

Chapter IX

ACQUISITION & RELOCATION

INTRODUCTION

The Uniform Act (UA) applies to displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers or others; and real property acquisition for HUD-assisted projects (whether publicly or privately undertaken). Grantees must assure they have taken all reasonable steps to minimize the displacement of persons (defined as families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted with CDBG funds.

The following is the governing guidance that covers relocation and acquisition in HUD Programs: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, regulations can be found at 49 CFR 24 (revised 2005); Section 104(d) of the Housing and Community Development Act of 1974; CDBG Program Regulations at 24 CFR 570.488, 24 CFR 570.606 (Subpart K); and Section 414 of the Stafford Act. HUD Handbook 1378 provides HUD policy and guidance on implementing the UA and 49 CFR Part 24 for HUD funded programs and projects. Additionally, Federal Register Notices covering supplemental appropriations for disaster recovery may contain waivers and alternative requirements.

NOTE ENVIRONMENTAL REVIEW COMPLIANCE: No project related acquisition may occur after the date of the pre-application public hearing until the Environmental Review process is completed and DED has issued an “Authority to Use Grant Funds”.

Proposals submitted to the Missouri Water/Wastewater Review Committee are also subject to the CDBG environmental review requirements. Acquisitions may not occur after a proposal has been submitted to the MWWRC unless CDBG’s ER process has been completed.

The Uniform Act was passed to achieve the following public policy objectives:

- 1) Encourage and expedite the acquisition of real property by amicable agreements between grantees and property owners;
- 2) Avoid litigation and relieve congestion in the courts;
- 3) Assure consistent treatment for property owners in Federal programs; and,
- 4) Promote public confidence in Federal land acquisition practices.

Relocation Assistance: The intent of the Act is to establish a uniform policy for fair and equitable treatment of persons that are displaced as a result of “federally-assisted” program. Relocation assistance must be provided as specified in the applicable provisions of the Uniform Act; or, if applicable, under Section 104(d) of the Housing and Community Development Act.

When does the Uniform Act Apply to Your Project Acquisitions?

Property acquisition under the UA begins with the grantee’s formal decision to acquire a specific property or properties for a CDBG-funded project. Compliance with the UA is required because anytime CDBG funds are used in a project it causes the project to be deemed a federally assisted project. As such, the grantee’s project acquisition activities becomes subject to the requirements of Uniform Act, at 49 CFR 24, as amended. Typically, the acquisition and relocation regulations of the Uniform Act are applicable to a project from the date of the grantee’s pre-application public hearing. At the public

hearing, the applicant publicly announces their intent to submit an application for CDBG funds for their proposed project to DED.

The UA applies to the following four types of project acquisitions: permanent and temporary easements necessary for the project; a parcel of land; a long-term lease of 50-years or more; and right-of-ways. Determine the type of acquisition(s) that are necessary for your project with your project's engineer or architect. Then, acquire the property in compliance with the requirements of the Uniform Act. The Uniform Act applies even when property is donated.

Who is a Displaced Person?

Displacement occurs when a "person" (family, individual, business, nonprofit organization or farm) moves as a direct result of a CDBG-assisted acquisition, demolition, or rehabilitation project.

Direct result includes the following:

- A. After notice by the Grantee to move permanently from the property, if the move occurs after the initial official submission to the State for grant, loan, or loan guarantee funds that are later provided or granted;
- B. After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity;
- C. Before the date described above, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity;
- D. After the initiation of negotiations if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:
 - 1. The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or
 - 2. The tenant is required to relocated temporarily for the activity but the tenant is 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 temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or
 - 3. The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

Who is Not a Displaced Person?

- A. A person with a court ordered eviction for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the Grantee (or State, as applicable) must determine the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

- B. A person who moves in the property after the date of the notice described in paragraph (B) in the section above, but who received a written notice of the expected displacement before occupancy;
- C. An owner-occupant of the property who moves as a result of voluntary acquisition or as a result of voluntary rehabilitation or demolition. Note that the tenant of such a structure would be eligible for relocation benefits.
- D. A person who the Grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination;
- E. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy a binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.

Involuntary vs. Voluntary Acquisitions:

The involuntary procedures of the UA apply when a grantee decides that it will ultimately use their power of eminent domain to acquire the land or easement should the Uniform Act acquisition process fail. The acquiring agency must determine if acquisition will be voluntary or involuntary before starting the process. Once the grantee decides on a voluntary acquisition, the use of eminent domain is no longer an option.

For involuntary acquisition, a grantee must follow all steps of Subpart B of the Uniform Act to complete acquisitions that are determined to be necessary for the implementation of the grantee's CDBG project. The acquisition process is detailed on page 17 of this chapter.

Please note that if acquisition and/or relocation activities are part of your CDBG project, the property owner of the land, easement, or structure being acquired must be informed of their UA rights. A property owner must be provided a preliminary acquisition notice letter and the HUD acquisition brochure or, if applicable, the DED/CDBG Easement brochure.

If the right of eminent domain will not be used or does not exist, the acquisition is voluntary. In the event the acquisition negotiation with the property owner(s) is unsuccessful, the grantee will end the acquisition process. Grantees are required to follow two basic procedures of the Uniform Act. Refer to the chart in the appendix titled "General UA Acquisition Process". Grantees must provide a written acquisition notice and provide a written offer letter. In the acquisition notice and offer letter, the grantee must inform the property owner that either they do not have eminent domain authority; or that they have eminent domain authority, but will not use it. In the offer letter, the grantee must provide the property owner the amount of the market value based on an opinion or on an appraisal. Refer to the sample HUD voluntary acquisition letters in the appendix to this chapter.

Please Note the Following:

Sample acquisition and relocation notices, brochures, and other applicable documents are provided in the appendix to this chapter and on the CDBG website at: <https://ded.mo.gov/content/community-development-block-grants>

Sample Acquisition and Relocation documents may be found at the HUD website: www.hud.gov/relocation

The Uniform Act does NOT apply to temporary easements that are exclusively for the benefit of the property owner; that is, one that is “not necessary” for or not directly related to the project. The UA is also not applicable when the acquired property is from a government agency and the acquiring grantee does not have the power of eminent domain.

PROPERTY ACQUISITION PROCEDURES

Property acquisition under the Uniform Act (UA) is a sequential process that begins with the grantee’s decision to acquire a specific property or easement for a project funded in part or in whole with CDBG funds. All project acquisitions made after the applicant’s (application) public hearing date are subject to either the voluntary procedures of the Uniform Act or to the involuntary Subpart B procedures of the Uniform Act, regardless of the source of funding for the acquisition activities. The typical acquisition process under Subpart B of the UA is itemized below:

1) **Determine the specific acquisitions that are necessary for your CDBG project:** Review each of the project activities with the grant administrator, engineer/architect, grantee’s staff, and the council or commission to determine the specific properties that must be obtained for your project. Acquisition deemed necessary for project implementation may include: a parcel of land for a water tower or for a sewer treatment site; land and/or a building for a community center; permanent or temporary easements for water or sewer line activities; a long term lease (50 years or more); or, right-of-way for a street or a rail spur for an industrial park project. A purchase or a donation of property or an easement is considered an acquisition under the Uniform Act.

2) **Determine the Owner(s) of the Property:** Obtain documentation of ownership of the properties that must be acquired for the project, which are the deed and the legal description of the property from the Office of the County Recorder of Deeds. Review the deed and legal description of the property to determine if there are any existing easements or liens. NOTE: CDBG funds may not be used to remove liens or to perfect the owner’s title. Title defects must be cleared by and at the expense of the property owner(s), or with non-CDBG funds.

