



U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of:

Notice CPD 04-02

All Regional Directors
All Field Office Directors
All CPD Directors
All Public Housing Directors

Issued: 02/03/2004
Expires: 02/03/2005

Cross References:
Notice CPD 02-8

Subject: Revision to Notice CPD 02-8, Guidance on the Application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as Amended, in HOPE VI Projects

I. PURPOSE

The purpose of this Notice is to announce changes in HUD policy and/or corrections to Notice CPD 02-8 with regard to the application of the URA to HOPE VI.

II. BACKGROUND

On September 17, 2002, the Department issued Notice CPD-02-8, Guidance on the Application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as Amended, in HOPE VI Projects. Since that time, discussions between the HUD Offices of Public and Indian Housing (PIH) and Community Planning and Development (CPD) have determined that changes to the policies established in that Notice or corrections to the text are necessary in order to address issues which have arisen with regard to implementation of the HOPE VI Program. To issue these changes in the most effective way possible, attached to this Notice are revised pages which can be inserted into the original Notice as replacements for the pages which are changed. Changes are shown on the attached pages in *italics*. A brief discussion of the changes follows:

A. Change to definition of Initiation of Negotiations (ION)

PIH has determined that there are circumstances under which a planned HOPE VI project is either so large, or is located in a community with such limited housing resources to absorb residents who will be displaced by the project, that a single Initiation of Negotiations (ION) date would be impracticable and/or detrimental to the smooth

relocation of residents, demolition of the existing units, and reconstruction of the project. Therefore, where PIH makes a determination that phased ION dates are necessary, PIH may approve multiple ION dates based on phased demolition as proposed by a Public Housing Authority (PHA) in its Revitalization Plan. An ION date can be established for each demolition phase which is at least six (6) months prior to the planned start date for demolition in that phase (e.g., for a demolition phase that will begin June 1, the proposed ION date should be no later than the preceding January 1). These phased ION dates will enable the PHA to concentrate advisory services and resources on assisting affected residents to find replacement housing in a timely manner as each demolition date approaches. PHAs may always opt to send Notices of Eligibility sooner than required, but these Notices should be sent no later than the established ION date for each phase (see revised page 4 and 4a to CPD Notice 02-8 attached).

B. Exclusion of Replacement Housing Payments (RHP) from Income

In section IV. E.4. of Notice CPD 02-8, paragraph 8 (page 26) there is a discussion of replacement housing payments (RHP) which incorrectly referenced the URA regulations rather than the statute (Public Law 91-646, Section 216). Further, it has been determined by PIH that RHP “gap” payments are to be excluded from income under 24 CFR Section 5.609(c)(9) which excludes “...temporary, nonrecurring, or sporadic income (including gifts)...” (see revised pages 26 and 26a to Notice CPD 02-8 attached).

Attachments (see insertion instructions at the top of each page)

Assistant Secretary for Community Planning and Development

Assistant Secretary for Public and Indian Housing

Insert this page into Notice CPD-02-8 as Page 4

Initiation of Negotiations (ION). The ION is the trigger date for issuance of the Notice of Eligibility for Relocation Assistance or the Notice of Nondisplacement to each resident. The ION date is the date HUD approves the Revitalization Plan, which includes any supplemental submissions required by the HOPE VI Grant Agreement, following HUD's initial site visit to the development and as a result of HUD's review of the HOPE VI application. As of the date HUD approves the supplemental submissions and authorizes the PHA to proceed with implementation of the Revitalization Plan, all residents of the project are eligible for relocation payments or other relocation assistance in accordance with the URA. *When PIH determines that there are circumstances under which a planned HOPE VI project is either so large, or is located in a community with such limited housing resources to absorb large numbers of residents who will be displaced by the project, that a single ION would be impracticable and/or detrimental to the smooth relocation of residents, demolition of the existing units, and reconstruction of the project, PIH may approve multiple ION dates based on phased demolition as proposed by a PHA in its Revitalization Plan. Each demolition phase should propose an ION date which is at least 6 months prior to the planned start date for demolition in that phase (e.g., for a demolition phase that will begin June 1, the proposed ION date should be no later than the preceding January 1). These phased ION dates will enable the PHA to concentrate advisory services and resources on assisting affected residents to find replacement housing in a timely manner as each demolition date approaches. PHAs may always opt to send Notices of Eligibility sooner than required, but these Notices must be sent no later than the established ION date for each phase.*

Return Criteria (Re-occupancy Plan/Agreement). The criteria which should be used to determine the priority for displaced residents to occupy the completed units. The return criteria should be formally adopted and executed between the recognized resident body, the PHA, and, if applicable, the entity that will own the public housing units.

