantee has not provided the necessary written notice (see Paragraph 14-2 of this Handbook), the tenant will qualify as a "displaced person." In other words, even if the grantee did not plan to displace the tenant, it is assumed that the tenant's move was involuntary because the tenant was not given timely information essential to making an informed judgement.

4. Economic Displacement, Temporary Relocation and Permanent Move Within Building/Complex. The URA and the regulations at 49 CFR Part 24 do not directly create eligibility for relocation assistance for a tenant who moves from the property rather than pay an "excessive" rent upon completion of a project (economic displacement), or who is required to relocate temporarily (but not permanently) while the project is underway, or who moves permanently to other space within the same building/complex.
 - a. Residential Tenants. The RRP regulations at 24 CFR 511.14(g) provide that in instances of economic displacement, unreasonable temporary relocation, or unreasonable permanent moves within the

building/complex, a residential tenant that moves permanently will qualify as a "displaced person" who is entitled to relocation assistance at levels identical to those required by the URA.

- b. Nonresidential Tenants. The RRP regulations do not provide additional guidance with respect to non-residential tenants that are permitted to continue in occupancy upon completion of the project. Such terms and conditions should be negotiated with the nonresidential tenant. Of course, a tenant who is dissatisfied with the terms and conditions of continued occupancy may relocate and file an appeal seeking assistance as a "displaced person."
- C. Tenant-Occupants of a Dwelling Considered "Displaced Persons" Under RRP. The RRP regulations at 24 CFR 511.14 incorporate the guidance discussed in Paragraph B above by providing that a tenant-occupant of a dwelling that moves permanently will qualify as a displaced person if any one of the following three situations occurs:
 1. The tenant moves permanently after the execution of the agreement (or, for a publicly owned project after the commitment is made) without prior written notice offering the tenant the opportunity to occupy a suitable, decent, safe, and sanitary dwelling unit in the same building/complex upon 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;
 - b. A monthly rent and estimated average monthly utility costs that do not exceed the greater of:
 - (1) The tenant's old rent and average monthly utility costs; or
 - (2) (a) The Total Tenant Payment, if the tenant is lower income (see Paragraph 7-20 of HUD Handbook 1378); or

(b) 30 percent of the tenant's gross household income, if the tenant is not lower income.

2. 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 the cost of moving to and from the temporarily occupied housing 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. But this does not relieve the grantee of the obligation to reimburse the tenant for out-of-pocket expenses.)

3. 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, or other conditions of the move are not reasonable.

D. Persons Not Displaced. Notwithstanding the provisions in Subparagraphs A through C above, a person does not qualify as a displaced person, if:

1. The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and the grantee determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. The grantee/recipient must document this in its files (e.g., a court order); or
2. The person has no legal right to occupy the property under State and local law (e.g., squatter); or
3. The grantee/recipient determines that the person occupied the property for the purpose of obtaining relocation assistance and the HUD Field Office serving the grantee concurs in that determination; or

4. The person is a tenant-occupant that moved into the property after the submission of the application, if the project is privately-owned (or the commitment, if the project is publicly-owned) but, before leasing and occupying the property, received written notice of the application for assistance and the possibility of displacement for the project or an increase in rent; or
 5. Certain owner-occupants as described in Paragraph 1-8 of HUD Handbook 1378; or
 6. A person who, after receiving a notice of eligibility for relocation assistance, is notified in writing that he or she will not be displaced from the project. Such notice shall not be issued unless the person has not moved and the grantee agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of eligibility for relocation assistance; or
 7. The grantee/recipient determines that the person was not displaced as a direct result of acquisition, rehabilitation or demolition for the project, and the HUD Field Office concurs in that determination.
 8. A person who is offered a Section 8 certificate or housing voucher to enable them to remain in the project at an affordable rent and chooses not to apply for or accept such assistance. (NOTE: If the person is found ineligible for Section 8 assistance and moves from the project then he or she would be considered displaced).
- E. When in Doubt. The grantee/recipient may, at any time, ask HUD to determine whether a specific displacement is or would be covered by these rules. (See also Paragraph 1-8 of HUD Handbook 1378.)

14-5 REAL PROPERTY ACQUISITION FOR A RRP PROJECT. The acquisition of real property for a RRP project is subject to the URA and the requirements of Chapter 5 of HUD Handbook 1378. Although the RRP does not fund the acquisition of real property, any acquisition for a project (e.g., occurring after the submission of a RRP application that is later approved) is subject to the URA even if no Federal funds were used. (See especially Paragraph 5-1 of HUD Handbook 1378.)

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14-6 APPLICATION OF CDBG REQUIREMENTS.

