



Chapter 9: Relocation

Overview

The Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA or sometimes Uniform Act for short) applies to acquisition activities and displacement (temporary or permanent). URA imposes requirements on HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers or others; AND, real property acquisition for HUD-assisted projects (whether publicly or privately acquired) must adhere to URA-established provisions. This chapter covers the displacement and relocation benefit requirements of:

[49 CFR Part 24](#)

- URA: CDBG projects involving acquisition, rehabilitation, or demolition may be subject to the provisions of the Uniform Act (URA).
- Section 104(d): Section 104(d) of the Housing and Community Development Act of 1974 (also known as the “Barney Frank Amendments”) requirements may be triggered by demolition or conversion of residential units with CDBG funds. This law modifies and supplements requirements imposed by URA. This law has an impact on both acquisition and determining relocation benefits for low- and moderate-income households.

These laws include requirements for acquisition (including easements and long-term leases), conversion, and demolition of real property. Those requirements are covered in [Chapter 8: Acquisition](#).

The explanation of this chapter on Relocation is broken into the following sections:

- Relocation and Displacement
- General Relocation Requirements under URA
- Residential Relocation under URA
- Temporary Relocation
- Non-Residential Relocation under URA
- Relocation Assistance Requirements under Section 104(d)
- Appeals

There are three major types of requirements that cover relocation and acquisition activities in CDBG programs:



- The Federal Highway Administration (FHWA), within the U.S. Department of Transportation, is the lead agency for administering URA. FHWA regulations, effective February 2005, implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24);

[FHWA URA Website](#)

[24 CFR 488](#)

[24 CFR 42](#)

- Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Part 570.488, 24 CFR 42; and,

- 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.

[24 CFR 570.606](#)

There may be situations in which other federal agencies (e.g., USDA Rural Development) or local agencies (such as an authority) participate with a Grantee using CDBG funds in a project. In such cases involving a federal agency, typically that federal agency takes responsibility to fulfill URA requirements, not the CDBG Grantee. The Grantee should either execute an MOU that clearly assigns this responsibility to another public entity or clearly delineate that responsibility in the agreement transferring funds to that other entity.

NOTE: The use of federal funds may not be originally anticipated during the conceptual phase or at the beginning of a project. Therefore, Grantees should proceed with caution if federal resources could be introduced later in the project. For example, if an acquisition took place prior to application submission, it can be subject to the URA and relocation requirements if HCD finds clear evidence that the purchase was done in anticipation of obtaining CDBG funds for an activity. The URA relocation requirements also apply if an agency has reimbursed itself for the acquisition with non-federal funds (i.e., general funds) if the project's end result is a federally-assisted project.

[Handbook 1378, Chapter 2, Paragraph 2-3 H](#)

[Handbook 1378, Chapter 5, Paragraph 5-4 A](#)

Tip: HUD Handbook 1378 is a resource available for acquisition and relocation information and is available at HUD's web site. Additional guidance and resources can also be downloaded from the FHWA URA website.

[Handbook 1378](#)



Section 9.1 Relocation and Displacement

The URA applies to all federally assisted activities that involve the acquisition of real property, easements, or the displacement of persons, including displacement caused by rehabilitation, and demolition activities. If CDBG assistance is used in any part of a project, the URA governs the acquisition of real property and any resulting displacement, even if local funds were used to pay the acquisition costs.

[49 CFR Part 24](#)

Displacement Overview & Definitions

Private persons, corporations or businesses that acquire property or displace persons for a CDBG-assisted project are subject to the URA. Under the URA, all persons displaced as a direct result of acquisition, rehabilitation, or demolition, for a CDBG-assisted project, are entitled to relocation payments and other assistance under the URA. All acquisitions made in order to support a CDBG activity are subject to the URA. Acquisition that takes place on or after the date of submission of a CDBG application to fund an activity on that property is subject to URA, unless the Grantee shows that the acquisition was unrelated to the proposed CDBG activity. Acquisition that takes place before the date of submission of the application will be subjected to the URA if HCD determines that the intent of the acquisition was to support a subsequent CDBG activity. The URA provisions apply to all types of long-term acquisition of property, including when acquiring full fee title, fee title subject to retention of a life estate or a life use, long-term leases (including leases with options for extensions) of 50 years or more, and to permanent and temporary easements necessary for the project.

Displacement results when people or a non-residential entity moves permanently as a direct result of the acquisition, demolition, or rehabilitation of property for CDBG-funded projects.

