



IOWA FINANCE  
AUTHORITY

# Acquisition and Relocation Assistance Policy

## INTRODUCTION

Any project being funded with IFA HOME funds that will result in either the temporary relocation or permanent displacement of current tenants must comply with the **IFA Acquisition and Relocation Assistance Policy** and with all of the requirements of the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)**. The **HUD handbook 1378: Tenant Assistance Relocation and Real Property Acquisition**, is an informational brochure that reviews all of the requirements of the URA regulations for multiple federal programs and is considered a useful resource for compliance with these requirements. All relocation forms referred to in this policy guide are available on the IFA website.

Due to the complexity and significance of the relocation requirements, **IFA reserves the right** to require recipients to engage qualified third-party contractors or consultants if the recipient does not have the experience or expertise to adequately administer the URA and Section 104(d) requirements.

Federal law and IFA require that all reasonable steps be taken to minimize the displacement of persons as a result of a development assisted with HOME funds. To the extent feasible, residential tenants must be provided with a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit within the building/complex upon completion of the rehabilitation of the development. Planning rehabilitation projects to include “staging” is encouraged to minimize displacement. It must be noted that IFA discourages proposals that will result in permanent displacement activity.

## ACQUISITION AND RELOCATION PLANNING

### **A. Notice to Seller – Voluntary Acquisition Notice**

Applicants acquiring property must submit as part of the Initial Application package a copy of the **Notice to Seller – Voluntary Acquisition Notice** with the **signed** Owner Receipt of Information.

This notification is an acknowledgement by the seller that they are aware that the buyer did not have the power of eminent domain at the time the contract for sale was entered into and that the seller is not eligible for any relocation benefits.

There is also a space on this form listing an estimate of “Fair Market Value” of the property. Should IFA determine that the sale of the property is clearly a voluntary, arms-length transaction, a professional appraisal will not be required. However, the “Fair Market Value” estimate must have been prepared by a person familiar with real estate values and **IFA must have an explanation of the basis for the estimate.**

**The need for a professional appraisal will be determined by IFA on a case by case basis depending on the complexity of the project.**

### **B. Move-in Notice – Prospective Tenant Notice**

This notice is **only given to tenants who wish to move into the project after** an application for funding the acquisition and/or rehabilitation has been submitted to IFA. It is a requirement to provide any potential tenant with the **Move-in Notice – Prospective Tenant Notice.**

This notice informs the potential tenant of the possible rehabilitation of the project with HOME funds and lets them know that if the application is approved, the potential tenant could be displaced.

Finally, the notice informs the potential tenant that he/she will not qualify as a “displaced person” since they were aware of the possible rehabilitation upon moving in and therefore will **not be eligible** to receive relocation assistance at the URA level.

Should IFA fund your project with HOME funds, you are required to submit copies of the applicable **Move-in Notice – Prospective Tenant Notice(s)** that have been signed between the time of application and execution of the contract. These forms are a condition to the release of funds.

You will still need to issue the **Move-in Notice – Prospective Tenant Notice** and provide copies to us periodically **after** release of funds if new tenants move into the development in the interim.

### **C. General Information Notice (GIN)**

**Everyone** in the project must receive the General Information Notice (GIN). This notice should be sent to **ALL** the occupants of the project whether they will need to make any type of move **or no move at all.**

The GIN is to be sent to everyone in the project as soon after applying for HOME funding as is feasible. At the very latest, however, the GIN **must be sent immediately after being informed of project approval (Conditional Award).**

Sending this notice out as early as possible can prevent excessive relocation claims. This notice is informational and helps to prevent any misunderstanding that could arise and lead to tenants being falsely alarmed by the rehabilitation. False alarms can lead to pre-mature moves and additional relocation costs.

**ALL** Notices must be understandable to the recipient. They may be hand-delivered and signed for *or* they may be mailed as certified or registered first-class mail---return receipt requested--using that signed return receipt as proof of delivery. Copies of these documents must be sent to IFA and the originals must be kept on file in the event that IFA or HUD would need to review them as evidence of compliance.

It is **imperative** that you have **signed** documentation from each tenant as verification that they actually did receive the notice. If a tenant were to make a claim that they did not receive proper notices, only signed documentation could be used to refute that claim.

The GIN will be discussed later in this document as it pertains to tenants who will be either temporarily or permanently relocated.

#### **D. Project Planning**

##### **Consultation with Property Occupants**

At an early stage in the planning process, you or your relocation consultant should meet and talk with the occupants of the site to be acquired, rehabilitated or demolished. Resident participation in the design of a project is often required by HUD. When public meetings are held, the meeting room and presentation must be accessible and understandable to all persons in the intended audience, regardless of disability or limited English language proficiency.

##### **Budgetary Implications**

Early, common sense planning is necessary to ensure that sufficient funds will be budgeted to comply with applicable laws and regulations. Relocation assistance is costly and can seriously affect the viability of a project. Errors in judgment or determinations on eligibility or payments can lead to costly litigation, project delays, and serious financial consequences to the developing entity and its partners.

- There is a need to analyze all potential relocation and acquisition project costs prior to submission of an application for HUD funding plus there may also be a need to reanalyze the project budget as work progresses to factor in any unforeseen expenses.
- Consideration needs to be given to the resources needed to address the number of households to be displaced; resident income; purchase or rental cost and utility costs; family characteristics; impact on minorities, the elderly, large families, and persons with a disability; and the need for providing on-going advisory services to displaced persons.
- **Project-Based Section 8 Properties**—Please be advised that if the property being rehabbed is a Project-Based Section 8 property, there may be an additional relocation expense. This expense could be an increased security deposit to match the **TTP\*** at the time of move-in, which may be triggered in the relocation process if the owner treats the temporary relocation of a resident as a "move-out" from the current unit and a "move-in" to the unit after rehab.

If the tenant's income has increased since the initial move-in, the TTP calculated at the relocation event will be higher than the initial TTP, requiring an increase to the security deposit. **The difference between the original security deposit and the recalculated deposit is the responsibility of the developer/owner (not the tenant)** as a part of the relocation cost.

**\*TTP - Total Tenant Payment**

The total tenant payment is the greater of:

30% of the family's monthly income (before taxes) after HUD regulated deductions. (Monthly-adjusted income)

or

10% of monthly gross income (before taxes with no deductions).

or

Any minimum rent under Federal Law.

*In most cases, Total Tenant Payment (TTP) is 30% of the family's monthly adjusted income. Adjusted income means your gross income minus the HUD allowable deductions.*

**Determining Resource Needs (see 49 CFR 24.205(a)(1) through (5))**

To the extent necessary and feasible; an on-site survey of occupants should be conducted before initiation of a project. **Optional** guide forms are available below and on the IFA HOME Program Website that can be used to track detailed occupant information.

The **Site Occupant Record—Residential** (Relocation Form F) is one such form. To obtain basic information from current **public housing occupants** about their replacement housing preferences, the **optional Resident Survey guideform** (Relocation Form G) may also be used (*this form may also be edited for use in other situations, other than public housing*). Plan to collect detailed information about each person's income and replacement housing needs in advance of Initiation of Negotiations (ION) date (determined by IFA to be the Release of Funds Date), at which time a specific Notice of Relocation Eligibility must be provided (if applicable), as well as identification of available comparable replacement housing units in a sufficient number to meet the project needs. If a shortage of comparable replacement housing resources is anticipated, the agency should develop a plan to adequately address the shortage. This plan may include the implementation of last resort housing measures.

