CH 9

ACQUISITION OF REAL PROPERTY

Introduction

This chapter provides an overview of the process to acquire real property for projects involving CDBG funding. The requirements and procedures that are necessary to ensure recipient and subrecipient compliance with the Uniform Relocation Act (URA) are also outlined. In addition, this chapter reviews the recordkeeping and appeals processes associated with the acquisition of real property. This includes maintaining an individual case file on each acquisition, informing property owners of their rights, establishing market value, providing just compensation or obtaining a property donation form, documenting the payment of legal and other fees, and properly recording data.

It is very important to remember that any acquisition is subject to the URA if federal financial assistance is a part of any portion of the project, regardless of whether or not the federal financial assistance is actually used for the acquisition of real property.

The timing of an acquisition can make it subject to the URA. Any acquisition which takes place on or after the date of request of a CDBG application to fund an activity on that property is subject to the URA, unless the recipient shows that the acquisition was unrelated to the proposed CDBG activity. Also, even an acquisition that took place before the date of submission of the application can be subject to the URA if the State determines that the acquisition was intended to support a subsequent CDBG activity. A 'flow chart' depicting the acquisition process can be found at the end of this chapter.

The recipient should review every CDBG activity to determine property acquisition needs and identify the particular properties to be obtained. Activities such as street widening, relocation of utility lines, and sidewalk construction often require the acquisition of easements and rights-of-way. Be sure to verify that the property to be improved is publicly owned. Sometimes a road is commonly referred to as a county road, but in fact, rights-of-way are privately owned.

Generally, grantees should not begin the acquisition process until the environmental review is complete. However, an option agreement may be used to gain site control while allowing time to complete the environmental review.

A real estate option contract or agreement is a legal agreement between the potential buyer of real property and the owner of that property. The real estate option agreement gives the potential buyer the exclusive right to buy the property at a specific price within a specific time period. The option agreement does not impose any obligation upon the potential buyer to purchase the property. The option agreement does obligate the seller to sell at the specified price if the potential buyer exercises the option to buy in the manner described in the contract.

An option agreement prior to the completion of the environmental review may be used when the following requirements are met:

1. The option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with 24CFR Part 58; and
2. The cost of the option is a nominal portion of the purchase price.

The provision allows flexibility regarding the term "nominal" and any reasonable interpretation is acceptable. For instance, it is reasonable to conclude that the nominal amount for option contracts will vary depending upon the local real estate market and the purchase price. All option contracts must be consistent with HUD guidance provided in "HUD Memo: Guidance on Options and Conditional Contracts for Purchase of Real Property for Environmental Reviews Conducted by a Responsible Entity under 24 CFR 58"

Section 1 - General Acquisition Requirements

Generally, the acquisition of real property in any CDBG-assisted project is subject to the requirements of the Uniform Relocation and Real Property Acquisition Act of 1970 (URA), as amended, and HUD's implementing regulations at 49 CFR Part 24 (revised on January 4, 2005). The objective of the URA is to ensure that owners of real property to be acquired as part of a Federally-assisted project are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owner, to minimize litigation and relieve congestion in the court, and to promote public confidence in Federally-assisted land acquisition.

The URA Final Rule is the most complete guidance available for acquisition and relocation information.

You can download the Final Rule from HUD's relocation webpage at www.hud.gov/relocation.

All means of acquisition (purchase, donation, partial donation) are covered by the URA. Property to be acquired refers to any real property purchased for a direct Federal program or project: such as fee simple title, easements necessary for the project, long-term leases, and rights-of-way. Under the CDBG program, leases of 15 years or more are considered acquisitions according to HUD Handbook 1378, although the URA only considers leases of 50 years or more as long term. Temporary easements are subject to all of the same rules as other forms of acquisition, except in the situation where the easement is for the direct benefit of the property owner. For example, if a recipient obtained a temporary easement to park construction equipment in the yard of a home that is on a street where a water line is being upgraded with CDBG funds, that would directly benefit the owner and would not be subject to the URA. On the other hand, if the recipient is building a water tower that will benefit an entire LMI town, and it needs to obtain a temporary right of way for the

construction vehicles to reach the site, that would be covered by the URA. If the URA is triggered for the acquisition of a temporary easement, that purchase should be treated in the same way as any other covered acquisition, including notices, valuation and owner compensation.