3) **Notice: Provide a Preliminary Acquisition Notice and HUD Brochure to the Owner(s):** For full fee simple title, long term lease, and right-of-way acquisition, provide the owner with a preliminary acquisition notice letter, and the HUD brochure, “When a Public Agency Acquires Your Property”. The letter, inclusive of the HUD Brochure, must be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered the signature of the property owner and the date it was received is required to document receipt. Copies of the grantee’s preliminary acquisition notice and all other acquisition letters and compliance records should be maintained in individual files established under the name of each property owner who donated or sold their property for the project. A sample preliminary acquisition notice is provided in the appendix and online.

For permanent and temporary easement acquisitions, provide the owner with the DED/CDBG easement brochure. The brochure is the grantee’s formal notice to inform the easement owners of their rights under the Uniform Act. The brochure must also be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered, the signature of the property owner and date received are required to be in their individual acquisition file. Copies of this combination notice/brochure and all other related acquisition records should be maintained in separate files established for each individual property owner. The DED/CDBG easement brochure must be provided

to each property owner even if acquisition activities are paid with funds from another agency, private or local match. The DED/CDBG Easement brochure may be found in the appendix of this chapter

4) **Determine Just Compensation with Appraisals or Valuation**

Appraisals and Review Appraisals

The Uniform Act requires both an appraisal and a review appraisal when the value of the property or easement exceeds \$10,000. The grantee must procure both a licensed Missouri appraiser and a review appraiser in accordance with the CDBG competitive proposal method. For a listing of licensed appraisers, you may contact the Missouri Real Estate Appraisers Commission at: 573-751-0038; or online at: <http://pr.mo.gov/appraisers.asp>

No appraiser shall have an interest in the property to be acquired. A professional service contract that includes the requisite civil rights provisions in Appendix 1 of the CDBG Contract Management Chapter must be executed with both the project's appraiser and review appraiser. A sample HUD appraisal contract is available upon request from DED; however, DED recommends the use of the standard appraisal contract used by licensed Missouri appraisers.

The Uniform Act requires the grantee or their appraiser to invite the property owner to accompany her/him during the appraisal inspection of their property. The Act also requires that the appraiser not consider race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of the property. The appraiser shall disregard any decrease or increase in fair market value of the real property caused by the project to the extent permitted by applicable state law.

Both the appraisal and review appraisal must be maintained by the grantee in the acquisition file for each individual property owner. Under RSMO 339.535, State certified real estate appraisers and state licensed appraisers shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the appraisal standards board of the appraisal foundation. Therefore, an appraisal & review appraisal must meet the USPAP standards, under Missouri law.

A licensed Missouri appraiser, independent of the first appraiser, must do the review appraisal. The review appraiser and the original property appraiser cannot be from the same firm. The review appraisal must be written, and should focus on the adequacy of the first appraiser's supporting data, methodology, and the soundness of the first appraiser's opinion of fair market value based on that information. The review appraisal is only a review and not a second full appraisal. The review appraiser should also provide a recommendation as to the fair market value of the property; this requirement should be stated in the scope of work for the RFP and their signed contract. If the review appraiser's amount differs from the original appraisal, the grantee must do one of the following: use the review appraiser's recommended fair market value; secure an additional appraisal; or, have the original appraiser correct their appraisal to be consistent with the review appraiser's report.

Property Valued at \$10,000 or less

An appraisal and review appraisal may also be used to determine the value of properties valued at \$10,000 or less, but they are not required under the UA. However, an official written determination of (opinion of) value is still required to be made in writing and placed in each property owner's acquisition file. The grantee has to make a determination that an appraisal is unnecessary because the valuation is uncomplicated and the fair market value is estimated at \$10,000 or less, based on a review of available data (Section 24.102c (2) (ii)). Available data for example, may be the price per acre based of recent property sales of similar property in the area.

The determination must contain supporting information, made by a qualified person familiar with the local property market values. Use a license real estate agent, broker, or another independent appraiser to develop the written (opinion) determination of value. The determination of value must be placed in the project file of the property owner.

Donations

No provision of the Uniform Act (UA) regulation prevents a property owner, after being fully informed of their UA right of just compensation, from donating their property or easement to the grantee or subgrantee for a CDBG-assisted project. The amount of compensation is based on a review of available data or an appraisal of the real property. The property owner must also be informed of their right to accompany the appraiser during the appraisal visit.

Because a property owner is entitled to just compensation under the Uniform Act, a donation should never be assumed; their willingness and intent to donate must be documented. A “Waiver of Just Compensation and Appraisal Rights” form should be prepared by the grantee for the property owner’s signature after the property owner voluntarily agrees to donate their easement or parcel of land and/or building. The waiver should clearly state that the property owner understands that she/he cannot be required to donate the property or be required to sell the property to the grantee at less than the amount of the appraised value. The waiver should clearly indicate that the owner voluntarily agrees to donate, and their intent to voluntarily release the grantee of its UA obligation to determine a just compensation amount based upon an appraisal.

Because a property owner is entitled to an appraisal or a determination of value before making a decision to donate, it is incumbent on the grantee to document that the owner is made aware of their appraisal right and elects to waive their right to an appraisal before obtaining the signed waiver. If they do not waive their appraisal right, use the sample form titled, “Waiver of Only Right of Just Compensation.” Both sample “waiver” forms may be found in the appendix of this chapter.

When the property is donated to the grantee by the property owner, the grantee is responsible for paying all costs and fees associated with the transfer of title and recording the property in the grantee’s or subgrantee’s name. Under the Uniform Act process, a property owner must not incur any costs, unless that cost pertains to the perfection of the owner’s title. Documentation requirements include a waiver signed by each property owner stating they were made aware of their UA rights and intend to donate. The signed waiver must be kept by the grantee in each property owner’s acquisition file. The grantee must keep records that a property owner was fully informed of their UA rights by documenting their receipt of a DED/CDBG Project Easement Brochure, or the preliminary acquisition notice and HUD brochure, “When a Public Agency Acquires Your Property”. Promptly record the donated property with the County’s Recorder of Deeds Office. Both brochures are in the appendix.

5) Issue Written Offer and the Statement for the Basis of Just Compensation: The next step is for the grantee to formally issue a written offer to the property owner to purchase the property, inclusive of the written “Statement of the Basis for the Offer of Just Compensation.” The offer cannot be less than the grantee’s official determination of market value, or the appraised value of the property. The offer letter must specify the amount of the offer, a date on which the negotiation for the sale of the property can begin, and should provide for a reasonable response date by the property owner. For acquisition purposes, 14 - 30 days is considered reasonable per UA Appendix A, 24.102(f). The property owner

may accept the offer, reject the offer, or make a reasonable counter offer by the response date. A sample offer letter may be found in the appendix.

6) **Negotiations Under the UA**

Successful Negotiated Settlement of the Offer:

If the initial offer is not accepted, the grantee should negotiate for the sale of the property. The owner **must** be provided a reasonable opportunity to respond to the offer, and to make a counter offer based on information the owner presents as relevant to determining the market value of the property. If the grantee accepts the counter offer, the grantee **must** have written documentation in its project files to show that the negotiated settlement amount was **reasonable, prudent and in the public interest.**

When CDBG funds are used to pay the acquisition cost, the grantee shall prepare a written justification to show that the available market information (e.g., appraisals, recent court awards, or estimated trial cost or condemnation hearing time and costs) supported the amount of the negotiated settlement inclusive of costs of the risk of trial, i.e., the time and legal costs of going through the condemnation process.

Every attempt should be made to negotiate an amicable agreement with the owner. If it is believed that the cost of the condemnation proceeding or resulting delays in project implementation would be greater than the additional amount being requested by the property owner, the owner's proposed higher value or a negotiated amount may be accepted, if it is a reasonable amount.