**E. Pre-Qualifying Existing Tenants**

Prequalification of the existing tenants in the development will allow you to determine who will be income eligible to occupy the housing units after the rehabilitation process is completed. Prequalification will also help you determine if you have occupants who will become "displaced households" that will be able to claim permanent relocation benefits. HOME regulations will not allow us to invest HOME money into a unit that is currently occupied by a tenant that is not within the income guidelines outlined in the HOME income standards. Therefore, if after careful consideration, it becomes necessary and reasonable to "**permanently displace**" an existing over-income tenant household, be aware that the over-income household will then be entitled to full URA benefits.

Also, if a HOME household's post-rehab rent increases to an amount that is considered to be more than that household can afford as a direct result of the HOME funding, that household is also considered "**permanently displaced**" and would also be eligible for relocation benefits under URA (*see box below entitled "Rent Burdened Households"*). We will also review requests for **future rent increases** on those units occupied by tenants from the time of the assisted project to ensure that increases reflect actual market changes (such as increased operating expenses) and are not increased to recoup costs due to an artificially low initial post-rehab rent.

You must determine through this pre-qualification process, that the rehabilitation with HOME funds and the regulations associated with the use of the HOME funds will not cause **excessive permanent displacement** of the existing tenants. Again, it is IFA's goal to take the necessary and reasonable steps required to minimize the permanent displacement of tenants in residence. Pre-qualifying tenants for eligibility after rehab is essential in determining total relocation expenses and therefore allow for better relocation budget management.

***Rent Burdened Households***—After the rehabilitation, the tenant’s initial rent including the estimated average monthly utility costs cannot exceed the greater of:

**(1) The tenant’s current rent/average utility costs**

or

**(2) 30% of the tenant’s average monthly gross household income for tenants whose incomes are above Section 8 Low-Income Limits.**

or

**(3) Section 8 Total Tenant Payment (TTP) for tenants whose incomes are below Section 8 Low-Income Limits.**

If the tenant’s new rent does not meet this criteria, the tenant would be considered to be “Rent Burdened” and would then be considered “Permanently Displaced” and eligible for full relocation benefits, including “replacement housing payments”.

However, there may be some rent-burdened tenants who elect to remain in the project and pay the higher rent rate. Those tenants must be fully informed of their rights to relocation assistance, via a “Notice of Eligibility”. You must provide documentation from each tenant with a signature stating that they understand their eligibility but voluntarily choose to waive their rights.

#### **F. “The Relocation Plan” Guidance**

An initial relocation plan and relocation budget must be submitted to IFA at the time of application submission. This plan must describe the manner in which the displacement of tenants will be handled. Initially, we will need to be informed as to whether the relocation will be temporary relocation only or if there is the possibility for some “permanent displacement”. If a project is awarded HOME funding, you will need to provide IFA with a more detailed relocation plan that includes a specific relocation budget, at that time.

#### **The relocation plan for a project must include the following information:**

- A description of the rehab project with a description of how many tenants might need to be “temporarily relocated” and/or the possibility of tenants who might be “permanently displaced”.
- Characteristics of the households to be displaced, including the race/ethnicity of those to be displaced, income ranges, and a description of how any persons with special needs will be provided for.
- A budget identifying anticipated relocation expenses as well as sources and uses of funds.
- A project schedule identifying the various stages from the beginning through the end of the displacement-causing activities.
- A list of all addresses of the occupied buildings in the proposed property.
- Description of available resources, including information on the supply of affordable replacement housing in the area, when permanent relocation or temporary off-site relocation is necessary.
- Description of what measures will be taken to help displaced persons who may be hard to house because of family size, economic status or social problems. Please provide information on tenants who may require the use of “last resort housing measures” in order to provide them with the required replacement housing on a timely basis.
- Identify any social and/or supportive service agencies that will be given as referrals to the tenants, as appropriate.

- Provide a sample of the General Information Notice (GIN) sent to the tenants who will be permanently relocated, those who will be temporarily displaced, and those who will not be displaced at all (neither permanently nor temporarily).
- Describe the temporary relocation to be provided – what services, the amount of assistance, the timing, and the housing units to be used for the temporary dwellings.
- The organization that will be providing the relocation services must be described, including information about their level of experience and history working with relocation and the URA regulation.
- Description of the records to be maintained.

### **G. Provide IFA with a Final List of Occupying Tenants**

**Upon project completion**, the Applicant must provide IFA with a final list of all tenants occupying the property (**due within 30 days after project completion**). If this list differs from the original list that was submitted with the Initial Application, the Applicant must provide an explanation as to why a tenant is no longer an occupant of the property.

If the tenant was displaced, please provide the proper documentation showing the relocation benefits and/or expenses that were calculated and paid to (or for) the displaced tenant as required under the URA regulations. Provide the proper information for any tenant that was “evicted for cause” with evidence that the eviction was handled properly in accordance with state and local laws. Also provide documentation if the tenant moved of their own choosing and not for reasons related to the HOME Program rules (i.e. income limitations).

### **H. Appeals**

All persons have the right to appeal a determination for relocation benefits regarding:

- Whether the person qualifies as a displaced person,
- The amount of relocation assistance for which the person may be eligible,
- The adequacy of referrals to comparable units,
- The timeliness of an inspection of the replacement unit, or
- The timeliness of written notification letters
- The claimant may file a written appeal with IFA, acting as the participating jurisdiction for the HOME program.
- IFA is required to promptly consider all appeals
- A low-income person who is dissatisfied with the IFA’s determination of his or her appeal may in turn submit a written request for review of that determination to the local HUD field office.

### **I. Time Constraints**

- Time limit as to how long a Temporary Relocation can last
  - In 2005, a new one-year limitation was imposed on temporary relocations. Any tenant relocated for longer than 12 months will no longer be considered a temporarily displaced person but will at that time become eligible for full URA displacement benefits, unless they choose to waive those benefits.
- Time limit to file a claim for a replacement housing payment
  - The displaced person has 12 months from the date of displacement to rent (or purchase) and occupy a decent, safe, and sanitary dwelling and an additional six months (for a total of 18 months) to file a claim.
- Time limit to file an appeal
  - An appeal of an agency’s (IFA) action should be made within 60 days after the person receives written notification of the determination.

## **J. Recordkeeping**

- Records must be kept, at a minimum, for three years past the latest of:
  - The payments for relocation and acquisition for the project have **all** been made;
  - The date the project was completed; or
  - The date by which **all** issues resulting from litigation, negotiation, audit, or other actions ( e.g., civil rights compliance) have been resolved.



## **“Temporary Relocation” of Tenants for Projects Using the HOME Funding Sources**

**Please remember that the conditions for any “Temporary Relocation” of a tenant must be “Reasonable” and in accordance with URA requirements and IFA’s relocation policy.**

This section of our Relocation Policy applies when a resident will remain in the project after rehabilitation but **may be required to relocate temporarily** during the rehabilitation period. This section also applies to tenants who will be permanently moved to another unit within the same project. These residents are “NOT DISPLACED Persons”, at this time. They are temporarily displaced and are NOT entitled to relocation assistance payments at the same level as a permanently displaced tenant. They are however, entitled to certain notifications, advisory services, and reimbursements for expenses that they may incur due to the temporary relocation. IFA’s policy for handling non-displaced and temporarily relocated persons is outlined in the policy below. The units that the residents are moved into temporarily must be suitable, decent, safe and sanitary units (but--not necessarily comparable). Also temporary relocation is limited to 1 year or less. All other conditions of the temporary move must be considered “Reasonable”.