Acquisition rules must be followed whenever:

- The recipient undertakes the purchase of property directly,
- The recipient provides a non-profit or for-profit entity with funds to purchase the property,
- The recipient hires an agent or consultant to act on their behalf, or
- The recipient provides federal assistance to individuals who are acquiring their own home.

In order to proceed with an acquisition and comply with the applicable rules, recipients must understand the critical difference between acquisition of property when the sale is voluntary or involuntary.

- While there are protections for sellers in both voluntary and involuntary sales, involuntary sales are subject to more extensive URA requirements for the acquisition process. In voluntary sales, relocation benefits are only available to tenants, whereas in involuntary sales, additional protections and benefits extend to both property owners and occupants.
- **When a voluntary sale occurs, there can be no threat of eminent domain or condemnation**. The sales price may be negotiated, but the seller must be informed of certain facts about the acquisition.
- Use of eminent domain for economic development that benefits private entities is prohibited.

The rules pertaining to voluntary acquisitions are detailed in Section 2 of this Chapter, while the requirements for involuntary transactions are in Section 3.

Section 2 - Voluntary Acquisition Procedures

Overview

The URA recognizes three general types of purchases as potentially voluntary.

- Type 1: Purchases where the recipient has the power of eminent domain but agrees in writing not to use this power.
  - Example: A city has identified a particular parcel, but (for any reason) they are not using their powers to obtain the property through condemnation. They must inform the seller of this fact in writing and - if the offer is not accepted - be prepared to look for another property.
- Type 2: Purchases where the recipient does not have the power of eminent domain.
  - Example: A city without the power of eminent domain is looking for properties suitable for purchase for the purpose of creating an industrial park. All their negotiations must be conducted in accordance with the rules for voluntary acquisition.
- Type 3: Purchases of property from government agencies (federal, state, or local) where the recipient does not have the power of eminent domain.
  - Example: A city without the power of eminent domain selects a vacant lot that is owned by the Corps of Engineers. Since the city lacks condemnation authority, the acquisition is voluntary. However, the Corps is under no obligation to sell, and the transaction can only proceed if both parties agree.

Each type of voluntary acquisition, and the URA requirements pertaining to each, is outlined below.

Type 1 Purchases - Voluntary Acquisition by Recipients with the Power of Eminent Domain

To be considered a voluntary acquisition by a buyer with the power of eminent domain, the property may not be part of a planned or designated project area where substantially all the property in the area will be purchased within a specified time frame.

In addition, the specific site cannot be required in order for the project to proceed. If a recipient requires a specific site for a program or activity it is planning to undertake, the sale cannot be considered "voluntary". It is assumed that, if negotiations fail, the recipient could ultimately acquire the property through condemnation. Thus, the acquisition is not "voluntary." The search for alternative sites for the project or activity may be limited to one geographic area, but if none of the owners are willing to sell voluntarily, the recipient must be prepared to look in another area for a site.

If someone else, such as a private developer or realtor, is authorized to act on the recipient's behalf in negotiating a purchase, and the recipient is prepared to intervene

and use condemnation if the negotiations are unsuccessful, the acquisition is not considered "voluntary".

In order to be voluntary, the recipient must send a letter to the owner of the property indicating:

- That the recipient will not use its power of eminent domain.
- The market value of the property (see the section below for a discussion of how this is determined).

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance A sample notice is included in the Forms/Acquisition section of the CDBG web site.

Type 2 Purchases - Voluntary Acquisition by Recipients without the Power of Eminent Domain

In Type 2 purchases, the buyer - who could be a private citizen, a developer, or an organization - must inform the seller of the following two things in writing:

- The buyer does not have the power of eminent domain.
- An estimate of the market value of the property. However, the offer to purchase may be less than market value and the sale price and terms can be freely negotiated.
- The seller must be notified of the preceding information using one of the notices provided as an attachment to this chapter. As noted above, federally assisted purchasers should also include text that informs the owner that they are not entitled to relocation benefits. These notice requirements may appear to only protect the seller in a voluntary transaction; however, they also protect recipients from after-the-fact claims by sellers.
- The purchaser should give the seller this written information before making an offer. If, for any reason, the seller is not informed of these facts, and the sale is not closed, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty.

