

G. ANTIDISPLACEMENT

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G. ANTIDISPLACEMENT

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 a Antidisplacement and Residential Relocation Plan.

Task G-1: Residential Antidisplacement and Relocation Assistance Plan

Every grantee is required to adopt a Residential Antidisplacement and Relocation Plan and Certification before any funds may be dispersed to that grantee. This plan must be adopted by resolution through your governing body and you must designate in the plan who the contact person is for Antidisplacement Activities. (See Exhibit G-1 and G-2)

The plan must certify that the grantee is following a residential antidisplacement and relocation assistance plan which contains two major components:

- a. 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 HCD Act (see CFR 570.496a(c)(1) and 24 CFR 570.606(c)(1); and
- b. 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.

Task G-2: Displaced Person

The term "displaced person" means any lower income family or individual that moves from real property, or moves his or 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.

In administering your LCDBG Program it will be helpful to understand when a person is considered displaced under Section 104(d). The following example should be noted:

- (1) A person who moves permanently from the real property, after the person receives a notice from the Agency to move permanently, is considered a displaced person if the move occurs after the Agency initially submits a request for financial assistance that is later provided for the requested activity.
 - (a) 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).
 - (b) Whenever the Agency is the grantee (includes State recipient), the request for financial assistance is:
 - (i) For the State CDBG Program, the initial submission of an application to the State by the State recipient requesting assistance under 24 CFR Subpart G;
- (2) 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.
- (3) Each tenant-occupant of a dwelling unit who will not be 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 three situations ((a), (b), or (c)) has occurred:
 - (a) 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:
 - (i) No unreasonable change in the character or use of the property;
 - (ii) A monthly cost for rent and utilities that does not exceed the greater of:
 - (A) The tenant's monthly rent and estimated average monthly utility costs before the execution of such agreement; or
 - (B) The "Total Tenant Payment" for that person.

- (b) The tenant was required to relocate temporarily for the project but (i) 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 (ii) 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 Agency of its obligation to reimburse the person for such out-of-pocket expenses); or
- (c) 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.
- (d) Persons Not Considered a "Displaced Person." If a comparable dwelling unit is available to the displaced person at a monthly cost (rent plus estimated average monthly utility cost) that does not exceed the "total tenant payment per month or a Section 8 certificate or voucher is made available to that person."
- (e) When In Doubt. The Agency should, at any time, ask the State or the HUD field office administering these relocation assistance requirements to determine whether a specific displacement is or would be covered by these rules.

Task G-3: 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).

For specific guidance on this subject you should refer to HUD Handbook 1378, available from the Office of Community Development. The level of assistance under Section 104(d) should be looked at very closely before any individual is displaced under the LCDBG Program.

Task G-4: Rental Assistance and Purchase Assistance

Under Section 104(d) there are very specific and detailed requirements associated with Rental Assistance and Purchase Assistance that must be followed when anyone is displaced. In lieu of repeating these detailed requirements in this subpart, please refer to HUD Handbook 1378.

The Antidisplacement regulations are somewhat new to the CDBG Program. There has been much discussion in Washington, D.C. and regionally as to their impact on the CDBG Program.

There are still major issues surrounding Section 104(d) that need to be clarified. We have attempted to cite only a portion of the requirements of Section 104(d) above as the specific procedures and record keeping requirements set forth by law can be found in HUD's Handbook 1378.

Prior to any demolition or displacement or any individuals because of the ramifications of Section 104(d) you must contact the Office of Community Development for instructions on how to proceed.

RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN UNDER SECTION 104(d) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED

The (jurisdiction) will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended as described in 24 CFR 570.606(b)(1). The (jurisdiction) Antidisplacement contact person is _____ who can be reached at
(_____)_____.

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the (jurisdiction) will notify the public and submit to the Division of Administration the following information in writing:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than low/moderate-income dwelling units as a directly result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain in a low/moderate-income unit for at least 10 years from the date of initial occupancy.

The (jurisdiction) will provide relocation assistance, as described in 570.606(b) (2), to each low/moderate-income household displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, the (jurisdiction) will take the following steps to minimize the displacement of persons from their homes;

1. All public facilities projects (water, sewer, gas, etc.) will be designed so that there will be no displacement of any residences or businesses;
2. No homes will be demolished that can be rehabilitated; and
3. There will be no displacement of any residential or business occupants on LCDBG projects.

RESOLUTION TO ADOPT RESIDENTIAL ANTIDISPLACEMENT AND
RELOCATION ASSISTANCE PLAN

WHEREAS, the (jurisdiction) has received approval of a Louisiana Community Development Block Grant Program for fiscal year _____ and

WHEREAS, the LCDBG Program requires that all grant recipients adopt by resolution a Residential Antidisplacement and Relocation Assistance Plan,

THEREFORE BE IT RESOLVED, that the (jurisdiction) hereby adopts the attached Residential Antidisplacement and Relocation Assistance Plan.

THUS DONE this _____ day of _____, 2003 in legal session in the (jurisdiction), Parish of _____ and State of Louisiana.

ATTEST:

MAYOR

CLERK

RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE CERTIFICATION

The _____ (jurisdiction) _____ hereby certifies that it is following a residential antidisplacement and relocation assistance plan and that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as required under S570.606(a) and HUD implementing regulations at 24 CFR Part 42; the requirements in S570.606(b) governing the residential antidisplacement and relocation assistance plan under Section 104(d) of the Housing and Community Development Act of 1974; the relocation requirements of S505.606(c) governing displacement subject to Section 104(d) of the Act; and the relocation requirements of 505.606(d) governing optional relocation assistance under Section 105(a)(11) of the Act.

DATE

CHIEF ELECTED OFFICIAL