The following policies cover residential tenants who will be required to move to another unit **within** the project or to those who must relocate **temporarily** off the project site. Applicable moving expense reimbursement must also be provided to residents who will be permanently moved to a different (*decent, safe and sanitary*) unit **on** the project site.

### **A. Reimbursement for all reasonable out-of-pocket expenses**

Expenses incurred in connection with the temporary relocation shall include the cost of moving to and from the temporary housing units as well as any increase in monthly rent/utility costs during this period of temporary displacement.

A payment for actual reasonable moving and related expenses can include the following:

- Packing, moving, and unpacking of household goods are eligible relocation expenses. Packing/unpacking assistance should be offered to those who want it. All residents should be notified that packing/unpacking assistance is available. You may provide this assistance by providing the service for the resident using a professional moving company or your staff. You may also pay the resident to pack their own belongings. If you pay the resident for self-packing, you will need to pay them “**no less**” than the lower of two bids obtained from professional moving companies. It is very important that you document when and how the offer was made and that everyone was aware that the assistance was available if needed. It is equally important that if a resident refuses an offer of services that you get a statement from them stating that they understand the offer and do not wish to accept it. If a resident wants to do their own packing, it is important that you have signed documentation listing the deadline date that the resident must have their property packed and ready for the movers.

**Signed documentation is always your best protection against any future misunderstandings.**

- Disconnecting and reconnecting household appliances and other personal property (e.g., telephone and cable TV);
- Storage of household goods, as may be necessary;
- Any increase in monthly rent/utility costs during the temporary displacement period;
- Insurance for the replacement value of personal property during the move and necessary storage during the temporary displacement period;
- The replacement value of property lost, stolen or damaged in the move, if the insurance was not purchased;
- The cost of reasonable and necessary security deposit required to lease the replacement dwelling unit;

- The cost of increased security deposit upon moving back into the rehabbed unit in the following instance.

**Project-Based Section 8 Properties**—Please be advised that if the property being rehabbed is a Project-Based Section 8 property, there may be an additional relocation expense. This expense could be an increased security deposit to match the **TTP\*** at the time of move-in, which may be triggered in the relocation process if the owner treats the temporary relocation of a resident as a "move-out" from the current unit and a "move-in" to the next unit after rehab.

If the tenant's income has increased since the initial move-in, the TTP calculated at the relocation event will be higher than the initial TTP, requiring an increase to the security deposit. **The difference between the original security deposit and the recalculated deposit is the responsibility of the developer/owner (not the tenant)** as a part of the relocation cost.

**\*Total Tenant Payment**

The total tenant payment is the greater of:

- 30% of the family's monthly income (before taxes) after HUD regulated deductions. (Monthly-adjusted income)
- or
- 10% of monthly gross income (before taxes with no deductions).
- or
- Any minimum rent under Federal Law.

*In most cases, Total Tenant Payment (TTP) is 30% of the family's monthly adjusted income. Adjusted income means your gross income minus the HUD allowable deductions.*

**IFA Temporary Relocation Guidelines:**  
**The relocation budget, at a minimum should allow for \$500 per move, per tenant to an on-site temporary unit, and \$750 per move, per tenant to an off-site temporary unit location.**

**B. Appropriate Advisory Services to Tenants**

**Including reasonable advance written notice of:**

The date and approximate duration of the temporary relocation;

- The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the rehabbed building/complex upon completion of the project;
- The requirements for reimbursement of reasonable out-of-pocket expenses as described in this section directly above.

**Information and counseling should also include:**

- Referrals to other available assistance and human services (e.g.; health services, public assistance, child care, job training, and voter registration) and such other help as may be appropriate for each tenant;
- Information about federal, state and local housing assistance programs and how to apply for them (e.g., housing vouchers/certificates for rental assistance);
- Information about the household's rights under the Fair Housing Act.

It is important to have some type of "sign-off" document or statement as verification that the tenants received proper advisement. If you are holding group informational meetings, you will need to provide IFA with dated, sign-in sheets along with a meeting agenda of what was discussed at the meeting.

### C. Tenants MUST be given Proper Notices in a Timely Manner

Virtually everyone in the project needs a notice of some kind. All occupants are entitled to timely notices explaining whether or not they will be displaced.

**FAILURE TO PROVIDE CORRECT AND TIMELY NOTICES CAN LEAD TO PERMANENT DISPLACEMENT AND CAN BE A VERY COSTLY RELOCATION MISTAKE**

*ALL Notices must be understandable to the recipient and personally served and signed for or sent by certified or registered first-class mail---return receipt requested, as proof of delivery. These original documents must be kept on file in the event that IFA or HUD would need to review them as evidence of compliance. (Certified mail is usually less costly.)*

The following “Relocation Notices” should be sent to the “Stayers”. “Stayer” refers to anyone who will not be permanently displaced. This will include anyone who will only be temporarily relocated on or off the actual site and also to any tenant who will remain in the project but will be permanently placed in a unit other than their original unit. For informational purposes and to quell any misunderstandings, the GIN should be sent to every resident of the project, even to those who will be making NO moves at all.

#### 1. General Information Notice—Residential Tenant that will not be Displaced (GIN)

The GIN should be sent as soon after applying for HOME funding as is feasible. At the very latest, however, the GIN **MUST be sent immediately after being informed of project approval (Conditional Award)**. The Applicant needs to provide **every occupant within the property** a “General Information Notice”. For the “Non-Displaced Tenant”, this is an advisory notice that does the following:

- Explains that the project has been proposed and cautions the person not to move. It is very important that this notice stresses “**DO NOT MOVE**”. The sample attached GIN, (Relocation Form C), stresses in bold letters that the tenant should not vacate the premises. This notice also informs the tenant that they will be notified if they will be required to move temporarily and provided with suitable temporary housing and reimbursement of all reasonable out of pocket moving expenses;
- Explains that the person **will not** be displaced;
- Explains what is to occur **if** the tenant is to be temporarily relocated (i.e.: approximately how long they should expect to be displaced from their current unit, how will the Applicant accommodate them with replacement housing while they are displaced, how will the Applicant assist them with any moving costs they incur from their temporary move) and;
- Explains that they will be able to move back into their unit or to another decent, safe and sanitary unit within the rehabilitated development.

#### 2. Notice of Non-Displacement to Residential Tenant

**When you are awarded HOME funding**, the Notice of Non-Displacement to Residential Tenant (Relocation Form L) may be sent to **ALL** residents who will remain in the project after rehabilitation **including** those who may be required to move temporarily during the rehabilitation period. It also applies to tenants who will be permanently moved to another unit **within** the same building/complex.

- This notice needs to inform the tenant that:
  - The Applicant’s request for HOME funding was approved, that the rehabilitation will begin soon, and that the tenant **will not be** displaced.
- If the tenant will be “Temporarily” relocated, the notice should include:
  - An explanation of the applicable policies covering the temporary relocation, this being:
    - Project Schedule--- the date and approximate duration of the temporary relocation (**not to exceed 1 year**);
    - The address of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period, and;
    - The reasonable terms and conditions under which the person may continue to lease and occupy the property upon completion of the project;
    - The costs that will be reimbursed, and;
    - The advisory services which will be available to them.