In order to understand applicable relocation requirements, it is necessary to understand some key terminology.

Who Is Displaced under the URA and CDBG?

The URA, the CDBG regulations and Section 104(d) each address specific circumstances that would qualify someone as a "displaced person."

Under the URA, the term "displaced person" means:



- A person who moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice to the person. An owner who refuses to renew an expiring lease in order to evade the responsibility to provide relocation assistance will also trigger URA coverage for the tenant.

[49 CFR 24.2\(a\)\(9\)](#)
[Handbook 1378,
Chapter 1, Paragraph 1-4 I](#)

- The effective move date of the displaced person is based on whether the Grantee:
 - Has site control at the time the Grantee submits an application for CDBG funds for the project that is later approved, then the household is considered displaced on the submission date of the application; or
 - Does not have site control when the application for CDBG funds, the effective date will be the date the Grantee obtains site control.

- A person who moves permanently from the real property after the initiation of negotiations, unless the person is a tenant who was issued a written notice of the expected displacement prior to occupying the property (otherwise known as a "Move-In Notice")

- A person who moves permanently and was not issued a Notice of Non-displacement after the application for CDBG funds is approved.

[Handbook 1378:
Chapter 1-4, Paragraph I- 4](#)

Even if there was no intent to displace the person, if a Notice of Non-displacement was not provided, HUD has taken the position that the person's move was a permanent, involuntary move for the project since the person was not given timely information essential to making an informed judgment about moving from the project.

Under CDBG, the regulations define a "displaced person" as someone who moves after a specific event occurs:

- This event establishes a presumption that a project may begin (e.g., date of submission of an application). It is presumed that displacement before this date did not occur "for the project" and is not covered by the URA, unless rebutted by convincing evidence to the contrary.
- It is also presumed that a permanent, involuntary move on or after that date is a displacement "for the project," unless the Grantee or state determines otherwise.



HUD must concur in a determination to deny a person relocation benefits on this basis:

- When an owner either evicts a tenant or fails to renew a lease in order to sell a property as "vacant" to a Grantee for a HUD-funded project, HUD will generally presume that the tenant was displaced "for the project." (Evictions for serious or repeated violations of the lease are permissible, but the owner must follow state tenant-landlord laws governing eviction.)
- In cases where the tenant was not notified of their eligibility for URA benefits, the Grantee is responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the Grantee can demonstrate that the move was not attributable to the project.
- CDBG regulations also define a "displaced person" as:
 - A tenant who moves permanently after the CDBG-funded acquisition or rehabilitation, and the increased rent is not affordable (they are "economically displaced").

The CDBG program regulations cover "economic displacement," while the URA is silent on this issue. If rents are increased after a CDBG project is completed, and the new rent exceeds 30% of the tenant's gross monthly income, they would be "economically displaced."

[Handbook 1378;](#)
[Chapter 1; Paragraph 4-5;](#)
[24 CFR 570.606\(b\)\(2\)\(D\)](#)

- The URA also protects the following "displaced persons":
- A tenant-occupant of a dwelling who receives a Notice of Non-displacement but is required to move to another unit in the building/complex may be considered displaced, if the tenant moves from the building/complex permanently and either:
 - The tenant was not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move within the project; or
 - Other conditions of the move within the project were not reasonable.
- A tenant who moves permanently after the building has a change from residential use to a public use as a direct result of a CDBG-assisted project (for example, the building now leases units to serve persons who were homeless or require supportive housing). Under the CDBG program, leases of 15 years or more are considered acquisitions for the purposes of the URA.



- A nonresidential tenant who receives a Notice of Non-displacement, but moves permanently from the building/complex, if the terms and conditions under which the tenant may remain are not reasonable.

It is expected that the Grantee or property owner will negotiate these terms and conditions. A tenant who believes the offer is unreasonable may relocate and file an appeal seeking assistance as a "displaced person."

When Section 104(d) is triggered:

- The term "displaced person" means any lower-income household that moves from real property permanently as a direct result of the conversion of an occupied or vacant occupiable low- and moderate-income dwelling unit or the demolition of any dwelling unit, in connection with a CDBG assisted activity.

