

RELOCATION AUTHORITY FOR HOPE VI GRANTS

The purpose of this guidance is to summarize the various regulatory requirements for HOPE VI relocation. The Office of Public Housing Investments (OPHI) has issued separate guidance on the requirements of a HOPE VI Relocation Plan, which includes detailed information on mobility counseling and other services provided to residents faced with the prospect of moving from their homes due to HOPE VI revitalization.

I. SUMMARY OF RELOCATION AUTHORITIES

The regulatory framework for relocation is complicated because there are two different types of HOPE VI grants, several eligible activities, and a variety of relocation authorities. Since the HOPE VI Program does not have its own regulations but references other public housing regulations, the applicability of relocation requirements must be identified by all of these factors. The following charts summarize the various kinds of activities conducted with HOPE VI funds and indicate the relocation guidelines to use for each.

HOPE VI Activity	URA	Section 18	968.108	941.207
HOPE VI REVITALIZATION GRANTS				
Rehabilitation under Revitalization Plan	x		x	
Acquisition under RP	x			x
Disposition under RP		x		
Demolition under RP approved before 10/21/98	x	x		
Demolition under RP approved after 10/21/98	x			

HOPE VI Activity	URA	Section 18	968.108	941.207
HOPE VI DEMOLITION GRANTS				
Demolition per Section 18	x	x		
Demolition per approved part 971 Mandatory Conversion Plan	x			

II. DEFINITIONS

A. HOPE VI Revitalization Grants

HOPE VI Revitalization Grants are awarded to PHAs each year in accordance with the provisions of each year's Notice of Funding Availability (NOFA), and are regulated by the Grant Agreement executed between the Grantee and HUD. Activities which may be funded with Hope VI Revitalization grant funds which may trigger relocation requirements include but are not limited to:

1. total or partial **demolition** of buildings
2. **disposition** of property
3. public housing development through **acquisition** of land, or acquisition of off-site units with or without rehabilitation to be used as public housing
4. major **rehabilitation** and other physical improvement of housing and community facilities intended to facilitate the delivery of self-sufficiency, economic development, or other supportive services or residents
5. **New construction** of replacement rental housing on- and off-site, including mixed-financed developments.

B. HOPE VI Demolition Grants

HOPE VI Demolition Grants are awarded to PHAs each year in accordance with the provisions of each year's NOFA. Grants are regulated by a Grant Agreement executed between the Grantee and HUD. The demolition of occupied units funded with Hope VI Demolition grant funds triggers relocation requirements as described in Section III below.

C. Section 18 Demolition Application

Not to be confused with a HOPE VI Demolition Grant Application, a Section 18 Demolition Application is one that is submitted by a PHA to HUD's Special Applications Center in Chicago. Section 18 Demolition Applications are authorized by Section 18 of the 1937 Act. The proposed demolition must be included in the authority's PHA Plan.

D. Section 971 Conversion Plan

Units may be authorized to be demolished if they are included in an authority's Conversion Plan/Plan for Removal. This Plan is submitted pursuant to regulations at 24 CFR Part 971 and is also known as a Section 202 Conversion Plan, after the section of the 1996 HUD Appropriation. Any proposed demolition under a Conversion Plan must also be described in the authority's PHA Plan.

E. Uniform Relocation Act

The Uniform Relocation Act is authorized by 42 U.S.C. 4601 et seq, and implemented by regulations at 49 CFR Part 24. The URA applies to:

1. acquisition of a site pursuant to a HOPE VI RP
2. demolition carried out pursuant to a HOPE VI RP
3. demolition carried out pursuant to a Section 18 Demolition Application
4. demolition carried out pursuant to an approved 971 Conversion Plan

F. Displaced Person.

The definition of displaced person that the PHA uses is important in determining the extent of relocation assistance afforded. In general, this term is defined by the appropriate regulation for the applicable activity. For example, if the relocation is a result of the rehabilitation of units, the applicable definition of a displaced person can be found in 24 CFR Part 968. For activities such as acquisition or demolition under either an RP or an approved Mandatory Conversion Plan, which are subject to the URA, the applicable definition is found at 49 CFR 24.2(g). A copy of the URA definition is included in Attachment A.

G. Initiation of Negotiations

Another important concept in the area of relocation is that of Initiation of Negotiations. This is the trigger that determines when residents are eligible for relocation assistance. As with the above definition, this term is defined by the appropriate regulation for the applicable activity. For activities such as acquisition or demolition under either an RP or an approved Mandatory Conversion Plan, which are subject to the URA, the applicable definition is found at 49 CFR 24.2(k). A copy of the URA definition is included in Attachment A.

