

CHAPTER E:

RELOCATION

E.1 GLOSSARY

COMPARABLE REPLACEMENT DWELLING

When a person is relocated whether voluntarily or involuntarily, they are moved to a "comparable replacement dwelling." Based on 49 C.F.R. § 24.2(a)(6), a comparable replacement dwelling is generally:

- Decent, safe and sanitary [as described in 49 C.F.R. § 24.2(a)(8)]
- Functionally equivalent to the displacement dwelling
- Adequate in size to accommodate the occupants
- Free from adverse environmental conditions
- In a location no less desirable
- On a site typical of the area
- Currently available on the private market
- Within the financial means of the displaced person

DISPLACED PERSON

Is when any low income family or individual that moves from real property, or moves his or her personal property (a trailer) 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 (a person funded with CDBG dollars.) 24 C.F.R. § 42.305.

NOTE: *The CDBG program as operated will not "displace" persons.*

Pursuant to 24 C.F.R. § 42.375, all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing must be replaced.

This is also known as the "one for one" requirement. If you demolish one dwelling you must replace it the demolished building with one dwelling. Under the CDBG program, you must adhere to this requirement.

UNIFORM RELOCATION ACT (URA)

All of the policies and procedures concerning the acquisition and relocation are covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, which covers all HUD assisted programs. The URA requirements can be found at 49 C.F.R. § 24 (see 54 FR 8912).

VOLUNTARY RELOCATION

The URA makes a clear distinction between a "displaced person", someone forced to move permanently, and a "non-displaced" person, or not forced to move permanently. The difference translates to different benefits for the person depending on the classification. A person who has voluntarily relocated is a non-displaced person.

A voluntary relocation occurs when "the person is an owner-occupant of the property who moves as a result of an arm's length acquisition (not condemnation) or as the result of voluntary rehabilitation or demolition of the real property". There are three additional requirements:

1. The city/county determines and informs the owner in writing that it will not use its power of eminent domain to acquire the property if the negotiations fail to result in an amicable agreement.
2. No specific site or property needs to be acquired for the project to proceed.
3. The city/county informs the owner its estimate of the fair market value of the property.

NOTE: *The CDBG program meets all three of these conditions. That is why it is voluntary relocation, and the persons are not "displaced."*

E.2 RELOCATION

The Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the URA) applies to all Federal or federally-assisted activities that involve the acquisition of real property or the displacement of persons, including displacement caused by rehabilitation and demolition activities. The URA is intended to ensure implementation of such activities by Federal agencies or other public or non-profit agencies is as uniform and consistent as possible.

Under the URA, all persons (families, individuals, businesses and farms) displaced (forced to move permanently) as a direct result of rehabilitation, demolition or acquisition for a HUD-assisted project are entitled to relocation payments and other assistance. Relocation concerns must be addressed early in a project's process, primarily at the time the project is proposed. After the execution of the agreement is received, the appropriate notices regarding relocation should be disseminated to eligible residents.

When a homeowner or tenant is forced to move from their dwelling against their will, the relocation becomes involuntary and they have become a "displaced person." However, CDBG Policies and Procedures for housing rehabilitation projects using Federal funds in designated target areas does not allow for Involuntary Relocation. When a homeowner does not want to relocate or rehabilitate their dwelling, the city or county cannot force the homeowner to do so or condemn the dwelling.

E.3 VOLUNTARY RELOCATION

When a project is undertaken that will facilitate the acquisition, rehabilitation or demolition of dilapidated dwellings, the affected homeowner(s) must be offered relocation benefits. In some cases, rehabilitation of a dilapidated dwelling is not cost efficient and the homeowner agrees to sell or donate their dwelling to the city or county who then demolishes the dwelling. The homeowner is then voluntarily relocated into a new building on the same site, a more suitable (decent, safe and sanitary) site or to an existing dwelling on another site. This voluntary relocation provides the homeowner with the benefits of receiving a new and/or better dwelling. The homeowner is also entitled to benefits related to the move, including moving and related expenses. The grantee benefits from the removal of an "eyesore" and improves the housing stock in the community.

