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One-for-One Replacement Housing, Relocation, and Real Property Acquisition Policies and Procedures

State of Nebraska CDBG-DR Program

JANUARY 2022

RECORD OF CHANGES

The following table summarizes amendments to the One-for-One Replacement Housing, Relocation, and Real Property Acquisition Policies and Procedures (P&P).

Date Change Approved	Change Number	Description of Change

TABLE OF CONTENTS

RECORD OF CHANGES	1
1 POLICY OVERVIEW	5
1.1 ASSOCIATED ALLOCATION(S).....	6
2 ACRONYMS	6
3 DEFINITIONS	7
4 SCOPE	12
5 FEDERAL REQUIREMENTS	12
5.1 URA.....	12
5.1.1 POLICY OBJECTIVES.....	13
5.1.2 APPLICABILITY.....	13
5.2 SECTION 104(D).....	14
5.2.1 POLICY OBJECTIVES.....	15
6 ROLES AND RESPONSIBILITIES	15
6.1 DED ROLES AND RESPONSIBILITIES.....	15
6.2 SUBRECIPIENTS AND SUCCESSFUL APPLICANTS ROLES AND RESPONSIBILITIES.....	15
7 SUBRECIPIENT AND SUCCESSFUL APPLICANT REQUIREMENTS	16
8 DISPLACEMENT PROCEDURES	17
8.1 DETERMINE MOVING AND RELATED EXPENSES.....	17
9 ACQUISITION PROCEDURES	18
9.1 REAL PROPERTY ACQUISITION.....	18
9.2 VOLUNTARY ACQUISITION.....	18

9.3 INVOLUNTARY ACQUISITION20

10 RELOCATION PROCEDURES..... 21

10.1 REQUIREMENTS FOR TEMPORARY RELOCATION21

10.2 HOUSING OF LAST RESORT22

10.3 PERMANENT RELOCATION22

10.4 NON-RESIDENTIAL RELOCATION.....23

11 LEAD-BASED PAINT MITIGATION 23

11.1 ELIGIBILITY FOR RELOCATION24

12 REPLACEMENT PROCEDURES 25

12.1 REPLACEMENT HOUSING25

13 OTHER RELOCATION BENEFITS..... 26

13.1 RELOCATION ADVISORY SERVICES26

13.2 MOVING PAYMENT ASSISTANCE27

13.3 REPLACEMENT HOUSING PAYMENTS27

13.3.1 FOR TENANT OCCUPANTS OF NINETY (90) DAYS OR MORE29

13.3.2 FOR OWNER-OCCUPANTS OF NINETY (90) DAYS OR MORE.....29

13.4 PROCESS CLAIMS AND MAKE PAYMENTS29

13.4.1 PAYMENT RESPONSIBILITY.....30

13.4.2 USE OF RELOCATION PAYMENTS.....30

13.4.3 DOCUMENTATION OF NON-PAYMENT30

13.4.4 WAIVER OF RELOCATION31

14 DOCUMENTATION & REPORTING 31

14.1 RECORDKEEPING31

14.2 RELOCATION NOTICES31

14.2.1	REQUIRED NOTICES	32
14.2.1.1	General Information Notice (GIN)	32
14.2.1.2	Notice of Relocation Eligibility	33
14.2.1.3	Ninety (90) Day Notice	34
14.2.1.4	Notice of Non-Displacement	35
14.2.1.5	Disclosure to Occupants of Temporary Relocation Benefits	35
14.2.2	OTHER RELOCATION/DISPLACEMENT NOTICES	35
14.2.3	REQUIRED INFORMATION IN ADVISORY NOTICES	35
14.2.4	PROCEDURES FOR SURVEYS	36
14.2.4.1	Contact Displaced Persons to Provide Information and Determine Replacement Housing and Social Service Needs	36
14.2.4.2	Identify Replacement Housing and Social Services Resources, Make Referrals 38	
14.2.4.3	Inventory Housing.....	38
14.2.4.4	Displaced Persons Risk Compensation	39
14.2.4.5	Replacement Units Meet Standards.....	40
15	APPENDIX LIST	40

1 POLICY OVERVIEW

The Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs (The Uniform Act or URA),¹ is a Federal law that establishes minimum standards for Federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

Additionally, Section 104(d) of the Housing and Community Development Act of 1974² (Section 104(d)) provides minimum requirements for certain United States (US) Department of Housing and Urban Development's (HUD) funded programs or projects when units that are part of a community's low- income housing supply are demolished or converted to a use other than LMI dwellings.

The purpose of these P&P is to outline the Federal requirements associated with acquisition, replacement, and relocation for activities funded with Community Development Block Grant-Disaster Recovery (CDBG-DR) funds in alignment with the State of Nebraska's existing Relocation Plan, as detailed in Chapter 11 of the ***CDBG Administration Manual***. These P&P will minimize displacement and ensure compliance with applicable Federal relocation requirements when displacement occurs in the context of infrastructure and housing projects assisted with CDBG-DR funds. It includes considerations and procedures for the following:

- Residential and non-residential displacements;
- Temporary relocation; and
- Process of acquiring property, including the appraisal process, use of eminent domain authority, and the rights of the property owner.

The Nebraska Department of Economic Development (DED) generally expects that CDBG-DR funded projects will **not** trigger URA and RARAP requirements pursuant to this P&P. Projects that do trigger these requirements due to unit removal are expected to be reconstruction efforts. However, for purposes of covering any circumstance that does trigger these requirements, these P&P will be administered under the supervision of DED. They are intended to support program implementation funded by HUD's CDBG-DR funds awarded in connection with the associated allocations (see section 1.1, ***Associated Allocation(s)***).

The State of Nebraska will enforce conduct of the CDBG-DR program to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination in any

¹ 42 USC Chapter 61.

² 42 USC § 5304(d).

housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status.

1.1 ASSOCIATED ALLOCATION(S)

- Winter Storm Ulmer ([DR-4420](#))
 - In early 2019, the State of Nebraska suffered record-breaking damage from severe winter weather, straight-line winds, and its worst flooding event in 50 years, leading to a Federal major disaster declaration (DR-4420) under the Stafford Act. Damage from DR-4420 was widespread, leading to disaster declarations in 84 of the State’s 93 counties (and four [4] tribal areas), with the worst damage located in the eastern part of the State.
 - HUD Most Impacted and Distressed (MID) is detailed in the Action Plan and includes Dodge, Douglas, and Sarpy counties.
 - Pursuant to the Federal requirements for DR-4420, a minimum of 80% of this allocation must be invested in HUD-defined MID areas.
 - A minimum of 70% of total CDBG-DR program funds must be spent on Low- to Moderate-Income (LMI) populations.

This subsection may be updated should other allocations become available due to subsequent disaster events and/or supplemental allocations.

2 ACRONYMS

Acronym	Meaning
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant – Disaster Recovery
CFR	Code of Federal Regulations
DED	Nebraska Department of Economic Development
DSS	Decent, Safe, and Sanitary
FMR	Fair Market Rent
FR	Federal Register
GIN	General Information Notice

Acronym	Meaning
HUD	Department of Housing and Urban Development
ION	Initiation of Negotiation
LHC	Lead-Based Paint Hazard Control
LMI	Low-to-Moderate Income
MID	Most Impacted and Distressed
P&P	Policy and Procedure
PUE	Public Utility Easement
RHP	Replacement Housing Payment
RARAP	Residential Anti-Displacement and Relocation Assistance Plan
URA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
US	United States

3 DEFINITIONS

Controlling definitions are found in the [CDBG-DR Program Definitions](#). Key definitions specifically relating to this P&P are stated below.

Appraisal:³ A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Business:⁴ Any lawful activity, except a farm operation, that is conducted:

- Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

³ 49 CFR § 24.2(a)(3).

⁴ 49 CFR § 24.2(a)(4).

- Primarily for the sale of services to the public;
- Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

Condemnation: The legal process of acquiring private property for public use or purpose through the government's power of eminent domain.