Unsuccessful Negotiation of the Offer: Send a "final offer letter" to the property owner that includes a final response deadline. The letter must not be coercive and the response deadline must be reasonable, i.e., 14 – 30 days. If the property owner fails to respond by the deadline, the grantee may exercise their statutory right of condemnation after the expiration of the response deadline that is stated in the final offer letter. Refer to final offer letter in the appendix.

NOTE: Coercive actions are prohibited: A grantee must not take any coercive action against a property owner in order to induce an agreement for the price to be paid for their property.

Condemnation: The condemnation process can be more expensive than a negotiated price, and the grantee is required to pay the amount established by the condemnation commissioners or by the court in a condemnation trial proceeding. For this reason, the grantee must determine and fully document the reasonableness of the costs of proceeding to condemnation. If a grantee decides to acquire the property through the condemnation process, it must follow the state's condemnation process.

7) **Transfer Title:** Once an acquisition is successful or a condemnation proceeding is completed, the following tasks remain:

Record the transfer of ownership of the parcel or the easement to the grantee. The deed, easement, or the applicable form of the specific type of acquisition must be promptly recorded at the office of the County Recorder of Deeds.

Pay recording fees and other incidental acquisition fees. The grantee must pay for or reimburse the property owner for all reasonable costs incidental and associated with the transfer of title. These costs include, but are not limited to, recording fees, transfer taxes, evidence of title, and the legal description.

A grantee is not responsible for costs required to perfect a property owner's title.

Recordkeeping to Document UA Compliance

It is important that the grantee keep records sufficient to document compliance with the provisions of the Uniform Act. A recommended acquisition recordkeeping system is provided below. Every

acquisition document, correspondence, or form required by the UA acquisition process must be found in each individual property owner's project file for a CDBG project monitoring review. Always maintain a separate file for each property owner.

HUD's Acquisition and Relocation Handbook 1378, 6-3 Recordkeeping Requirements

A grantee must have the following acquisition documents in each property owner's project file:

- 1) Identification of property owner(s) and their property, e.g., deed and contact information;
- 2) Documentation that the property owners were informed of their Uniform Act rights, e.g. acquisition notice and HUD brochure or DED/CDBG brochure;
- 3) Copy of appraisal and review appraisal;
- 4) Copy of written purchase offer and "statement of the basis for the determination of just compensation; and, documented date of delivery to property owner(s);
- 5) Copy of purchase contract;
- 6) Copy of closing statement, HUD-1 form, identifying incidental expenses; evidence that owner received net proceeds from sale, e.g., copy of cancelled check or wire payment;
- 7) Copy of recorded deed in name of grantee;
- 8) Copy of any appeal or complaint and agency response;
- 9) Condemnation Commissioner's Report or Condemnation Trial Judgement, if applicable.

UNIFORM ACT RELOCATION REQUIREMENTS

The Uniform Act specifies the relocation payments and relocation advisory services for which a displaced person is entitled. Displaced individuals, families, businesses, nonprofit organizations, and farm operations are eligible for relocation assistance and moving expenses under the provisions of the Uniform Act. Any person displaced as a result of a project's CDBG- assisted rehabilitation, demolition, or acquisition activities, whether privately undertaken or public, may be eligible for relocation payments and services specified under the Act because of the use of CDBG funds in the project. The following is a brief description of a displaced person's rights under the Uniform Act. Grantees should consult with DED Compliance staff concerning any questions about the application of the Uniform Act's relocation requirements to your project.

NOTE: Sample relocation notices, claim forms, and other documents referred to in this section may be obtained by request from CDBG or online at: <https://ded.mo.gov/content/community-development-block-grants> (CDBG Forms) or at: www.hud.gov/relocation

Maintain a separate file for each project relocation. Grantees may not propose that a displaced individual or family waive their relocation benefits under 49 CFR 24.207(f). Although, a displaced property owner may waive their acquisition rights, they may not waive their UA relocation assistance rights.

In planning relocation activities, grantees should consider and rectify adverse impacts of displacement on minorities, the elderly, large families, and disabled persons where applicable. Also, the Uniform Act provides that the displaced person/family be provided the choice of relocating in their present neighborhood or nearby similar neighborhoods, consistent with the grantee's responsibility to affirmatively further fair housing (49 CFR 24.8(o), 24.205(a)(1), and 24.205(c)(2)(ii)(D).

The following section contains the procedural steps that are typically followed to complete a project's Uniform Act Relocation Activities:

Grantee Must Adopt Relocation Assistance Guidelines: DED strongly recommends that a grantee formally adopt written relocation guidelines for their project. This must be done in order to establish the relocation assistance that will be provided to the grantee's relocation beneficiaries in a uniform and consistent manner.

Relocation Assistance Notice and Advisory Services Description:

Once a grantee has determined that a family will be displaced, the grantee must provide the displaced family with both a Notice of Eligibility for Relocation Assistance and a general written description of the grantee's relocation assistance advisory services. The relocation notice and advisory services description may be included with the Preliminary Acquisition Notice.

HUD Relocation Brochures: The applicable HUD relocation brochure (and acquisition brochure, if applicable) must be provided with the preliminary acquisition and relocation notice(s). The following HUD Relocation Brochures can be found at www.hud.gov/relocation

Relocation Assistance to Tenants Displaced From Their Homes

Relocation Assistance to Displaced Homeowners

Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms

Relocation Assistance to Tenants Displaced From Their Homes (Section 104(d))

Manner Required to Deliver the Relocation Notice Letter: All required Uniform Act notices must be sent by certified mail or hand delivered. Receipt of the notice letter by the property owner or tenant that will be displaced must be documented with a return or signed receipt.

Relocation Assistance: Individuals and families are entitled to relocation assistance for a comparable dwelling. The payment can take the form of rental differential, down payment assistance, comparable replacement housing, or last resort housing assistance. Displaced businesses, nonprofit organizations, and farm operations are also entitled to a payment for relocation expenses.

A grantee must receive a completed, signed relocation assistance payment claim form before a relocation assistance payment can be processed for a displaced individual or family. Claim forms are available at www.hud.gov/relocation. The claim form must be reviewed and approved by the grantee prior to making payment to the displaced family.

Types of Relocation Assistance Payments: The Uniform Act covers two basic classifications of displaced persons, which are tenants and homeowners. To be able to receive a relocation assistance payment, the homeowner and tenant must meet occupancy thresholds. Both homeowners and tenants must have resided in their residence for a minimum of 90-days prior. Use the following HUD forms for relocation assistance:

- Claim for Replacement Housing Payment for 90-Day Homeowner-Occupant – Form HUD-40057
- Claim for Rental Assistance or Down Payment Assistance – Form HUD-40058

NOTE: The replacement rental unit selected by the displaced person must be inspected by the grantee and found to meet HUD's decent, safe, and sanitary standards (DSS) at (24.2(a)(8) and 24.401(a)(2)); and,

- Residential Claim for Moving and Related Expenses – Form HUD-40054

Notice of Eligibility for Relocation Assistance: At the minimum, the relocation notice should inform the displaced person/family of the following:

- **90-Days at Minimum to Move:** Not required to move without, at the minimum, a 90-day written notice from the grantee, but may agree to move before the expiration of the 90-days.
- **Eligible Amount of Relocation Assistance:** State the eligible amounts of both relocation and moving expense payments, consistent with the requirements of the Uniform Act.
- **Offer a Specific, Available, DSS, Comparable Replacement Dwelling:** A person/family cannot be required to move unless the grantee has offered at least one available, comparable replacement unit that meets HUD's decent, safe, and sanitary standards (DSS). At the minimum, the Section 8 HQS housing standards may be used by a grantee to document that a dwelling met the HUD DSS Standards, under the UA.
- **Moving Expenses:** may be eligible for fixed or actual moving expense payment;
- **Advisory Services:** The person/family is eligible for relocation advisory services, such as help in filling out claim forms for relocation and moving expense payments, referrals to comparable replacement dwellings, transportation if necessary to inspect comparable replacement units, and a personal interview to determine their advisory service needs.
- **Appeal Rights:** The person has the right to appeal the grantee's determination of non-eligibility or the amount of moving and relocation payments through the grantee's adopted grievance process.
- **Grantee Relocation Administrator:** Provide the name and telephone number of the grantee's relocation assistance administrator.

