CH 6

DEMOLITION ACTIVITIES

Introduction

CDBG funds may be used for clearance, demolition, and removal of buildings and improvements, including remediation of known or suspected environmental contamination. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD (24 CFR 570.201(d)). Remediation may include project-specific environmental assessment costs not otherwise eligible under § 570.205.

The funding recipient must take into consideration the requirements of Section 104(d) of the Housing and Community Development Act of 1974 when undertaking this activity. If through code enforcement, it is determined that a residential unit can be brought up to code through rehabilitation, that unit should not be demolished. If a unit that is able to be rehabilitated is demolished, the replacement housing requirements of Section 104(d) are "triggered" (see Chapter 11 for more information). It then becomes the responsibility of the unit of local government to replace the demolished housing unit. In addition, the replacement unit must be designed to remain affordable for low- and moderate-income persons for a period of at least ten years from the date of initial occupancy. The State CDBG Program **does not** allow demolition of units that may be rehabilitated.

Note that the Section 104(d) one for one unit replacement requirements are not triggered for owner occupied housing where the owner is voluntarily participating in a reconstruction program where their existing home will be demolished and a new, suitable home will be built in its place. However, if the unit is tenant occupied or if the owner is not participating voluntarily (such as a unit that was condemned and the owner is being forced to rebuild his or her home), Section 104(d) one for one unit replacement requirements may indeed be triggered. The State CDBG Program **does not** allow projects that rebuild homes.

Section 1 - Demolition and Clearance

CDBG funds may be used for clearance of debris and/or demolition of vacant, dilapidated structures that are not habitable. This may be done through spot slum/blight, area slum/blight, or LMI area benefit if the use of the property will serve an LMI area (24 CFR 570.483(c)).

Eligible Activities:

- Demolition of buildings and improvements;
- Removal of demolition products, rubble, and other debris; and
- Physical removal of environmental contaminants or treatment of such contaminants to render them harmless.

Slum/Blight National Objective:

- Clearance may qualify under the Slum or Blighted Area category if the clearance activities are in an area designated by the State as a slum or blighted area and address one or more of the conditions which contributed to the deterioration of the area. In order to qualify, public improvements throughout the area must be in a general state of deterioration OR at least 25 percent of properties throughout the area experience one or more conditions identified at § 570.483(b)(4)(D),
- Clearance may qualify under the Spot Blight category if the activity eliminates specific conditions of blight or physical decay on a spot basis not located in a designated slum/blight area.

Structures to be demolished require that the grantee document through an inspection report that the structure is vacant, substandard/dilapidated, and is not habitable according to local building codes. Localities proposing demolition must have a written anti-displacement and relocation plan and must follow it in the implementation of these activities. Occupied units or vacant habitable units may not be demolished under the State's program.

Generally, multiple clearance or demolitions should be undertaken as part of an overall revitalization program in a targeted area or be part of a comprehensive effort to address all blighted properties. Most localities will use code enforcement tools to clear private properties that are dilapidated and causing a blight. Such local governments have adopted ordinances that specify code enforcement procedures. The International Building Code has an optional International Property Maintenance Code that can be locally adopted to address vacant and blighted properties.

SC State Code of Laws at Title 31, Chapter 12 also provides procedures for local governments to deal with dwellings that are unfit for human habitation.

Essentially, state law says that whenever a locality finds dwellings which are unfit for human habitation due to dilapidation, the locality may exercise its powers to repair, close or demolish the dwelling. It provides guidance for localities to adopt an ordinance that:

(1) Designates a public officer to carry out these powers;

(2) Allows the locality to serve the owner with a complaint and hearing notice;

(3) If it is determined the dwelling is unfit for human habitation the owner can be required to:

   a. repair the unit to make it habitable, if it can be made at a reasonable cost in relation to the value of the dwelling, or to vacate and close the dwelling as a human habitation; or

   b. if the unit cannot be repaired and made habitable for a reasonable cost the owner must remove or demolish such dwelling;

(4) If the owner fails to comply the locality may post on the main entrance of the dwelling, a placard with the following words: "This building is unfit for human

habitation; the use or occupation of this building for human habitation is prohibited and unlawful";

(5) If the owner fails to comply with an order to remove or demolish the dwelling, the locality may remove or demolish the dwelling and the cost of demolition may be a lien against the property.