Displaced Person:⁵ Except as provided in the "Person Not Displaced" definition, any person who moves from the real property or moves his or her personal property from the real property. This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at 49 CFR § 24.401(a) and 49 CFR § 24.402(a):

- As a direct result of a written notice of intent to acquire (see 49 CFR § 24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
- As a direct result of rehabilitation or demolition for a project; or
- As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under 49 CFR § 24.205(c), and moving expenses under 49 CFR § 24.301, 49 CFR § 24.302 or 49 CFR § 24.303.

Easement: An interest in real property that conveys use, but not ownership, of a portion of an owner's property. An Easement can be permanent or temporary for a period of months or years. A Public Utility Easement (PUE) allows a public agency to construct, improve, maintain, repair, and replace roadways, sidewalks, landscaping, and utilities. It also allows private utility companies to install and maintain their facilities if an agreement to undertake such work exists between the public agency and utility company. Once granted, a PUE precludes the owner of the underlying land from constructing any physical improvements other than approved landscaping in areas specifically designated for such use.

⁵ 49 CFR § 24.2(a)(4).

Eminent Domain: An exercise of the power of government or quasi-government agencies (such as airport authorities, highway commissions, community development agencies, and utility companies) to take private property for public use.

Final Order of Condemnation: The instrument that, when recorded, transfers title to public ownership.

Initiation of Negotiations (ION):⁶ Unless a different action is specified in applicable Federal program regulations, the term initiation of negotiations means the following:

- Whenever the displacement results from the acquisition of the real property by a State Agency (i.e., DED), the *initiation of negotiations* means the delivery of the initial written offer of just compensation by DED to the owner or the owner's representative to purchase the real property for the project. However, if DED issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.
- Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by DED), the *initiation of negotiations* means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.
- In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 ([Pub. L. 96-510](#), or Superfund) the initiation of negotiations means the formal announcement of such relocation or the Federal or Federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.
- In the case of permanent relocation of a tenant as a result of an acquisition of real property described in 49 § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in 49 § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenant under 49 CFR Part 24, until there is a written agreement between DED and the owner to purchase the real property.

Just Compensation: Just compensation is the fair market value of the property being acquired by the government. The HUD definition of fair market value is “The amount of money that would

⁶ 49 § 24.2(a)(15).

probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy.”

Lower-income Dwelling Unit: A dwelling unit with a market rent (including utility costs) that does not exceed the applicable fair market rent (FMR) for existing housing established under 24 CFR Part 888.⁷ However, the term does not include any unit that is owned and occupied by the same person before and after the assisted rehabilitation.

Lower-income Person:⁸ As appropriate, a “low and moderate income person” as that term is defined in 24 CFR § 570.3, or a “low-income family” as that term is defined in 24 CFR § 92.2.

Market Value: The most probable price that a property should bring in a competitive and open market, provided that all conditions requisite to a fair sale are present, the buyer and seller are knowledgeable and acting prudently, and the price is not affected by any undue stimulus.

Parcel: The property that is being acquired or otherwise impacted such that relocation assistance is necessary.

Person Not Displaced:⁹ The following is a nonexclusive listing of persons who do not qualify as displaced persons under 49 CFR Part 24:

- A person who moves before the initiation of negotiations (see 49 CFR § 24.403(d)), unless DED determines that the person was displaced as a direct result of the program or project;
- A person who initially enters into occupancy of the property after the date of its acquisition for the project;
- A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;
- A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by DED in accordance with any guidelines established by HUD (in this case, the Federal Agency responsible for oversight to the program);
- An owner-occupant who moves as a result of an acquisition of real property as described in 49 CFR § 24.101(a)(2) or 49 CFR § 24.101(b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result

⁷ 24 CFR § 42.305.

⁸ 24 CFR § 42.305.

⁹ 49 CFR § 24.2(a)(9)(ii).

of any acquisition, rehabilitation or demolition for a Federal or Federally-assisted project is subject to this 49 CFR Part 24.);

- A person whom DED determines is not displaced as a direct result of a partial acquisition;
- A person who, after receiving a notice of relocation eligibility (described at 49 CFR § 24.203(b)), 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 DED agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;
- An owner-occupant who conveys his or her property, as described in 49 CFR § 24.101(a)(2) or 49 CFR § 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, DED will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in 24 CFR Part 49;
- A person who retains the right of use and occupancy of the real property for life following its acquisition by DED;
- An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93-477, Appropriations for National Park System, or Pub. L. 93-303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of 49 CFR § 24.301;
- A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in 49 CFR § 24.206. However, advisory assistance may be provided to unlawful occupants at the option of DED in order to facilitate the project;
- A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with 49 CFR § 24.208; or
- Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act ([Pub. L. 108-186](#); codified at 42 USC 12821).

Possession: Legal control; to have the right to use.

Public Use: A use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water pipelines or storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection.

Some public uses are for private entities, such as universities, hospitals, and public utilities, which serve the public.

URA Program or Project:¹⁰ The phrase “program or project” means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

4 SCOPE

These P&P apply to all DED employees, providers, vendors, contractors, consultants, Subrecipients, Successful Applicants, partners, citizens, external departments, and agencies doing business with DED, as well as beneficiaries and others associated with, working for, accessing, or attempting to access benefits under the CDBG-DR programs.

5 FEDERAL REQUIREMENTS

The following requirements are applicable to Nebraska’s CDBG-DR funding. Requirements impacting Winter Storm Ulmer (DR-4420) (see section 1.1, **Associated Allocation(s)**) have been amended by HUD’s Federal Register Notice issued February 9, 2018 as further described herein.¹¹

5.1 URA

URA is a Federal law that establishes the minimum requirements for the acquisition of real property for Federally funded programs and projects, and for the relocation of persons who must move from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for a Federally funded program or project. 49 CFR Part 24 is the government-wide regulation that establishes basic policies for the URA and ensures that property owners are treated fairly, consistently, and equitably when effected by Federally-assisted projects.¹²

Pursuant to the URA, DED and Subrecipients or Successful Applicants of the CDBG-DR program are required to provide relocation benefits to all eligible displaced persons who are temporarily or permanently displaced by a rehabilitation program or development project. This includes providing relocation assistance to:

¹⁰ 49 CFR § 24.2(a)(22).

¹¹ 83 FR 5844 at 5858.

¹² See also 24 CFR § 570.606.

- Persons displaced by the demolition or rehabilitation of housing or by the conversion of an income eligible household dwelling to another use as a direct result of assisted activities; and
- Persons temporarily relocated as a direct result of activities funded by CDBG programs.

In cases where it may be necessary, DED and Subrecipients or Successful Applicants of the CDBG-DR program are further required to follow procedures for real property acquisition, either voluntary or involuntary, by agreement and without coercion, as outlined below (see section 9, **Acquisition Procedures**).

5.1.1 POLICY OBJECTIVES

URA objectives are as follows:

- Provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with Federally funded projects;
- Ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;
- Ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;
- Help improve the housing conditions of displaced persons living in substandard housing; and
- Encourage and expedite acquisition by agreement and without coercion.

5.1.2 APPLICABILITY

URA applies to the whole project if Federal financial assistance is used in any phase of a project involving:

- Acquisition;
- Rehabilitation;
- Demolition; or
- Infrastructure.

There are three situations under which relocation may be required pursuant to URA, including:

- Real property acquisition;
- Residential displacements; and

- Non-residential displacements.

Under these circumstances, DED requires that Subrecipients and Successful Applicants provide proper notices with counseling and referral services to all tenants and owner-occupants so that they understand their relocation rights and receive the proper benefits. When necessary, Subrecipients and Successful Applicants must further assist permanently displaced persons to find alternate housing in the neighborhood. To minimize displacement, Subrecipients and Successful Applicants are recommended to stage rehabilitation of assisted households to allow owner-occupants or tenants to remain during minor rehabilitation. If relocation is necessary, DED will make CDBG-DR funds available through the programs to pay moving costs and provide the associated relocation or displacement payments to households displaced by assisted activities. This includes the following eligible benefits:

- Temporary Relocation;
- Permanent Relocation; and
- Replacement Housing.

