



HUD

Office of Community Planning and Development
Los Angeles Field Office

Information Bulletin

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MEMORANDUM FOR: Community Development Block Grant (CDBG) Grantees, HOME Participating Jurisdictions (PJ)

FROM: Robert G. Ilumin, Deputy Director, Office of Community Planning and Development

SUBJECT: Federal acquisition and relocation requirements for HOME and Neighborhood Stabilization Program (NSP) funded Homebuyer Assistance Programs.

Applicability of Federal Acquisition and Relocation Requirements

Q1. What Federal acquisition and relocation requirements apply to HOME and NSP and other HUD assisted homebuyer assistance programs?

A1. Homebuyer programs must comply with the Uniform Relocation and Real Property Acquisitions Policy Act of 1970 as amended. The regulations are described 49 CFR Part 24 (URA). In a few rare cases Section 104(d) of the Housing and Community Development Act of 1970 as described in 24 CFR Part 42 could also apply. See Question 14 for more information.

Q2. When does a homebuyer program have to comply with the URA?

A2: The URA applies whenever HUD funds are used in a project where property is acquired, demolished, or rehabilitated. This includes programs where HUD assistance to homebuyers is a loan, a grant, a loan guarantee, down payment, closing costs or some other form of financial assistance. FHA mortgage insurance and assistance under the American Dream Down payment Initiative (ADDI) do not trigger compliance with the URA.

Q3. Do the URA and/or Section 104(d) apply to Homebuyer programs funded by NSP?

A3. The NSP program generally mirrors the CDBG program so compliance with the URA is required except that the NSP program contains some alternate provisions. One alternate provision is that the purchase price of all properties obtained must be discounted (5% for individual properties 15% for the program aggregate.) The discount is based on an appraisal that meets 49 CFR 24.103. (Refer to Section K Federal Register Vol. 73, No 194 Monday, October 6, 2008 Notices- Housing and Recovery Act, 2008). See Question 14 for more information on Section 104(d) compliance.

Q4. Do non-profit organizations administering homebuyer programs or homeowners handling their own property negotiations have to comply with the URA?

A4. Yes. The URA applies whether the property is being acquired by a grantee, sub-recipient, HOME participating jurisdiction, cooperating City, sponsor, Community Housing Development Organization(CBDO), a real estate agent or a homebuyer on his/her own behalf.

Acquisition Requirements

Q5. Are homebuyer programs exempt from the URA?

A5. If documented correctly, homebuyer programs are exempt from Subpart B of the URA, the section of the URA that applies to properties taken under threat of public domain. To document the exemption, follow the steps outlined at 49 CFR 24.101(b)(1) thorough (5). This regulation requires that homebuyer program participants or their representatives send owners a letter clearly states: 1) that the property will not be acquired in the event negotiations fail to result in an amicable agreement and (2) the amount believed to be the market value of the property. For entities without the power of eminent domain, use the sample “voluntary” letter in Appendix 31 of HUD Handbook 1378. If the grantee or participating jurisdiction is handling the negotiations use Appendix 32. Please note that 49 CFR 24.5 requires the notice to be personally delivered or sent by return receipt requested.

Q6. What if the owner of the property is a bank and the property is in foreclosure? Is a voluntary letter still required?

A6. Yes, the letter must be sent to the bank, delivery documented and a copy put in the file.

Q7. What evidence of market value of the property is required? Is an appraisal required?

A7. An appraisal is an acceptable method of documenting value, but it is not required. Less formal valuations like comparable sales or a limited appraisal may also be acceptable. Any sales data used must be compared in order to be acceptable. A listing without a sale would not be accepted as evidence of value. When in doubt ask the HUD Relocation specialist.

Q8. What other evidence of the acquisition would be needed for the file?

A8. The file should contain a copy of the voluntary letter, evidence of property value, purchase agreement, escrow papers, title insurance document, relevant correspondence and final deed showing transfer of ownership.

Q9. Our homebuyer program only kicks in after the bank has agreed to the fund the property. Is it still necessary to send a voluntary letter to the owner and obtain evidence of property value?

A9: Yes. The voluntary letter and evidence of the property’s market value must be in the file.

Relocation Requirements

Q10. When do URA relocation regulations apply to a homebuyer program?

