

Residential Anti-Displacement and Relocation Assistance Plan

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY

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Purpose

In accordance with the Housing and Community Development Act of 1974, as amended, (HCDA), and US Department of Housing and Urban Development (HUD) regulations at 24 CFR 570.488, 570.606 and 24 CFR 42.325 use of Community Development Block Grant Disaster Recovery (CDBG-DR) funds must minimize adverse impacts on persons of low and moderate-income persons. The purpose of this Residential Anti-displacement and Relocation Assistance Plan (RARAP) is to provide guidance on complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), (42 U.S.C. Chapter 61) and section 104(d) of the HCD Act (42 U.S.C. 5304(d)). The implementing regulations for the URA are at 49 CFR part 24. The regulations for section 104(d) are at 24 CFR part 42, Subpart C.

This plan serves as a supplement to the acquisition and relocation requirements cited herein. This plan is not intended to limit the ability to conduct buyouts for destroyed and extensively damaged units or those in a floodplain or floodway.

Guidance

The Governor's Office of Economic Development (GOED) RARAP serves as a supplement to the acquisition and relocation requirements stated in the URA. Subgrantees receiving CDBG-DR funds must adopt this plan or develop their own for GOED approval. The approved plan must be made available publicly once approved. The plan shall indicate the steps that will be taken consistent with other goals and objectives of the program, to minimize the displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities.

Waivers

GOED is adopting the following waivers provided through Section III.B.15 URA, Section 104(d), and related CDBG Program Requirements, of the Universal Notice.

1. Section 104(d) relocation assistance. The relocation assistance requirements at Section 104(d)(2)(A)(iii) and 104(d)(2)(B) of the HCDA and 24 CFR 42.350, are waived. This waiver limits the types and amount of relocation assistance a section 104(d) displaced person, as defined under 24 CFR 42.305, is eligible to receive. The relocation assistance will now align with the types and amounts provided under the URA and implementing regulations at 49 CFR part 24. This waiver does not impact a person's eligibility as a displaced person under section 104(d), rather it limits the amounts and types of relocation assistance under section 104(d) to the amounts and types of assistance for displaced persons under the URA, as amended. This limited waiver of the section 104(d) relocation assistance requirements ensures uniform and equitable treatment of individuals eligible to receive benefits under section 104(d) by establishing that all forms of relocation assistance provided to those individuals must comply with URA requirements

2. Lump sum rental assistance payments for residential tenants. The 92 requirements of 42 U.S.C. 3537(c) are waived to the extent necessary to permit a grantee to make lump-sum relocation rental assistance payments to displaced residential tenants. Waiving this requirement allows grantees to provide lump sum rental assistance payments to displaced residential tenants, thereby reducing grantees' administrative burden of disbursing installment payments, in addition to accelerating the availability of the rental assistance, to displaced disaster survivors.
3. URA voluntary acquisition - homebuyer primary residence purchase: Grantees may implement disaster recovery program activities that provide financial assistance to eligible homebuyers to purchase and occupy residential properties as their primary residence. Such purchases are generally considered voluntary acquisitions under the URA and subject to the URA regulatory requirements at 49 CFR 24.101(b)(2). For CDBG-DR, 49 CFR 24.101(b)(2) is waived to the extent that it applies to a homebuyer, who does not have the power of eminent domain, and uses CDBG-DR funds in connection with the voluntary purchase and occupancy of a home the homebuyer intends to make their primary residence. This waiver is necessary to reduce burdensome administrative requirements for homebuyers following a disaster. Tenants displaced by these voluntary acquisitions may be eligible for relocation assistance.
4. Waiver of Section 414 of the Stafford Act: Section 414 of the Stafford Act (42 U.S.C. 5181) provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) [42 U.S.C. 4601 et seq.] ["URA"] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA]." Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disasters and who would have otherwise been displaced as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project may become eligible for a replacement housing payment notwithstanding their inability to meet occupancy requirements prescribed in the URA. Section 414 of the Stafford Act and its implementing regulation at 49 CFR 24.403(d)(1) are waived to the extent that they would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG-DR funded project commencing more than one year after the date of the latest applicable Presidentially declared disaster undertaken by the grantees, or subrecipients, provided that the project was not planned, approved, or otherwise underway before the disaster. For purposes of this waiver, a CDBG-DR funded project shall be determined to have commenced on the earliest of: (1) the date of an approved RROF and certification; (2) the date of completion of the site-specific review when a program utilizes tiering; or (3) the date of sign-off by the approving official when a project converts to exempt under 24 CFR 58.34(a)(12).