III. RELOCATION DUE TO DEMOLITION

A. Public Housing Reform Act

The Quality Housing and Work Responsibility Act of 1998 (PL 105-276) ("Public Housing Reform Act"), was enacted on October 21, 1998. This law made some important changes to relocation requirements as they pertain to HOPE VI-related demolition. Any references to this October 21, 1998 date reflect changes made by this law. Initial guidance on the Public Housing Reform Act was provided by HUD in a Notice published on February 18, 1999 in the Federal Register (Vol. 64 No. 32), and additional guidance was issued in PIH Notice 99-19, issued on April 20, 1999. Specific guidance on Sections 531 and 535 follows:

1. **Section 531** of the Public Housing Reform Act amends Section 18 of the U.S. Housing Act of 1937 ("the Act"), Demolition and Disposition of Public Housing. Section 531(a) amends Section 18(g) by stating that "The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [URA] shall not apply to activities under this section," i.e., demolition and disposition of public housing. Therefore, any public housing demolition or disposition *approved under Section 18 of the Act* is not subject to the URA. Demolition carried out pursuant to a HOPE VI Revitalization Plan approved after 10/21/98 or an approved Section 202 conversion plan are still subject to the URA.
2. **Section 535** of the Public Housing Reform Act adds Section 24 of the Act, authorizing the HOPE VI Program, which has heretofore existed on an appropriation-by-appropriation basis. The new Section 24(g) of the Act specifies that "Any severely distressed public housing **disposed** of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18 and therefore not subject to the URA. Severely distressed public housing **demolished** pursuant to a revitalization plan shall not be subject to the provisions of Section 18," and is therefore subject to the URA.

B. Categories of Demolition and Relocation Authorities

1. **Demolition carried out pursuant to a HOPE VI Revitalization Plan approved before October 21, 1998.** Such demolition must be submitted for approval through a Section 18 Demolition Application, and is subject to regulations at 24 CFR Part 970, which include the requirements of the URA.
2. **Demolition carried out pursuant to a Section 18 Demolition Application received but not approved by HUD before October 21, 1998.** The Demolition Application is reviewed and approved in accordance with 24 CFR part 970 which was in effect at the time of application submission. However, if HUD identifies a deficiency in the application, the PHA may either correct the deficiency in accordance with 24 CFR 970.5 or resubmit the application in accordance with the revised guidelines (as described below).

3. **Demolition carried out pursuant to a Section 18 Demolition Application approved after October 21, 1998.** The Section 18 Demolition Application is subject to revised guidance issued by HUD which incorporates the changes made by the Public Housing Reform Act to section 18. This guidance implements the provision that the URA does not apply to demolition activities under Section 18. This guidance, to be used until 24 CFR part 970 can be revised to conform with all of the changes made by the Public Housing Reform Act, provides that the following sections of 970.5 will continue to apply:
 - a. 24 CFR 970.5 (a), (b), (d), (e), (f), (g), (h)(2), and (j).
 - b. In addition, a PHA must provide a certification to HUD that:
 - (1) the PHA will notify each family residing in the development of the proposed demolition at least 90 days prior to the displacement date, except in cases of imminent threat to health and safety;
 - (2) the PHA will provide each family to be relocated with referrals to at least one comparable replacement dwelling;
 - (3) the development or portion of the development will be demolished;
 - (4) each family displaced by such action will be provided comparable housing that meets HQS and that is located in an area that is generally not less desirable than the location of the displaced person's housing. Such assistance may include:
 - (a) relocation to other PHA properties;
 - (b) relocation into housing subsidized with tenant-based or project-based assistance;
 - (c) payment of actual and reasonable moving costs;
 - (d) any necessary counseling.
 - (5) the PHA will not commence demolition until all tenants residing in the building are relocated.
4. Demolition carried out pursuant to a HOPE VI RP approved after October 21, 1998. Relocation carried out in conjunction with a demolition approved by a HOPE VI RP approved after October 21, 1998 is subject to the URA.

IV. RELOCATION DUE TO DISPOSITION

A. Public Housing Reform Act

1. **Section 531(a)** of the Public Housing Reform Act amends Section 18(g) by stating that "The Uniform Relocation and Real Property Acquisition Policies Act of 1970 [URA] shall not apply to activities under this section," i.e., demolition and disposition of public housing. Therefore, any public housing demolition or disposition *approved under Section 18 of the Act* is not subject to the URA.
2. **Section 535** added Section 24(g) of the Act, which specifies that any severely distressed public housing **disposed** of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18 and therefore not subject to the URA.

