

Department of Administration
Division of Housing

Chapter 5: Acquisition & Relocation



INTRODUCTION

The Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) must be followed whenever federal funds are used in a project involving the acquisition, rehabilitation, or demolition of real property.

Similar State requirements are found in Ch. 32, Wis. Stats., and Ch. Adm. 92, Adm. Code must also be met.

PURPOSE

The purpose of the relocation laws is to justly compensate people who are displaced by a publicly-assisted project and who must move their homes, farms, or businesses.

APPLICABILITY

- Real property acquisition requirements apply to all acquiring agencies vested with the authority of eminent domain. Publicly funded private buyers need only to advise the property owners that they do not hold the power of eminent domain and of the fair market value of the property being bought.
- Relocation requirements may apply to any person or agency carrying out a publicly-assisted project causing displacement including displacements resulting from arms length voluntary acquisitions.

RELEVANT LAWS AND REGULATIONS

- Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended, effective April 2, 1989
- Section 104(d) of the Housing and Community Development Act of 1974 (commonly referred to as “Barney Frank”)
- 49 CFR 24 by the Department of Transportation
- 24 CFR 570.488 by the Department of Housing and Urban Development
- Wisconsin Eminent Domain and Relocation Law, Chapter 32, Wis. Stats. and Chapter Adm 92, Wis. Admin. Code

RESOURCES

Acquisition and Relocation information brochures may be obtained at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/publications

Companion State information brochures may be obtained at:

<http://www.stateenergyoffice.wi.gov/section.asp?linkid=1783&locid=160>

ACQUISITION REQUIREMENTS

- A property owner must be paid fair compensation for the property. But, the compensation may not be less than the appraised Fair Market Value (FMV).
- If the property being acquired will leave the owner with an uneconomic remnant, the offer to purchase must also be extended to the remnant.
- Any low- and moderate-income (LMI) housing units that are being demolished or converted to another use as a part of the project must be replaced (1 for 1).

RELOCATION REQUIREMENTS

- The UGLG must determine whether displacement and relocation benefits are applicable.
- If a residential, business, or farm occupant must vacate the property, request written determination as to whether or not a Relocation Plan is required from the Department's Relocation Specialist. If required, a Relocation Plan must be submitted to and approved by the Department of Administration before property is acquired and prior to any displacing activity.

RELOCATION REQUIREMENTS

Regarding status as a displaced person, note the following:

- Generally, a legal resident or commercial tenant permanently displaced by the project is a "displaced person."
- Generally, a legal owner-occupant of residential or commercial property is a "displaced person" if the acquiring agency is vested with eminent domain authority, even if the acquisition is voluntary.
- You cannot avoid relocation responsibility by avoiding condemnation proceedings.

BASIC STEPS FOR ACQUIRING REAL PROPERTY

1. Determine which properties are to be acquired.
2. If the project demolishes or converts a LMI dwelling to another use, you will need to comply with the one-for-one LMI dwelling replacement policy. Call your DOH project representative for further advice.
3. Write a Relocation Plan for DOA approval if displacement is to occur.

BASIC STEPS FOR ACQUIRING REAL PROPERTY

4. Give each property owner a Preliminary Acquisition Notice and a "landowner's rights" pamphlet if the agency is vested with eminent domain authority for the acquisition, even in a voluntary acquisition.
5. Give a "relocation rights" pamphlet to each person displaced from the dwelling, business, or farm. Also, give a "relocation rights" pamphlet to any person who must move personal property from the site. You will find the pamphlets at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/publications

BASIC STEPS FOR ACQUIRING REAL PROPERTY

6. Select and contract with a Wisconsin Licensed Real Estate appraiser to complete an appropriate appraisal on the property. An appraisal is not required if the property is estimated to be worth \$10,000 or less or if the owner is donating the property and releases you from your obligation to do an appraisal.

A second licensed appraiser must make written review of the submitted appraisal to determine its accuracy.

Prepare a written statement of just compensation.