[24 CFR 570.606\(b\)\(2\)\(i\)](#)

Persons Not Considered Displaced

A person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:

[49 CFR 24.2\(a\)\(9\)\(ii\)\(k\)](#)

- The person has no legal right to occupy the property under state or local law, specifically not meeting the requirements of adverse possession; or

[California Code: Code of Civil Procedure](#)

- The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement or other good cause, the Grantee determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or

[Handbook 1378, Chapter 1, Paragraph 1-4 J \(1\)](#)

- The person moves into the property after the date of the application for CDBG funds and, before moving in, was provided a "Move-In Notice," which consist of a written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify for assistance as a "displaced person" as a

[Handbook 1378, Chapter 1, Paragraph 1-4 J \(2\)](#)

[Appendix 9-1: Sample Notice to Prospective Tenants](#)



result of the project. See Appendix 9-1 for a sample notice to provide to prospective tenants.

People are also not considered displaced if:

- The person occupied the property for the purpose of obtaining relocation benefits.

[49 CFR 24.2\(a\)\(9\)\(ii\)\(C\)](#)

- The person retains the right of use and occupancy of the property for life following its acquisition (life estates).

- The person is determined not to be displaced as a direct result of the project. Grantees may not make this determination on their own. Contact HCD for determination assistance.

[49 CFR 24.2\(a\)\(9\)\(ii\)\(I\)](#)

- The person is an owner-occupant of the property who moves as a result of a voluntary acquisition. (Refer to Chapter 5 of HUD Handbook 1378 and Voluntary Acquisition section in [Chapter 8: Acquisition](#) for more information on voluntary acquisition.) (NOTE: Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)

[Handbook 1378, Chapter 1, Paragraph 1-4 J \(3\)](#)

- The person leaves due to code enforcement, unless the code enforcement results in rehabilitation or demolition for an assisted project. There should be sufficient separation of time and activities, otherwise an owner-occupant or tenant who is required to move permanently as a direct result of this rehabilitation or demolition may be eligible for relocation assistance. Consult with HCD if activities occur close together.

[Handbook 1378, Chapter 5](#)
[49 CFR 24.2\(a\)\(9\)\(ii\)\(E\)](#)

- The person, after receiving a notice of eligibility, is notified in writing that he or she will not be displaced.
 - Such a notice cannot be delivered unless the person has not moved, and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of eligibility.



- The person is an owner-occupant who voluntarily applies for rehabilitation assistance on his or her property. When the rehabilitation work requires the property to be vacant for a period of time, this assistance is considered optional. [49 CFR 24.2\(a\)\(9\)\(ii\)\(G\)](#)
- The person is not lawfully present in the United States unless denial of benefits would result in "exceptional and extremely unusual hardship" to a lawfully-present spouse, child, or parent. This prohibition covers all forms of relocation assistance under the URA including both replacement housing payments (RHP) and moving assistance. [49 CFR 24.2\(a\)\(9\)\(ii\)\(H\)](#)

The current URA regulations include a definition of the phrase "exceptional and extremely unusual hardship," which focuses on significant and demonstrable impacts on health, safety, or family cohesion. This phrase is intended to allow judgment on the part of the Grantee and does not lend itself to an absolute standard applicable in all situations. When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien.

An "alien not lawfully present in the United States" is defined as an alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 United States C.1101 et seq) and whose stay in the United States has not been authorized by the United States Attorney General. It includes someone who is in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

When a household contains some members, who are present lawfully but others are present unlawfully, there are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the Replacement Housing Payment (RHP) would be computed accordingly.



Initiation of Negotiations (ION)

The date of the Initiation of Negotiations ("ION") serves as a milestone in determining a person's eligibility for relocation assistance, including moving costs and a replacement housing payment. CDBG regulations establish a program-specific definition of ION as the trigger for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Non-displacement.

For CDBG programs, the term "initiation of negotiations" is defined as the following:

- If the displacement results from privately undertaken rehabilitation, demolition or acquisition, the execution of the grant or loan agreement between the Grantee and the person owning or controlling the real property.
- If the displacement results from Grantee demolition or rehabilitation and there is no related Grantee acquisition, the notice to the person that he or she will be displaced by the project (or the person's actual move, if there is no such notice).
- When there is voluntary acquisition of real property by a Grantee, the term "initiation of negotiations" means the actions described above, except that the ION does not become effective, for purposes of establishing eligibility for relocation assistance, until there is a written purchase agreement between the Grantee and the owner. (See Voluntary Acquisition section in [Chapter 8: Acquisition](#).)

Whenever real property is acquired by a Grantee that has eminent domain/condemnation powers under the statutes of California and the acquisition is an involuntary transaction, the initiation of negotiations means the delivery of the Notice of Offer of just compensation by the Grantee to the owner to purchase the real property for the project.

