

MHDC General Relocation Assistance Policy

HOME Financed Developments

For any project being funded with HOME Funds that will result in either the temporary relocation or permanent displacement of current tenants must comply with the MHDC Relocation Assistance Policy 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 such, copies of the HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition are available from MHDC or from HUD. The 1378 Handbook reviews all of the requirements of the URA regulations for multiple federal programs.

Federal law and MHDC 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 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 MHDC discourages proposals that will result in “permanent displacement” activity.

If you have any questions or need additional information, please feel free to contact Missouri Housing Development Commission.

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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, rehabilitate 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. For your convenience a *sample* invitation to residents to participate in discussions regarding a proposal to rehabilitate, demolish and/or reconstruct a housing complex is attached as “Exhibit J.” This notice was designed for use with public housing but can be modified for use with the HOME program.

MHDC does not want rehabilitation to impose a “rent burden” on any of the tenants. 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. The tenant must be notified if rent will increase in the rehabilitated unit or if they will be offered a different unit in the property other than the unit they originally occupied before the rehab.

Budgetary Implications – Early, common sense planning is necessary to ensure that sufficient funds will be budgeted to comply with applicable law 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 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 rehabilitated 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.

Total Tenant Payment – The Total Tenant Payment is the greater of:

30% of the family’s gross monthly income after HUD regulated deductions

Or

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

Or

Any minimum rent under Federal Law

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. Plan to collect detailed information about each person’s income and replacement housing needs

in advance of Initiation of Negotiations date (determined by MHDC to be the FIRM Commitment 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 implantation of last resort housing measure.

Optional guide forms are available on the MHDC website that can be used to track detailed occupant information – Exhibit H. To obtain basic information from current public housing occupants about their replacement housing preferences, the Exhibit I form may also be used.

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-rehabilitated rent increases to an amount that is considered to be more than that household can afford as a direct result of HOME funding, that household is also considered “permanently displaced” and would also be eligible for relocation benefits under URA. 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 and are not to recoup of 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 MHDC’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 rehabilitation 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 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.

Appeals

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

- 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 to Missouri Housing Development Commission, acting as the Participating Jurisdiction for the HOME Program. MHDC is required to promptly consider all appeals.

A low-income person who is dissatisfied with MHDC’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.

Time Constraints

Temporary Relocation – 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.

Replacement Housing Payment Claim – 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.

Appeals – An appeal of an agency's (MHDC) action should be made within 60 days after the person receives written notification of the determination.

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 have been resolved.

Keep on file the originals of all pertinent relocation records which include, 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 MHDC with copies of all of the above documentation. MHDC, HUD, or their agents retain the right to request and/or review copies of such documentation in your relocation files at any time.

Temporary Relocation

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. MHDC’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 (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 be provided to residents who will be permanently to a different unit on the project site.

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 movers.
- Disconnecting and reconnecting household appliances and other personal property (telephone and cable TV)

- Storage of households 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 is 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 rehabilitated unit in the following instance:
 - Project-Based Section 8 Properties – If the property that is being rehabilitated 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 rehabilitation.

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 part of the relocation cost.

Total Tenant Payment – The Total Tenant Payment is the greater of:
 30% of the family’s gross monthly income after HUD regulated deductions
Or
 10% of monthly gross income (before taxes with no deductions)
Or
 Any minimum rent under Federal Law

MHDC 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

Appropriate Advisory 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 rehabilitated building/complex upon completion of the project; and
- 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.
- Information about the household's rights under the Fair Housing Act.

There should be 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 MHDC with dated, sign-in sheets along with a meeting agenda of what was discussed at the meeting.

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. All HQS Inspection Forms showing unit approval must be submitted to MHDC.

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." MHDC will use the federal government's per-diem rate as a guideline for meal reimbursement, using one-half of the daily rates 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.

Required Documentation

- Seller Certification (Notice to Seller), MHDC Form FIN-305

Applicants must submit as part of the Initial Application package a copy of the MHDC Form FIN-305, “Seller Certification” signed by the seller of the property. 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, that the seller is not eligible for any relocation benefits and that no tenants were required to vacate the development in the last six (6) months for anything other than just cause.

