



DIVISION OF COMMUNITY ASSISTANCE

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

BULLETIN: 94-1

Subject: Submission Requirements Under Section 104(d) of the Housing and Community Development Act of 1974, as amended

Date Issued: February 1, 1994

Attention: All CDBG Recipients

This bulletin replaces Bulletin #90-3

In accordance with 24 CFR 570.488 implementing Section 104(d), all occupied and vacant occupiable low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling units must be replaced within three years of the commencement of the demolition or rehabilitation related to the conversion.

The purpose of this bulletin is to establish the definition of "vacant occupiable" and to clarify the publication and submission requirements for demolition or conversion of low- and moderate-income housing.

For the CDBG Program the term "vacant occupiable" or "suitable for rehabilitation" means a unit which is no worse than moderate according to the needs gradient scale published in the Community Revitalization Application Guidelines, may be brought up to Section 8 HQS for an expenditure of less than \$4,000 in rehabilitation costs, and will have an expected useful life of at least 10 years with routine maintenance upon completion of the rehabilitation. In addition, a unit may be classified as "not occupiable" if it has been condemned, is condemnable or otherwise unsuitable for human habitation under the local government's housing code or redevelopment plan. A unit which has been vacant for at least one year prior to the execution of the contract for demolition or conversion and which may be classified as "not occupiable" or not "suitable for rehabilitation" under the preceding definitions does not have to be replaced. However, a unit which has been occupied at some time during the twelve months prior to the contract for demolition or conversion must be replaced. The recipient must have documentation in its files supporting its determination.

Rehabilitation of owner-occupied units that continue to be occupied by the owner after rehabilitation are excluded. Otherwise, the resident is not a factor in determining whether a unit must be replaced. Any unit that meets all of the following criteria must be replaced, and the replacement must be of the same size (number of bedrooms):

1. The unit is either occupied or is a vacant occupiable dwelling unit, according to the definition given above;
2. Before the demolition or conversion the unit's market rent was at or below the Fair Market Rent (FMR), established under 24 CFR Part 888; and
3. Either the unit is demolished or after rehabilitation the market rent for the unit (including utilities) will be above the FMR or will be converted to another use other than low- or moderate-income housing.

In carrying out the activity that will result in the demolition or conversion of low- or moderate-income dwelling units, the recipient must document its compliance with its Residential Anti-displacement and Relocation Assistance Plan, including the information made public and the means by which it was made public. Acceptable means of making the information public include one or more of the following: publishing a complete project description in a local newspaper, publishing a notice of availability stating where and when a complete project description will be available for review, posting a complete project description in areas of general circulation, or providing a complete project description by written notification to affected community groups, citizen advisory boards, and developers or organizations in the jurisdiction that are involved in the development of low- or moderate-income housing. This information must also be submitted in writing to the Division of Community Assistance prior to the initiation of the activity which will result in the demolition or conversion of low- or moderate-income dwelling units.

Monitoring reviews of CDBG recipients have noted the following problems with compliance with the 104(d) requirements: inadequate documentation of the means by which the required information was made public, failure to track the demolished/converted units and their replacement by size (number of bedrooms), and failure to submit the required information to DCA. Attached is a form for tracking the one-for-one replacement, which should be maintained in program files. If there are any questions regarding how to comply with these requirements, recipients should contact their program representatives.



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Date