- A. General Policy. If Community Development Block Grant (CDBG) funds are used to pay any part of the cost of the "rehabilitation activities" as defined in 24 CFR 570.202(b) or similar eligible activities funded under 24 CFR 570.206 (See Subparagraphs B and C below), the project is subject to the requirements of Section 104(d) of the Housing and Community Development Act of 1974, as amended, and implementing regulations at 24 CFR 570.606(b) (Entitlement Program and HUD-administered Small Cities Program) and 24 CFR 570.496a(b) (State CDBG Program).
1. Relocation Assistance. Section 104(d) requires grantees to offer certain alternative relocation assistance sufficient to rent a Comparable Replacement Dwelling (CRD) for a 60-month period) to any low/moderate income tenant displaced by the demolition of any housing unit or by the conversion of a low/moderate-income unit. (This assistance is described in Chapter 7 of HUD Handbook 1378.) NOTE: The term "low/moderate-income dwelling unit" means a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for Section 8 existing housing established under 24 CFR Part 888.
 2. Replacement of Low/Moderate-Income Housing. Section 104(d) also requires the replacement of any occupied or vacant occupiable low/moderate-income dwelling unit that is demolished or converted to a use other than low/moderate-income housing. If the pre-rehabilitation market rent does not exceed the applicable FMR but the post-rehabilitation market rent does exceed the FMR, a "conversion" has taken place and the unit must be replaced. On the other hand, certain vacant dwelling units rehabilitated with RRP funds may, assuming compliance with the conditions set forth in the CDBG rules, qualify as replacement units for Section 104(d) purposes.
- B. CDBG "Rehabilitation Activities" Triggering CDBG Requirements. CDBG requirements, such as Section 104(d) requirements, are triggered by the use of CDBG funds to pay any of the costs of "rehabilitation activities" as described in 24 CFR 570.202(b). NOTE:

In addition to the actual repair work, alterations and additions to structures, this term includes rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, and property inspections.

- C. CDBG Activities Not Triggering Section 104(d) Requirements. Section 104(d) requirements are not triggered by the use of CDBG funds solely to pay the costs of general program administration as described in 24 CFR 570.206 or to pay for relocation assistance for tenants under 24 CFR 570.201(i).

14-7 APPEALS. If a person disagrees with the grantee or State recipient's determination concerning the person's eligibility for, or the amount of, relocation assistance, the person may file a written appeal of that determination with the grantee or State recipient. The appeal procedures to be followed are described in Paragraph 1-33 of HUD Handbook 1378 and at 49 CFR 24.10. A lower income person that has been displaced from a dwelling may submit a written request for review of the grantee's or State recipient's decision to the appropriate HUD Field Office or the State grantee, respectively.

14-8 RECORDKEEPING REQUIREMENTS. In accordance with 24 CFR 511.73 and Chapter 6 of HUD Handbook 1378, the grantee or State recipient must maintain records in sufficient detail to demonstrate compliance with applicable tenant assistance/relocation requirements. These records shall be readily available and retained for at least 3 years after the later of: (a) the date the person has received all of the assistance to which the person is entitled, or (b) the date the project is completed. The records shall include the following:

- A. Project Occupancy Lists. For each project, the grantee/recipient should have a list or lists identifying the name and address of:
1. All persons occupying the real property at the beginning of the project. Generally, for privately-owned projects this is the date of the submission of the application for assistance by the property owner to the grantee or State recipient. For publicly-owned projects this is the date of commitment.
 2. All persons moving into the property after the beginning of the project, e.g., the submission

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of the application by the owner but before completion of the project; and

3. All persons occupying the property upon completion of the project.

The documentation on persons who occupied the property before project completion (i.e., those identified in Subparagraphs 1 and 2 above) but did not occupy the property after project completion (i.e. identified in subparagraph 3 above), must indicate that the person either received appropriate relocation assistance as a "displaced person" (see Subparagraph C below), or elected to move permanently for his or her own reasons but does not qualify as a displaced person (see Subparagraph B below).

- B. Tenants Not Displaced. Documentation on tenants not displaced shall include:

1. Evidence that the tenant received timely written notice that he/she would not be displaced by the project.
2. For a tenant-occupant of a dwelling, evidence that the tenant received a timely written offer of:
 - a. a reasonable opportunity to lease and occupy a suitable, affordable, decent, safe, and sanitary dwelling unit 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.
3. 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. For example, if a tenant refuses Section 8 assistance and moves, there should be evidence that the assistance was offered and that the tenant was counseled about the results of refusing the assistance.

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4. A copy of any appeal or complaint filed and the grantee/recipient response.
- C. Displaced Tenants. For tenants displaced, there shall be separate case files that include:
1. Identification of the tenant'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 the monthly rent and average monthly utility costs for the displacement dwelling. For nonresidential occupants, include the type of enterprise;
 2. Evidence that the tenant received timely written notice of possible displacement and a general description of the relocation payments and advisory services for which the tenant may be eligible. Such evidence includes basic eligibility conditions and the procedures for obtaining payments;
 3. Evidence that the tenant received timely written notice of eligibility for relocation assistance and, for tenants displaced from a dwelling, the specific CRD and the related cost to be used to establish the upper limit of the replacement housing payment;
 4. Identification of relocation needs and preferences, dates of personal contacts and services provided;
 5. 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;
 6. Copy of 90-day notice and vacate notice, if issued;
 7. The address of the replacement property and date of relocation. If dwelling, identify rent/utility costs or sale price and date of relocation;
 8. Copy of replacement dwelling inspection report showing condition of unit and date of inspection;

9. Copy of each approved claim form and related documentation; evidence that the tenant received the payment and, if applicable, Section 8 certificate or housing voucher; and
10. Copy of any appeal or complaint filed and grantee/recipient response.

14-9 ANNUAL PERFORMANCE REPORT. Grantees will be required to provide data on relocation activities on the Annual Performance Report (Exhibit 8-1). The data shall identify the number of units rehabilitated, the number of tenants in place prior to rehabilitation, the number of tenants remaining in the project after rehabilitation, the number of tenants displaced and the number of tenants that elected to relocate permanently, even though they were not displaced. (See Chapter 8 of this Handbook for additional information on the APR.)