There is also a space on this form an estimate of “Fair Market Value” of the property. If MHDC determines that the sale of a 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 we must have an explanation of the basis for the estimate.

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

- Tenant Notice, MHDC form FIN-310 (aka: Move-in Notice/Prospective Tenant Notice)

This notice is only given to tenants who wish to move-in to the project after an application for funding for the acquisition and/or rehabilitation has been submitted to MHDC. There is an obligation to provide any potential tenant with the MHDC Form FIN-310, “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.

If MHDC funds your project with HOME Funds, please submit copies of the applicable FIN-310s when submitting your FIRM Commitment documentation. You will still need to issue the FIN-310 notices and provide copies to us periodically after FIRM submission, if new tenants move into the development in the interim.

- 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 kind 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 Reservation)**. 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 premature moves and additional relocation costs.

All notices must be understandable to the recipient. They can be hand-delivered and signed for or they can 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 MHDC and the originals must be kept on file in the event that MHDC 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.

This notice does the following:

- Explains that the project has been proposed and cautions the person to not move. It is very important that this notice stresses “DO NOT MOVE.” 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.
- Notice of Non-Displacement to Residential Tenant

When you are awarded HOME funding, this notice 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, including:

 - Project Schedule – the date and approximate duration of the temporary relocation
 - The address of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period,
 - 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 (a person not lawfully 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.

- 90-Day/30-Day Notices

The 90-day notice is not mandatory. However, whenever possible, MHDC suggests that it be given to tenants. This 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.

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 notice periods may be appropriate based on urgent needs due to danger, health or safety issues or if the person will be temporarily relocated for only a short period of time. Please contact MHDC 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 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.

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.

- The Relocation Plan

An initial relocation plan and relocation budget must be submitted to MHDC 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 MHDC with a more detailed relocation plan that includes a more specific relocation budget at that time.

The relocation plan for a project must include all of the following information:

- A description of the rehabilitation 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 current households, including the race/ethnicity, income ranges, and a description of how many 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. 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.
 - Describe the temporary relocation to be provided – what services, the amount of assistance, the timing, and the housing units to be used for 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 URA relocation.
 - Description of the records to be maintained.
- List of Occupying Tenants

At application, FIRM Submission, and upon completion, the applicant must provide MHDC with full list of all tenants occupying the property. If the new tenant list differs from the previous list, the applicant must provide an explanation and supporting documentation as to why a tenant is no longer an occupant on 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)

Permanent Relocation

For purposes of this section, the term “displaced person” means a person (family, individuals, 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.

A “displaced person” 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. The definition will also include a permanent move from the real property by a tenant-occupant if any one of the following three situations occur:

1. 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 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% of gross household income, if the tenant is not low-income.
2. 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 reasonable.
3. 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 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 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 or 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 MHDC.
- That person moves into the property after the application for funding was already sent to MHDC and he/she signs the written tenant notice (Form FIN-310) before signing a lease and commencing occupancy. By signing the FIN-310 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 Form FIN-310, 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 is not displaced as a direct result of acquisition, rehabilitation or demolition for the project.

Reimbursement of Moving and Related Expenses

Expenses incurred in connection with the permanent displacement in the form of one of the following:

1. 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

2. 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.

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 MHDC confirming the approval of the unit under 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 and if available, tenant-based rental assistance under Section 8. 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. The regulations require that displaced residents receive the full 42 months of assistance. 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 Measure” as described in the Title 49 Part 24.404 of the URA regulations. If you determine that the last resort housing measures will be necessary for any tenant in your project, provide MHDC 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. 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 or of better than the displacement dwelling (a calculation chart is provided on the MHDC website). 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 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.

Instruction on calculating the RHP can be found on our website. This document will guide you through the steps to determine a Replacement Housing Payment (RHP) for each displaced resident. Additionally, the HUD Form 40061 is located on the MHDC website to assist in determining the most comparable unit to use in your RHP calculation. The HUD Form 40058 is used as a claim form for the RHP payments.

If the displaced tenant chooses the purchase option, the payment must be provided in a lump sum. The full amount of a 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).

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 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 CFR 24.204(a). As soon as feasible, you or your relocation consultant shall inform the displaced resident, or 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/she may qualify. At least by your FIRM Commitment 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.