Comparable Replacement Units Must Be Offered: At least three comparable replacement units must be offered to the displaced family in the Relocation Notice letter. One of the three comparables must be designated in the notice as the "most comparable replacement unit." The replacement housing payment shall be based on the amount, if any, that must be added to the acquisition cost of a comparable dwelling. The maximum statutory benefit for replacement housing payments for displaced homeowners is \$31,000.

The calculation for a replacement housing payment under 49 CFR 24.401(b) shall be the sum of:

1. The purchase price differential (49 CFR 24.401(c)). This is the amount by which the cost of a comparable replacement dwelling exceeds the acquisition cost of the displacement dwelling, and
2. Increased Mortgage Interest Costs (49 CFR 24.401(d)), and
3. Incidental Expenses (49 CFR 24.401(e)).

If they are being displaced from a rental dwelling, the dwelling designated as the "most comparable" rental unit will be used to calculate the amount of the rental assistance payment for which the displaced household is eligible to receive. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$7,200 for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of either:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

2. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

The specific amount of relocation assistance for which a displaced family is eligible to receive must be stated in the grantee relocation notice to that household.

Moving Expense Payment: Displaced individuals, families, businesses, nonprofit organizations, and farm operations that are required to move because of a project's acquisition, rehabilitation, or demolition activities are eligible for a moving expenses payment, which is inclusive of utility disconnection and/or hookup costs. Anyone who is displaced, regardless of length of occupancy, is eligible to receive a moving expense payment. Under the Uniform Act, the displaced family has the discretion to choose between receiving a "fixed" moving expense payment or a payment for "actual" moving expenses. Grantee must have a completed, signed claim form in order to make a moving expense payment to a displace family or individual. Use HUD Form 40054 – 'Residential Claim for Moving and Related Expenses'.

- Fixed Moving Expense Payment: The amount of the "fixed" moving expense payment for individuals and families is based on a published U.S. DOT/HUD schedule, so please consult with your DED compliance specialist to obtain the most recent schedule (49 CFR 24.302). www.hud.gov/relocation
- Actual Moving Expense Payment: The payment of actual moving expenses must be documented in each displaced person's file with copies of canceled checks and attached receipts (49 CFR 24.301(a)(ii)).
- Eligible Moving Expenses are transportation costs within 50 miles, packing, crating, storage, insurance, and other reasonable and necessary costs under the Uniform Act (49 CFR 24.301(g)).
- Waiver of Moving Expense Payment NOT Allowed: a displaced family may not waive moving expenses. The back of the moving expense claim form must be used to explain who will pay for utility disconnection and re-connection fees and who will move the family's belongings, if a family refuses to file a moving expense claim. The displaced family must sign this form (49 CFR 24.207(f)).

Replacement Housing of Last Resort 49 CFR 24.404: If the grantee formally determines that comparable replacement sale or rental housing is **not** available, then last resort housing may be provided to the displaced family by the grantee. A displaced family may also request that the last resort housing be placed on their existing lot. Last resort housing shall be provided on a reasonable cost basis.

Methods for Providing Replacement Housing of Last Resort: The activities for providing replacement housing of last resort assistance includes, but is not limited to:

- Rehabilitation of and/or additions to an existing replacement dwelling;
- Relocation to and, if necessary, the rehabilitation of a dwelling to DSS;
- Construction of a new replacement dwelling;
- Removal of barriers for persons with disabilities; or,
- Meeting the handicapped adaptability and accessibility design and construction requirements

Optional Relocation: 24 CFR 570.606(d) allows the State to permit a grantee to provide alternative relocation payments and other relocation assistance to persons displaced by a grantee's project activities at levels in excess of the required amounts. The assistance shall only be provided upon the basis of a uniform written policy that is publicly adopted by the grantee. The adopted policy shall describe the relocation assistance to be provided on an equal consistent basis for displaced families.

Re-establishment Expenses Payment: Small businesses, farm operations, or nonprofit organizations are eligible to receive a payment for expenses actually incurred in re-establishing their operation at the replacement site. Expenses must be documented and be reasonable and necessary. Please contact your DED Compliance Specialist for this claim form, HUD brochure, and the sample notice letter for this type of relocation, or download it from our website.

Advance Relocation Payments: If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the grantee shall issue the payment, subject to safeguards that are appropriate to ensure that the objective of the payment is accomplished.

Notice of Denial of Claim and Right of Appeal: The Uniform Act allows a relocation applicant the right to appeal a grantee's denial of eligibility of their relocation assistance claim, or to appeal the grantee's determination of the amount of relocation assistance. All grantees must incorporate this right of appeal in their project's adopted guidelines and grievance procedure.

RELOCATION ASSISTANCE RECORDKEEPING REQUIREMENTS

1. List of Occupants: For each project, the grantee's files shall include a list or lists identifying the name, address, and race/ethnicity, age, and gender if single head of household.
2. Project Contact Log: Maintain a contact log in the file of each displaced household.
3. Description of Relocation Advisory Services: A general description of the grantee's relocation advisory services for which the person may be eligible, including assistance to relocate to a comparable replacement dwelling, basic eligibility requirements, and procedures for obtaining payments. The grantee's advisory services may be described in the form of a booklet or flyer.
4. Offer Three Comparable DSS Replacement Dwellings: File must contain an offer of three replacement properties with addresses, rent/utility costs or sale prices of the dwellings, and documentation to show they are currently available for sale or rent. Designate which property is the "most comparable replacement dwelling."
5. Decent, Safe, and Sanitary Inspections: Have copies of the inspection reports of the offered comparable replacement dwellings. The reports must show the date of inspection and that each dwelling met HUD's DSS Housing Quality Standards (HQS).
 - If the displaced family chooses a residence that was not offered by the grantee, that residence must be inspected by the grantee to ensure that it meets HUD's DSS standards. If it does not meet those standards, it must be rehabilitated to meet the DSS HQS standards before the displaced family may move into it. However, if the renovations are cost prohibitive, the family must be provided the option of incurring the additional renovation costs; or, selecting another residence that does meet HUD's DSS standards.
6. File Retention Period: Relocation files should be maintained for a five-year period after the closeout of the project by DED.

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN REQUIREMENTS, SECTION 104(D) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Section 104(d) relocation requirements are designed to protect from the loss of available stock of low/moderate income housing caused by demolition or conversion to another use (e.g., parking lot, condominiums, strip-mall), in a CDBG assisted project. Grantees undertaking **any** acquisition, demolition, or rehabilitation activities must comply with these requirements, whether they are acquiring and rehabilitating an apartment building into a condo; acquiring and demolishing several sub-standard occupied LMI houses for a strip-mall; or demolishing a “vacant, but occupiable” residential structure for a parking lot under Section 104(d). The housing stock of LMI dwelling units must not be reduced by a CDBG assisted project, whether those LMI dwellings are occupied or vacant.

Section 104(d) “one-for-one replacement” requirements apply to structures that have been vacant for less than 12 months, or occupied, but meet the statute’s definition of a LMI dwelling unit. A grantee is required to replace, on a one-for-one basis, any LMI dwelling unit that is demolished or converted as the result of a CDBG assisted project. The dwelling must be affordable to a LMI household, where the monthly rent or mortgage payment and average utilities do not exceed either 30% of their household income, or the area’s HUD fair market rent. DED recommends that the rent and average utilities do not exceed 25% of a LMI family’s household income so that the LMI family does not become economically burdened by the new rent and utility costs. The unit must remain affordable to LMI households for at least ten years.

