

Division of Energy, Housing and Community Resources (DEHCR)  
**Bureau of Community Development (BCD)**

## Implementation Training for CDBG Projects

*Sept. 18-19, 2018 (in Eau Claire, WI) & Sept. 26-27, 2018 (in Madison, WI)*



## WELCOME BACK: TRAINING LOGISTICS (DAY 2)

- Daily Sign-In Sheet
- Agenda
  - Mid-Morning Break
- Evaluations
- Consultant Update



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## CHAPTER 5: ACQUISITION & RELOCATION

DEHCR – BUREAU OF COMMUNITY DEVELOPMENT



## ACQUISITION & RELOCATION

- Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)
- §104(d) of the Housing and Community Development Act of 1974, as amended
- State requirements
  - Ch. 32, Wis. Stats. (Eminent Domain)
  - Adm. Code Ch. 92, (Relocation Assistance)



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## URA APPLICABILITY

- Publicly funded projects
- Real property
  - Acquisition (includes easements)
  - Rehabilitation
  - Demolition
- Displaced persons (persons/businesses/personal property)



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## URA OBJECTIVES

- Expeditious acquisition
- Uniform treatment
- Efficient, cost effective implementation



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## RELEVANT LAWS & REGULATIONS

- 42 U.S.C. ch. 61 - Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended
- 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs (FHWA)
- Section 104(d) of the Housing and Community Development Act of 1974 (Barney Frank)
- 24 CFR Part 570 – Community Development Block Grants (HUD)
- Wis. Stat. Ch. 32: Eminent Domain
- Wis.Admin. Code Ch. 92: Relocation Assistance

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## TYPES OF ACQUISITION

- Voluntary
  - No threat of eminent domain (condemnation)
    - A property owner's willingness to cooperate with the acquisition does not constitute voluntary acquisition!
- Involuntary
  - Use of eminent domain (condemnation)
- Easements
  - Temporary
  - Permanent



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## VOLUNTARY ACQUISITION

**All of the following must be true to qualify as “Voluntary”:**

- No specific site is needed and any of several properties could be acquired for project purposes  
AND
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits  
AND
- The agency informs owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement  
AND
- The agency informs the owner in writing of the property's market value

*Displaced tenants MUST be provided notice of relocation rights and relocation assistance (cannot waive rights). Owners do not qualify for relocation assistance under Voluntary Acquisition.*

## INVOLUNTARY ACQUISITION

Involuntary Acquisition Determination:

- All other acquisitions that don't meet all of the requirements for voluntary acquisition
- Trigger full URA requirements

*Displaced owners and/or tenants MUST be given notice of relocation rights and be provided relocation assistance (cannot waive rights).*



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## EASEMENTS

- Definition
  - The right to use the real property of another for a specific purpose without profit
- Temporary
  - Easements granted for a specific period of time
  - Subject to URA Acquisition Requirements
    - Exception: Sole benefit of the owner
    - Draft Letter to DEHCR Project Representative
- Permanent
  - Easements attached to a deed and continue to affect the land through subsequent changes in ownership
  - Always subject to URA Acquisition Requirements

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## ACQUISITION REQUIREMENTS

- |   |   |
|---|---|
| ■ Planning  | ■ Negotiations  |
| ■ Notice to DEHCR   | ■ Administrative Settlement (if necessary)                                    |
| ■ Relocation Order/Determination of Necessity of Taking (if applicable) | ■ Summary Statement & Written Jurisdictional Offer to Purchase (if necessary) |
| ■ Relocation Plan (if applicable)                                       | ■ Purchase/Acquisition Transaction  |
| ■ Notice to Owner   | ■ Maintain All Records  |
| ■ Appraisals/Determination of Fair Market Value                         |   |
| ■ Invitation/Offer to Owner   |   |
| ■ Offer of Just Compensation (if applicable)                            |   |

***Requirements and sequence for items above will vary based on type of acquisition and applicable activities.***

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## PLANNING

- Determine type of acquisition
- Determine acquisition/relocation needs
- Consult/contract with Legal/Acquisition/Relocation Professional(s) as necessary