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,
- Information about federal, state and local housing assistance programs and how to apply for them,
- 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, and
- Assurance that the displaced tenant that you will offer assistance in preparing relocation claim forms and/or applications for other human services, if needed.

Required Documentation

- Seller Certification (Notice to Seller), MHDC Form FIN-305

Applicants must submit as part of the Initial Application package a copy of the MHDC Form FIN-305, "Seller Certification" signed by the seller of the property. 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, that the seller is not eligible for any relocation benefits and that no tenants were required to vacate the development in the last six (6) months for anything other than just cause.

There is also a space on this form an estimate of "Fair Market Value" of the property. If MHDC determines that the sale of a 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 we must have an explanation of the basis for the estimate.

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

- Tenant Notice, MHDC form FIN-310 (aka: Move-in Notice/Prospective Tenant Notice)

This notice is only given to tenants who wish to move-in to the project after an application for funding for the acquisition and/or rehabilitation has been submitted to MHDC. There is an obligation to provide any potential tenant with the MHDC Form FIN-310, "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.

If MHDC funds your project with HOME Funds, please submit copies of the applicable FIN-310s when submitting your FIRM Commitment documentation. You will still need to issue the FIN-310 notices and provide copies to us periodically after FIRM submission, if new tenants move into the development in the interim.

- 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 kind of move or no move at all.

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) (Exhibit F). 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 the notice. The notice heavily stresses to the tenant “Do NOT move at this time.” If a tenant does not get this notice in a timely fashion, they might move on their 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.” Printed copies of 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.

- 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 MHDC (the FIRM Commitment); this stage of the process is referred to as the “Initiation of Negotiations.”

MHDC encourages 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) 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. On the MHDC website, there is a document entitled, “Determining Comparable Units.” This document more clearly defines what “comparable” means with regards to relocation.

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 to set an upper limit for the calculation of the Replacement Housing Payment (RHP). Failure to provide information about available, comparable units would 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 which is based on the most comparable unit. The HUD Form 40061 has been included with the package as a guide to help you know what to consider when determining 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 have a clear understanding of the type and amount of payments and/or other assistance they may be entitled to claim.

- 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. This 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. In most instances, the tenant should be given a 90-day notice. However, occupants may be required to move in less than 90 days of written notice if MHDC 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 standard. The needs of the owner’s schedule do not represent sufficient reason to issue a notice to vacate before providing the family with 90 days’ prior notice to move.

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 type will receive at least 30 days advance written notice of the specific date of the 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 MHDC. Please inform MHDC 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, 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 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.

Proper and timely notices are crucial.

It is acceptable to combine the Notice of Eligibility with the 90 Day Notice, if you choose. This can be done as long as all of the needed information is available in an acceptable timeframe.

- The Relocation Plan

An initial relocation plan and relocation budget must be submitted to MHDC 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 MHDC with a more detailed relocation plan that includes a more specific relocation budget at that time.

The relocation plan for a project must include all of the following information:

- A description of the rehabilitation 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 current households, including the race/ethnicity, income ranges, and a description of how many 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. 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.
- Describe the temporary relocation to be provided – what services, the amount of assistance, the timing, and the housing units to be used for 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 URA relocation.
- Description of the records to be maintained.
- List of Occupying Tenants
 At application, FIRM Submission, and upon completion, the applicant must provide MHDC with full list of all tenants occupying the property. If the new tenant list differs from the previous list, the applicant must provide an explanation and supporting documentation as to why a tenant is no longer an occupant on 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)

Relocation Assistance Policy for Businesses

For any project being funded with HOMD funds that will result in the Permanent Displacement of a business, project owners must comply with the MHDC 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 from MHDC 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 rehabilitated with federal HOM funds, you must submit to MHDC at time of initial application a copy of the FIN-305, as explained at the beginning of this document.

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 preferences.

Businesses Covered by this Policy

1. Lawful for-profit businesses,
2. Non-profit businesses
3. Farming operations

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

Advisory Services

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:

- 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 the 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; and

- Assistance in following the required procedures to receive the relocation payments, including assistance with completing required relocation claim forms.