In a CDBG redevelopment project, a grantee may rehabilitate a dwelling that has been vacant at least 90 days and use it as their Section 104(d) one-for-one replacement unit. The rehabilitation work must make the unit meet HUD’s decent, safe, and sanitary standards (HUD’s Section 8 standards), as well as local housing and occupancy codes. That cost may not exceed \$45.00 per square foot.

Section 104(d) requires that before a CDBG grant can be awarded, a grantee **must** certify that it is following a “Residential Anti-Displacement Plan.” All grantees submit this certification in the form of their “Sample Plan” (Form N) with their CDBG grant application. However, should a Section 104(d) demolition or conversion occur during the implementation of your project, an amended Section 104(d) plan must be submitted to CDBG staff for review and approval, prior to the initiation of the proposed demolition and/or conversion activities. The grantee's amended plan must comply with the Section 104(d) one-for-one replacement requirements. An Amended Section 104(d) Notice must also be published prior to the proposed Section 104(d) activities.

Exception to Section 104d One-for-One Replacement Rule: Section 104(d) provides for an exception to the one-for-one replacement requirement. The one-for-one replacement requirement will not apply if there is an adequate supply of available, vacant low/moderate-income dwelling units in standard condition in the grantee's jurisdiction.

To support an exception request, a grantee must provide DED with documentation of an excess supply of available vacant homes and/or apartments that are affordable to LMI families. DED’s finding of an exception is subject to HUD’s review and approval.

Section 104(d) one-for-one replacement requirement do not apply to any LMI dwelling unit that has been vacant for more than 12 months. Therefore, in a CDBG demolition-only project, a grantee may only demolish substandard dwellings that have been vacant for more than 12-months.

Section 104(d) Relocation Assistance: Persons of LMI households who are displaced from their dwelling as a result of the demolition of any housing unit or the conversion of a low/moderate income unit to another use (e.g., condo or commercial use) must be provided with the following relocation assistance by the grantee. Only lower-income (LI) residential tenants are covered:

1. Advisory services
2. Actual or fixed moving expenses as described in the Uniform Act
3. Reimbursement for reasonable and necessary security deposit and credit checks
4. Replacement housing assistance payment. The replacement housing assistance for a 180-day homeowner is identical to that discussed under the Uniform Relocation Act section of this chapter.
5. The grantee must offer a person choosing to rent the following relocation assistance:
 - Section 8 housing voucher/certificate and referrals to comparable replacement units where the owner agrees to participate in the Section 8 Program; or
 - Cash rental assistance to reduce the rent and utility cost to 25% - 30% of the gross household income for 60 months. Grantee must provide the displaced person or family with appropriate referrals to comparable replacement rental units.

Note: Document payment with a signed Section 104(d) claim form and a copy of the canceled check.

Uniform Act Relocation Down Payment Assistance Option: A displaced household may choose Uniform Act Relocation Assistance instead of the Section 104(d) relocation assistance described above. Here, the 42-months of Uniform Act rental assistance may be used in lump sum as downpayment assistance to purchase a house that meets HUD's DSS HQS standards. The Uniform Act assistance is a viable option for displaced occupants who want to purchase a home rather than continue to rent. Section 104(d) regulation does not allow for the 60-months of Section 104(d) rental assistance payments to be used for the purpose of down payment assistance to purchase a home.

RE-USE PLANS

Lot or property re-use plans must be submitted by a grantee when a parcel or lot has been acquired and cleared by the grantee for future redevelopment. The reuse of the cleared lots must meet a HUD national objective and constitute a HUD eligible activity. The reuse requirement applies to both residential and commercial demolition projects.

If the acquisition and demolition activities are based on meeting the 51% LMI benefit national objective, the grantee must submit a reuse plan to DED to document that a LMI benefit will or has occurred. The reuse plan must be submitted and approved by DED prior to the grantee's reuse activity on the cleared lot/parcel. For example, the reuse plan states the cleared lots will only be donated to LMI families to build affordable homes on. After DED approves the grantee's reuse plan, then the grantee may begin to implement the activities of that plan.

For the "demolition-only" project, a reuse plan is not required because these projects are not designed for immediate post-project redevelopment.

With a commercial demolition project, a reuse plan is required if the redevelopment activity of that lot will immediately follow the project's demolition activity. In that reuse plan, the grantee must document that the demolition activity meets one of CDBG's slum and blight criterion and/or a LMI objective. For

example, the cleared lot will be used to build a senior center, which meets the LMI limited clientele national objective; also, a senior center is a HUD/CDBG eligible activity.

DED must approve the reuse plan **prior to** the demolition/clearance activity.

CDBG MONITORING

DED is responsible for monitoring for compliance with applicable Federal and State laws and regulations. In conducting monitoring reviews of activities, DED's compliance staff will use the Acquisition and the Relocation Checklists from Chapter 1 of the Administration Chapter of this manual.

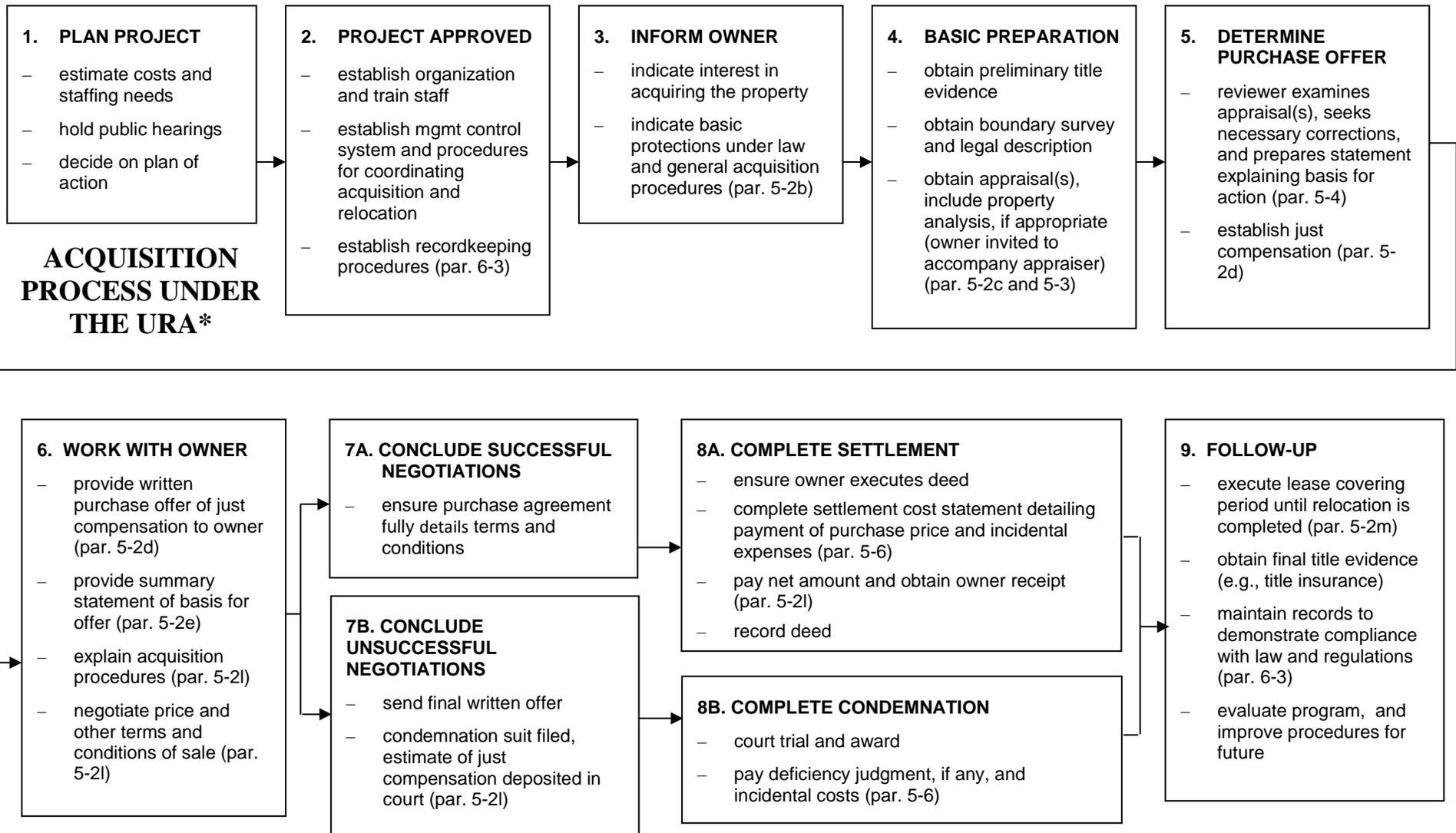
Please do not hesitate to call your CDBG Field Representative or the staff Acquisition Specialist regarding any questions you might have, or call for brochures, claim forms, sample notices, or waiver forms. In addition to the forms and materials included or mentioned in this chapter, HUD & CDBG brochures, claim forms, and regulations are available at:

https://www.hud.gov/program_offices/comm_planning/library/relocation

and <https://ded.mo.gov/content/community-development-block-grants>

Appendix

- 17 Acquisition Process Under Uniform Act
- 18 General Uniform Act Acquisition Process – Voluntary vs Involuntary
- 19-20 DED / CDBG Project Easement brochure
- 21 Voluntary Acquisition – Informational Notice for Agencies with Eminent Domain Authority
- 22 Voluntary Acquisition – Informational Notice for Agencies without Eminent Domain Authority
- 23 Preliminary Acquisition Notice
- 24 Waiver of Just Compensation and Appraisal Rights
- 25 Waiver of Just Compensation; Retention of Appraisal Rights
- 26 Statement of Basis for Offer of Just Compensation
- 27 Offer to Purchase Parcel / Land
- 28 Offer to Purchase / Easement
- 29 Final Offer to Acquire Property
- 30-31 Guide for Jointly Funded FEMA/CDBG and CDBG Funded Buyout Projects



Note:

Paragraph numbers refers to HUD
Handbook 1378

GENERAL URA ACQUISITION PROCESS

(Refer to 49 CFR 24 Subpart B for detailed acquisition requirements)

VOLUNTARY ACQUISITIONS 49 CFR 24.101(b)(1)-(5)	INVOLUNTARY ACQUISITIONS 49 CFR 24.101(a) & (b)
<i>Determine if proposed acquisition satisfies criteria and requirements of 24.101(b)(1)-(5). If acquisition doesn't meet criteria (e.g., is subject to threat or use of eminent domain), refer to involuntary acquisition process and comply with 49 CFR 24 Subpart B requirements.</i>	<i>Determine if proposed acquisition is subject to threat or use of eminent domain. If not subject to eminent domain, refer to voluntary acquisition process and comply with applicable requirements of 49 CFR 24.101(b)(1)-(5).</i>
24.101(b)(1) - Agencies with eminent domain authority but will not use: must meet all conditions of 24.101(b)(1)(i) – (iv). (see esp. 24.101(b)(1)(i) & (ii))	* Notify owner of agency's interest in acquiring property and protections under the Uniform Act (see 24.102(b)) (Optional: issue Notice of Intent to Acquire (see 24.203(d)))
* Agency will not acquire property if negotiations fail, and owner is so informed in writing (see 24.101(b)(1)(iii))	* Appraise property and invite owner to accompany appraiser (see 24.102(c))
* Agency informs owner in writing of property's estimated market value (see 24.101(b)(iv))	* Review the appraisal (see 24.104)
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(ii))	* Establish estimate of just compensation for property (see 24.102(d))
24.101(b)(2) – Agencies or persons without eminent domain authority:	* Provide owner with written offer and summary statement for property (see 24.102(e))
* Prior to offer, inform owner unable to acquire if negotiations fail (see 24.101(b)(2)(i))	* Negotiate with owner for purchase of property (see 24.102(f))
* Inform owner of property's estimated market value (see 24.101(b)(2)(ii))	* If negotiations successful, complete sale and reimburse property owner for related incidental expenses (see 24.106)
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(ii))	* If negotiations unsuccessful, consider an administrative settlement (see 24.102(i))
24.101(b)(3) – Acquisition from a Federal agency, State, or State agency, if acquiring agency without eminent domain authority:	* If negotiations still unsuccessful, consider acquiring property through eminent domain.
* Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(ii))	* Displaced persons eligible for relocation assistance (see 24.2(a)(9)(i))

DED/CDBG PROJECT EASEMENT BROCHURE

Community Development Block Grant (CDBG) funded water and sewer improvements usually involve the installation or replacement of utility lines on the properties of existing or future customers. The donation of easements for these lines is a cost saving mechanism to successfully provide your community with safe water or safe waste disposal. To familiarize you with the donation process, we have prepared this informational brochure.

The donation of an easement, where federal funds are involved in a project, is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. It is commonly referred to as the Uniform Act (UA). The procedures under the Act can be separated into five steps. They are:

1. Notice of Project
2. Notice of Uniform Act Rights
3. Donation & Recording Easement
4. Negotiation, if necessary
5. Eminent Domain, if necessary

NOTICE OF PROJECT

This easement brochure is your notice of our jointly funded CDBG public facility project and of our need for your easement as part of this project. To make the project more cost effective for all residents, you are respectfully asked to donate your easement for the benefit of this project.

NOTICE OF UNIFORM ACT RIGHTS

Under the Uniform Act, an easement owner has three basic rights:

6. Just Compensation
7. Appraisal & Review Appraisal
8. Right to Accompany Appraiser

Appraisals are not required for easements valued at \$10,000 or less, but a determination of market value must be made and documented.

DONATIONS

An owner may donate their easement for this project after being informed of the above Uniform Act rights.

The donation procedure is a very important tool for public agencies, since most have limited resources. Often, the value of the easement donation is more than offset by the future benefits received by the owner from

the publicly owned water or sewer utility that will be provided.

Easement owners, after having been informed of their Uniform Act rights, are asked to waive those rights and to donate their easement to the project. After agreeing to donate, the easement owner will be asked to sign a Waiver of both Just Compensation and Appraisal rights, and to formally record the easement at the office of the County Recorder of Deeds. The city, county, or district will pay the recording fees.

NEGOTIATION

Although an easement owner is not required to donate to receive the specific water or sewer service provided by the project, we strongly encourage donation for the public good. If you decide instead to request just compensation, you may accept the written offer of just compensation based on either an appraisal or a determination of value, or make a counter offer. In fairness to both property owners and taxpayers, offers must be based on the facts, which is an appraisal or written determination of the value of your property. If you present additional facts or items of value that were not considered in any valuation of your property, an adjustment will be considered and a revised offer may be presented to you. If the amount of just compensation cannot be reached through negotiation, then the laws of

condemnation/eminent domain will have to be exercised by the city, county, or district.

**CONDEMNATION/EMINENT
DOMAIN**

The state statutes allow a city, county, or district to acquire an easement by exercising their statutory right of condemnation. This process is initiated by the public agency filing a condemnation petition. If the court determines that the petition is proper, then three condemnation commissioners will be appointed to determine the value of the easement. The court-appointed commissioners, after considering the facts, make their determination of value and file their report with the clerk of the court. After their report is filed with the court, the local public agency must deposit the amount established by the commissioners with the circuit clerk. Exceptions to the commission's easement value may be filed by either the property owner or the public entity within 10-days of the filing the report, otherwise their amount of just compensation becomes final.