Options to acquire real property may be obtained prior to grant award as long as the recipient informs the owner of its estimate of the market value of the property and that it does not have or intend to use the power of eminent domain. The notice must be in writing and provided before the seller enters into the contract for sale on which the purchase is based. An appraisal is not required since this is a voluntary transaction. However, the estimate must be prepared by a person familiar with real estate values. The recipient's files must include an explanation of the basis for the estimate. If the purchase would not meet the criteria for a voluntary transaction or if the recipient intends to use their power of eminent domain in the event that the sale cannot be negotiated, the process cannot be used and the recipient must follow the full URA process for an involuntary transaction, including the proper notices and appraisal(s).

Recipients are responsible for making certain that individuals being provided purchase assistance are providing sellers with this notice. Other organizations, such as sub-recipients, that are operating homebuyer assistance programs must also comply with this requirement.

To establish "market value" in a voluntary acquisition, recipients must follow specific procedures:

- A formal appraisal is not required by the URA in voluntary sales. However, the purchase may involve a private lender who would require an appraisal and HUD encourages the use of appraisals in order to establish an estimate of market value, particularly in high value and/or complex property acquisitions. If an appraisal is done, a review appraisal is not required but it may be prudent and appropriate to conduct a review appraisal.
- If an appraisal is not required, someone with the knowledge of the local real estate market can make this determination. The files must include an explanation, with reasonable evidence, of the basis for the market value. See the Appraisal section of this chapter for more information on the valuation process.
- The recipient (or subrecipient if appropriate) must establish just compensation in accordance with the procedures outlined later in this chapter (see Involuntary Acquisition section for more details).
- The recipient must include the written notice to the seller in their project files, (along with evidence that the seller received it) and document how the market value was determined.

Type 3 Purchases - Voluntary Acquisition of Government Property

Acquisition is considered voluntary when the property is owned by a government agency and the buyer does not have the authority to use eminent domain over this other government agency.

Similar to the previous type of voluntary acquisition, the government agency owning the property must be informed that the buyer does not possess the power of eminent domain, that federal funds are involved in the purchase, the market value, and the fact that the agency would not be eligible for URA relocation benefits.

Donations of Property

A property owner may donate their property and these transactions would also be considered voluntary.

- The owner must be fully informed of his or her rights under the URA. This includes the right to be paid market value of the property.
- The owner must acknowledge his or her decision to voluntarily relinquish payments due under the URA in writing (using the Waiver of Rights/Property Donation Form) and the recipient must keep this acknowledgement in the project file. Note: The URA Final Rule specifically clarified that households cannot be

asked to waive their relocation rights. So, the Waiver of Rights/Property Donation Form may be used for the voluntary donation of land but cannot be used to request the waiver of any applicable relocation (displacement) rights or benefits.

Section 3 – Involuntary Acquisition Procedures

Involuntary transactions are those that do not meet the requirements outlined above for voluntary transactions. Compliance with the URA when undertaking involuntary acquisition requires that the recipient undertake specific steps at specific stages of the acquisition process. These steps must be carried out prior to closing on any property.

- The recipient must identify the specific properties that will be acquired along with the owner(s)-of-record. An experienced staff member or an attorney may perform this task. The decision to use an attorney is usually based on the complexity of the project, amount of funds available, and timeframe for completing the acquisition process.
- As soon as feasible, the owner shall be notified of the recipient's interest in acquiring the real property and the basic protections afforded the owner by the URA, including the recipient's obligation to secure an appraisal and provide it to the owner by law. Sample notices are found in the Forms/Acquisition section of the State's web site.
    - All notifications or offers to property owners must be in writing. The recipient must mail the correspondence certified, return receipt requested, or hand-deliver it and have the property owner sign an acknowledgment of receipt.
    - A suggested format for the Preliminary Acquisition Notice, as well as a sample Involuntary Acquisition Notice of Interest, is included in the Forms/Acquisition section of the State's web site. The format for this notice must be revised when all property within a given parcel will be acquired.
    - The initial letter to the property owner must contain a copy of the booklet "When a Public Agency Acquires Your Property". This booklet can be found in the Forms/Acquisition section of the State's web site. The booklet explains the basic protections afforded the property owner by law.
    - The recipient must make every effort to contact the property owner personally to discuss the Preliminary Acquisition Notice. Personal contacts must be documented in each individual case file. A suggested format for this documentation, entitled Acquisition Case File Summary Report and Record of Personal Contacts, can be found in the Forms/Acquisition section of the State's web site. This form should be placed in each individual case file.