5.2 SECTION 104(D)

Section 104(d) provides minimum requirements for certain HUD-funded programs or projects when units that are part of a community's low- income housing supply are demolished or converted to a use other than LMI dwellings. Section 104(d) is implemented in HUD's regulatory structure at 24 CFR Part 42.¹³ Further guidance is provided by HUD's Tenant Assistance, Relocation, and Real Property Acquisition Handbook (1378.0).¹⁴

Section 104(d) requires:

- Replacement, on a one-for-one basis, of all occupied and vacant occupiable LMI dwelling units that are demolished or converted to a use other than LMI housing in connection with an activity assisted under the HCD Act; and
- Provision of certain relocation assistance to any lower income person displaced as a direct result of the following activities in connection with Federal assistance:
 - Demolition of any dwelling unit; or

¹³ See also 24 CFR § 570.488 and 24 CFR § 570.606.

¹⁴ "Tenant Assistance, Relocation, and Real Property Acquisition Handbook (1378.0)." See https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780.

- Conversion of a low- or moderate-income dwelling unit to a use other than a LMI residence.

5.2.1 POLICY OBJECTIVES

Section 104(d) objectives are as follows:

- Minimize displacement by meeting the requirement for Grantees (i.e., DED) to create and follow a RARAP.
- Provide relocation assistance to displaced Lower-Income Persons as an alternative to URA payments.
- Replace lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a CDBG or HOME assisted activity.¹⁵

6 ROLES AND RESPONSIBILITIES

6.1 DED ROLES AND RESPONSIBILITIES

DED is responsible for overseeing and managing all activities pursuant to URA and Section 104(d) in connection with CDBG-DR funds awarded to the State of Nebraska, including the development and maintenance of the State RARAP. DED will further be responsible for procedures related to broad engagement with the public (e.g., public notices) and will oversee the implementation of activities related to specific projects (e.g., individual building notices, support for relocation).

6.2 SUBRECIPIENTS AND SUCCESSFUL APPLICANTS ROLES AND RESPONSIBILITIES

Subrecipients and Successful Applicants are responsible for implementing rehabilitation and construction programs and activities with CDBG-DR funds. As part of implementation, Subrecipients and Successful Applicants are responsible for providing proper notices with counseling and referral services to all tenants and owner-occupants so that they understand their relocation rights and receive the proper benefits. When necessary, Subrecipients and Successful Applicants must further assist displaced persons to find alternate housing in the neighborhood.

¹⁵ 42 USC § 5304(d).

Further responsibility specifics have been detailed in section 7, ***Subrecipient and Successful Applicant Requirements***.

7 SUBRECIPIENT AND SUCCESSFUL APPLICANT REQUIREMENTS

This guidance conveys relocation and acquisition requirements applicable to Subrecipients and Successful Applicants when implementing programs and activities with CDBG-DR funds. These policies are applicable to all rehabilitation and construction activities funded by the CDBG-DR program. Subrecipients or Successful Applicants are responsible for the following:

- **Minimizing Displacement:** HUD requires that all reasonable steps be taken to minimize displacement as a result of a HUD assisted project;
- **Budgetary Implications:** Planning is essential to ensure that sufficient funds are available to comply with all applicable requirements. Plan early so that project budgets will include realistic estimates for acquisition and relocation expenses;
- **Coordination of the Project:** Subrecipients or Successful Applicants should take steps to coordinate activities and facilitate cooperation among local government agencies, neighborhood groups, and persons affected by the project. This will ensure that the project can proceed efficiently and with minimal duplication of effort;
- **Determining Resource Needs:** During the planning stage, HUD recommends that DED and its Subrecipients or Successful Applicants review applicable relocation policies, staffing needs, and training or other capacity building needs to anticipate any issues that may hinder the acquisition and relocation process, which will be incorporated into this P&P as identified;
- **Administrative Requirements:** Subrecipients or Successful Applicants must adhere to HUD administrative requirements involved in the planning for acquisition and relocation projects; and
- **URA Triggering:** URA/Section 104(d) can be triggered when the following actions take place:
 - Acquisition of property (voluntary and involuntary);
 - Relocations: moving people from their homes or businesses (permanent or temporary); or
 - Demolition, rehabilitation, or conversion of affordable housing units.

8 DISPLACEMENT PROCEDURES

A residential displacement occurs when a residential household is displaced due to a rehabilitation program or development project (see section 3, **Definitions** for distinction between displaced person and person not displaced).

Non-residential displacements are applicable to businesses, farms, non-profit organizations, mixed-use buildings, etc. that are impacted by a rehabilitation program or development project. Non-residential relocation can be extremely complex and expensive. It is recommended that Subrecipients and Successful Applicants seek guidance and assistance from persons with this expertise early in the process.

For both residential and non-residential displacements, DED requires that Subrecipients and Successful Applicants provide a minimum 90-days written notice to vacate prior to requiring possession (see **Appendix A: 90-Day Notice**), as well as relocation advisory services to displaced tenants and owner-occupants.

Support shall further include reimbursement for moving expenses and payment of any added cost for renting or purchasing comparable replacement housing, including:

- Payment for the actual, reasonable moving costs and related expenses; and
- Payment for actual, reasonable reestablishment expenses or a fixed payment "in lieu of" moving and reestablishment costs.

8.1 DETERMINE MOVING AND RELATED EXPENSES

Displaced persons are eligible for two types of relocation payments: moving costs and replacement housing payment. **DED's CDBG-DR Manual: Chapter 11 – Relocation** provides a detailed list of eligible relocation payments.¹⁶

¹⁶ "CDBG Administration Manual: Chapter 11 – Relocation." Nebraska Department of Economic Development.

9 ACQUISITION PROCEDURES

9.1 REAL PROPERTY ACQUISITION

In cases of real property acquisition, Subrecipients and Successful Applicants should, before negotiations, complete the following steps:

1. Follow the guidelines outlined in **Appendix B: Acquisition Guidelines and Checklist to Execute Real Property Acquisitions**.
2. Notify the property owner of the decision to appraise the property (see **Appendix C: Notice of Decision to Appraise Letter Template**).
3. Request appraisal from the property owner (see **Appendix D: Appraisal Request Template**).
4. After receiving approval for appraisal, invite the property owner to accompany the appraiser during the property evaluation and appraise the property.
5. Allow the property owner to review the offer, ask questions, accept or reject the offer, or make a counteroffer.
6. Based on the appraisal, Subrecipients and Successful Applicants should provide the owner with a written offer of just compensation and a summary of what is being acquired and pay for the property before taking possession (see **Appendix E: Offer Package Letter and Appraisal Summary Template**).
7. The property owner shall also be reimbursed all expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

Real property acquisition can either be voluntary or involuntary, as described below. For further guidance on property acquisitions by a public agency, refer to **Appendix F: Information Booklet for the Acquisition of Property by a Public Agency**.

9.2 VOLUNTARY ACQUISITION

As early as feasible in the acquisition/relocation process, Subrecipients and Successful Applicants should identify individuals or businesses to be relocated and determine if the transaction is voluntary or involuntary.

If DED or its Subrecipient or Successful Applicant does not have eminent domain authority, a transaction is voluntary if the:

- Subrecipient or Successful Applicant notifies the owner in writing of the property's market value (see **Appendix E: Offer Package Letter and Appraisal Summary Template**); and
- Subrecipient or Successful Applicant notifies the owner prior to making an offer that it will not acquire property if an amicable settlement cannot be reached.¹⁷

Pursuant to HUD waiver provided under the Federal Register Notice,¹⁸ the requirements at 49 CFR 24.101(b)(2)(i) and (ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who uses funds allocated under the Notice and does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. If these above conditions are not met, and the abovementioned waiver does not apply, the case may be considered an involuntary acquisition (see section 9.3, **Involuntary Acquisition**).

