

August 27, 2000

### **Lead Rules and Relocation**

**QUESTION:** I use federal money to buy a property and relocate a tenant. The tenant is low-income and qualifies to have his/her security paid for with Federal money and they qualify for a rent differential payment (104d) which amounts to \$5000. The \$5000 is paid to the tenant in one lump sum and the security deposit is paid to the landlord. The tenant chooses a unit to rent that is in fair condition and minimum housing codes, but may contain lead paint hazards.

I cannot force the landlord to do anything about the lead paint and I cannot improve the condition of the housing. I can only indicate to the tenant that they will not receive relocation benefits if they rent this unit. I am afraid this will greatly reduce the number of comparable units available to the person displaced.

What are my obligations regarding lead paint in this situation? Does it matter if the tenant has children under 6 years of age? Is the assistance I give them a relocation benefit or is it considered housing assistance? Do I follow the rules similar to Section 8? Am I required to address lead hazards at all?

**ANSWER:** The basic question was: What are the grantee's obligations regarding lead paint in the situation where a resident is being displaced by CDBG action and will be receiving relocation benefits under Section 104 (d) - aka Barney Frank.

The Uniform Act and 104 (d) require that a person displaced by a federal action be provided with assistance to insure that the person moves to a comparable unit that is decent, safe and sanitary. The basic definition of decent, safe and sanitary is enumerated in Chapter 1 of the Uniform Act Handbook 1378 (CHG-1) and includes the requirement that units meet the lead based paint requirements of 24 CFR Part 35 or HQS. If the unit does not meet Part 35 requirements or HQS, the unit would not be considered decent, safe and sanitary and therefore the displaced person would not be eligible for relocation assistance payments other than moving costs. However, the displaced person has one year from displacement to move to a decent, safe and sanitary unit and file for replacement housing assistance. The displaced person must be informed in writing (certified mail) that he is not eligible because the unit does not meet HQS and tell the person that he has one year to comply and move into a better unit in order to get replacement housing assistance.

Local public agencies have the responsibility under CDBG to provide displacees with timely referrals to comparable units that meet the definition of decent, safe and sanitary. If the displacee moves on his/her own to a unit that is not decent, safe and sanitary, they are not entitled to relocation payments other than moving expenses. It is crucial that the displacee be offered a comparable unit, otherwise, if that person is eligible for relocation because of federal assistance, he/she may move to a more expensive unit and the grantee would be responsible for paying the higher cost (ie: difference between the old unit and the new unit plus the income factor).

The local public agency has no obligation to address the lead paint in this situation unless it provides federal assistance to the unit for rehabilitation or as TBRA or the LPA assumes that responsibility on its own. The assistance provided under Uniform Act or 104 (d) is considered a relocation benefit and not a housing assistance payment that would trigger the new lead based paint requirements. Rules for Section 8 housing would be followed if the displacee is receiving Section 8 TBRA. In this case, TBRA requirements apply. The unit would need to be inspected for paint hazards by a visual assessment for deteriorated surfaces. If these are found, the owner must stabilize the disturbed surfaces before commencement of occupancy. If, for some reason, the unit is occupied already, the owner has 30 days to comply. Stabilization is considered complete if it passes clearance testing.