In some instances, grantees elect to use a Notice of Intent to Acquire instead of a Preliminary Acquisition Notice (also known as a Notice of Interest). Although this approach is permitted under the URA, recipients are cautioned against using the Notice of Intent because it automatically triggers eligibility for relocation benefits at that point. If the Preliminary Acquisition Notice is used, relocation benefits are instead triggered upon delivery of the Written Offer to Purchase.

If the recipient decides not to acquire the property at any time after the Preliminary Acquisition Notice, the recipient must notify the owner of its intentions not to acquire.

Appraisals and Reviews (Involuntary Acquisition)

Prior to the initiation of negotiations in an involuntary acquisition, the recipient must have each parcel of property appraised. There are two exceptions to the requirement to conduct an appraisal during an involuntary acquisition. The first exception occurs when the owner of the property to be acquired offers to donate their property for the project and signs a written statement that acknowledges his or her decision to voluntarily relinquish payments due under the URA. However, if the owner of donated property wants to have an appraisal, the recipient must agree to this request. In some instances, an owner may wish to donate, but requests an appraisal for tax purposes. This is an acceptable arrangement, and the files should be documented accordingly. A Voluntary Donation of Property form can be found in the Forms/Acquisition section of the State's web site. See the section above for more information on donations.

> An appraisal for an involuntary transaction is not required if:
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> - The owner offers to donate the property, or
> - It is an uncomplicated valuation and market value is less than $15,000.

The second instance when an appraisal is not required is when the valuation is uncomplicated and the market value is estimated to be $15,000 or less based on a review of available data.

When an appraisal is determined to be unnecessary using the criteria above, the recipient must prepare a waiver valuation. A waiver valuation is a statement of the property's value. It is not a full appraisal and may or may not contain all of the information found in a standard appraisal. However, the waiver valuation must be complete and at a minimum should describe: the property to be acquired, the method used to determine value, the estimate of market value of the property, the name of the person making the valuation, and any other notes or conditions applicable to the analysis. The recipient must ensure the person performing the waiver valuation has sufficient understanding of appraisal principles and the local real estate market to be qualified to estimate the property's value. The waiver valuation should be signed and a copy kept in the recipient's files.

A waiver valuation is not appropriate when:

a) The anticipated value of the proposed acquisition is expected to exceed $15,000 (unless granted prior approval by HUD and the acquiring agency offered the owner the option of an appraisal),

b) Possible damages to the remainder property exist,

c) Questions on highest and best use exist,

d) The valuation problem is complex,

e) The use of eminent domain is anticipated,

f) Hazardous material/waste may be present, or

g) For other reasons, the agency determines an appraisal is required.

The recipient must document the methodology upon which the determination of value will be based, prior to establishing just compensation for individual properties.

Criteria and Process for Appraisals

Appraisals developed under the URA must be consistent with the Uniform Standards of Professional Appraisal Practice, as well as any applicable state law. The recipient must begin the appraisal process by developing a scope of work and defining the appraisal problem or topics. Obviously, the complexity of the appraisal scope will vary depending on the site and project.

The recipient must ensure that the resulting appraisal is relevant to the program needs, reflects commonly used federal and state practices, and complies with the URA definition of an adequate appraisal. At a minimum, the appraisal must contain:

- An adequate description of the physical characteristics of the property,
- All relevant approaches to value consistent with federal and state appraisal practices,
- Description of comparable sales,
- Statement of the property's value, and
- The effective date of the valuation/appraisal and the appraiser's signature and certification.

The recipient is responsible for selecting a qualified, independent appraiser to conduct an unbiased and independent appraisal of the value of the property. The qualifications of the appraiser should be consistent with the scope of work for the assignment as required by the URA regulations at 49 CFR 24.103(d) (1).