If a person is ineligible for relocation assistance (i.e.; an Alien not lawfully present in the U.S. or an Unlawful occupant), HUD policy requires that such persons be provided with a written notice of their ineligibility for relocation assistance, the reason they are ineligible, and their right to appeal the Agency’s determination.

### 3. 90 Day / 30 Day Notices

#### 90 Day Notice

**For temporary relocation ONLY**, the 90 day notice is not mandatory. However, whenever possible we would suggest that it be given to the tenants, just as a common courtesy to help them be better prepared for the upcoming move. **Remember, the key element of Temporary Relocation is “Reasonableness”.**

#### **If using the 90-Day Notice that notice should:**

- State the specific date by which the property must be vacated
- or
- Specify the earliest date by which the occupant may be required to move and indicate that the occupant will receive a vacate notice indicating, **at least 30 days in advance**, the specific date by which he or she must move.

#### 30 Day Notice

If you gave the specific date by which the property must be vacated in the 90-Day Notice, the 30-Day Notice is not necessary. **However, if you did not give the specific date in the 90-Day notice, you will need to send the vacate notice at least 30 days in advance for all temporary relocations.**

**At a minimum, HUD recommends that a “30 day notice to move” be provided to persons who will not be permanently displaced but who will need to be temporarily relocated. Shorter notices periods *may* be appropriate based on urgent need due to danger, health, or safety issues or if the person will be temporarily relocated for only a short period of time. Please contact IFA if an instance for which you believe a shorter notice is warranted.**

It is extremely important that you provide the appropriate notices listed above to **ALL** tenants in the project, **even if the tenant will not be asked to make any type of move.** All tenants in the development need to be kept informed. If a tenant moved permanently from the property and had not been given timely notices, it is HUD’s position that that person will usually qualify as a “displaced person” and be entitled to claim full relocation benefits. Tenants must be given timely information essential in making an informed judgment about a move.

## **PROPER AND TIMELY NOTICES ARE CRUCIAL**

*It is permissible to combine the information required in the “Notice of Non-Displacement to Residential Tenant” with the “General Information Notice”. You may also include the information required in the “90-Day Notice” and make one combined notice as long as **everything required** by each notice is covered in the combined notice.*

### **D. Suitable Housing (for Temporary Relocation)**

- The “temporary relocation” unit need not be comparable, but it must be suitable for the tenant’s needs. **The unit must be decent, safe and sanitary.**
- Be sure that the “temporary unit” is inspected and approved before the tenant moves into it (even if the tenant finds his/her own unit). The Section 8 HQS checklist may be used to document the inspection. We definitely do not want to put anyone in an unsafe or unsanitary environment. **Provide IFA with a copy of all HQS inspection forms showing approval.**
- Temporary relocation units can be in hotel rooms with no cooking facilities, if necessary, as long as meal stipends are provided for the household and the conditions and terms of the temporary relocation remain “reasonable”. IFA will use the Federal government’s per-diem rate as a guideline for meal reimbursement, using one-half of the daily rate for children in the household who are under 10 years of age.
- If a tenant claims to be paying rent to a friend or a family member, you will need to document that the rent has actually been paid and that the housing is suitable.
- Upon return to the rehabilitated development, the family must be offered a unit that is safe and sanitary and appropriate for the household’s size. It will also need to be affordable for the family.

**Also, be aware that temporary relocation is limited to 1 year or less. Any residential tenant temporarily relocated beyond 1 year must be offered permanent relocation assistance.**

**Keep in mind, that if at some point during the tenant’s temporary relocation, for whatever reason, it becomes evident that the resident will become permanently displaced...at that point the tenant will become a “Displaced Person” and be eligible for URA benefits listed in the next section.**

## **“Permanent Displacement” of Tenants for Projects Using the HOME Funding Sources**

**Displaced Person**--- For purposes of this section, the term “**displaced person**” means a person (family individual, business, nonprofit organization, or farm, including any corporation, partnership or association) that moves from real property or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with HOME funds.

**This includes any permanent, involuntary move from the HOME-assisted project, including any permanent move from the real property that is made:**

- **After notice by the owner to move permanently from the property,**
- **By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:**
  - The tenant moves after execution of the agreement covering the acquisition and /or rehabilitation and **the move occurs before the opportunity to lease and occupy** a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under **reasonable terms and conditions.**

Such **reasonable terms and conditions** must include a term of **at least one year** at a monthly rent and estimated average monthly utility cost that does not exceed the greater of:

- The tenant's monthly rent before such agreement plus estimated average monthly utility costs; or
  - The total tenant payment, as determined under 24 CFR 5.613, if the tenant is low-income; or
  - 30 percent of gross household income, if the tenant is not low-income;
- or**
- The tenant is required to relocate temporarily, **does not return** to the building/complex, and either;
    - The tenant is **not offered payment for all reasonable out-of-pocket expenses** incurred in connection with the temporary relocation;  
**or**
    - Other conditions of the temporary relocation **are not** determined to be **reasonable**;  
**or**
    - The tenant is required to move to another dwelling unit in the same building/complex **but is not offered reimbursement for all reasonable out-of-pocket expenses** incurred in connection with the move, or other conditions of the move are not reasonable.

A “**displaced person**” must be provided relocation assistance at the levels described in this document and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR part 24.

A “**displaced person**” must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the

minority person also should be given, if possible, opportunities to relocate to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

**A person does not qualify as a displaced person if:**

- That person has been **evicted for cause** based upon a serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and the participating jurisdiction determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance. **Due process must be followed in compliance with the State tenant-landlord laws.** The eviction must also comply with the updated URA regulations at 49 CFR 24.206, which in part states that a tenant's non-compliance with a requirement to carry out a project does not necessarily negate their entitlement to relocation assistance and payments. Proper documentation pertaining to any tenant eviction must be provided to IFA.
- A person is not considered a "**displaced person**" as a result of the project if he/she moves into the property after the application for funding was already sent to IFA and he/she signs the written Move-in tenant notice before signing a lease and commencing occupancy. By signing the Move-in tenant notice, the person is acknowledging the possible impact to them from the project, due to the rehabilitation. They are acknowledging their awareness of the fact that he/she may be permanently displaced, be temporarily relocated, and/or may incur a rent increase due to the rehabilitation of the project. By signing the Move-in tenant notice, he/she further acknowledges that he/she is aware they will not be eligible for URA benefits.
- The person is ineligible according to 49 CFR 24.2(g)(2);
- HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

***The following policies cover residential tenants who will be required to move permanently from the project. Such tenants must be provided:***

**A. Reimbursement of Moving and Related Expenses**

**Expenses incurred in connection with the permanent displacement in the form of:**

- **A payment for actual reasonable moving and related expenses should include the following:**
  - Packing, moving and unpacking of household goods;
  - Disconnecting and reconnecting household appliances and other personal property (e.g., telephone and cable TV);
  - Storage of household goods, as may be necessary;
  - Any increase in monthly rent/utility costs;
  - Insurance for the replacement value of personal property during the move and necessary storage;
  - The replacement value of property lost, stolen or damaged in the move, if the insurance was not purchased;
  - The cost of reasonable and necessary security deposit required to lease the replacement dwelling unit.