IV. Meeting Federal Relocation Requirements in the HOPE VI Program

A. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as Amended (URA)

1. The URA applies to any HOPE VI Revitalization Plan project which includes rehabilitation, acquisition, and/or demolition; or demolition carried out pursuant to an approved Section 971 Mandatory Conversion Plan (also known as a Section 202 Conversion Plan). HOPE VI projects which were approved after October 21, 1998 (the date the Quality Housing and Work Responsibility Act of 1998 (QHWRA) became law) for demolition and/or disposition only under Section 18 of the US Housing Act of 1937, or severely distressed public housing projects approved for disposition after October 21, 1998 pursuant to a Revitalization Plan are subject to Section 18 requirements and are NOT subject to URA. Guidance on non-URA relocation authorities under QHWRA will be issued in a separate Notice from the Office of Public and Indian Housing. Only URA relocation requirements will be addressed in this Notice.

Insert this page into Notice CPD-02-8 as Page 4a

2. There are no provisions for “temporary relocation” under the URA, unless a resident will not be permanently displaced but must be moved for a short period of time to allow their unit to be rehabilitated or because an emergency situation exists which is a threat to their health or safety. While many PHAs have used this term liberally, it is HUD’s position that all residents of a project to be revitalized or demolished under HOPE VI should be provided full permanent relocation benefits as displaced persons unless all the following criteria are met:
 - The HOPE VI project is solely rehabilitation,
 - a sufficient number of suitable units will be available so that all residents can be guaranteed the ability to return to a unit in the project after rehabilitation,

Insert this page into Notice CPD-02-8 as Page 26

what housing conditions (including substandard). PHAs are not required to reinspect units nor to inspect new units to which a once-displaced resident moves.

A RHP is determined by subtracting the monthly rent and average utilities of the resident's present unit from the cost of rent and utilities for the new unit (or a comparable replacement unit if that cost is lower). That monthly need, if any, is multiplied by 42 to determine the total amount the resident will receive. Generally the base monthly rent for a public housing resident's unit is the lesser of: (1) the monthly rent and average monthly cost for utilities, or (2) thirty percent (30%) of the average monthly gross income. Since PHA utility allowances may not be representative of the actual costs a resident may have to pay in a displacement unit, the PHA should determine these costs as accurately as possible by seeking historical data for the new unit from the utility company and/or landlord.

When moving a resident to a unit with Section 8 voucher assistance, the PHA must determine whether a RHP is necessary or justifiable. If a PHA cannot offer a resident another suitable public housing unit and must offer a Section 8 unit, this cannot be considered an "option" on the part of the resident to move to Section 8 (and automatically make the family ineligible for RHP). Particularly where a PHA requested Section 8 units from HUD as necessary to provide replacement housing, individual determinations need to be made about the availability and choices available to residents for replacement housing. If a resident has no choice other than a Section 8 unit for relocation or replacement housing, the PHA must determine whether moving to this unit will cause an increase in the monthly housing payment and determine how much of a RHP may be required.

Under the URA statute (Public Law 91-646, Section 216), relocation payments (including RHP) are not considered as income by the Internal Revenue Service nor considered income for determining eligibility *or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law (except for any Federal law providing low-income housing assistance)*, see P. L. 105-117, Section 104. *However, where a small RHP "gap" payment is being made to a former public housing tenant to defray the additional cost for rent/utilities associated with his/her move into either another public housing unit or a Housing Choice Voucher unit, the "gap" payments should be excluded from income as "temporary, nonrecurring, or sporadic income." These relocation payments are compensation for additional costs incurred as a result of the relocation and do not duplicate any housing assistance payment the family would otherwise be entitled to under these programs.* The one exception is in the situation where a resident who is vested with a RHP (based on his/her initial leasing of an unassisted private market unit), *who later moves and occupies a unit in which HUD provides public housing or who later begins to receive subsidized housing assistance under the Housing Choice Voucher Program.* Payment of the RHP and the public housing or *voucher* subsidy would constitute a duplication

Insert this page into Notice CPD-02-8 as Page 26a

of assistance payments which is prohibited under 49 CFR 24.3. Since the vested RHP payments cannot be discontinued by the PHA, in this instance, the RHP must be considered as income (unless the resident waives his/her right to continued RHP payments and the payments are discontinued). The RHP would be added to other income received by the resident (or added to the imputed income for the resident, as in the case of a TANF recipient who has lost welfare benefits).