CONCLUSION

We strongly encourage you to donate your easement for the success of this project. Your donation will result in a more cost-effective public benefit to you and all of the users of this public facility project.

If you have any additional questions after reading this brochure, please contact the organization listed below:

Agency: _____

Address: _____

Office Hours: _____

Telephone Number: _____

Contact Person: _____

Property Owner's Signature:

**State of Missouri
Department of
Economic Development
State CDBG Program**

**Project
Easements**

For: _____

(Title of project Grantee or District)

Funded by: _____

(Grantee, District, CDBG, RD, DNR)

GUIDEFORM
- VOLUNTARY ACQUISITION -
- Informational Notice -

(Agencies With Eminent Domain Authority)
Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

Please be advised that, (City, County, State, other) _____ possesses eminent domain authority to acquire property, however, in the event you are not interested in selling your property, or if we cannot reach an amicable agreement for the purchase of your property, we will not pursue its acquisition under eminent domain.

Your property is not a necessary part of the proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property.

Please contact us at your convenience if you are interested in selling your property. In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,
(name and title) _____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This guideform may only be used if all of the requirements of 49 CFR 24.101(b)(1)(i)-(iv) are met.
4. This is a guideform. It should be revised to reflect the circumstances.

[03/07] App. 32-2

**GUIDEFORM
- VOLUNTARY ACQUISITION -**

- Informational Notice -
(Agencies Without Eminent Domain Authority)
Grantee or Agency Letterhead

(date)

Dear _____:

(Name of Agency/Person) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD).

Please be advised that (Name of Agency/Person) _____ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

We are prepared to offer you (\$) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name) _____, (title) _____, (address) _____, (phone) _____.

Sincerely,
(name and title) _____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This is a guideform. It should be revised to reflect the circumstances.

PRELIMINARY ACQUISITION NOTICE

(date)

Friendly Farmer Property Owner
700 Farmer's Row
Village of Sunny Day, MO 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear Friendly Farmer Owner:

We write to inform you that the Village of Sunny Day has determined to acquire 5-acres of your farmland to be used to develop a land application treatment system for the city's sewer system. The city will be using Community Development Block Grant funds to upgrade its sewer system. The acquisition of easements for the sewer line part of this project will also be requested.

A HUD brochure is enclosed that describes your rights and the procedures the city will follow to acquire your property, under the Uniform Act (UA). Please be advised that you have the following rights:

- A right to "just compensation" based on an appraisal and review appraisal if your property's fair market value is more than \$10,000
- The UA procedures require that the city hire an independent, Missouri licensed or certified appraiser to appraise the value of the property we seek to acquire
- You have the right to accompany the appraiser during the appraisal inspection of your property. A letter inviting you to accompany the appraiser will be sent by that appraiser at least five days prior to the inspection.
- However, where the value of the easement is estimated to be \$10,000 or less, the determination of value may be based on a review of available data, rather than by an appraisal.

If you have any questions regarding this acquisition, please call the city's grant administrator, Grants R Us, at 444-444-4444.

Very truly yours,

Malcolm Mayor

cc Grants R Us

Enclosures: When a Public Agency Acquires Your Property
MO DED/CDBG Project Easement Brochure

Waiver of Just Compensation and Appraisal Rights

WAIVER OF RIGHTS AND BENEFITS OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, as amended, (42 U.S.C. 4601)(49 CFR PART 24)

I, _____, as owner(s) of title, understand that I am entitled to Just Compensation for my property based on an independent qualified appraisal or a written determination of market value under the Uniform Act provided by the City/County/Village of _____ for the following property:

(Attach or insert Property or Easement Description)

I hereby waive my rights under the Uniform Act, to Just Compensation, an appraisal, and the right to accompany the appraiser, and I donate the property described above.

For my parcel donation, I hereby acknowledge receipt of the HUD brochure "When a Public Agency Acquires Your Property."

For my easement donation, I acknowledge receipt of the DED/CDBG Easement Brochure.

Date

(Signature of Property Owner(s))

Subscribed and sworn to before me this _____ day of _____, 20__.

(Seal)

Notary

WAIVER OF ONLY RIGHT OF JUST COMPENSATION

RETENTION OF APPRAISAL RIGHTS

**UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970,
AS AMENDED, (42 U.S.C. 4601) (49 CFR PART 24)**

I, _____, as owner(s) of title, understand that I am entitled to Just Compensation for my property. The _____ (city/county/village) has determined that the described property is considered to have a fair market value of \$ _____ based on an appraisal. (or) For my easement donation, I acknowledge that the _____ (city/county/village) has provided me with a written determination of value of \$ _____ for the easement described below:

(attach or insert legal description of easement or parcel)

I acknowledge receipt of the HUD brochure, "When A Public Agency Acquires Your Property."

For my easement donation, I acknowledge receipt of the DED/CDBG Easement Brochure.

Based my understanding of the rights and benefits under the Uniform Act as described in the above brochure(s) that I/We received, I/We hereby choose to waive all rights to Just Compensation under the Uniform Act and to donate the property described above.

Date)

Signature of Property Owner(s)

Subscribed and sworn to before me this _____ day of _____, 20_____.

(Seal)

Notary

STATEMENT OF THE BASIS FOR THE OFFER OF JUST COMPENSATION

Description and Location of Property

The Village of Sunny Day proposes to purchase 5 acres of land (Lots 8, Square 6, Downing Extension) from the owner, Mr. Friendly Farmer at 700 Farmers Row, Village of Sunny Day, Missouri.

Purpose of Purchase

The Village of Sunny Day intends to use the 5-acre parcel for the construction of a land application sewer treatment system and to purchase easements for the sewer lines as part of the city's Community Development Block Grant sewer system project.

Inventory

The land contains a one-story single-family, 800 square foot, residence of wood frame construction on a block foundation with a crawl space, hard board siding, and a shingled roof.

It contains a living room, kitchen, 2-bedrooms, and one bath.

Interior finish is carpet over plywood, except linoleum in kitchen and bathroom; paneled walls.

The kitchen has counters and painted wood cabinets. There are no built-in appliances.

Heat is gas-fired, 40,000 BTU floor furnace.

The house is 55 years old. Design is basic. Maintenance is fair.

The parcel is 5-acres.

Declaration of Offer

Based on the appraisal and review appraisal, the Village of Sunny Day hereby makes you an offer in the amount of \$47,500 for the purchase of your property. This offer is for the fair market value of your property and does not include any consideration of decrease or increase in value attributable to the project for which it is being acquired.

OFFER TO PURCHASE PARCEL/LAND

(date)

Mr. & Mrs. Friendly Farmer
700 Farmers Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear Mr. and Mrs. Farmer:

We have previously informed you of the Village's interest in acquiring your property for our sewer treatment project. Based on our appraisal and review appraisal of your property, we have determined the value to be \$47,500. The Village hereby makes you a firm offer in the amount of \$47,500 for the purchase of your property.

We believe that the above offer accurately represents the fair market value of your property based on the appraisal. We urge your favorable consideration and acceptance.

If this offer meets with your approval, the Village's grant representative, Grants R Us, is prepared to purchase and record the property in the city's name. The Village would like to start construction of this project within the next few months; therefore, we ask that you contact Grants R Us no later than fourteen days after the date of this letter to arrange the final purchase.

You may call Grants R Us at 444-444-4444 or stop by and make an appointment at city hall.

If you have any questions, please do not hesitate to contact us at the above phone number.