If the recipient will use a contract or fee appraiser, that appraiser must be state licensed or certified in accordance with Title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA). The recipient must use State procurement procedures described in Chapter 8 to obtain an appraiser and review appraiser if CDBG funds will be used for these costs. Any questions regarding procurement of services should be directed to the State's Acquisition Specialist or Contracts and Procurement Specialist.

The regulations require that a property owner be given the opportunity to accompany the appraiser during his review of the subject property. The recipient must establish a time that is mutually convenient to the owner and the appraiser for the visit. Notification to the owner must be in writing and mailed or hand-delivered. Responsibility for coordinating the time and date of the appraiser's visit **may not be delegated** to the appraiser. The recipient must maintain, in each project case file, documentation indicating how this was accomplished and whether the property owner

accompanied the appraiser. Appraisal reports must meet the criteria outlined in 49 CFR Part 24.103 of the regulations. In addition, a separate qualified appraiser must review all appraisals. See section below for review appraisals.

Review Appraisals

The recipient must establish a review appraisal process that meets the following minimum requirements:

- A qualified review appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and seek necessary corrections and/or adjustments if needed. Review appraisers must meet the same minimum qualification criteria as the appraisers described above. As with above, the recipient is required to ensure that all review appraisers have qualifications consistent with the scope of their assignment.
- The appraiser and review appraiser must be from different firms.

If the review appraiser is unable to recommend approval of the appraisal and it is not practical to obtain an additional appraisal, the review appraiser may develop appraisal documentation in accordance with 49 CFR Part 24.103 to support an approved or recommended value. The review appraiser must certify, in a signed statement identifying the appraisal reports reviewed, and explain the basis for his recommendation and concurrence or disagreement with the recommended value of the property being taken. If the review appraiser disagrees with the recommended value, the review appraiser's documentation and recommended value is submitted to the appraiser. The appraiser and review appraiser must agree upon a recommended value.

Establishment and Offer of Just Compensation (Involuntary Acquisition)

Prior to initiating negotiations with any property owner, the recipient must establish an amount which it believes to be "just compensation" for the taking of the real property. This amount may not be less than the market value established through the appraisal and review appraisal or waiver valuation process. Ideally, the establishment of just compensation should be approved by the local governing body in the form of a resolution. However, establishing just compensation can be done by a local official as long as the authority to do this has been granted by the City/County Council and documented in the Council minutes. A suggested format for the Establishment of Just Compensation resolution is included in the Forms/Acquisition section of the State's web site.

After obtaining just compensation approval, the recipient shall make a written offer to the property owner to acquire the property for the amount established as "just compensation." The written offer must also contain a Summary Statement of the Basis of the Offer of Just Compensation, which includes:

- A statement of the amount offered as "just compensation." For partial taking (e.g., easements), the amount of compensation being offered for damage to any remaining

portion of property must be separately stated;

- A description and location of the real property and the interest in the real property to be acquired; and
- An identification of any building, structures, or other improvements that are considered to be part of the real property for which the offer is being made.

The written offer must be mailed certified, return receipt requested, or hand- delivered and a written acknowledgment of receipt obtained.

A sample Written Offer to Purchase and Summary Statement of the Basis of the Determination of Just Compensation can be found in the attachments to this chapter.

Basic Negotiation Procedures

The recipient must make every effort to contact the property owner and/or their designee to discuss the offer of "just compensation." Just compensation must equal the market value of the property, as determined through the appraisal or waiver valuation process, plus necessary closing costs. The State requires the CDBG recipient to pay all closing costs.

- The recipient must provide the property owner with a reasonable amount of time to consider the offer (30 days is the suggested minimum).
- In addition, the owner has the right, and may at his or her discretion, offer evidence to refute or challenge the offer if he believes "just compensation" is inadequate. In these cases, the recipient must consider the evidence presented and adjust the compensation amount if appropriate and warranted.

If, after negotiating with the property owner, an amicable agreement is not reached and the recipient determines that total condemnation costs would exceed the amount being offered as "just compensation", the recipient may, after documenting condemnation costs, negotiate with the property owner up to that point. The additional costs associated with condemnation are referred to as an "administrative adjustment/settlement." The recipient should contact the State's Acquisition Specialist to obtain technical assistance if they intend to exceed the amount established as "just compensation" by the amount of the "administrative adjustment/settlement". The files should contain documentation to support how it was determined that "administrative adjustment/settlement" was the best option (i.e. a memo outlining how the payment to the owner is lower than the expected condemnation costs).