Pursuant to HUD waivers provided under the Federal Register Notice¹⁹ related to Winter Storm Ulmer (DR-4420) (see section 1.1, **Associated Allocation(s)**), voluntary acquisitions shall proceed as per the process described for real property acquisition.²⁰ If DED or its Subrecipient has eminent domain authority (see **Appendix G: Eminent Domain Code Excerpt**), a transaction is voluntary if all of the following are true:

If DED or its Subrecipient has eminent domain authority, a transaction is voluntary if:

- No specific site is needed and any of several properties could be acquired for project purposes;
- The property is not part of an intended, planned, or designated project area where other properties will be acquired within specific time limits;
- Subrecipient informs the owner in writing of the property's market value;
- Subrecipient also informs the owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement; and
- Tenants are displaced and provided relocation assistance.²¹

If DED or its Subrecipient has eminent domain authority, a transaction is considered involuntary if any of the above are not met.

¹⁷ 49 CFR § 24.101(b)(2).

¹⁸ 83 FR 5844.

¹⁹ 83 FR 4681 at 4686.

²⁰ 83 FR 5844 at 5858.

²¹ 49 CFR § 24.101(b)(1).

9.3 INVOLUNTARY ACQUISITION

If the transaction is considered involuntary, DED or a Subrecipient may acquire property through the exercise of eminent domain powers and must take the following steps:²²

1. Notify owner with a minimum of 90 days' notice of the DED or a Subrecipient's intentions to acquire the property and their protections under the URA (see **Appendix H: Notice of Decision to Appraise and Notice of Land Acquisition Letter Template**).²³
2. Appraise the property and invite the owner to accompany the appraiser.
3. Review the appraisal.
4. Establish just compensation for the property.²⁴
5. Provide owner with written offer and summary statement for property to be acquired (see **Appendix E: Offer Package Letter and Appraisal Summary Template**).
6. Negotiate with owner for the purchase of property.
7. If negotiations are successful, complete the sale and reimburse property owner for related incidental expenses.
8. If negotiations are unsuccessful, consider an administrative settlement²⁵ to complete the sale.

²² 49 CFR § 24.102.

²³ 49 CFR § 24.203(c).

²⁴ 49 CFR § 24.102(d). Just compensation is derived from the appraisal process. Typically, the approved appraisal's estimate of fair market value is the basis for the amount of just compensation offered for the property to be acquired. Just compensation cannot be less than the approved appraisal's estimate of fair market value of the property being acquired.

²⁵ When negotiations result in a purchase price exceeding the agency's estimate of just compensation, it is called an administrative settlement. Administrative settlements are made for administrative reasons that are considered to be in the best interest of the public. Authorized agency officials may approve administrative settlements if they are:

- Reasonable;
- Prudent; and
- In the public interest.

Agency files should include proper documentation to justify and support the decision for an administrative settlement.

9. If negotiations are still unsuccessful, the DED or Subrecipient may acquire the property through use of eminent domain.

10 RELOCATION PROCEDURES

10.1 REQUIREMENTS FOR TEMPORARY RELOCATION

Sometimes a project may require persons to be displaced from their dwellings for only a short period of time. Although temporarily displaced persons do not receive the same relocation assistance and payments as persons permanently displaced under the URA, they do have certain rights and protections.

When necessary or appropriate, residential tenants who will not be required to move permanently may be required to relocate temporarily for the project. Temporary relocation should not extend beyond one (1) year before the person is returned to their previous unit or location. Any residential tenant who has been temporarily relocated for more than one year must be offered all permanent relocation assistance which may not be reduced by the amount of any temporary relocation assistance previously provided.²⁶

All conditions of temporary relocation must be reasonable. At a minimum, the tenant shall be provided the following:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent or utility costs at such housing.
- Appropriate advisory services, including reasonable advance written notice of the following (see **Appendix I: Disclosure to Occupants of Temporary Relocation Benefits Template**):
 - Date and approximate duration of the temporary relocation;
 - Address of the suitable DSS dwelling to be made available for the temporary period;
 - Terms and conditions under which the tenant may lease and occupy a suitable DSS dwelling in the building/complex upon completion of the project; and

²⁶ 49 CFR Appendix A of § 24.2(a)(9)(ii)(D).

- Provisions of reimbursement for all reasonable out of pocket expenses incurred in connection with the temporary relocation as noted above.²⁷

10.2 HOUSING OF LAST RESORT²⁸

The URA requires that comparable DSS housing within a person's financial means be made available before that person may be displaced. When such housing cannot be provided by using replacement housing payments, the URA provides for "housing of last resort."

Housing of last resort may involve the use of replacement housing payments that exceed the URA maximum amounts. Housing of last resort may also involve the use of other methods of providing comparable DSS housing within a person's financial means.

Subrecipients and Successful Applicants have broad flexibility in the use of housing of last resort. It is intended to enable Subrecipients and Successful Applicants to respond to difficult or special displacements, but it should not be used as a substitute for lack of time or lack of relocation advisory services. It is crucial to identify potential housing of last resort situations early so that they may be addressed in a proper manner.

Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of normal limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the handicapped in a replacement dwelling.

10.3 PERMANENT RELOCATION

DED's CDBG-DR program and its associated projects will not typically trigger permanent displacement. Additionally, permanent displacement activities fall outside of the scope of this P&P. If a case of permanent displacement is encountered, then the Subrecipient or Successful Applicant staff responsible for the program or project should consult with DED to decide if they have the capacity to conduct the permanent displacement activity. If Subrecipient or Successful Applicant staff does not have the capacity, then a professional relocation consultant may be hired to do the counseling and benefit determination and implementation. If Subrecipient or Successful Applicant staff does wish to do the permanent displacement activity, then they may also consult and follow the **HUD Relocation Handbook 1378** (see link: <https://www.hud.gov/sites/dfiles/OCHCO/documents/1378CPDH.pdf>) and **Appendix J: Other Relocation/Displacement Notices Template**.

²⁷ 49 CFR Appendix A of § 24.2(a)(9)(ii)(D).

²⁸ 49 CFR § 24.404. See also "CDBG Administration Manual: Chapter 11 – Relocation." Nebraska Department of Economic Development.

10.4 NON-RESIDENTIAL RELOCATION

Nonresidential relocation can be extremely complex and expensive. Subrecipients and Successful Applicants should be cautious when conducting nonresidential displacements under the URA.

Non-residential displaced persons are entitled to advisory services and may be eligible for other relocation benefits (including relocation payments for moving expenses and reestablishment) under the URA. To qualify for benefits, the business must meet the definition of a “displaced person.” It must move permanently as a direct result of a HUD-assisted project involving acquisition, rehabilitation, or demolition. The URA provides coverage for business owners (whether they are on-site or not), for owner-occupants of a business, and for tenants operating a business in rented space.

11 LEAD-BASED PAINT MITIGATION²⁹

The Final Rule for Lead Based Paint Hazard Control (LHC), now the Lead Safe Housing Rule, requires that Federally funded rehabilitation must use safe work practices so that occupants and workers can be protected from lead hazards. The rules are as follows:

- At no time should the tenant(s) or owner-occupant(s) be present in work areas or designated adjacent areas while LHC activities are taking place in any dwelling unit interior, common area, or exterior.
- As such, occupants may not be allowed to remain in their units during the time that LHC are being created or treated.
- Once work that causes lead hazards has been completed, and the unit passes clearance, the occupants can return.
- The tenant(s) or owner-occupant(s) may not reoccupy a work area or adjacent area until post-lead hazard reduction clearance standards have been achieved and verified with laboratory results.

The Lead Safe Housing Rule allows for certain exceptions:

- The work will not disturb lead-based paint or create dust-lead or soil-lead hazard; or

²⁹ 24 CFR 35.

- The work is on exterior only and openings are sealed to prevent dust from entering the home, the work area is cleaned after the work is completed, and the residents have alternative lead-free entry; or
- The interior work will be completed in one period of less than eight daytime hours and the work site is contained to prevent the release of dust into other areas of the home; or
- The interior work will be completed within five (5) calendar days; the work site is contained to prevent the release of dust; the worksite, and areas within ten (10) feet of the worksite are cleaned at the end of each day to remove any visible dust and debris; and the residents have safe access to kitchen, bath, and bedrooms.