**Actual moving cost must be supported by bills and/or receipts for labor and equipment costs. Hourly labor rates should not exceed the cost charged by a professional mover. Equipment rental should be based on the actual cost of renting the equipment and not exceed the cost charged by a professional mover.**

**Or (if the displaced person so chooses)**

- **A Fixed Payment for Moving Expense**
  - **The displaced resident may choose a one-time fixed payment to cover their moving expense and dislocation allowance. This payment is determined according to the Department of Transportation (DOT) schedule that is published periodically. This payment is based on the number of rooms to be moved.**

**B. Appropriate Advisory Services to Displaced Tenants**

- All residents must be kept informed of project activities and scheduling.
  - You will need to determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview (contact should be face-to-face) with each person to be permanently displaced, at the earliest point possible.
- Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 24.204(a).
- As soon as feasible, you or your relocation consultant shall inform the displaced resident of the specific comparable replacement dwelling(s) and the price or rent used for establishing the upper limit of the “replacement housing payment” (RHP) Title 49 § 24.403 (a) and (b)) explains the basis for the determination of the payment. The displaced tenant needs to be made aware of the maximum replacement housing payment for which he or she may qualify. At least by your Release of Funds date, this information should be delivered to the tenant in writing. This notice is known as the “Notice of Eligibility” (NOE), which will be discussed in the pages to follow under the section on providing timely notices.
- Referrals to other available assistance and human services (e.g.; health services, public assistance, child care, job training, and voter registration) and such other help as may be appropriate.
- Information about federal, state and local housing assistance programs and how to apply for them (e.g., housing vouchers/ certificates for rental assistance).
- Information about replacement housing opportunities that should, when possible, promote fair housing by providing minority persons with reasonable opportunity to move to neighborhoods outside areas of racial concentration that are within that displaced person’s means.
- Information to ALL displaced persons, especially the elderly and handicapped, offering transportation (if needed) to inspect replacement housing to which they are referred.
- Inform the displaced tenant that you will offer assistance in preparing relocation claim forms and/or applications for other human services, if needed.

**C. Proper Notices in a Timely Manner**

**All occupants are entitled to timely notices explaining whether or not they will be displaced.**



## FAILURE TO PROVIDE CORRECT AND TIMELY NOTICES CAN BE A VERY COSTLY RELOCATION MISTAKE

***ALL Notices must be understandable to the recipient and be personally served and signed for or sent by certified or registered first-class mail---return receipt requested, as proof of delivery. The original documents must be kept on file in the event that IFA or HUD would need to review them for compliance. Copies must be sent to IFA. (Please Note: Certified mail is usually less costly.)***

### 1. General Information Notice—Residential Tenant that may be Displaced (GIN)

Some type of General Information Notice (GIN) must be sent to every occupant of the project. The GIN must be sent as soon after applying for HOME funding as feasible. At the very latest, however, the GIN **MUST** be sent immediately after receiving project approval (Conditional Award). Sending this notice out as early as possible can prevent excessive relocation claims.

For each tenant who will be permanently displaced from the property, the applicant must provide them with a **“General Information Notice—Residential Tenant to be Displaced”**\* (Relocation Form D). This is an advisory notice that does the following:

- Explains that the project has been proposed and cautions the tenant not to move prematurely. This is the most important function of this notice. Please observe in the sample GIN notice that **“Do NOT move at this time”** is heavily stressed. If a tenant does not get this notice in a timely fashion they might move of their own accord and could still be eligible to receive replacement housing payments when they should not have been. *This notice sent in a timely manner is essential to protect your relocation budget.*
- This notice also informs the tenant that they should continue to pay their rent and meet their lease obligations and that they will be formally notified in writing of their relocation eligibility.
- If displacement is a possibility, the notice should enclose additional information about available relocation assistance. You can enclose the HUD brochure 1042, **“Relocation Assistance to Tenants Displaced From Their Homes”**\* ( **This publication is also available in Spanish if needed**). Printed copies of the HUD information brochures are available from HUD’s Regional Relocation Specialists and local field offices, and from HUD’s Direct Distribution Center at 1-800-767-7468. Copies can also be downloaded or printed from HUD’s website at:

[www.HUD.GOV/Relocation](http://www.HUD.GOV/Relocation)

*\* If you do not include the HUD brochure 1042-CPD with the notice please be certain that the notice sent includes the information covered by the HUD brochure.*

### 2. Notice of Eligibility (NOE) of Relocation Assistance

This notice may be issued at any time prior to or at least by, the date of the signing of the financial agreement with IFA—this stage of the process is referred to as the **“Initiation of Negotiations”**.

We encourage you to issue this notice at the earliest date possible, but if you have not issued the Notice of Eligibility before the “**Initiation of Negotiations**”, you **must** do so at this stage in the relocation process.

This Notice **MUST** be issued to all persons who will be permanently displaced from the project and must inform them of their eligibility for relocation assistance. The notice must contain a commitment for relocation assistance including:

- Information that the tenant will not be required to move without a referral to at least one comparable unit (preferably three comparables) and that they will have at least a 90-day advance written notice from the date of the referral;
- The list of the comparable referrals, with addresses, should be provided with the NOE, at this time. Units are only “comparable” if they are also available for lease and affordable to the tenant;

**In most cases, the rent of the most comparable unit (the unit most representative of, equal to, or better than, the displacement dwelling), will be used set an upper limit for the calculation of the Replacement Housing Payment (RHP). Failure to provide information about available, comparable units could result in a requirement to pay excessive relocation costs.**

- A description of the available relocation assistance;
- The estimated amount and type of moving expenses the displaced person would be eligible for;
- A specified maximum amount of the replacement housing payment (RHP) which is based on the most comparable unit;
- Explanation of the procedures required to obtain the assistance.

This notice **MUST** be **specific** to the individual and his/her situation so they will have a clear understanding of the type and amount of payments and/or other assistance they may be entitled to claim.

***Note: It is acceptable to combine the Notice of Eligibility with the 90 Day Notice, if you so choose.***

***HUD has also said that these two notices may also be combined with the GIN if all the needed information is available and can be provided to the tenant at that time.***

### **3. 90 Day / 30 Day Notices**

- Each lawful occupant to be displaced must receive at least 90 days written advance notice before being required to move
- The notice cannot be given before the person is issued a notice of eligibility for relocation assistance **OR** before being notified of the availability of at least one comparable replacement dwelling (preferably three). The 90 day notice can be combined with the Notice of Eligibility.
- The notice must certify the date by which the property must be vacated **OR** if the date is unknown, indicate the earliest date that the occupant may be required to move.
- If no date is confirmed in the 90-day notice, the occupants must be informed that they will receive at least 30 days advance written notice of the specific date of the move.

- In most instances, the tenant should be given a 90-day notice. However, occupants may be required to move on less than 90 days written notice if IFA determines that the notice is impracticable. Occasionally, an occupant may be required to move with less than 90 days' notice if the unit they are occupying is a health or safety hazard.

*Please note*--the needs of the owner's schedule do not represent sufficient reason to issue a notice to vacate before providing the family with 90 day's prior notice to move.