The regulations state that every reasonable effort must be made to acquire real property expeditiously by negotiation. If the recipient cannot negotiate the sale, condemnation proceedings may be instituted. Condemnation can be substantially more expensive than negotiation. The recipient is required to pay the amount established by the court as "just compensation," as well as other costs that may be required by the court. A project may proceed, at the recipient's risk, if the recipient deposits an amount equal to the appraised value with the Clerk of Court when instituting condemnation. Prior to adopting this approach, the recipient must obtain legal counsel.

The recipient is strongly advised that the implementing regulations clearly prohibit any type(s) of coercive action as a means of obtaining either the sale or donation of property. The regulations also require that a recipient that intends to use its power of eminent domain do so expeditiously and not intentionally force an owner to take legal action to prove the fact that the recipient intends to acquire the property (a practice called "inverse condemnation"). The use of eminent domain must be for a public purpose.

Deed Execution and Settlement Cost Statement

The owner of the real property to be acquired shall be reimbursed for reasonable expenses or the recipient will pay such costs incurred for:

- Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal property descriptions, and similar expenses. However, the recipient is not required to perfect the owner's title to the property.
- Penalty costs and other charges associated with the pre-payment of any pre- existing mortgage encumbering the property.
- The pro-rata share of any pre-paid taxes that can be allocated to the recipient once the property is acquired.

Nothing in this section prohibits the recipient from paying these costs prior to closing on the sale, if it is determined expedient to do so.

At the conclusion of the settlement, the recipient must provide the owner with a Statement of Settlement Costs, which identifies all settlement costs whether they are paid at, before, or after closing, and which clearly separates charges paid by the owner. A receipt for the purchase price must be secured by the recipient. A copy of the Statement of Settlement Cost, recorded deed and canceled check must be included in each individual case file. A sample template of the Statement of Settlement Costs is included in the Forms/Acquisition section of the State's web site.

Section 4 - Grievance Procedures

Recipients and/or sub-recipients of CDBG funds must promptly review all appeals in accordance with sound administrative practice and the requirements of 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition Act (herein called the "Uniform Act") and/or Section 104(d) of the Housing and Community Development Act of 1974, as amended (Barney Frank Amendment) and its implementing regulations found at 24 CFR Part 570.

CDBG recipients and/or sub-recipients must develop written grievances procedures to adjudicate and resolve disputes relating to their acquisition, relocation, and demolition activities. Each CDBG recipient's grievance procedure must be in compliance with the requirements of 49 CFR Part 24 and Section 104(d) of the Housing and Community Development Act of 1974, as amended. Such written procedures must be communicated to all potentially affected parties prior to the initiation of negotiations. The term "initiation of negotiations" shall have the same meaning as defined at 49 CFR Part

24.4(k) or 24 CFR Part 570.488(c). All recipients' determinations regarding a person's eligibility to receive financial or other assistance under Part 24 must be in writing.

Who May Appeal

Any person, family, or business directly affected by the acquisition and/or relocation activities undertaken by a recipient or subrecipient may file an appeal. All appeals must be in writing and must be directed to the chief executive officer of the recipient and the highest official of the administering agency undertaking the acquisition, relocation or demolition activity. A protester must exhaust all administrative remedies as outlined in a recipient's or subrecipient's written grievance procedure prior to pursuing judicial review.

Basis for Appeals

Any person, family or business that feels that the recipient or subrecipient of CDBG funds failed to properly consider his written request for financial or other type of assistance (e. g., Advisory services under 49 CFR Part 24.205) must file a written appeal with the agency personnel identified within sixty (60) days of the date of receipt of the administering agency's written determination of eligibility.

Review of Appeals

All appeals must be considered by the CDBG recipient and/or subrecipient and generally answered in writing within fifteen (15) days of receipt. The CDBG recipient shall designate a Review Officer to hear the appeal. The Review Officer shall be the chief administrative officer of the unit of general local government or his designee, provided neither was directly involved in the activity for which the grievance was filed.