A10. If a tenant is residing at the property at the time of its purchase, the tenant should be provided with URA relocation assistance. If the property is vacant, the grantee should review the last six months of tenancy to ensure that no tenants were asked to leave because HUD funds will fund the acquisition, in whole or in part. Often the appraisal, environmental report, record of site visit, photographs or discussion with the landlord can confirm prior tenancy.

Q11. If there are any tenants at the property what relocation benefits are payable?

A11. The URA in its entirety would apply as would Section 104(d) if the property being purchased was part of project demolishing or converting low income dwellings. For URA relocation benefits see 49 CFR Subpart C and for Section 104(d) benefits see 24 CFR 42.250.

Q12. What should I do if there are tenants in the household?

A12. All tenants should be immediately provided with a General Information Notice explaining the likelihood of displacement and their potential eligibility for benefits. As soon as HUD funds are committed to the property, the tenants should be provided with a Notice of Eligibility and provided with all relocation assistance (i.e. counseling, moving expensive, replacement housing payments). See 49 CFR 24.203 for noticing requirement and HUD Handbook 1378 Appendices 2-7 for samples of the notices and Appendices 25-26 for Section 104(d) notices. Displaced tenant must be paid the higher of the two benefits. As a reminder, eligibility for URA benefits requires legal residency in the U.S. while eligibility for Section 104(d) benefits does not. Also, grantees or participating jurisdictions who hire relocation consultants must still oversee the relocation process and approve the relocation payments.

Q13. What evidence of relocation assistance should be placed in the file?

A13. The following information should be placed in the file: the General Information Notice, Notice of Eligibility and any other correspondence; the claim for relocation benefits and supporting documentation for the calculation of benefits, proof of the relocation payments. For more information on documentation see Chapter 6 of HUD Handbook 1378.

Section 104(d)

Q14. Does the Section 104(d) apply to HUD funded homebuyer programs?

A14. Not usually. Section 104(d) would only apply to homebuyer program acquisitions if the project involved demolishing or converting any low income dwellings with CDBG or HOME funds. For example, the City purchases property with local funds, demolishes low income dwellings and then uses HOME or other HUD funds to construct new affordable housing units for purchase by first time homebuyers. Compliance with Section 104(d) would be triggered.

Q15. What if Section 104(d) is triggered?

A15. If Section 104(d) compliance is triggered, a One for One replacement plan is required per 24 CFR Part 42.350 and relocation assistance must be provided to any low income tenants displaced. See 24 CFR 42.275. Section 104(d) Notices and Claims forms in HUD Handbook 1378 should be used. If NSP funds are used refer to Section K Federal Register Vol. 73, No 194 Monday, October 6, 2008 Notices and note alternative One for One Replacement requirements.

Program Development Issues

Q16. How can I ensure that the acquisition requirements of the URA are met for homebuyer programs?

A16. At the earliest point possible, NSP grantee and HOME PJ staff should advise homebuyer program participants and/or their representative to send a voluntary letter to owner of the property prior to making an offer to purchase the property. It should provide program participants with instructions on how to document delivery of the letter and provide them with a sample properly worded letter. Staff should also provide participants with instructions on obtaining evidence of market value. In addition, prior to signing a contract with the homebuyer the grantee and/or PJ should check to see a properly worded letter was delivered to the owner, including a bank if the property is in foreclosure, and that there is evidence with regard to the market value of the property. If there is a significant variance between the amount offered on the letter and the sale price, we recommend that an explanation be placed in the file.

Q17: How should I structure my homebuyer program to avoid problems with relocation?

A17: Grantees and HOME PJ's should educate potential homebuyers (and/or their real estate agents or other representatives) on the URA requirements and the consequences of displacement, including the financial liability for relocation, and the availability of funding for the relocation. If the grantee or PJ does not plan to provide funds for the relocation, the homebuyer program should be designed to minimize tenant displacement i.e., exclude assistance to tenant-occupied properties. In addition, homebuyers should be instructed not to offer to purchase property that is currently occupied or is vacant because prior tenants moved out so the property could be sold as vacant.

Homebuyer program compliance with Federal acquisition and relocation regulations can be complex. If you have any other questions about acquisition and relocation requirements for HUD funded homebuyer programs, please contact Ms. Jana Bickel, HUD Relocation Specialist, Los Angeles Field Office at Jana.Bickel@hud.gov or 213-534-2581.

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