- A 90-day notice is not needed if (a) there is no structure, growing stock, or personal property on the property or (b) the occupant makes an informed decision to relocate and vacates the property without prior notice or (c) the occupant owns the property and enters into a negotiated agreement for delivering possession of the property or (d) the occupant will not qualify as a displaced person under the relocation regulations.
- If occupants are still in the unit after the date specified in the notice, the property owner has the right to evict them using due process established by state law. If a tenant is evicted for cause, copies of the eviction documentation must be provided to IFA. **Please inform IFA prior to taking this type of action.**

It is extremely important that you provide the appropriate notices listed above to **ALL** tenants in the project. **Every tenant should receive some type of notice even if he/she will not be asked to make any type of move.** All tenants in the development need to be kept informed. If a tenant moves permanently from the property and had not been given timely notices, it is HUD's position that that person will usually qualify as a "displaced person" and be entitled to claim full relocation benefits. *Tenants must be given timely information essential in making an informed judgment about a move.*  
**Proper and Timely notices are crucial**

#### **D. Replacement Housing and Payments (RHP)**

- Replacement housing units for the "permanently displaced" tenant must be comparable, decent, safe and sanitary. Each unit must be inspected to ensure that this test is met.
- Copies of those inspection forms must be provided to IFA confirming the approval of the unit under the HQS inspection standards.
- If the displaced person selects a unit that fails an inspection for compliance with applicable codes and standards, and necessary corrections cannot be made to the unit, a replacement housing payment for that unit cannot be paid. However, the displaced person is still eligible for moving expense payments regardless of the unit selection.
- Each displaced household **must** be offered at least one comparable replacement dwelling *and*, if applicable, the financial assistance necessary to make the replacement unit affordable.
- Every household who meets the URA definition of a "displaced person" is eligible to receive relocation assistance. The income of the displaced person is not a factor in determining eligibility, but is a factor in calculating the amount of assistance they will receive.
- Rental assistance may be in the form of a Replacement Housing Payment (RHP) or, for eligible households, tenant-based rental assistance under Section 8, if available.
- If a tenant is not subsidized at the displacement site, the household has the right to choose whether rental assistance is provided through tenant-based rental assistance or through a calculated Replacement Housing Payment (RHP).
- The Replacement Housing Payment (RHP) is intended to provide affordable housing for a 42-month period, according to URA regulations. URA regulations mention a \$5,250 limitation on payments, however, the regulation also requires that displaced residents receive the **full** 42 months of assistance *even though the amount may exceed the*

\$5,250. The payment cap is normally determined by the rent/utility cost of the most comparable unit.

- If a situation should arise in which a project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for the tenants, HUD authorizes the use of “**Last Resort Housing Measures**” as described in Title 49 Part 24.404 of the URA regulations. If you determine that last resort housing measures will be necessary for any tenant in your project, please provide IFA with that information as soon as possible. Information as to how you plan to deal with last resort housing should be included in the narrative part of your relocation plan.
- The replacement housing payments **must be paid to the tenant** and are generally made in 1 or 2 installments, unless the displaced tenant wishes to purchase a home.
  - If the displaced tenant chooses the purchase option, the payment must be provided in a lump sum. The **full** amount of the lump sum payment must be applied to the purchase price of the replacement dwelling and related incidental expenses as stated in 49 CFR 24.402 (c).
- The payment to which the family is entitled is calculated on the basis of the comparable replacement dwelling that is determined to be the most nearly representative of or better than the displacement.
- If an offer of a comparable replacement unit is not made in a timely manner to the displaced household, the replacement housing payment **must** then be calculated on the basis of the actual replacement unit chosen by the resident. This unit may have a higher rent/utility cost than a comparable unit would have had. For this reason it is very important to identify the most comparable replacement unit with the referrals when sending the Notice of Eligibility. Failure to identify a comparable unit when required may very well result in a substantially higher replacement housing payment.
- For your convenience, we have included as “Exhibit C” and on our website a copy of a HUD Form 40061, to assist you in determining the most comparable unit to use in your RHP calculation. You may use this form as it is or you may design your own form but please be sure that your form is similar in content to the HUD created form.
- HUD Form 40058 has also been included as “Exhibit D” and on our website to be used as a claim form for the RHP payments if you so choose. Again, feel free to design your own form but please be sure that your form is similar in content to the information provided on the HUD created form.

## Relocation Assistance Policy for Businesses

For any project being funded with HOME funds that will result in the Permanent Displacement of a business, project owners *must* comply with the ***IFA Relocation Assistance Policy for Businesses*** as outlined herein and with all of the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). If you need copies of the HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition, they are available at HUD Handbook 1378 or from HUD. The 1378 handbook reviews all of the requirements of the URA regulations for multiple federal programs.

If you acquire an existing property to be rehabbed with federal HOME funds you must submit to IFA at time of initial application a copy of the **Notice to Seller – Voluntary Acquisition notice**, as explained at the beginning of this document.

### **Businesses covered by this policy are considered to be:**

- 1) lawful for-profit businesses;
- 2) non-profit businesses (such as churches, social service agencies; or
- 3) farming operations.

The businesses can be owner/occupant businesses or tenants operating a business in a rented space.

Displaced businesses are entitled to **advisory services** to include **proper notification** as well as **financial benefit** in the form of **business moving expenses** and in certain cases **business reestablishment expenses**.

### **Project Planning--Consultation with Business Owners**

Non-residential moves are often complex. You are encouraged to begin early to work closely with the business owners to determine their specific relocation needs and individual preference.

### **Displaced Businesses are entitled to Advisory Services which include:**

- Information about the upcoming project, to include the earliest date they will have to vacate the premises;
- A complete explanation of their eligibility for relocation benefits and assistance in understanding their best alternatives;
- Current information on the availability of *and* the cost to purchase *or* rent suitable replacement locations;
- Technical assistance, including referrals, to assist the business in finding an alternative location and becoming reestablished;
- Referrals for assistance from State and Federal Programs, such as those provided by the Small Business Administration, that may help the business reestablish;
- Assistance in following the required procedures to receive the relocation payments, including assistance with completing required relocation claim forms.

### **Displaced Businesses are entitled to Notices and written information about their rights which should include:**

**General Information Notices (GINs)** (Relocation Form J) is a sample GIN for business displacement that should be tailored to the situation.)

### **The GIN should include:**

- An explanation that a project has been proposed and caution the business not to move until they receive a “Notice of Eligibility for Relocation Assistance”;
- A general description of the relocation assistance payment they **could** receive;
- The eligibility requirements for these payments and the steps that need to be taken to order to obtain the payments;
- Information that they will receive reasonable relocation advisory services to locate a replacement site, help with other needs including help in completing claim forms;
- Information that they will not be required to move without at least a 90-days advance written notice;
- A description of the appeal process available to the business;
- The HUD Information Booklet entitled, “Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms” (HUD 1043-CPD) includes this general information and should be given to each business to be displaced.

### **Notice of Eligibility of Relocation Assistance**

The Notice of Eligibility may be issued at any time prior to or at least by the signing of the financial agreement with IFA. URA regulations refer to this point in the process as the “Initiation of negotiations”.

We encourage you to issue this notice at the earliest date possible, but if you have not issued the Notice of Eligibility before the “**Initiation of Negotiations**”, you **must** do so at this stage in the relocation process. This Notice may be sent in along with the 90-day Move notice.

- This notice should inform the business as to the effective date of their eligibility.
  - The notice should also describe the assistance available
- and
- Describe the procedures necessary to obtain the assistance.