B. Categories of Disposition and Relocation Authorities

1. Any disposition carried out pursuant to a HOPE VI Revitalization Plan is subject to 24 CFR part 970, and is not subject to the URA.
2. A disposition application received by HUD before October 21, 1998 will be reviewed and approved in accordance with 24 CFR part 970 which was in effect at the time of application submission. However, if HUD identifies a deficiency in the application, the PHA may either correct the deficiency in accordance with 970 or resubmit the application in accordance with the revised guidelines (as described below).
3. A disposition application received by HUD after October 21, 1998 is subject to revised guidance issued by HUD which incorporates the changes made by the Public Housing Reform Act to section 18. This guidance implements the provision that the URA does not apply to disposition activities under Section 18. This guidance, to be used until 24 CFR part 970 can be revised to conform with all of the changes made by the Public Housing Reform Act, provides that the following sections of 970.5 will continue to apply:
 - a. 24 CFR 970.5 (a), (b), (d), (e), (f), (g), (h)(2), and (j).
 - b. In addition, a PHA must provide a certification to HUD that:
 - (1) the PHA will notify each family residing in the development of the proposed disposition 90 days prior to the displacement date, except in cases of imminent threat to health and safety;
 - (2) the development or a portion will be disposed of;

- (3) each family displaced by such action will be provided comparable housing that meets HQS and that is located in an area that is generally not less desirable than the location of the displaced person's housing. Such assistance may include:
 - (a) relocation to other PHA properties;
 - (b) relocation into housing subsidized with tenant-based or project-based assistance;
 - (c) payment of actual and reasonable moving costs;
 - (d) any necessary counseling.
- (4) the PHA will not complete disposition until all tenants residing in the building are relocated.

V. RELOCATION DUE TO REHABILITATION

Any relocation that takes place as a result of rehabilitation carried out pursuant to a HOPE VI Revitalization Plan is subject to the provisions of Section 14 of the Act (Public and Indian Housing Modernization) and its implementing regulations at 24 CFR 968.108 (public housing modernization). The URA applies to rehabilitation-related relocation.

VI. RELOCATION DUE TO PUBLIC HOUSING DEVELOPMENT

Any relocation that takes place as a result of development carried out pursuant to a HOPE VI Revitalization Plan is subject to the provisions of Section 5 of the Act (Contributions for Lower Income Housing Projects) and its implementing regulations at 24 CFR part 941.207 (public housing development). In addition to the URA, the relocation regulations at 941.207 apply to both conventional development and mixed-finance development under 941 subpart F, as specified by section 941.602(a)(6) of subpart F.

VII. TEMPORARY RELOCATION

The URA does not provide for temporary relocation. Provisions covering temporary relocation are only contained in relevant regulations:

- A. Temporary Relocation due to Rehabilitation: 24 CFR 968.108(b)
- B. Temporary Relocation due to Acquisition: 24 CFR 941.207(b)

VIII. ADDITIONAL URA GUIDANCE

A. Determining Eligibility for Displaced Person Status

Time of tenant relocation relative to initiation of negotiations	Are there special circumstances?	Did tenant receive notice of relocation from PHA or HUD?	Eligible for displaced status?
After	No.	Yes	Yes
After	No.	No	Yes
Any time	HUD or the PHA determines that relocation is a direct result of demolition.	Yes	Yes
		No	
After	Tenant temporarily relocates and does not return, because they were not fully reimbursed for expenses, or other conditions are not reasonable.	Yes	Yes
After	Tenant moves from project after being relocated within the project because they are not fully reimbursed or other conditions are not reasonable.	Yes	Yes
Before	HUD or the PHA determines that the tenant was displaced as a direct result of the acquisition or rehabilitation.	Yes	Yes
		No	
Any time	Tenant evicted for cause or violated agreements.	Yes	No
		No	
Before	Tenant moves in and is notified that the PHA has applied for demolition and that they will not be eligible for relocation assistance.	Yes	No

B. Appeals of Eligibility Status

If a person disagrees with the PHA's determination concerning the person's eligibility for relocation assistance or the amount of assistance for which the person is eligible, the person may file a written appeal of that determination with the PHA. A lower-income person who is dissatisfied with the PHA's determination on his or her appeal may submit a written request for review of the PHA's determination to the HUD Field Office.