If temporary relocation benefits are not provided because the Subrecipient or Successful Applicant believes that the project meets one of the above criteria, then proper documentation must be provided in the program/project file to show compliance. All documentation must be provided to DED for review and verification.

It is up to the Subrecipient or Successful Applicant to ensure that the tenant or owner-occupant in the project does not get impacted by lead-based paint mitigation efforts. In most cases where lead-based paint mitigation is taking place, occupants (tenants or owner-occupants) are strongly encouraged to relocate even for just a few days until a certified lead-based paint assessor can issue a final lead clearance. Tenant-occupants who are temporarily relocated because of lead-based paint mitigation are entitled to the same relocation benefits as those relocated because of substantial rehabilitation or reconstruction activities (see ***Appendix I: Disclosure to Occupants of Temporary Relocation Benefits Template***).

11.1 ELIGIBILITY FOR RELOCATION

Occupants (tenants and owner-occupants) are prohibited from staying in units that are hazardous environments during lead-based paint mitigation. Tenants and owner-occupants will be eligible for temporary relocation benefits which will be provided as a grant when:

- Lead-based paint mitigation work done will not make it safe to live in the unit;
- Lead-based paint work will not allow the tenant or owner-occupant to access a bath or kitchen facility; or
- The unit is being demolished and reconstructed.

The amount of the benefit to be paid should be cost appropriate to the conditions. Tenants or owner-occupants are encouraged to move in with family or friends during the course of rehabilitation, since they are voluntarily participating in the program.

Subrecipient or Successful Applicant staff (i.e., the housing rehabilitation loan specialist or the rehabilitation construction specialist) will complete a temporary relocation benefits form to

document that the tenant or owner-occupant understands that they must relocate during the course of construction and what benefits they wish to be reimbursed for as part of their relocation.

12 REPLACEMENT PROCEDURES

12.1 REPLACEMENT HOUSING

Typically, if a State of Nebraska CDBG-DR program or project assists a property where one or more units are eliminated, then Section 104(d), as amended, applies and DED must replace those lost units. An example of this would be a duplex unit that is converted into a single-family unit.

However, one-for-one replacement requirements at Section 104(d)³⁰ and 24 CFR § 42.375 are waived in connection with Winter Storm Ulmer (DR-4420) funds pursuant to the Federal Register Notice published on February 9, 2018 (see 83 FR 5844 at 5858) for Lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The Section 104(d) one-for-one replacement requirements generally apply to demolished or converted occupied and vacant occupiable Lower-Income Dwelling Units. The February 9, 2018 waiver exempts disaster-damaged units that meet the Subrecipient's or Successful Applicant's definition of "not suitable for rehabilitation" from the one-for-one replacement requirements. DED has defined "not suitable for rehabilitation" in its Action Plan governing these activities, as required by HUD.

Except as described above, where activities reduce the number of housing units in the jurisdiction, DED must document that any lost units are replaced, and any occupants of reduced units are given permanent relocation benefits.

Replacement housing will be provided within three (3) years after the commencement of the demolition or conversion.³¹ Before entering into a contract committing DED to provide funds for an activity that will directly result in demolition or conversion of Lower-Income Dwelling Units or the conversion of Lower-Income Dwelling Units to another use, the Subrecipient or Successful Applicant will make this activity public (through a noticed public hearing and/or publication in a newspaper of general circulation) and submit to DED the following information in writing:

- A description of the proposed assisted activity;
- The location on a map and the number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as Lower-Income Dwelling Units as a direct result of the assisted activity;

³⁰42 USC § 5304(d)(2)(A)(i) and (ii) and (d)(3).

³¹ 24 CFR § 42.375(b)(4).

- A time schedule for the commencement and completion of the demolition or conversion;
- The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
- The source of funding and a time schedule for the provision of the replacement dwelling units;
- The basis for concluding that each replacement dwelling unit will remain a Lower-Income Dwelling Unit for at least ten (10) years from the date of initial occupancy; and
- Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units (e.g., a two-bedroom unit with two one-bedroom units) is consistent with the housing needs of Lower- income households in the jurisdiction.³²

The Subrecipient or Successful Applicant and DED are responsible for tracking the replacement of housing and ensuring that it is provided within the required period. The Subrecipient or Successful Applicant is responsible for ensuring requirements for notification and provision of relocation assistance are met to any Lower-income group displaced by the demolition of any dwelling unit or the conversion of a Lower-Income Dwelling Unit to another use in connection with an assisted activity.³³

13 OTHER RELOCATION BENEFITS

13.1 RELOCATION ADVISORY SERVICES

In addition to being required by law, relocation advisory services are the single most important part of a successful relocation program. Relocation advisory services are required to be provided to all eligible displaced persons, including nonresidential displaced persons. When providing relocation advisory services, DED and its Subrecipients or Successful Applicants must:

- Determine the needs and preferences of displaced persons;
- Explain available relocation assistance;
- Explain a person's right to appeal if they are not satisfied with Subrecipients or Successful Applicants decisions;

³² 24 CFR § 42.375(c).

³³ 24 CFR § 570.606.

- Offer and provide transportation to locate replacement housing;
- Offer other assistance (e.g., social services or financial referrals, housing inspection, etc.);
- Provide current and ongoing listings of comparable dwellings for residential displacements and replacement sites for businesses;
- Supply information on other Federal and State programs offering assistance;
- Provide counseling and other assistance to minimize hardship in adjusting to relocation.
- And other required and appropriate assistance.

13.2 MOVING PAYMENT ASSISTANCE

In addition to relocation advisory services, displaced persons may be eligible for other relocation assistance including relocation payments for moving expenses³⁴ and replacement housing payments for the increased costs of renting or purchasing a comparable replacement dwelling (see section 13.3, **Replacement Housing Payments**). In cases where a Subrecipient or Successful Applicant performs a displaced person’s move at no cost to the person, the displaced person should receive a \$100 expense and dislocation allowance.³⁵

13.3 REPLACEMENT HOUSING PAYMENTS³⁶

The URA provides for different replacement housing payments (RHPs) based on a displaced person's occupancy status and length of occupancy. Tenant occupants may be eligible for a rental assistance payment to supplement the costs of leasing a comparable replacement dwelling or down payment assistance payment to purchase a replacement dwelling. Owner-occupants may be eligible for a price differential payment, mortgage interest differential payment, or incidental payments to supplement the costs of purchasing a comparable replacement dwelling.

In addition to being DSS, a comparable replacement dwelling must also be “functionally equivalent” to the displacement dwelling means that it must perform the same function, and provide the same utility. While it need not possess every feature of the displacement dwelling, the principal features must be present.

³⁴ See 24 CFR § 24.301.

³⁵ 86 FR 40228 (also containing the URA Residential Moving Expense and Dislocation Allowance 2021 Payment Schedule).

³⁶ 49 CFR § 24.401. See also “CDBG Administration Manual: Chapter 11 – Relocation.” Nebraska Department of Economic Development.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is “adequate to accommodate” the displaced person) may be found to be “functionally equivalent” to a larger but very run-down substandard displacement dwelling. Another example is when a displaced person accepts an offer of government housing assistance and the applicable requirements of such housing assistance program require that the displaced person occupy a dwelling that has fewer rooms or less living space than the displacement dwelling.³⁷

Further, the referral units must be within the financial means of the displaced persons. This is determined by the “make whole” financial means test, as follows:

- 90-Day Homeowner: The test is met if the homeowner receives the price differential, increased mortgage interest cost and all reasonable incidental expenses, not to exceed \$31,000.³⁸
- 90-Day Tenant: The test is met if a person receives assistance equal to 42 times the increase in rent and utility costs that he or she is required to pay because of the displacement.³⁹ For 104(d) the tenant receives up to 60 times the increase.⁴⁰

Pursuant to 49 CFR Part 24, a tenant or owner-occupant who has been in the home for at least a 90-day period who is displaced from a dwelling is entitled to a payment as defined within the Federal statute (i.e., base monthly rental for displaced dwelling or down payment assistance, not exceeding \$7,200),⁴¹ as updated by the CPD-14-09 Notice (see: <https://www.hud.gov/sites/documents/14-09CPDN.PDF>).