### **As soon as possible the Displaced Business should be told that they must:**

- Allow inspections by your company, as IFA’s representative, of both the current and replacement sites. Of course, these inspections must be conducted under reasonable terms and conditions;
- Keep you informed of their plans and schedules;
- Notify you in advance of the date and time they plan to move (unless this requirement is waived). Inform you when the property will be vacated;
- In many situations, you as IFA’s representative must be on-site during a business move to provide technical assistance and represent the developer’s as well as IFA’s interests;
- Provide you with a list of the property being moved or sold;
- Provide you a detailed itemization, as an inventory of all of the personal property that will be moved to ensure that the move takes place at a reasonable cost. A copy of this itemization list must be sent to IFA for verification. This list will be used as a basis of comparison with bids or estimates and eventual request for payment.

**Please remember that you are acting as a representative for the Grantee (IFA). You must provide our office with the required documentation as listed above for each displaced business. IFA needs to have copies of all the information collected from each displaced business for verification and to be retained in our files.**

## **BUSINESS RELOCATION BENEFITS** **(Actual Moving Expenses vs. Fixed Payment)**

### **I. ACTUAL MOVING EXPENSES**

#### **A. ELIGIBILITY FOR BENEFITS**

- **ANY displaced business** is eligible for reimbursement of reasonable, necessary actual moving expenses. Some businesses may choose a fixed relocation payment if they qualify. The “fixed payment” option will be discussed later in this document.
  - Only businesses that choose actual moving expenses – versus a fixed payment – are eligible for a **REESTABLISHMENT EXPENSE PAYMENT**.
  - Additional hardships should not be placed on businesses, but the amount of payment for actual moving expenses can be limited based on a least-cost approach.

#### **B. CHOICE OF MOVER**

- Businesses may choose to use the services of a professional mover or perform a self-move.
  - The payment in either case should not exceed the lower of two acceptable bids or estimates from professional moving companies.
  - A copy of the bids or estimates from professional movers must be provided to IFA to assure that the cost is reasonable.
    - It is allowable to pay a mover for bid preparation if it is necessary to obtain adequate and reasonable bids.
    - If the move is low-cost or uncomplicated, IFA may allow payment based on a single bid or estimate.
- If the businesses choose to perform a self-move, a lower amount may be negotiated than the amount of the bid or estimate.
  - This would be done to acknowledge the fact that a moving company must charge overhead and earn a profit on each move
  - If we cannot negotiate an agreed-upon amount for a self-move, (likely **only** to occur in cases where the nature of the equipment or inventory is complex) IFA **must** receive full documentation to support the payment.
  - Often a self-move is advantageous because of the specialized skill and knowledge that is required to move a complex or large business.
- When the nature of the business precludes obtaining acceptable bids from professional movers, payment for self-moves must be based on the following:
  - The actual costs incurred by the business for equipment and labor.
  - Labor is to be charged at the actual rate paid but not to exceed what a professional mover would charge for the same type of work.
  - Charges for using equipment owned by the business and used in the move should be prorated against its overall operating cost.
  - It is also acceptable to pay for management time for overseeing the move.

#### **C. ELIGIBLE EXPENSES Include:**

- **Transportation of personal property**
  - Generally all costs for moving property are eligible, unless the move is beyond 50 miles.
  - If the move exceeds 50 miles, IFA must approve the moving cost.

- **Packing, crating, uncrating, unpacking of personal property**
- **Disconnecting, dismantling, removing, reassembling, and reinstalling machinery**
  - This includes utility connection, modification of property to adjust to new location, and any adjustments to existing utility configuration.
- **Storage** of personal property
  - Generally storage is covered for a period not longer than 12 months.
  - If the period will exceed 12 months, IFA can approve these costs if they are deemed necessary.
- **Insurance** for replacement value of personal property in connection with the move and/or storage
  - If insurance is not available at reasonable rates, IFA may elect NOT to pay for coverage. However, in the event of loss, theft, or damage through no fault of the business, the project owner would be required to pay for reasonable replacement value.
- Any **License, permit or certification** required at the new location
  - Payment may be prorated based on the remaining useful life of the existing license, permit or certification.
- **Professional Services** to:
  - Plan the move;
  - Move the personal property; or
  - Install the personal property at the new location
- **Re-lettering signs and replacing existing stationery** that are obsolete due to the displacement
- **Reasonable Costs incurred** while attempting to sell items that will not be relocated
- A business is eligible for either a “**Direct Loss**” or a “**Substitute Equipment**” payment if the displacee will leave or replace personal property. A Business can accept either of these (but not both) for any item:
  - A “**Direct Loss**” payment can be made for the loss of personal property due to moving or discontinuing the business or nonprofit or farm.
  - The business must make a good faith effort to sell the personal property (unless IFA determines it is unnecessary) in order to be eligible for a Direct Loss payment.
  - A Direct Loss payment is based on the **lesser of**:
    - The market value of the item for continued use at the displacement site, minus its sales price, **OR**
    - The estimated cost to move the item, with no allowance for storage. If the business is discontinuing, the cost to move is based on a moving distance of 50 miles.
  - A “**Substitute Equipment**” payment can be made when an item used by the business, nonprofit, or farm is left in place, but is promptly replaced with a substitute item that performs a comparable function at the new site.
  - A “Substitute Equipment” payment is based on the lesser of:
    - The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item, **or**
    - The estimated cost to move and reinstall the item, but with no allowance for storage.



- Costs incurred while **searching** for a replacement location:
  - Businesses are entitled to reimbursement up to \$1,000 (can be more if approved by IFA as reasonable)
  - Costs may include reasonable levels of such items as:
    - Transportation
    - Meals and lodging away from home
    - Time spent while searching, based on reasonable pay salary or earnings
    - Fees paid to a real estate agent or broker while searching for the site, however commissions related to the purchase are not eligible costs
- Advertising Signs
  - If the sign will not be moved, payment for the direct loss is calculated as **the lesser of:**
    - The depreciated cost of reproducing the sign less the proceeds from its sale, **or**
    - The estimated cost of moving the sign, with no allowance for storage.
- **Other moving-related expenses** that IFA determines are **reasonable and necessary and are not listed as “Ineligible”**

#### **D. INELIGIBLE EXPENSES Include:**

- **Loss of goodwill;**
- **Loss of profits;**
- **Loss of trained employees;**
- **Personal injury;**
- **Interest on a loan to cover any costs of moving or reestablishment expense;**
- **Any legal fees or other costs for preparing a claim for a relocation payment, or for representing the claimant before IFA;**
- **The cost of moving any structure or other real property improvement in which the business reserved ownership;**
- **Costs for storage of personal property on real property already owned or leased by the business before the initiation of negotiations;**
- **Costs of physical changes to the replacement site above and beyond that required to move and reestablish the business;**
- **The purchase of capital assets, manufactured materials, production supplies, or product inventory, except as permitted under “Moving and Related Costs”;** **or**
- **Interior and exterior finishes solely for aesthetic purposes, except for the redecoration or replacement of soiled or worn surfaces described in “Reestablishment Expenses”.**

#### **E. RE-ESTABLISHMENT EXPENSES**

- **Only certain small businesses are eligible for re-establishment expenses.**
  - “Small Businesses” for this purpose are defined as those with at least one, and no more than 500 people working at the project site.
  - Businesses displaced from a site occupied only by outdoor advertising signs, displays, or devices are not eligible for a reestablishment expense payment.
- **\$10,000 is the maximum** reestablishment expense payment allowed by the URA regulations.
- **Eligible Items** included in this maximum figure are:

- Repairs and improvements to the replacement site, as required by codes, or ordinances;
- Modifications to the replacement property to accommodate the business;
- Modifications to the structures on the replacement property to make it suitable for conducting the business;
- Construction and installation of exterior advertising signs;
- Provision of utility service from the Right of Way to the business;
- Redecoration or replacement at the replacement site of soiled or worn surfaces, such as paint, paneling, or carpeting;
- Other licenses, fees, and permits not otherwise allowed as actual moving expenses;
- Feasibility surveys, soil testing, market studies;
- Advertisement of the replacement location;
- Professional services or incidental expenses in connection with the purchase or lease of a replacement property;
- Estimated increased costs of operation for the first two years at the replacement site for such items as:
  - Lease or rental charges, utility charges
  - Personal or property taxes
  - Insurance premiums
- Impact fees or one-time heavy utility use assessments;
- Other reestablishment expenses as determined by IFA to be essential to reestablishment.

#### **F. DOCUMENTATION OF COSTS**

- **A claim for payment of actual moving and reestablishment costs must be supported by reasonable documentation of expenses. These could include: bids, estimates, bills, certified prices, receipts, or appraisals.**

#### **II. FIXED PAYMENTS**

- **A displaced business may select a FIXED PAYMENT instead of actual moving expenses (which could include reestablishment expenses) if IFA determines that the displacement meets the following eligibility criteria:**
  - The business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site.
  - The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings).
  - The business is not a part of a commercial enterprise that has more than three other entities that will:
    - Not be acquired by the HOME financed project, but
    - are under the same ownership, and
    - the other locations are engaged in the same or similar business activities.
  - The business **contributed materially to the income** of the displaced business. The term “contributed materially” means that during the two taxable years prior to the taxable year in which the displacement occurs (or during such other period as determined by IFA to be more equitable), the business or farm operation:
    - Had average gross earnings of at least \$5,000; or
    - Had average net earnings of at least \$1,000;
    - Contributed at least 33 1/3 percent (one-third) of the owner’s or operator’s average annual gross income from all sources;

- If it is determined that the application of these criteria would cause an inequity or hardship, IFA may waive these criteria.
  - The business is not operated at the displacement site solely for the purpose of renting such dwelling to others or solely for the purpose of renting the site to others.
- **The amount of the fixed payment is based upon the average annual net earnings for a two-year period of a business or farm operation.**

#### **Fixed Payment Formula**

**Calculate net earnings before Federal, State and local income taxes for a two-year period.**

**Divide the figure in half.**

**The minimum payment is \$1,000; *The maximum payment is \$20,000.***

**The two-year period should be the two tax years prior to the tax year in which the displacement is occurring, unless there is a more equitable period of time that should be used.**

- If the business was not in operation for a full two-year period prior to the tax year in which it would be displaced, the net earnings should be based on the actual earnings to date and then projected to an annual rate.
  - If a business has been in operation for a longer period of time, and a different two-year period of time is more equitable within reason, the fixed payment should be based on that time period.
  - When income or profit has been adjusted on tax returns to reflect expenses or income not actually incurred in the base period, the amount should be adjusted accordingly.
- **Net earnings include any compensation obtained from the business that are paid to the owner, the owner's spouse, and dependents**
- **When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:**
- The same premises and equipment are shared;
  - Substantially identical or interrelated business functions are carried out and business and financial affairs are co-mingled;
  - The entities are held out to the public and to those customarily dealing with them as one business; and
  - The same person or closely related persons own, control, or manage the affairs of the entities.

#### **A. SPECIAL RULES FOR NONPROFIT ORGANIZATIONS**

- **A displaced nonprofit organization may be eligible for a Fixed Payment if it discontinues operations or suffers a significant loss of existing patronage (membership or clientele).**
- **The amount of Fixed Payment is based on:**
- Average of two years annual gross revenues less administrative expenses.
  - Average annual revenues and expenditures are based on the two years of operation prior to displacement.
  - Gross annual revenues include:
    - Membership fees,
    - Class fees,
    - Cash donations,

- Tithes,
- Receipts from sales, or
- Other funds collected that enable the organization to operate.
- Administrative expenses include:
  - Rent and utilities,
  - Salaries,
  - Advertising, and
  - Other like items as well as fund raising expenses.
- Operating expenses for carrying out the purposes of the organization, are not considered administrative expenses.
- If an organization has not been in business for a two-year period, the grantee should annualize the period operation.
- Payments range from a minimum of \$1,000 to a maximum of \$20,000. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition.

## **B. SPECIAL RULES FOR FARMS**

- **Any displaced farm operation can receive a Fixed Payment instead of a payment of Actual Moving Expenses.**
- **It is calculated in the same way as described for businesses as listed previously.**
- **In the case of a partial acquisition of land, which was a farm operation prior to acquisition, a fixed payment may be made ONLY if it is determined that:**
  - The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
  - The partial acquisition caused a substantial change in the nature of the farm operation.

## **C. DOCUMENTATION OF COSTS FOR FIXED PAYMENT**

- **Businesses must provide sufficient documentation of income to justify their claim for a Fixed Payment. This might include:**
  - Income tax returns;
  - Certified or audited financial statements;
  - W-2 Forms;
  - Other financial information as approved by IFA

### **Additional Relocation Information**

- A.** Keep on file the originals of all pertinent relocation records which includes but may not be limited to: copies of notices sent to all tenants; all copies of the return receipts (or sign off documentation) verifying that each tenant household did receive the proper notification letters; copies of inspection reports that were done on the replacement housing showing that the replacement housing meets HQS standards; beginning and ending rent rolls; proof of advisory services to tenants; copies of any HUD form used for reimbursement and/or replacement housing payment claims and comparable units: inspection reports, etc.

Provide IFA with copies of all of the above documentation (listed in Item A). IFA or HUD or their agents retain the right to request and/or review copies of such documentation in your relocation files at any time.

- B. We do not want this rehabilitation to impose a “rent burden” on any of the tenants if at all possible. We advise that the rents not be raised above what the tenant is paying currently or 30% of the tenant’s average monthly gross household income. If a tenant becomes “rent burdened” they can be considered “permanently displaced” and become eligible for full relocation benefits.
- C. The tenant must be notified if rent will increase in the rehabbed unit or if they will be offered a different unit in the property other than the unit they originally occupied before the rehab.
- D. Continue to provide to our office copies of Tenant Notices, “Relocation Form B” that have been signed by new tenants moving into the project after the application for funding.
- E. We also need you to continue to inform and provide us with the required documentation if any tenant becomes “evicted for cause”.
- F. Keep IFA informed if there are tenants who do not want to cooperate. Notify us of any potential problems or hot spots concerning the relocation.
- G. IFA also wants you to send us **copies of ALL inspection forms** showing that the replacement units have passed the HQS inspection standards.

If an instance should arise when **low-income tenants were displaced due to the demolition or conversion of low-income units**, more stringent federal restrictions could apply to the relocation process. This type of action could cause your project to also be subject to compliance with Section 104(d) of the Housing and Community Development Act of 1974.

IFA must be informed if this situation were to occur.

**If you have questions or need additional information, please feel free to contact:**

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