Very truly yours,

Angela Pearl Mayor

cc Grants R Us

OFFER TO PURCHASE/EASEMENT

(date)

U. A. Property Owner
25 North Easement Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)/Sewer line Extension

Dear U.A. Owner:

We have previously informed you of the Village's interest in acquiring an easement on your property for our sewer line extension project. Based on our review of recent property sales in your area, we have determined the value of the easement to be \$200. The Village hereby makes you a firm offer in the amount of \$200 for the purchase of the easement on your property.

We believe that the above offer accurately represents the fair market value of your property based on a review of available data (i.e., recent property sales in the area). Our realtor's opinion of value is enclosed. We urge your favorable consideration and acceptance.

If this offer meets with your approval, the Village's grant administrator, Grants R Us, is prepared to purchase and record the easement in the city's name. The Village would like to start construction of this project within the next few months; therefore, we ask that you contact Grants R Us no later than fourteen days after the date of this letter to arrange the final purchase.

You may call Grants R Us at 444-444-4444 or stop by city hall and make an appointment to meet with us regarding the Village's offer.

If you have any questions, please do not hesitate to contact us at the above phone number.

Very truly yours,

Angela Pearl Mayor

Enclosure

cc Grants R Us

FINAL OFFER TO ACQUIRE PROPERTY

(date)

U. A. Property Owner
25 North Easement Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear U.A. Owner:

We write to follow up on our original offer to acquire an easement on your property. In our previous offer letter, we respectfully asked that you respond no later than fourteen days after the date of that letter, regarding your acceptance of the Village's offer of \$200 to purchase the easement on your property. We have not heard from you regarding our offer to purchase the easement.

The Village hereby offers \$200 for the purchase of the easement on your property for our sewer line project based on an appraisal and review appraisal of your property. The Village's offer is based on that recent appraisal. Please consider this letter the Village's final offer. Do not hesitate to contact us regarding any counter offer that you want to propose.

Again, we inform you that the Village must complete this project in a timely manner. Therefore, we are asking you to respond to our final offer no later than fourteen days after the date of this letter, so that we can proceed with this project.

If we are unable to negotiate the acquisition of the easement from you by that deadline, the Village will find it necessary to exercise its statutory right of condemnation. It is our hope that we can amicably and successfully negotiate the acquisition of the easement.

If you have any question regarding the Village's offer, please do not hesitate to contact the Village's grant administrator, Grants R Us at 444-444-4444.

Very truly yours,

Margarita Figueroa Mayor

cc Grants R Us

GUIDE FOR JOINTLY FUNDED FEMA/CDBG BUYOUT PROJECTS & FOR SOLELY CDBG FUNDED BUYOUT PROJECTS

The Missouri Department of Economic Development manages CDBG disaster funds from HUD intended for communities in presidentially declared disasters. When CDBG disaster funds are received from HUD, DED will set up an application process for cities and counties to apply for those funds designed for the disaster needs in their community. Generally, the funds are used to address infrastructure and housing needs.

For acquisition and relocation activities, DED funds two types of projects:

- 1) Jointly Funded FEMA/CDBG Buyout Projects - CDBG funds are used as the 25% local match for the 75% of FEMA funds the grantee receives from SEMA's Hazard Mitigation Program. The funds are used to buyout flood damaged properties in that community. SEMA and DED work with the community to purchase land and homes to relocate the families to decent, safe, and sanitary housing. Since SEMA is the lead agency for these projects, their rules govern. SEMA's grant administrator works with the grantee to implement and administrate the project. Acquisitions are done on a voluntary basis.
- 2) Solely CDBG Funded Buyout Projects – CDBG funds are 100% of the project's funds, but it may include local cash or in-kind matching funds. For buyout projects solely funded with CDBG funds (where no FEMA funds are involved) a grantee has the option to follow either the Uniform Act appraisal and review appraisal process, or follow SEMA's acquisition and review appraisal appeal process. Acquisitions are done on a voluntary basis.

Acquisitions for Jointly Funded FEMA/CDBG Projects: SEMA requires a single appraisal to determine the market value of a home for the purpose of making an offer to purchase the dwelling from the property owner. Since buyout programs are voluntary programs, the grantee never uses their statutory authority of eminent domain to acquire the dwelling. The property owner has 3 choices: (1) accept the grantee's offer; (2) appeal the amount of the offer to a SEMA review appraiser; or, (3) decide to withdraw from participating in the grantee's voluntary buyout program.

SEMA Appeal Process: If the property owner disagrees with the offer amount and would like to appeal the market value determination, the property owner may provide their own appraisal completed by a state certified appraiser (the property owner is responsible for the cost of this appraisal). Both appraisals will then be submitted to SEMA for review. SEMA's review appraiser will review both appraisals and determine the most reasonable market value. Once a determination is made, SEMA will notify the grantee and the grantee should send a final offer to the property owner.

Acquisitions for Buyout Projects Funded Solely With CDBG Funds: With buyout projects that are solely funded with CDBG funds, the grantee will have to procure a review appraiser for the purpose of conducting a desktop review of any property owner's appeal of the grantee's buyout offer. The grantee has two options when implementing a buyout program regarding the review appraiser.

1. Follow the Uniform Act: The grantee will procure an appraiser and a review appraiser. The review appraiser will review the original appraisal. The grantee will make an offer based on that determination of the market value of the property.

- a. The property owner may counter offer or withdraw from the grantee's voluntary buyout program.
 - b. The grantee may reject the property owner's counter offer or withdraw from the voluntary buyout process; or,
2. Follow a SEMA's Appraisal Review Process: A grantee may adopt the SEMA acquisition process as part of its buyout acquisition guidelines. Here, the original appraisal is used by the grantee as the determination of market value to make their offer. A review appraiser is procured only if the property owner formally files an appeal of the grantee's determination of the market value of their property. If an appeal is filed by the property owner, they will have to agree, in writing, to accept the determination of value by the review appraiser or withdraw from the buyout process prior to the procurement of the review appraiser.

With a buyout project, the grantee must inform the property owners at the beginning of the project, in their preliminary acquisition notice, that they will not use their statutory right of condemnation and that the buyout is strictly a voluntary program.

Relocation Assistance: Assistance will be governed by the grantee's adopted program guidelines.

- 1) Jointly Funded FEMA/CDBG Projects: SEMA is the lead agency; therefore, CDBG funds will be used to pay 25% of SEMA's determined costs.
- 2) Buyout Funded Solely with CDBG Funds: The Uniform Act regulations will govern the amount and types of relocation assistance and will be part of the grantee's adopted buyout program guidelines. Housing replacement or rental assistance, and moving expenses will be provided to the participants in the grantee's voluntary buyout program.

****ACQUISITION AND RELOCATION HELPFUL HINTS****

- ❖ The Uniform Act applies from the date of your CDBG pre-application public hearing forward.
- ❖ Maintain a separate acquisition file for each property owner who is covered by the requirements of the Uniform Act and/or a Disaster Buyout project, or the Section 104 (d) Anti-Displacement Requirements.
- ❖ Acquisition requires the completion of the CDBG Environmental Review Process PRIOR to acquiring an easement or parcel with private funds, local match, or with CDBG funds.
- ❖ Uniform Act regulations apply **regardless** of who pays the acquisition costs when CDBG funds are used in your project.
- ❖ Remember to provide the HUD acquisition brochure, When a Public Agency Acquires Your Property, to the property owner in all instances to inform them of their UA rights.
- ❖ For acquisitions valued at \$10,000 or less, appraisals are not required; however, the grantee is still required to document in writing, with a valuation report/opinion, how the amount of the offer (market value) was determined (recent sales, assessor's appraisal, etc.). Have a written opinion of the property's value from a licensed realtor or appraiser in project file.
- ❖ Always promptly record the deed or easement immediately after the acquisition.