³⁷ 49 CFR § 24 Appendix A 2(a)(6).

³⁸ 49 CFR § 24.401(b). See also <https://www.hudexchange.info/resource/3853/notice-cpd-14-09-effective-date-for-map-21-changes-to-ura/>.

³⁹ 49 CFR § 24.402(b).

⁴⁰ Pursuant to the waiver set forth 83 FR 5844, DED, Subrecipients, and Successful Applicants must calculate the rental assistance payment based on 42 months in order to provide for uniform and equitable treatment across all tenants.

⁴¹ 49 CFR § 24.402.

For further detail regarding down payment assistance, see section 13.4.2, *Use of Relocation Payments*.

13.3.1 FOR TENANT OCCUPANTS OF NINETY (90) DAYS OR MORE

A rental assistance payment is based on the difference, if any, between the cost of the monthly rent and utilities of the displacement dwelling and a comparable DSS replacement dwelling, as determined by the Subrecipient or Successful Applicant. The URA established a 42-month period for supplementing this payment difference, for a total amount up to \$7,200,⁴² as updated by the CPD-14-09 Notice (see: <https://www.hud.gov/sites/documents/14-09CPDN.PDF>).

It is important to note that a rental assistance payment should be based on income for low-income persons.⁴³ Furthermore, tenant occupants may be eligible to use their rental assistance payment as a down payment for the purchase of a replacement dwelling.

13.3.2 FOR OWNER-OCCUPANTS OF NINETY (90) DAYS OR MORE

A price differential payment is based on the difference, if any, between the acquisition price of the acquired dwelling and the purchase price of a comparable replacement dwelling, as determined by the Subrecipient of Successful Applicant.⁴⁴ The URA established a maximum amount of \$31,000 for an RHP for 90-day owner-occupants. Residential displaced persons may be eligible for moving expenses and replacement housing payments for the increased costs of renting or purchasing a comparable replacement dwelling.

13.4 PROCESS CLAIMS AND MAKE PAYMENTS⁴⁵

Relocation claims may be filed up to eighteen (18) months following the completion of a move.⁴⁶ This means that claims can be filed months after the conclusion of the grant. Therefore, if there are unsettled relocation cases at the time of close out of the grant, the Subrecipient and Successful Applicant should show maximum payments for each potential claimant as unpaid costs on the closeout documents; otherwise, DED may cancel the funds remaining in the grant

⁴² 49 CFR § 24.402.

⁴³ See 49 CFR § 24.402(b)(2)(ii).

⁴⁴ See 49 CFR § 24.401 for more information.

⁴⁵ See also “CDBG Administration Manual: Chapter 11 – Relocation.” Nebraska Department of Economic Development.

⁴⁶ 49 CFR § 24.207(d).

and the Subrecipient or Successful Applicant would be financially liable for relocation costs. This also highlights the need to try and expedite relocation.

Relocation Claim Forms (for all forms identified below, refer to the following HUD website: https://www.hud.gov/program_offices/comm_planning/relocation/forms):

- Claim for Moving Costs and Related Expenses-Families and Individuals; and
- Claim for Replacement Housing Payment for 90-Day Homeowner; or
- Claim for Rental Assistance Payment; or
- Claim for Down Payment Assistance.

13.4.1 PAYMENT RESPONSIBILITY

The Subrecipient or Successful Applicant is responsible for ensuring that all payments are made in a timely fashion. Payments should be issued within thirty (30) calendar days following submission of sufficient documentation to support the claim. The regulations further state that advance payments must be made where they would avoid or reduce a hardship.⁴⁷ When advance payments are made, the Subrecipient or Successful Applicant must document that the payment was used for the purpose intended. The Subrecipient or Successful Applicant should have the beneficiary sign a letter acknowledging receipt of relocation payments and services (see ***Appendix P: Sample Letter Acknowledgment of Services Rendered and Payments Received***).

13.4.2 USE OF RELOCATION PAYMENTS

Payments for down payment assistance must be applied to the purchase price of a replacement dwelling and related incidental expenses.⁴⁸ Payments for rental assistance to tenants need not be applied to housing costs. The rental assistance payment may be made in a lump sum or in installments. The Subrecipient and Successful Applicant have no right to question the uses to which that payment is put; it need not be accounted for beyond receipt by the claimant.

13.4.3 DOCUMENTATION OF NON-PAYMENT

In any instance in which payments are not made, the Subrecipient and Successful Applicant must be able to fully document its efforts to provide payments, the reasons payments were not made, and signed waivers of payment if possible. The regulations mandate that any claim for payment

⁴⁷ 49 CFR § 24.207(c).

⁴⁸ 49 CFR § 24.402(c).

be submitted to the locality within a period of eighteen (18) months after displacement.⁴⁹ The Subrecipient and Successful Applicant should strictly adhere to this limitation and fully document its initial notification of this requirement and all subsequent reminders.

13.4.4 WAIVER OF RELOCATION

In a voluntary acquisition (see section 9.2, ***Voluntary Acquisition***), owners are advised in writing that 1) the buyer does/does not have eminent domain—will not use if negotiations fail; and 2) the fair market value of the property. The Subrecipient or Successful Applicant provides a form to the owner to sign indicating they understand what their relocation rights and benefits are. Relocation benefits almost always apply for tenant occupants.

If relocation has not been completed within six (6) months of the date of issuance of the Notice of Relocation Eligibility (see section 14.2.1.2, ***Notice of Relocation Eligibility***), the Subrecipient or Successful Applicant must provide in its files a written explanation of delay and plan for timely completion.

14 DOCUMENTATION & REPORTING

14.1 RECORDKEEPING

DED and its Subrecipients and Successful Applicants must maintain records of occupants of Federally funded property from the start of the project to three (3) years after HUD grant closeout. Each project that dictates temporary, permanent, or replacement activities will have a project description and documentation of assistance provided. The Relocation File Checklist (see ***Appendix K: Relocation File Checklist***) identifies all documents to be maintained and copied. For further information regarding recordkeeping, see ***Recordkeeping and Data Management Policies and Procedures***.

14.2 RELOCATION NOTICES

The URA regulation requires five notices to be issued to eligible persons. These notices provide important information about the project, the affected persons' resulting rights, their protections, and their eligibility for relocation assistance and payments under the URA. It is critical for Subrecipients and Successful Applicants to issue appropriate notices to affected persons at the appropriate time.

⁴⁹ 49 CFR § 24.207(d)(1).

One of the most important URA notices is the Ninety (90) Day Notice. No person shall be required to move without a minimum of ninety (90) days' written notice of the required date of the move.

HUD has specific requirements relating to the five (5) URA notices and also requires additional notices be issued when conducting acquisition and relocation activities for HUD funded programs and projects.

14.2.1 REQUIRED NOTICES

- **General Information Notice (GIN):** Informs affected persons of the project and that they may be displaced by the project (see **Appendix L: General Information Notice (GIN) Template**).
- **Notice of Relocation Eligibility:** Informs persons that they will be displaced by the project and establishes their eligibility for relocation assistance and payments (see **Appendix M: Notice of Relocation Eligibility**).
- **Ninety (90) Day Notice:** Informs displaced persons of the earliest date by which they will be required to move. This notice may not be issued unless a comparable replacement dwelling is available and the displaced person is informed of its location and has sufficient time to lease or purchase the property (see **Appendix A: 90-Day Notice**).
- **Notice of Non-Displacement:** Informs persons that they are not permanently displaced and that they are eligible for temporary relocation benefits (see **Appendix N: Notice of Non-Displacement Template**).
- **Disclosure to Occupants of Temporary Relocation Benefits:** Documents that the Subrecipient and Successful Applicant is following its adopted temporary relocation plan for tenants (see **Appendix I: Disclosure to Occupants of Temporary Relocation Benefits Template**).