[24 CFR 570.606](#)

After the ION, any person who seeks to rent a unit in the project must be issued a Move-in Notice before executing a lease; otherwise, the project will incur liability for relocation costs if the persons are found to be eligible as displaced persons.

[49CFR 24.2\(a\)\(15\)](#)

Project

The definition of what is a "project" differs for URA and for Section 104(d):



- The term project is defined under URA as an activity or series of activities funded with federal financial assistance received or anticipated in any phase. In addition, URA states that program rules will further define what is considered a project.

[Handbook 1378,
Chapter 1,
Paragraph 1-4 DD](#)

- Under Section 104(d), a project is an activity or series of activities undertaken with HUD financial assistance received or anticipated in any phase. Section 104(d) benefits are triggered if the activity is a CDBG or HOME funded activity and the HUD assisted activity is part of a single undertaking.

[49 CFR 49.2\(a\)\(22\)](#)

In order to determine whether a series of activities are a project, look at:

- Timeframe: Do activities take place within a reasonable timeframe of each other?
- Objective: Is the single activity essential to the overall undertaking? If one piece is unfinished, will the objective be incomplete?
- Location: Do the activities take place on the same site?
- Ownership: Are the activities carried out by, or on behalf of, a single entity?

Section 9.2 General Relocation Requirements under URA

The URA covers all types of displaced persons, including both residents and businesses. It also covers the temporary relocation of existing occupants. The following sections of the this chapter sorted by: (1) URA requirements that apply to all persons; (2) URA requirements that apply to displaced residential occupants; (3) URA requirements that apply to temporary relocation; and (4) URA requirements that apply to non-residential (commercial, nonprofit, farm) occupants.

Acquisition and/or relocation of mobile homes is also covered by the URA. Since there are many variables in the ownership and tenancy of mobile homes, grant administrators are asked to consult with HCD before proceeding with the acquisition or relocation of mobile homes.

After covering the URA requirements for relocation, this chapter covers Section 104(d) relocation requirements.



The requirements in this section apply to all projects where the URA is triggered. The URA relocation process can differ greatly depending upon the funding used in a project and whether an involuntary sale will be involved in the process.

Planning for Relocation

If a CDBG funded project will involve relocation, the Grantee must develop written policies and procedures for managing the anticipated relocation caseload in the form of a "relocation plan."

These procedures must be in compliance with all elements of the Final Rule implementing changes to the URA and the Residential Anti-displacement and Relocation Plan, previously developed as part of the application for CDBG assistance.

The plan must contain two components:

- A commitment to replace all low- and moderate-income dwelling units that are demolished or converted to a use other than low- and moderate-income housing as a direct result of the use of CDBG funds, and
- A commitment to provide relocation assistance required under Section 104(d) of the Housing and Community Development Act.

The plan must be adopted by the local governing body.

A sample of this plan is provided as Appendix 34 to [HUD Handbook 1378](#).

[Residential Anti-displacement and Relocation Assistance Plan](#)

Advisory Services, Including Relocation Notices

The next step in the process is to provide relocation advisory services. This process requires the Grantee to first personally interview the person to be displaced. The purpose of the interview is to explain the:

- Various payments and types of assistance available,
- Conditions of eligibility,
- Filing procedures, and



- Basis for determining the maximum relocation assistance payment available.

Grantees may use Appendix 9-2: Sample Household Case Record to collect the required information for residential occupants. It is very important that all significant contact with displacees be logged into Section 5 of the Household Case Record.

[Appendix 9-2:
Sample Household
Case Record](#)

As a part of advisory services, the URA requires that all occupants receive notices informing them of their various rights.

General Information Notice

The General Information Notice is referred to in this chapter as one of the required notices when there is involuntary acquisition. This is a **very important notice!**

As soon as feasible after grant application, the project administrator must notify each household and/or business that the potential for displacement exists and provide them with a General Information Notice (GIN). The GIN informs residential and non-residential occupants of a possible project, including potential acquisition of the property. A sample of the GIN is provided as Appendix 3 of HUD Handbook 1378. The GIN also informs the occupant prior to the initiation of negotiations not to move prematurely, because doing so will jeopardize any assistance that they may be due. By providing occupants with the GIN, the Grantee protects themselves from claims for relocation benefits that could have been avoided if the person would not have been displaced.