C. Compliance Responsibility Of PHA

1. Before receiving HUD financial assistance to undertake URA-applicable activities, the PHA must certify to HUD that it will comply with the URA and its implementing regulations at 49 CFR Part 24. The PHA is responsible for ensuring compliance with such requirements notwithstanding any third party's contractual obligation to the PHA to comply with such provisions.
2. The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as the other project costs. Such assistance may also be paid for with funds from other sources.
3. The PHA must maintain records in sufficient detail to demonstrate compliance with the provisions of the URA.
4. HUD will not approve an application for URA-related activities unless:
 - a. The PHA has prepared a certification regarding relocation of residents. If relocation is required, the Grantee must submit a HOPE VI Relocation Plan to its OPHI Grant Manager. In addition to description of the comprehensive supportive services to be provided to tenants, the HOPE VI Relocation Plan will include:
 - (1) the number of tenants to be displaced;
 - (2) a description of the counseling and advisory services the PHA plans to provide;
 - (3) a description of the housing resources that are expected to be available to provide housing for displaced tenants;
 - (4) an estimate of the costs for counseling and advisory services and tenant moving expenses, and the expected source for payment of these costs; and
 - (5) the minimum official notice that the PHA will give tenants before they are to move.

- b. Tenants who are to be displaced as a result of URA-applicable activities must be offered opportunities to relocate to other comparable units, as defined at 49 CFR 24.2(d) and can be found in Attachment A of this chapter. For the purposes of the URA, any other public housing unit is considered a comparable units.
5. Relocation to Other Publicly-Assisted Housing:
- a. The PHA must ensure that for relocation housing assisted under Section 8 of the U.S. Housing Act of 1937, including housing available for lease under the Section 8 Housing Voucher Program, the displaced tenants are provided referrals to comparable units where the family's share of the rent to owner following relocation will not exceed the Total Tenant Payment.
 - b. If the PHA provides referrals to comparable relocation housing, and a tenant with a rental voucher elects to lease a unit where the family's share of rent exceeds the amount calculated in accordance with 24 CFR part 5, the tenant will be responsible for the difference between the voucher standard and the rent to owner.
6. Relocation to Market Rate Housing

If there are no units with rents at or below the voucher payment standard to which the PHA may refer families, the PHA cannot use vouchers as a relocation housing source and may relocate families to market rate units. In that case, Section 206(a) of the URA provides that if the standard relocation payment is insufficient to cover the market rent, the PHA must augment that payment with project funds. The corresponding regulatory cite is 49 CFR 24.402.

ATTACHMENT A

The following are selected definitions from the implementing regulations of the URA, 49 CFR 24.2. These definitions apply only to relocation that is **strictly under the URA** and not subject to the other regulations cited in this chapter. The full text of 49 CFR part 24 can be accessed from the HOPE VI Home Page at www.hud.gov/pih/programs/ph/hope6/hope6.html.

(d) **Comparable replacement dwelling.** The term comparable replacement dwelling means a dwelling which is:

(1) Decent, safe and sanitary as described in paragraph (f) of this section;

(2) Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling.

(3) Adequate in size to accommodate the occupants;

(4) In an area not subject to unreasonable adverse environmental conditions;

(5) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(6) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also Sec. 24.403(a)(2).);

(7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.

(8) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in Sec. 24.401(c), all increased mortgage interest costs as described at Sec. 24.401(d) and all incidental expenses as described at Sec. 24.401(e), plus any additional amount required to be paid under Sec. 24.404, Replacement housing of last resort.

(ii) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at Sec. 24.402(b)(2).

(iii) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under Sec. 24.404, Replacement housing of last resort.

(g) **Displaced person--** (1) General. The term displaced person means 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 Sec. 24.401(a) and 24.402(a)):

(i) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.

(ii) As a direct result of rehabilitation or demolition for a project; or

(iii) 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 Sec. 24.205(c), and moving expenses under Sec. 24.301, Sec. 24.302 or Sec. 24.303.

(2) Persons not displaced. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(i) A person who moves before the initiation of negotiations (see also Sec. 24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project; or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(iv) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal agency funding the project; or

(v) An owner-occupant who moves as a result of an acquisition as described at Secs. 24.101(a) (1) and (2) , or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.); or

(vi) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;
or

(vii) A person who, after receiving a notice of relocation eligibility (described at Sec. 24.203(b)), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency 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; or

(viii) An owner-occupant who voluntarily conveys his or her property, as described at Sec. 24.101(a) (1) and (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or

(ix) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency; or

(x) 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 Public Law 93-477 or Public Law 93-303, except that such owner remains a displaced person for purposes of subpart D of this part; or

(xi) A person who is determined to be in unlawful occupancy prior to the initiation of negotiations (see paragraph (y) of this section), or a person who has been evicted for cause, under applicable law, as provided for in Sec. 24.206.

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

(1) Whenever the displacement results from the acquisition of the real property by a Federal agency or State agency, the initiation of negotiations means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal agency or State agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery to the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

(2) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal agency or a State agency), 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.

(3) 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.