14.2.1.1 General Information Notice (GIN)

As soon as feasible when an owner or investor is applying for Federal financing for rehabilitation, reconstruction, or demolition, the tenant of a housing unit must be mailed or hand delivered a GIN that the project has been proposed and that the tenant will be able to occupy their present house upon completion of rehabilitation. The tenant will be informed that the rent after rehabilitation will not exceed current rent or 30% of their average monthly gross household income. The tenant will be informed that if they are required to move temporarily so that the rehabilitation can be completed, suitable housing will be made available, and they will be reimbursed for all reasonable extra expenses. The tenant will be cautioned that they will not be provided relocation assistance if they decide to move for personal reasons. To develop a GIN, refer to **Appendix L: General Information Notice (GIN) Template**.

14.2.1.2 Notice of Relocation Eligibility⁵⁰

The Notice of Relocation Eligibility establishes eligibility for relocation payments and assistance, and it must:

1. Identify the project and inform the person of their eligibility for relocation payments and other assistance and the effective date of that eligibility.
2. Generally describe the relocation payment(s) for which they may be eligible and indicate the estimated amount or range of such payment(s), the basis of the estimate for any replacement housing payment, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
3. Inform them that they will be given other help (e.g. housing referrals) to facilitate the move.
4. State a specific date as the earliest date the occupant may be required to move or indicate a thirty (30) day advance notice of the date to vacate.

In the Notice of Relocation Eligibility (see **Appendix M: Notice of Relocation Eligibility**), it is important for the Subrecipient or Successful Applicant to emphasize that the notice is not a notice to vacate. The notice should indicate that no one will be forced to move until and unless they have been referred to at least one DSS comparable house and that the occupants will have a minimum of ninety (90) days' notice to vacate after comparable housing has been located and referred. The notice should also contain a grievance procedure which outlines the appeals process including the grounds for filing an appeal, to whom appeals should be filed in with the Subrecipient or Successful Applicant, appropriate time limits, and the right of appeal to DED. This notice and all other notices to displaced persons must be written in plain, understandable language. They may be either hand delivered or sent by certified mail. Notices must also contain the name and phone number of a person who may be contacted for answers to questions or other needed assistance. Keep in mind that mailed notices are appropriate for beneficiaries able to read and understand. If there is any reason to believe the person is functionally illiterate or senile, hand delivery is far more preferable. If a displaced person does not speak or read English, notices must be available in appropriate translations. Copies of all notices and evidence of their delivery should be retained in the relocation case files (refer to Site Occupant Record in 14.2.4.1, **Contact Displaced Persons to Provide Information and Determine Replacement Housing and Social Service Needs**).

⁵⁰ See also "CDBG Administration Manual: Chapter 11 – Relocation." Nebraska Department of Economic Development.

14.2.1.3 Ninety (90) Day Notice⁵¹

The 90-day Notice shall not be given before the displaced person is issued a notice of relocation eligibility (or notice of ineligibility) for relocation assistance (see 14.2.1.2, **Notice of Relocation Eligibility**). The date provided in this notice may be different for each person or group of persons in a project area based on whether or not the project will be phased, the location of the occupied building(s), or the project schedule.

The 90-day Notice need not be issued if:

- There is no structure, growing stock, or personal property on the real property;
- The occupant made an informed decision to relocate and vacated the property without prior notice to the property owner;
- In the case of an owner-occupant who moves as a result of a voluntary acquisition described in 49 CFR § 24.101(b)(1) or (2), the delivery of possession is specified in the purchase contract; or
- The person is an unlawful occupant.

The urgent need provisions described in 49 CFR § 24.203(c)(4) permit Subrecipients and Successful Applicants to require an occupant to vacate on less than 90 days' notice. However, Subrecipients and Successful Applicants may not artificially create an "urgent need" (e.g., by issuing a notice to proceed to a demolition contractor, then using the imminent demolition to substantiate a danger to the resident's health and safety in order to cut short the notice period which is otherwise required).

State or local law may dictate the form and timing of a moving notice to be issued to an unlawful occupant, if any.

HUD also recommends that Subrecipients and Successful Applicants provide a minimum of 30 days' notice to move to persons who will not be displaced but who need to be temporarily relocated. Longer notice may be appropriate for persons who will be relocated for an extended period of time (over six (6) months) or if the move will include all personal property on site. Shorter notice periods may be appropriate based on an urgent need due to danger, health, or safety issues or if the person will be temporarily relocated for only a short period of time.

The URA regulation prohibits Federal participation in relocation payments or relocation advisory services to aliens not lawfully in the US but does not prohibit notices (see 49 CFR 208). Often

⁵¹ 49 CFR § 24.203(c). See also "Tenant Assistance, Relocation and Real Property Acquisition (1378.0): Chapter 2." at <https://www.hud.gov/sites/dfiles/OCHCO/documents/1378c2CPDH.pdf>.

illegal aliens and legal residents reside together. Giving every lawful occupant these notices (see definition of an unlawful occupant at 49 CFR § 24.2(a)(29)) will assure compliance with the URA.

14.2.1.4 Notice of Non-Displacement

As soon as feasible when the rehabilitation application has been approved, the tenant or owner-occupant will be informed that they are not permanently displaced and advise them of their right to appeal. Tenants who are not qualified as a displaced person may be eligible for temporary relocation benefits because of lead-based paint mitigation or substantial rehabilitation or reconstruction of their unit. The tenant will also be cautioned not to move for personal reasons during rehabilitation or risk losing temporary relocation assistance. To develop a Notice of Non-Displacement, refer to **Appendix N: Notice of Non-Displacement Template**.

14.2.1.5 Disclosure to Occupants of Temporary Relocation Benefits

This form is completed to document that the Subrecipient and Successful Applicant is following its adopted temporary relocation plan for tenants. To develop a Disclosure to Occupants of Temporary Relocation Benefits, refer to **Appendix I: Disclosure to Occupants of Temporary Relocation Benefits Template**.

14.2.2 OTHER RELOCATION/DISPLACEMENT NOTICES

The General Information Notice (see section 14.2.1.1, **32General Information Notice (GIN)**), Notice of Non-Displacement (see section 14.2.1.4, **Notice of Non-Displacement**), and Disclosure to Occupants of Temporary Relocation Benefits (see section 14.2.1.5, **Disclosure to Occupants of Temporary Relocation Benefits**) are required for temporary relocation. If permanent relocation is involved, then other sets of notices, noticing processes, and relocation benefits must be applied (See **HUD Relocation Handbook 1378** for those forms and procedures using the following link: <https://www.hud.gov/sites/dfiles/OCHCO/documents/1378CPDH.pdf>).

Subrecipient or Successful Applicant staff will refer to **Appendix J: Other Relocation/Displacement Notices Template** and consult HUD's Relocation Handbook 1378 and ensure that all the proper notices are provided for persons who are permanently displaced as a result of housing rehabilitation activities funded by CDBG-DR or other Federal programs.

14.2.3 REQUIRED INFORMATION IN ADVISORY NOTICES

Appropriate advisory services will include reasonable advance written notice.

- The notice will include the following:
 - Date and approximate duration of the temporary relocation (if applicable);
 - Address of the suitable DSS dwelling to be made available for the temporary period (if applicable); and

- Terms and conditions under which the tenant may lease and occupy a suitable DSS dwelling (if applicable).
- Notices shall be written in plain, understandable primary language of the persons involved, to account for Limited English Proficiency (LEP) persons.
 - Persons who are unable to read and understand the notice (e.g., illiterate, foreign language, or blind or low vision) will be provided with appropriate translation/communication.
- Each notice will indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

14.2.4 PROCEDURES FOR SURVEYS⁵²

14.2.4.1 Contact Displaced Persons to Provide Information and Determine Replacement Housing and Social Service Needs

As soon as the initial notice (see section 14.2.2.1, **32General Information Notice (GIN)**) is delivered or sent out, the Subrecipient or Successful Applicant must interview each displaced person to determine their need for assistance. A sample interview format is provided to show the type of information that is required (see **Appendix Q: Interview Template**). This survey format generally forms the basis of the Site Occupant Record.