[General Information
Notices for
Residential Tenants](#)

Notice of Eligibility and Notice of Non-displacement

After grant approval, the Grantee should determine who must be displaced and who will be allowed to remain in (or return to) the project. After making these determinations, the Grantee should issue the appropriate relocation notices: either a Notice of Eligibility (for relocation assistance) or a Notice of Non-displacement.

- The Notice of Eligibility informs occupants who will be displaced of their rights and levels of assistance under the URA.
- The Notice of Non-displacement informs occupants who will remain in or return after completion of their rights

[Notice of Eligibility](#)

[Notice of Non-
Displacement](#)



under URA and of the terms and conditions of their remaining in the property. In addition to these notices, copies of the HUD brochures,

"Relocation Assistance to Displaced Homeowner Occupants" and "Relocation Assistance to Tenants Displaced from Their Homes" should be provided to displaced persons (these brochures can also be found on the HUD website.)

[Relocation Assistance to Displaced Homeowners Brochure](#)

Note that these two brochures are for residential relocation only.

There are different requirements for relocation of businesses, farms, and nonprofit organizations. Contact HCD for guidance on non-residential relocation.

[Relocation Assistance to Displaced Tenants from Their Homes Brochure](#)

Notice to Move

The Grantee may issue a 90-Day Move Notice after a Notice of Eligibility has been sent and when the Grantee wants to establish the move-out date (see Appendix 9-3). The 90-Day Notice may not be issued until at least one comparable unit has been identified and presented to the residential displaced person.

[Appendix 9-3: Sample 90 and 30-Day Move Notices](#)

The 90-day notice must either state a specific date as the earliest date by which an occupant will be required to move, or state that the occupant will receive a further notice, at least 30 days in advance, indicating the specific date by which to move. A flow chart summarizing the relocation process can be found as Appendix 1 of HUD Handbook 1378. The 90-Day Move Notice may be a combined notice with the Notice of Eligibility or delivered at the same time.

[Handbook 1378, Chapter 2, Paragraph 2-3\(c\)](#)
[Tenant Assistance/Relocation Process Flow Chart](#)

Discrimination in Relocation

Obviously, Grantees must ensure that there is no discrimination in the relocation process. Individual displacees who have been discriminated against may not know how to take action on their own. Legal action is often too expensive to be a practical solution for them. The Grantee must provide assistance in cases of discrimination. There are also different equal opportunity protections for businesses. See [Chapter 4: Grantee Requirements, Appeals and Grievances](#) of this implementation guide for additional information.



If a displacee has been discriminated against, the Grantee's Grievance Procedures should be adhered to in addressing such complaints. In addition, the displacee or the Grantee should notify the California Department of Fair Employment and Housing, www.dfeh.ca.gov.

[Appendix 4-7:
Sample Grievance
Procedures](#)

Section 9.3 Residential Relocation under URA

Residential occupants who will be displaced are entitled to receive a range of benefits under the URA. These include: (1) advisory services; (2) offer of a comparable replacement unit; (3) replacement housing payments; and (4) moving expenses. The following sections highlight each of these requirements.

Advisory Services for Displaced Households

The Grantee should work with the household that will be displaced throughout the process to ensure the household is provided appropriate and required advisory services.

- Grantees must provide counseling and appropriate referrals to social service agencies, when appropriate.
- Grantees must offer or pay for transportation (e.g., taxi, rental car) to inspect comparable units or the actual unit selected by the displaced person.
- When a displacee is a minority, every effort should be made to ensure that referrals are made to comparables located outside of areas of minority concentration, if feasible.
- The Grantee must provide current and continuing information on the availability, purchase price or rental cost and location of "comparable replacement dwellings." (See the section below for more information on comparable replacement dwellings.)

Comparable Replacement Dwelling Units

The Grantee must make referrals to the replacement housing units (comparables) for displaced residential households. It is also recommended that the Grantee inspect the comparables to determine if they are in decent, safe and sanitary condition (including ensuring they are lead safe) prior to making referrals.



The regulations stipulate that no person is to be displaced unless at least one, and preferably three, comparable dwellings are made available to the potential displacee. Grantees should document if three comparable dwellings are not identified and provide justification. Grantees should identify comparable units that meet the following conditions:

- A comparable replacement dwelling means a dwelling which meets local relevant housing codes and standards for occupancy;
- The replacement unit must be functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. In determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Grantee may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
- Adequate in size to accommodate the occupants;
- If the displaced household were over-crowded, the comparable must be large enough to accommodate them;
- In an area not subject to unreasonable adverse environmental conditions;
- In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
- On a site that is typical in size for residential development with normal site improvements, including customary landscaping;
- Currently available to the displaced person on the private market (unless they are displaced from subsidized housing as described below); and
- Within the financial means of the displaced person. A replacement dwelling is considered to be within the person's financial means if a Grantee pays the appropriate replacement housing payment.