Homeowners who are voluntarily relocated must be referred to at least one "comparable" replacement unit. The comparable replacement unit must be similar in (1) size (contain the same amount of space as the original unit), and function (performing the same purpose as the original unit), (2) reasonably accessible to the person's employment, (3) located in an equal or better area than the location of the original unit, (4) decent, safe and sanitary, (5) currently available and (6) within the financial means of the homeowner. 49 C.F.R. § 24(d)(1).

E.3.a Processing Relocation Claims

The grantee is responsible for assisting displaced persons (as a result of the activity) in applying for benefits under the URA. Each homeowner affected must receive the appropriate notices/forms relating to voluntary relocation. These may include:

- General Information Notice (GIN) (Exhibit E-1)
- Claim for Replacement Housing Payment (Exhibit E-2)
- Acknowledgement of Services and Payments for Voluntary Relocation (Exhibit E-3)

All Notices must be served at the appropriate time so that adverse actions will not be realized. The files must also indicate the manner in which the Notices are delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery.

If a claim is denied, or a relocate intends to waive his/her relocation benefits, TNECD should be contacted immediately.

Request for Payment for Relocation Claims

In those cases where a new house is being built or a new manufactured home being purchased, the funds should be requested from the "Relocation" line item in the budget not from the "Housing Rehabilitation" line item.

E.3.b Recordkeeping

Recordkeeping is an integral part of your responsibilities. Refer to the relocation file checklist to ensure all voluntary relocation activities are complete. Separate files must be maintained on each household for 3 years following completion of the project or relocation payment, whichever is later.

E.3.c Areas of Special Concern

Affirmative Action

Efforts must be made and documented that low income and minority homeowners who are displaced have been shown replacement housing in areas not concentrated by low income and minority populations.

Housing Discrimination

The persons being relocated must be assisted in making complaints of housing discrimination (See Exhibit C-6).

Self-Relocatees

It is the decision of the person to be relocated if he/she should desire to move into a housing unit that is not "decent, safe and sanitary" or that does not meet code specifications. They are entitled to receive moving costs, but not a replacement housing payment. Contact TNECD for assistance.

E.3.d Relocation of Farms and Business

Additionally, pay attention to citizen concerns regarding housing and relocation. They may be frightened and suspicious of efforts to refurbish the housing stock. The counseling and assistance required in helping homeowners is significant, and the area in which many programs experience the greatest difficulty.

E.3.e Relocation Policy

When the homeowner agrees to be relocated because he/she will benefit and there is no threat of condemnation, relocation policy is locally determined. Because voluntary relocation occurs in the housing rehabilitation program, a sample "relocation" policy is included under the housing policies and procedures.

E.4 INVOLUNTARY RELOCATION

When a homeowner or tenant is forced to move from their dwelling against their will, the relocation becomes involuntary and they have become a "displaced person." Displaced persons are entitled to all the benefits under the Uniform Relocation Act and/or Section 104(d).

Involuntary relocation benefits are covered in detail by the Uniform Relocation Act and Section 104(d).

If a grantee is considering involuntary relocation, TNECD must be contacted prior to starting the process. In some instances, a new set a set of procedures may need to be developed to accommodate this method of relocation.

NOTE: *The CDBG policies and procedures for Housing Rehabilitation projects using Federal funds in designated target areas does not allow for involuntary relocation. Any city or county considering the involuntary relocation of a homeowner or tenant for any reason must contact ECD before contacting the homeowner or tenant.*

E.5 RELOCATION EXHIBIT LIST

- E-1 GENERAL INFORMATION NOTICE – 180-DAY HOMEOWNER
- E-2 CLAIM FOR REPLACEMENT HOUSING PAYMENT FOR 180-DAY HOMEOWNER
- E-3 ACKNOWLEDGEMENT OF SERVICES AND PAYMENTS
- E-4 RELOCATION FILE CHECKLIST – VOLUNTARY