Relocation Benefits – Actual Moving Expenses vs. Fixed Payment

Actual Moving Expenses

- 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. Only businesses that choose “Actual Moving Expenses” 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.

- 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 MHDC 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, MHDC 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 you cannot negotiate an agreed-upon amount for a self-move, MHDC 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 businesses.

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, and
- Management time for overseeing the move.

- Eligible Expenses

Including:

- Transportation of personal property – Generally all costs for moving property are eligible, unless the move is beyond 50 miles. If this is the case, MHDC 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 no longer than 12 months. If the period will exceed 12 months, MHDC must approve the cost.
- Insurance for replacement value of personal property in connection with the move and/or storage – if insurance is not available at reasonable rates, MHDC 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 will 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 stationary that are obsolete due to the displacement
- Reasonable costs incurred while attempting to sell items that will not be relocated
- Direct Loss or a Substitute Equipment payment – a business is eligible for such payments if the business will leave or replace personal property. A business can accept either of the following for any item:
 - Direct Loss – payment can be made for the loss of personal property due to moving or discontinuing the business, nonprofit, or farm. The business must make a good faith effort to sell the personal property (unless MHDC determines it 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.
 - 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 MHDC). Costs may include reasonable levels of such items as: transportation, meals and lodging, time spent while searching (based on reasonable pay salary or earnings), and 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 current 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 MHDC determines are reasonable and necessary, and are not listed as “ineligible.”

- Ineligible Expenses

Including:

- Loss of Goodwill,
- Loss of profit,
- 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 MHDC;
- 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 the “reestablishment expenses.”

- Reestablishment Expenses

Only certain small businesses are eligible for reestablishment 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 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 items such as: lease or rental charges, utility charges, personal or property taxes, and insurance premiums.
 - Impact fees or one-time heavy utility use assessments
 - Other reestablishment expenses as determined by MHDC to be essential to reestablishment.
- 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. Optional form HUD-4055, "Claim for Actual Reasonable Moving and Related Expenses – Businesses, Nonprofit Organizations, and Farm Operations." If another form is used, it should provide the same information in at least the same level of detail.

Fixed Payments

- Eligibility of Benefits
A displaced business may select a Fixed Payment if MHDC 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.
- 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 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, the business or farm operation:
 - had average gross earnings of at least \$5,000 or had an average net earnings of at least \$1,000;
 - Had at least 33 1/3 % (one-third) of the owner’s or operator’s average annual gross income from all sources;
 - If it determined that the application of these criteria would cause an inequity or hardship, MHDC 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.
- Fixed Payment Formula

Calculate the net earnings before Federal, State, and local income taxes for a two-year period, and then divide the figure in half.

The minimum payment is \$1,000, and the maximum payment is \$20,000.

The two-year period should be at 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 payments 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
- Payment Recipients

Net earnings include any compensation obtained from the business that is 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 is 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.
- 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.
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 fundraising expenses.
 - Operating expenses for carrying out the purposes of the organization that 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.
- 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 business as listed previous. 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.
- 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, or other financial information as approved by MHDC. The HUD form 40056, "Claim for Fixed Payment in Lieu of Payment for Actual Reasonable Moving and Related Expenses" can be used to assist in calculations.

Relocation Documents

- Seller Certification (Notice to Seller), MHDC Form FIN-305

Applicants must submit as part of the Initial Application package a copy of the MHDC Form FIN-305, "Seller Certification" signed by the seller of the property. 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, that the seller is not eligible for any relocation benefits and that no tenants were required to vacate the development in the last six (6) months for anything other than just cause.

There is also a space on this form an estimate of "Fair Market Value" of the property. If MHDC determines that the sale of a 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 we must have an explanation of the basis for the estimate.

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

- General Information Notices (GIN)

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 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-day 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 general information and should be given to each displaced business.

- 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 MHDC (FIRM Commitment). URA regulations refer to this point in the process as the "Initiation of Negotiations." MHDC encourages 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 the FIRM Commitment 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 MHDC'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 MHDC's representative must be on-site during a business move to provide technical assistance and represent the developer's, as well as MHDC'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 MHDC for verification. This list will be used as a basis of comparison with bids or estimates and eventual request for payment.