Relocation Assistance Alternative

GOED (or its Subgrantees) will provide relocation assistance for low- and moderate-income tenants, who move permanently or move personal property from real property in connection with an activity assisted under the CDBG-DR Program, as a direct result of the rehabilitation, demolition, or conversion of a

residential unit in accordance with the requirements of [24 CFR 42.350](#). A displaced person who is not a lower-income tenant, will be provided relocation assistance in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended and implementing regulation at [49 CFR Part 24](#). Types of relocation assistance a displaced person may qualify for include:

- **Advisory Services:** a displaced person will be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601-19). If a comparable replacement dwelling unit to be provided to a minority person is located in an area of minority concentration, the minority person will also be given, if possible, referrals to comparable and suitable decent, safe and sanitary replacement dwelling units not located in such areas.
- **Moving Expenses:** payment for moving expenses at levels described [49 CFR Part 24, Subpart D](#).
- **Security Deposits and Credit Checks:** the reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit and the cost of credit checks required to purchase or rent the replacement dwelling unit.
- **Interim Living Costs:** displaced persons shall be reimbursed for actual, reasonable, out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if one or more of the following apply:
 - The person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public.
 - The person is displaced from a “lower-income dwelling unit,” none of the comparable replacement dwelling units to which the person has been referred qualifies as a lower-income dwelling unit; and a suitable lower-income dwelling unit is scheduled to become available in accordance with [24 CFR 42.375](#).
- **Replacement Housing Assistance:** displaced persons are eligible to receive replacement housing assistance as determined under [49 CFR Part 24, Subpart E](#).

Minimizing Displacement

GOED will take all reasonable steps to minimize the displacement of persons (i.e., families, individuals, businesses, farms, and not-for-profit organizations) as a result of a project assisted with federal funds including, but not limited to:

- Encouraging Subgrantees to stage rehabilitation of dwelling units to allow tenants to remain in the building/complex during and after the rehabilitation by working with vacant units first.
- Encourage Subgrantees to arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
- When feasible, demolish or convert only dwelling units that are not occupied or vacant occupiable “dwelling units” (as defined in [24 CFR 42.305](#)).
- When feasible, residential tenants will be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable dwelling unit in the building/complex upon completion of the project.

One-for-One Replacement of Lower-Income Dwelling Units

GOED will ensure replacement of all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project assisted with funds provided under a federally funded program in accordance with 24 CFR 42.375.

Lower income dwelling unit is defined as a dwelling unit with market rent, including utility costs, that does not exceed the applicable Fair Market Rent for existing housing as established under 24 CFR Part 888.

Housing condition terms are defined as:

- Vacant occupiable: a vacant unit in standard condition or substandard suitable for rehabilitation.
- Standard Condition: housing that meets Housing Quality Standards (HQS) set forth in the Section 8 program, all zoning ordinances and uniform codes adopted by the state, which are national or international codes.
- Substandard Suitable for Rehabilitation: a housing unit or, in the case of multifamily dwellings, the building(s) containing the housing units, where the structural deficiencies must be limited in number and magnitude such that the **cost of rehabilitation would not exceed 50 percent of the replacement cost of the dwelling**. Exceptions may be made to the 50 percent of replacement cost threshold on a case-by-case basis, and the rationale will be documented.

If the dwelling units that will be demolished or converted do not meet the definition of occupied or vacant but occupiable, a One-For-One Replacement Plan is not applicable. GOED must be provided evidence that the units meet this condition.