The Site Occupant Record includes data identifying the parcel and dwelling; number of individuals and family units; family composition (including age, sex, location of employment, source and amount of income); veteran status of family members; description of current dwelling (number and type of rooms); length of time of occupancy; amount of housing payment or rent; replacement housing preferences regarding type of tenure, location and willingness to increase monthly payments; and other important characteristics (health/disability problems, special needs such as furniture, public assistance, etc.).

The people conducting these surveys and having personal contact with the individuals to be relocated should be patient, capable of understanding the distress of the displaced persons and of dealing with them in a non-threatening, helpful manner.

Some displaced persons may be elderly with a huge emotional investment in their present home. In the Subrecipient's or Successful Applicant's view, it may be a substandard dwelling unit; to the owner or tenant, it is a home which contains a lifetime's memories and mementos. Many

⁵² See also "CDBG Administration Manual: Chapter 11 – Relocation." Nebraska Department of Economic Development.

will not want to relocate. The counseling and assistance required to serve these people adequately is substantial.

Depending upon the size and experience of the relocation staff, it may be appropriate to provide some counseling and assistance themselves while other social service needs will be best met through referral to public or private agencies. A single family may require a number of social service contacts. Physical and psychological problems may range from alcoholism to nervous breakdown, from unemployment to child abuse.

For this reason, the assigned staff must be aware of the kinds of services available. Staff should also develop the ability to distinguish serious problems which require outside professional assistance. Kinds of services and counseling commonly provided during the relocation process include the following counseling relocation services:

- Mortgage counseling and Fair Housing Laws;
- Help in completing or understanding forms or documents such as a purchase contract;
- Housekeeping and home maintenance practices;
- Budgeting and money management guidance;
- Recommendations concerning packing and moving;
- Family and personal counseling;
- Assistance in obtaining medical care;
- Help in obtaining clothing, food, furniture or appliances;
- Advice concerning social security, food stamps, welfare or veterans' benefits;
- Transportation assistance;
- Assistance with childcare or school adjustment;
- Employment counseling and job training;
- Senior citizen assistance;
- Family planning;
- Legal aid; and
- Financial assistance.

In many cases, especially with regard to the elderly, it may be useful to ask if there are any relatives living in the surrounding area. If permission to contact these relatives can be obtained,

these contacts can assist in developing appropriate relocation plans for the person. Some relatives will contribute money to the purchase of a dwelling; others will have special skills (e.g., lawyer, realtor) which can facilitate rehousing transactions. Sometimes, relatives can also encourage cooperation in the disclosure of information necessary to complete claim forms.

At the same time the interviewer is conducting the family survey, they should review the relocation process with the displaced persons and insure they understand the process.

Special attention must be given to:

- The assistance to be provided by the Subrecipient or Successful Applicant;
- The benefits available;
- The fact that replacement housing payments cannot be made unless the household relocates into a standard unit;
- The importance of keeping in touch with the Subrecipient or Successful Applicant; and
- The need to notify the Subrecipient or Successful Applicant before they move.

14.2.4.2 Identify Replacement Housing and Social Services Resources, Make Referrals

The primary purpose of the family survey is to provide the data needed to determine replacement housing needs. All replacement housing must be DSS. The regulations define this to mean that the replacement unit must meet local housing or occupancy codes. The only times that local housing or occupancy codes do not define DSS are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Housing Quality Standards define DSS. The unit should also be free of lead-based paint hazards and of architectural barriers, if serving a handicapped person.

14.2.4.3 Inventory Housing

Having identified the replacement housing needs, the Subrecipient or Successful Applicant must begin taking an inventory of available housing resources. In doing this, Subrecipients or Successful Applicants must be aware of affirmative action criteria that must be met when relocating low-income and minority persons.

The regulations require that the Subrecipient or Successful Applicant make comparable replacement housing available to low-income or minority displaced persons in areas that do not

have concentrations of either low-income or minority households if such opportunities are available.⁵³

This means that if there are vacant, standard, affordable units available in middle/upper income areas or predominantly white areas of your community, low-income or minority displaced persons must be given replacement housing choices in those areas before the Subrecipient or Successful Applicant can give such displaced persons a 90-day notice to vacate. Furthermore, the regulations require that the Subrecipient or Successful Applicant make available to low-income and minority families specific assistance and services (e.g., assistance for moving expenses or interim living costs).⁵⁴

In inventorying available resources, the Subrecipient or Successful Applicant will be contacting lessors, realtors, and movers. It will read classified ads and tour neighborhoods looking for “For Rent” and “For Sale” signs. Eligible displaced persons may refuse to apply for public housing, either because they simply do not want to live in it or because they resent the investigation necessary to qualify them (the investigation of their incomes, in particular).

The process of finding suitable housing will involve continuous contact with displaced persons to solicit information, establish rapport, and provide referrals to housing resources, to accompany displaced persons to inspect possible dwellings and the like. Up-to-date information on the availability, prices, and rentals of comparable sales and rental housing must be provided. All units must be inspected and certified as being DSS before being placed on a referral list.

14.2.4.4 Displaced Persons Risk Compensation

Some displaced persons will not wait for the Subrecipient or Successful Applicant to locate suitable units. They will search for their own units and relocate themselves. Occupants who relocate themselves risk not receiving the compensation to which they are entitled. This can happen because:

1. The occupants do not know they are entitled to benefits and fail to apply.
2. The Subrecipient or Successful Applicant is unable to trace them to their new quarters.
3. The new quarters are substandard (in which case the displaced persons still receive moving expenses). Displaced persons who do not inform the Subrecipient or Successful Applicant of their plans forego a pre-move inspection of their new quarters.

⁵³ 24 CFR § 42.350(a).

⁵⁴ 24 CFR § 42.350.

An inspection after the move is made usually proves to be ineffective with regard to procuring needed repairs.

14.2.4.5 Replacement Units Meet Standards

If an individual locates or moves into a replacement unit that is substandard, the Subrecipient or Successful Applicant must make every effort to upgrade the unit to DSS standards in order to entitle displaced persons to benefits. This can include making a rehabilitation grant or loan, emergency repairs and the like with HOME/CDBG funds or securing comparable assistance from other sources.

In the event remedial action to bring the unit to code is not available, the Subrecipient or Successful Applicant must inform such displaced persons that if they remain in or move to a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments.

The Subrecipient or Successful Applicant must also inform them that if they move into standard housing within a year from the date they received payment for their acquired dwelling or from the date they moved from the acquired dwelling, whichever is later, and file a claim within eighteen (18) months, they will be eligible for a replacement housing payment.

15 APPENDIX LIST

The following appendices reflect tools and templates that will be developed throughout the course of program launch and implementation to support Subrecipients and Successful Applicants with carrying out the procedures set forth in this P&P. Items marked in **gray** indicate that the tool or template is still under development at the time of this document's release. In many cases, a similar form exists under the regular CDBG program and will be adapted for CDBG-DR.

These tools do not reflect any additional policy or procedural element that is not described in the main P&P document. They will be added as appendices to this P&P for convenience of use by relevant stakeholders.

Appendix A: 90-Day Notice

Appendix B: Acquisition Guidelines and Checklist to Execute Real Property Acquisitions

Appendix C: Notice of Decision to Appraise Letter Template

Appendix D: Appraisal Request Template

Appendix E: Offer Package Letter and Appraisal Summary Template

Appendix F: Information Booklet for the Acquisition of Property by a Public Agency

Appendix G: Eminent Domain Code Excerpt

Appendix H: Notice of Decision to Appraise and Notice of Land Acquisition Letter Template

Appendix I: Disclosure to Occupants of Temporary Relocation Benefits Template

Appendix J: Other Relocation/Displacement Notices Template

Appendix K: Relocation File Checklist

Appendix L: General Information Notice (GIN) Template

Appendix M: Notice of Relocation Eligibility

Appendix N: Notice of Non-Displacement Template

Appendix O: Interview Template

Appendix P: Sample Letter Acknowledgment of Services Rendered and Payments Received

Appendix Q: Interview Template