Conflict of interest applies to acquisition and relocation



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## NOTICE TO DEHCR

- Required to notify DEHCR Project Representative that acquisition will be part of the project prior to the start of construction (if known)
- Notification must be on municipal letterhead and signed by the Chief Elected Official and contain the following information:
  - The type(s) of acquisition being considered (acquisition, acquisition with relocation, permanent/temporary easements);
  - The general location of the proposed acquisition(s). If known, include street address(es) and/or tax parcel ID number(s);
  - The estimated timeframe for acquisition;
  - Name of contact for any questions/discussions regarding the proposed acquisition; and
  - Contact information (mail, telephone, email) for the acquisition contact person.

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## RELOCATION ORDER/DETERMINATION OF NECESSITY OF TAKING

- State requirement
- Must issue prior to acquisition occurring
- Relocation Order required for any transportation facility or sewer project if relocation is involved
- Determination of Necessity of Taking required for any other type of project if relocation is involved



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## RELOCATION PLAN

- State and Federal Requirement
- Must prepare Plan if relocation “may be necessary” for the project
- Sample Plan provided on DOA Relocation website
- Prior to Initiation of Negotiations, must submit Plan to and receive approval of Plan from DEHCR/DOA Legal



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# NOTICE TO OWNER

- Manner of notice
  - Personally served - OR -
  - Sent by certified or registered first-class mail
- Plain, understandable language
- Types of Notices
  - General Information Notice
  - 90 Day Notice
  - Notice of Intent to Acquire
- Brochures
  - State (Required) and Federal/HUD (Optional)



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# APPRAISAL / DETERMINATION OF FMV

## VOLUNTARY:

- Determination of Fair Market Value (FMV)
- Inform owner of FMV in Notice/Letter of Intent to Purchase
- Appraisal not required (owner may request appraisal)

## INVOLUNTARY:

- Appraisals required before initiation of negotiations
- Appraisal Waiver allowed:
  - Under \$10,000
  - Between \$10,000 - \$25,000
  - Over \$25,000
- Waiver valuation
- Real property vs. personal property (itemize separately)
- Trade fixtures vs. fixtures (itemize separately)
- Appraisal review



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# OFFER OF JUST COMPENSATION

VOLUNTARY:

- Not Required/Applicable

INVOLUNTARY:

- Before Initiation of Negotiations
- Cannot be less than the approved appraised Fair Market Value (FMV)
- Agency Official must establish the amount of Just Compensation



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# NEGOTIATIONS

VOLUNTARY:

- **AFTER** Notice/Letter of Intent to Purchase

INVOLUNTARY:

- State requirement(s)
  - **BEFORE** Jurisdictional Offer to Purchase
- Federal requirement(s)
  - **AFTER** Written Offer of Just Compensation



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# ADMINISTRATIVE SETTLEMENT

VOLUNTARY:

- Not Applicable

INVOLUNTARY:

- Federal requirement
- May be a result when purchase price exceeds UGLG's estimate of just compensation
- Must submit proper documentation to DEHCR to justify and support decision for an administrative settlement
- Subject to DEHCR and HUD review



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# SUMMARY STATEMENT & JURISDICTIONAL OFFER TO PURCHASE

VOLUNTARY:

- Not Required/Applicable

INVOLUNTARY:

- Statement of amount offered as just compensation
- Description and location identification of real property and interest in real property to be acquired.
- Identification of the building, structures and other improvements (including removable building equipment and trade fixtures) which are included in the offer of just compensation
- Where appropriate it should also identify any other separately held ownership interest in the property, i.e., a tenant owned improvement and indicate that such interest is not covered by this offer.