If the aggrieved person is not satisfied with the results of the review appeal, or if the full relief request is not granted, the appeal must be reviewed by the unit of general local government's ruling board (council) whose decision shall be final.

Section 5 - Recordkeeping

The recipient must maintain separate, individual case files for each parcel of property or portion of property to be acquired. Regulations require that the recipient maintain adequate records of the acquisition activities in sufficient detail to demonstrate compliance with the regulations. A recipient's inability to demonstrate compliance with the URA could result in a determination that project costs associated with the particular case(s) are ineligible.

For each project, the recipient's files must include a list identifying all parcels to be acquired for the project. The State's web site (Forms/Acquisition section) has a suggested format entitled "Acquisition Case File Summary Report and Record of Personal Contacts" for meeting this requirement in the attachments to this chapter. For each parcel, permanent or temporary easement necessary for the project, or long-term lease, the

recipient must document and maintain in an individual case file, evidence of the following:

- A property identifier (e.g., tax map number, or parcel number).
- Name and address of the property owner(s).
- Evidence that the owner was informed on a timely basis about the acquisition and the owner's (a tenant's rights if applicable) under the Uniform Relocation Act.
- A copy of each appraisal report, including the review appraiser's statement or report, and evidence the owner was invited to accompany each appraiser on his or her inspection of the property.
- A record of the process used to establish just compensation.
- A copy of the Written Offer to Purchase and Summary Statement of the Basis of the Determination of Just Compensation, and evidence of method and date of delivery to the property owner.
- A copy of the purchase contract/deed/easement and documents conveying the property.
- A copy of the closing statement identifying incidental expenses and evidence that the owner received the net proceeds from the sale, (e.g., a copy of the canceled check).
- A copy of any appeal or complaint and the recipient's response.

A common monitoring finding is the lack of documentation concerning acquisition of real property. Avoid this monitoring finding by following the steps outlined in this section. Pay close attention to documenting property donations, notification of property owners, and determination of just compensation.

Suggested CDBG Acquisition Files

For acquisition projects, case files should be maintained that also include mail receipts, as appropriate. Some suggested items to include in acquisition files are:

- Signed Acknowledgement to Voluntarily Relinquish Payments Due Under the URA (if voluntary donation)
- Preliminary Acquisition Notice and Copy of "When a Public Agency Acquires Your Property"
- Evidence that a Competitive Process was Utilized in Selecting Appraisers
- Appraisal Contracts
- Appraisal and Review Appraisal Report or Waiver Valuation
- Evidence and Date of Personal Contacts with Property Owner
- Evidence that the Property Owner was Invited to Accompany the Appraiser

- Evidence that the Appraisal was Reviewed by Council and Just Compensation Established
- Written Offer to Purchase and Summary Statement of the Basis for the Offer of Just Compensation
- Evidence that the Items Sent to Property Owners were mailed First Class, Return Receipt Requested
- Written Acceptance or Rejection of Offer to Purchase
- Written Evidence of Negotiation (if applicable)
- Copy of Canceled Check(s)
- Summary Statement of Settlement Costs
- Copy of the Executed and Recorded Deed

Chapter 9: Acquisition Forms/Documents

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

- Flow Chart – Acquisition Process Under URA (Note: References to Handbook 1382 are obsolete, but the process flowchart is a useful tool)
- "When a Public Agency Acquires Your Property" brochure
- "When a Public Agency is Interested in Acquiring an Easement"

  brochure Preliminary Acquisition Notice of Interest
- Involuntary Acquisition Notice of Interest
- Voluntary Acquisition Information Notice (Agency with Eminent Domain)

  Voluntary Acquisition Information Notice (Agency without Eminent Domain)

  Acquisition Case File Summary Report and Record of Personal Contacts
- Voluntary Donation of Property Establishment of Just Compensation Written

  Offer to Purchase
- Summary Statement of the Basis of the Determination of Just Compensation

  Statement of Settlement Costs
- Short Form for Easement Valuation

NOTE: Recipients are advised to get a copy of HUD Handbook 1378, available at https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780 or contact State staff for additional forms and letters that are used for acquisition activities in CDBG funded projects.