BASIC STEPS FOR ACQUIRING REAL PROPERTY

7. Make an offer to purchase for the amount of established just compensation. Deliver the summary statement determining just compensation at the same time as the offer to purchase. The UGLG may not pay less than the reviewed appraisal. The date of the offer to purchase (initiation of negotiations) begins the displacement.
8. Negotiate the property acquisition including an explanation of tenant-owner improvements, incidental transfer expenses, and condemnation litigation expenses.
9. If negotiations fail, the UGLG may pursue an Administrative Settlement up to 125% of the amount of just compensation but, does not exceed \$5,000 above just compensation. DOH approval is required for any settlement that exceeds \$5,000 above just compensation.

ACQUISITION RECORDKEEPING

PROPERTY ACQUISITION FILE SHALL CONTAIN

(Refer to Attachment 5-3 for Checklist)

- The name and address of a property owner and the address or other legal description of an acquired property
- Evidence that the property owner was given a pamphlet entitled, “Your Rights as a Landowner under Wisconsin Eminent Domain Law,” and the date given
- A copy of written notices under this chapter or otherwise given to a displaced person

ACQUISITION RECORDKEEPING

- A copy of appraisal reports or documents on which a determination of just compensation is based
- A copy of the written offer to purchase and the date of initiation of negotiations to acquire a property
- A copy of a purchase agreement, deed, declaration of taking, waiver or related document involving conveyance of the property
- Evidence that a property owner was paid for the purchase price and expenses incurred incidental to transfer of the property as specified under s. 32.195, Stats.

BASIC RELOCATION PROCEDURES

- Prepare a Relocation Plan in accordance with Subchapter II, Chapter 92, Adm. Code
- Provide relocation assistance to property owners, tenant business owners, and residential tenants
- Comparable property
- Replacement housing must be Decent, Safe, and Sanitary

RELOCATION RECORDKEEPING

INDIVIDUAL RELOCATION CASE FILE SHALL CONTAIN

(Refer to Attachment 5-3 for Checklist)

- Any information obtained in the initial interview
- Name, on-site address and phone number, date of displacement, replacement address and phone number; and if a tenant or an owner, before and after relocation
- The age and sex of dependent household members, the average monthly income of adult household members and the monthly housing cost of an acquired and replacement dwelling

RELOCATION RECORDKEEPING

- A description of the business or farm operation being conducted, whether a displaced person is relocated or discontinued, and the average monthly cost of the acquired and replacement facilities
- A description of a dwelling, habitable space, number of rooms and bedrooms, and the type of construction
- A description of relocation needs and preferences
- Evidence that a displaced person received a pamphlet entitled, “Wisconsin Relocation Rights,” and the date received
- A copy of a written notice as specified under this chapter or otherwise given to a displaced person

RELOCATION RECORDKEEPING

- Relocation service and assistance provided and the date
- Referral to a replacement dwelling, business, or farm operation, including the date, address, and sale or rental price
- A copy of an occupancy agreement for the period after acquisition
- A copy of a replacement property inspection document shall include the inspection date, description of a property, and its condition

RELOCATION RECORDKEEPING

- Type and amount of each relocation payment made
- A copy of a relocation claim, supporting documentation, and related documents for determining eligibility for or an amount of a payment, evidence of payment, and correspondence relating to a claim
- A copy of an appeal and an explanation of the action taken to resolve the appeal, and the final determination
- A copy of individual relocation case reports or other correspondence with the department
- The agency representative who provided the relocation assistance.

WAIVERS

Federal URA rights and benefits can be waived if all criteria listed in 49 CFR 24.01(b)(1-5) are met.

State relocation rights and benefits can be waived if the UGLG and property owner agree to a voluntary sale.

ACQUISITION & RELOCATION QUESTIONS?

Follow-up questions can be emailed to:

DOADOHCDBGCD@Wisconsin.gov

Please complete the **Chapter 3: Procurement** section of your **Training Survey** at this time. Thank you!

ACQUISITION/RELOCATOIN QUIZ

1. What is the purpose of acquisition and relocation laws?
2. To whom to do acquisition requirements apply?
3. Who is eligible for relocation payments?
4. When do 1 for 1 replacement requirements apply?
5. What is the minimum allowable purchase price for an acquired property?