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## PURCHASE/ACQUISITION TRANSACTION

### VOLUNTARY:

- Record of Sale/Transaction including signed acceptance of sale (e.g. Purchase Agreement or similar record)
- Proof of Payment

### INVOLUNTARY:

- State
  - Record of Sale/Transaction including signed acceptance of sale (e.g., Purchase Agreement or similar record)
  - Proof of Payment
- Federal
  - Executed/Signed Acceptance of Written Offer of Just Compensation/Summary Statement
  - Record of Sale/Transaction
  - Proof of Payment



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## VOLUNTARY ACQUISITION STEPS

1. Plan
2. Submit notice/A&R information to DEHCR
3. Issue Relocation Order/Determination of Necessity of Taking (if applicable)
4. Develop Relocation Plan and submit to DEHCR for review and approval (if applicable)
5. Determine Fair Market Value (FMV)
6. Provide Notice/Letter of Intent to Purchase
7. Provide other required acquisition/relocation notices and brochures
8. Initiate and proceed with negotiations
9. Complete purchase/acquisition transaction
10. Maintain all Documents in CDBG project file

*Sequence of activities above may vary by project, depending on applicable requirements.*

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## INVOLUNTARY ACQUISITION STEPS

1. Plan
2. Submit notice/A&R information to DEHCR
3. Issue Relocation Order/Determination of Necessity of Taking (if applicable)
4. Develop Relocation Plan and submit to DEHCR for review and approval
5. Provide required acquisition/relocation notices and brochures
6. Obtain appraisals and appraisal review
7. Determine and issue offer of just compensation
8. Initiate and proceed with negotiation
9. Prepare and submit Administrative Settlement to DEHCR (if necessary)
10. Prepare and issue Summary Statement and Jurisdictional Offer to Purchase (if negotiations fail)
11. Complete purchase/acquisition transaction
12. Maintain all documents in CDBG project file

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*Sequence of activities above may vary by project, depending on applicable requirements.*

## RELOCATION PROCESS

1. Plan
2. Give Notice to DEHCR
3. Submit Relocation Plan to and receive approval from DEHCR
4. Give Notice of Relocation Rights
  - No waiver when using federal funds
5. Provide relocation assistance and compensation
6. Ensure comparable property for relocation
7. Ensure replacement housing is decent, safe and sanitary

**NOTE:** WI allows up to 2 years from date of displacement to file claim for relocation expenses.

## RELOCATION PAYMENTS

- Move expenses
- Search expenses
- Reestablishment expenses
- Replacement housing payment
- Replacement business payment

**MUST ADHERE TO RELOCATION PAYMENT LIMITS  
WHEN USING CDBG FUNDS TO COVER COSTS**



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## ACQUISITION & RELOCATION MONITORING AND RECORDKEEPING

Refer to the *Acquisition/Relocation Monitoring Checklist* (Attachment 5-K)  
in Chapter 5 of the *CDBG BCD Implementation Handbook*



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## CORRECTIVE ACTION

- Monitoring finding
- Type of corrective action
- Timeframe for corrective action



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## APPEALS

- Acquisition appeal
  - Condemnation Commission process
- Relocation appeal
  - Agency must inform a displaced person before displacement of the person's right to appeal
  - How to appeal
    - To Displacing Agency
      - Agency must establish internal appeal procedure to resolve a complaint
    - To Department of Administration
    - Wis. Stat. s. 32.20



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## HELPFUL WEBSITES

### Federal:

- HUD

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation)

- FHWA

[http://www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/)

### Wisconsin/State:

- DOA

<https://doa.wi.gov/Pages/AboutDOA/RelocationAssistance.aspx>

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## BROCHURES

### Federal:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/publications](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/publications)

### Wisconsin/State:

<http://doa.wi.gov/Divisions/Energy-Housing-and-Community-Resources/Relocation-Assistance/>



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## ACQUISITION & RELOCATION SUMMARY QUESTIONS:

1. Who must be contacted at DEHCR when Acquisition or Relocation is part of the CDBG project?
2. How may the Fair Market Value be determined in a voluntary acquisition? And in an involuntary acquisition?
3. Do temporary easements require following URA requirements?
4. Who must be given notice of landowner rights? And relocation rights?  
(Hint: Brochure(s))
5. Which form is provided to assist UGLGs with tracking Acquisition and Relocation activities for the CDBG project?



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## QUESTIONS?

Email: [DOACDBG@Wisconsin.gov](mailto:DOACDBG@Wisconsin.gov)



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