For a person receiving government housing assistance before displacement, a comparable dwelling unit that has similar government housing assistance must be offered. (For example, a comparable unit for a tenant who had a Housing Choice Voucher prior to displacement must be offered another unit where the Voucher could be used or is accepted.) When the government



housing assistance program has requirements relating to the size of the replacement dwelling, the rules for that program apply.

Grantees may use the HUD Section 8 Existing Housing Program Inspection Checklist to determine whether a comparable unit is decent, safe and sanitary. Since replacement housing units must meet all local codes and housing standards, an inspector must be familiar with these requirements to ensure that displaced persons move to standard housing.

[Section 8 Existing Housing Program Inspection Checklist \(HUD Form 52580\)](#)

[Most Representative Comparable Replacement for Computing an RHP \(HUD Form 40061\)](#)

HUD Form 40061 should be used to identify the most representative comparable replacement dwelling units for purposes of computing a replacement housing payment.

The Grantee must then provide the potentially displaced household with a Notice of Eligibility for relocation assistance. The notice must identify the cost and location of the comparable replacement dwelling(s).

[Notice of Eligibility](#)

Replacement Housing Payments

In some instances, a comparable replacement dwelling may not be available within the monetary limits for owners or tenants. This is the purpose of the Replacement Housing Payment (RHP).

[49 CFR 24.401](#)
&
[49 CFR 24.402](#)
&
[49 CFR 24.404\(a\)](#)

Relocation payments are not considered "income" for purposes of the IRS or the Social Security Administration.

The regulations do not allow a Grantee to encourage or ask a displaced person to waive their relocation assistance; however, a fully informed person may choose not to apply for financial benefits and must acknowledge that decision in writing by clearly describing the assistance for which he/she will not apply. Grantees are encouraged to contact HCD if this situation is likely to occur.

[49 CFR 24.209](#)
&
[49 CFR 24.207\(f\)](#)

Replacement Housing Assistance for 90-Day Homeowners

Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home (Initiation of Negotiations – "ION") USING INVOLUNTARY ACQUISITION are eligible for a



replacement housing payment as "displaced persons". If homeowners were in occupancy for less than 90 days prior to the ION, they are protected by the URA as "displaced persons" but the calculation is made using the same method used for tenants.

NOTE: If an owner occupies a property acquired using voluntary acquisition requirements, they are NOT eligible for relocation benefits.

For involuntary acquisitions, the ION is defined as the delivery of the written offer of just compensation by the Grantee to the owner.

The RHP made to a 90-day homeowner is the sum of:

- The lesser of: the cost of the comparable or the cost of the actual replacement unit.
- Additional mortgage financing cost; and
- Reasonable expenses incidental to purchase the replacement dwelling.

[42 U.S.C. 4623\(a\)\(1\)](#)
and
[42 U.S.C. 4624\(b\)](#)

To calculate the replacement housing payment for a 90-day homeowner, Grantees should use the HUD Form 40057.

[Claim for Replacement Housing Payment for 90 Day Homeowner \(HUD Form 40057\)](#)

The displaced homeowner must purchase and occupy the replacement unit in order to qualify for an RHP as a displaced owner-occupant of 90 days.

Replacement Housing Payments for Displaced Tenants

The amount of the replacement housing payment paid to a displaced tenant does not vary depending upon whether the household was in occupancy more or less than 90 days prior to the date of execution of the agreement.

The replacement housing payment is intended to provide affordable housing for a 42-month period. Although the URA regulations establish a \$5,250 limitation on rental assistance payments, it also requires that persons receive the calculated payment under replacement "Housing of Last Resort." Therefore, low and moderate-income households are entitled to the full 42 months of assistance even though the amount may exceed \$5,250. See Section 9.6: Relocation Requirements under Section 104(d) to determine if applicable.

[42 U.S.C. 4624\(a\)](#)



For all tenants, the replacement housing payment makes up (for a 42-month period) the difference between:

- Housing cost, defined as the lesser of rent and estimated utility costs at the replacement dwelling or comparable unit; and
- Tenant obligation, defined as the lesser of:
 - Thirty percent of the tenant's average monthly gross household income (applicable only if the household is classified as low income—within 80% Area Median Income—using HUD's income limits), or
 - The monthly rent and estimated average utility costs of the displacement dwelling.