When preparing a One-For-One Replacement Plan, acceptable replacement must meet the following requirements:

- Located within the Subgrantee's jurisdiction. To the extent feasible and consistent with other statutory priorities, the units shall be located within the same neighborhood as the units replaced.
- Units must be sufficient in number and size to house no fewer than the number of occupants who could have been housed in such units.
- The units must be provided in Standard Condition. Replacement units may include units that have been raised to Standard Condition from Substandard Condition Suitable for Rehabilitation if the following are met:
 - No person was displaced from the unit.
 - The unit was vacant at least three months before the execution of the agreement between the Subgrantee and the property owner.
- The units must initially be made available for occupancy at any time during the period beginning 1 year before the Subgrantee makes public the required One-For-One Replacement Plan and ending 3 years after the commencement of demolition or rehabilitation related to conversion.

The units must be designated to remain lower income dwelling units for at least 10 years from initial occupancy. Replacement units may include, but are not limited to, public housing or existing housing receiving Section 8 Project-Based Assistance.

Before GOED enters into a written agreement committing funds for a project that will directly result in the demolition or conversion of lower income dwelling units, Subgrantees will publish a One-For-One Replacement Plan in a newspaper of general circulation and on their applicable website and social media. The Subgrantee must make the plan available for a period of 14 days and receive public comments. The plan and all comments received must be submitted to GOED.

The One-For-One Replacement Plan must include:

1. A description of the proposed assisted project.
2. The address, number of bedrooms, and location on a map of lower income dwelling units that will be demolished or converted to a use other than lower income dwelling units as a result of an assisted project.
3. A time schedule for the commencement and completion of the demolition or conversion.
4. To the extent known, the address, number of lower income dwelling units by size (i.e., number of bedrooms) and location on a map of the replacement lower income housing that has been or will be provided.
5. If there are vacant units, provide a list detailing the condition of each unit either standard condition, substandard condition and suitable for rehabilitation, or substandard not suitable for rehabilitation. Substandard not suitable for rehabilitation means any units where estimated costs of replacement and repairs are 50% or more than the estimated cost of new construction of comparable units. These units do not meet the definitions of standard or substandard suitable for rehabilitation listed above.
6. The source of funding and a time schedule for the provision of the replacement dwelling units.
7. The basis for concluding that each replacement dwelling unit is designated to remain a lower income dwelling unit for at least 10 years from the date of initial occupancy.
8. Information demonstrating that any proposed replacement of lower income dwelling units with smaller dwelling units (i.e., a two-bedroom unit with two one-bedroom units), or any proposed replacement of efficiency or single-room occupancy unit with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).
9. Proof of publication of plan and availability to the public, minimum of 14 days. The plan must be published prior to funding.

To the extent that the specific location of the replacement dwelling units and other data in items 4 through 7 are not available at the time of the general submission, the Subgrantee will identify the general location of such dwelling units on a map and complete the disclosure and submission requirements as soon as specific data is available.

Replacement not Required Based on Unit Availability

Under 24 CFR 42.375(d), the one-for one replacement requirement does not apply to the extent GOED determines, based upon objective data, that there is an adequate supply of vacant lower income dwelling units in standard condition on a nondiscriminatory basis within the area. The Subgrantee must submit to GOED the request for determination that the one-for-one replacement requirement does not

apply. If GOED, after considering the submission and the data provided, agrees with the request, GOED will provide its recommendation with supporting information to the HUD field office per 24 CFR 42.375(c).

Contacts and Appeals

GOED is responsible for monitoring the Subgrantee's compliance with URA throughout the development process including tracking the replacement of lower income dwelling units and ensuring they are provided within the required period.

GOED is responsible for providing relocation payments and other relocation assistance to any lower income person displaced by the demolition of any dwelling unit or the conversion of lower income dwelling units to another use.

If any household/person believes their application for relocation assistance has not been properly considered, the aggrieved household/person may file a written appeal of that determination to GOED's Program Manager. An aggrieved person must file the appeal within 60 days after the person receives the written notification of the determination. The appeal procedures to be followed are described in 49 CFR 24.10.

In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the determination to the HUD Field office.

You can expect a fair decision on any appeal. However, if you are not satisfied with the final administrative decision on your appeal, you may seek review of the matter by the courts.

Appeals may be directed to contact person:

Grants Manager
Governor's Office of Economic Development
711 E. Wells Avenue
Pierre, SD 57501
(605) 773-5196
Stephanie.Deyo@state.sd.us