State law and local ordinances should be followed in serving of orders, posting notices, and filing with the Clerk of Court. The law also provides details on required timeframes.

If the structure is privately owned and the local government does not follow State or local codes enforcement procedures, a voluntary demolition permission form is required prior to demolition. The permission form grants written permission from the property owner for the demolition/clearance and also documents that no persons or businesses will be displaced by the demolition and that the property was vacant for at least 3 months prior to the grantee's application for CDBG assistance. A sample permission form is in the Forms section of the State CDBG website.

If it is determined that a vacant, dilapidated housing unit is to be demolished and cleared, written documentation (using the State's H-1 form) must establish whether or not Section 104(d) applies (regardless of use of code enforcement procedures). The H-1 form can be found in the Forms for this chapter.

Structures to be demolished require that the grantee document through an inspection report that the structure is substandard or dilapidated according to local building codes and that it is not habitable. The grantee must also verify the vacancy status through inspection reports, utility disconnections, owner verification, etc. It is required that before and after photos are taken and maintained in the file. In addition, the Grantee must conduct and use the results from a title search to determine a property's owner(s).

Demolition activities may include: testing for environmental hazards on the property (lead and asbestos) and proper removal; disposal of hazardous materials; utility disconnections; actual demolition of the unit; air monitoring for those units containing asbestos; and demolition permits. Once demolition is complete, the site should be leveled and seeded as appropriate, and any damages to associated sidewalks, curbs, drives, etc. repaired if needed.

Prior to beginning demolition, a determination of whether the unit contains lead or asbestos must be made. The South Carolina Department of Environmental Services (SCDES) has specific requirements for the removal of hazardous materials including permitting, testing, air monitoring and removal of such materials. Qualified contractors must be used to perform these services and in some cases, different contractors may be required to perform the testing and air monitoring and demolition. Contact SCDES for more information.

Where demolition and clearance activities are integral to the construction of a building or improvement on the cleared property, and where such subsequent construction is also to be assisted with CDBG funds, the clearance activities may be treated as a part of the construction costs.

Demolition, by itself, is not necessarily considered to be construction, alteration or repair (i.e. the activities to which Davis-Bacon requirements may apply). However, if the demolition is an integral part of a subsequent construction project or if the following construction at the site is a planned CDBG or federally funded project, then the demolition work is considered part of the overall construction project (i.e. if demolition and clearance is required for a CDBG funded park improvement project at the site) and Davis-Bacon is applicable to both the demolition and subsequent construction work. Davis-Bacon wage requirements are not typically triggered by demolition work alone. For more information on Labor Law Regulations, please see Chapter 8 of the Implementation Manual.

HUD's Lead Safe Housing Rule (24 CFR Part 35) does not apply to demolition only activities.

Liens & Demolition Assistance Agreement *(Only for Program Year 2024 and Earlier)*

For projects funded under Program Year 2024 and earlier, liens will be required for the demolition costs unless:

- The demolition is done to address and support crime prevention efforts in a target LMI neighborhood; and
- The CDBG total cost related to demolition (such as legal, lead/asbestos testing and removal, air monitoring, demolition, disposal, etc.) does not exceed $10,000 per property or property owner.

Properties demolished or cleared that do not meet the above guidelines will require a lien:

- Generally the lien should be repaid if the property is sold within 5 years of the demolition or clearance.
- If the property is redeveloped for an LMI purpose the lien can be forgiven in whole or in part depending on the amount of assistance.

Recovery of CDBG costs from a lien is generally considered program income and must be repaid to the State.

If using owner permission for the demolition, in addition to the voluntary demolition permission form, the owner must also sign a demolition assistance agreement outlining the conditions of assistance, including the potential lien requirement. A sample demolition assistance agreement is in the Forms for this chapter.

Chapter 6-Demolition Forms/Documents

*Forms/documents referenced below are found on the State CDBG web site under Forms/Demolition section *

- Determination to Demolish (H-1)
- Demolition Assistance Agreement (only for projects funded during 2024 and earlier years)
- Demolition Permission Agreement
- Demolition Checklist