URA cash rental assistance must be provided in at least 3 installments, unless benefit is \$500 or less or the tenant wishes to purchase a home. If \$500 or less, 2 installments are permitted. If the displaced tenant wishes to purchase a home, the payment must be provided in a single lump sum so that the funds can be used for a down payment, including incidental expenses.

The amount of cash rental assistance to be provided is based on a one-time calculation. The URA RHP payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. See HUD Form 40058 for the claim form that must be used to calculate rental assistance or down payment assistance.

[Claim for Rental Assistance or Downpayment Assistance \(HUD Form 40058\)](#)

Housing of Last Resort

When undertaking relocation activities, Grantees must be sure to provide a comparable replacement dwelling in a timely manner. If the Grantee cannot identify comparable replacement housing, they must seek other means of assisting displacees under the "Last Resort Replacement Housing" provisions of the regulations. This situation can occur in communities where there is a limited supply of available comparable units. Grantees should contact HCD to confer on how to proceed.

[49 CFR 24.404](#)

The Last Resort sections of the URA require Grantees to take alternate measures to assist displaced persons to be able to afford to move to a decent, safe and sanitary comparable unit. Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of

[Handbook 1378, Chapter 3, Paragraph 3-6](#)



regulatory limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the disabled in a replacement dwelling.

Early Movers: Relocation Prior to Notice of Eligibility

Some displaced persons will not wait for the Grantee to locate comparable units and offer replacement housing assistance. These households may search for their own units and relocate themselves.

The implication of the early move will depend on when it occurs. If the move occurs after a General Information Notice (GIN) was sent to the household but before the Initiation of Negotiations, the household may have jeopardized their eligibility or payment amount for relocation assistance.

However, after the Initiation of Negotiations, (the date that triggers eligibility for relocation assistance) relocation eligibility can be triggered for all occupants. So, it is vital that the Grantee immediately send the Notice of Eligibility or Non-displacement. If these notices are not sent in a timely or complete manner and the household moves out, HUD may require that the replacement housing be based on the actual unit they have chosen (if that exceeds a possible comparable), if that unit qualifies as decent, safe and sanitary. The budgetary consequences can be substantial.

Relocation into a Substandard Unit

If an individual locates or moves into a replacement unit that is not decent, safe and sanitary and that move occurred because the Grantee was not timely in the delivery of the required URA notices, the Grantee may try to upgrade the unit to the decent, safe and sanitary standard. Alternately, the Grantee can offer the household the opportunity to move to a decent, safe and sanitary unit and the Grantee must pay for that move.

In the event the Grantee was timely in the delivery of the Notice of Eligibility but the household moved anyway to a substandard unit, the Grantee must inform the displacee that if they remain in a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments. The Grantee must also inform the displacee that if he or she moves into standard housing within a year from the date he or she moved from the displacement dwelling and files a claim within 18 months of the date of displacement, he or she will be eligible for a replacement housing payment. A sample letter is provided as Appendix 9-4 of this chapter.

[Appendix 9-4:
Sample Letter to
Relocatee in a
Substandard Unit](#)



Payment for Residential Moving and Incidental Expenses

Displaced homeowners and tenants may choose to receive payment for moving and related expenses either by:

- Commercial mover selected through competitive bids obtained by the Grantee paid directly to the mover or reimbursed to the household; OR
- Reimbursement of actual expenses for a self-move, OR
- Receipt of a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), for the current payment level established for California, which is available on the FHWA website.

The updated regulations at 49 CFR 24.301(b) clarified that Grantees cannot allow residential self-moves based on the lower of two bids.

[49 CFR 24.301\(b\) & \(g\)\(1-7\)](#)

If reimbursement of actual expenses for a self-move is chosen, the Grantee must determine that the expenses are reasonable and necessary and include only eligible expenses, which are:

- Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
- Packing, crating, uncrating and unpacking of the personal property.
- Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
- Insurance for the replacement value of the property in connection with the move and necessary storage.
- The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.

[49 CFR 24.301\(h\)](#)



- Credit checks.
- Utility hook-ups, including reinstallation of telephone and cable service.
- Other costs as determined by the agency to be reasonable and necessary.

The following are ineligible expenses:

- Refundable security and utility deposits; or
- Interest on a loan to cover moving expenses; or
- Personal injury; or
- Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
- The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
- Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

If the displaced homeowner/tenant chooses a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), the following applies:

- A person displaced from a dwelling or a seasonal residence may, at his or her discretion, choose to receive a fixed moving expense payment as an alternative to a payment for actual reasonable moving and related expenses.

[Fixed Residential
Moving Cost
Schedule](#)

The payment reflects the number of rooms in the displacement dwelling and whether the displaced person owns and must move the furniture. If a room or an outbuilding contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase the payment accordingly (i.e., count it as two rooms). A current schedule is accessible on HUD's website.

The fixed payment does not require that the Grantee document costs, receipts, or payments by the displaced person, nor does the displaced person need to account for the use of the fixed payment.



Whether the displaced household choose reimbursement of actual costs or fixed payment based on the FHWA schedule, Grantees should use Residential Claim for Moving and Related Expenses (HUD Form 40054) to calculate and document such payments.

[Residential Claim for Moving and Related Expenses \(HUD Form 40054\)](#)

Occupant of Dwelling with Congregate Sleeping Space (Dormitory): The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily occupied by three or more unrelated persons is \$100.

Homeless Persons: A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a fixed moving expense payment. (Such a person may, however, be eligible for a payment for actual moving expenses.)

In addition to the moving expenses, the updated regulations at 49 CFR 24.401(e)(4) added professional home inspection to the list of eligible incidental expenses for displaced owner-occupants only. This will only apply when a property is involuntarily acquired, and owner occupied for a period of at least 90 days.

[49 CFR 24.401\(e\)\(4\)](#)

[49 CFR 24.301\(h\)\(12\)](#)

The URA also allows Grantees to pay for non-refundable security deposits but clarifies that refundable security and utility deposits are ineligible.

Section 9.4 Temporary Relocation

Agencies administering housing rehabilitation programs should establish written policies for temporary relocation of both owner-occupants and tenants.

Any temporary relocation may not exceed 12 months, or the household is considered displaced.

Agencies must administer their temporary relocation activities consistently and treat all people in similar circumstances the same. All terms must be "reasonable" or the temporarily relocated household may become eligible as a "displaced person".



Lead-Based Paint Hazards Requirements and Relocation

The Lead Safe Housing Rule, 24 CFR Part 35, contain rules concerning the temporary relocation of occupants (renters and owners) before and during hazard reduction activities.

[24 CFR Part 35](#)

[24 CFR 570.608](#)

Under the lead regulations, circumstances when temporary occupant relocation is not required include:

- Treatment will not disturb lead-based paint or create lead-contaminated dust; or
- Treatment of interior will be completed within one period in eight daytime hours, the site will be contained, and the work will not create other safety, health or environmental hazards: or
- Only the building's exterior is treated; the windows, doors, ventilation intakes, and other openings near the work site are sealed during hazard reduction activities and cleaned afterward; and a lead- free entry is provided; or
- Treatment will be completed within five calendar days; the work area is sealed; at the end of each day, the area within 10 feet of the contaminant area is cleared of debris; at the end of each day, occupants have safe access to sleeping areas, bathrooms, and kitchen facilities; and treatment does not create other safety, health or environmental hazards.

If these above conditions are not met, then the temporary relocation of the household is required. However, because the rehabilitation of owner-occupied units is considered voluntary, the relocation requirements of the URA do not apply regardless of whether the unit is being treated for lead-based paint. Any payments made on an owner-occupants' behalf would be addressed in an Optional Relocation Policy.

Again, note that the rehabilitation of tenant-occupied units is not considered voluntary and the URA requirements detailed earlier in this section apply.

NOTE: Elderly residents living in units undergoing lead hazard reduction activities may waive the requirement to relocate but only if the Grantee obtains a written and signed waiver. (See Appendix 9-5.)

[Appendix 9-5:
Sample Elderly Waiver
for Relocation](#)

The lead rule further requires that temporary dwellings not have lead-based paint hazards. Therefore, Grantees are required to ensure that units used for temporary relocation are lead



safe. This means that temporary housing units that were built after 1978 or have undergone a visual assessment and dust wipe sampling to ensure no lead hazards are present.

Temporary Relocation of Owner-Occupants in Rehabilitation Projects

An owner-occupant who participates in a CDBG Grantee's housing rehabilitation program is considered a voluntary action under the URA, provided code enforcement was not used to induce an owner-occupant to participate.

[Appendix 9-6:
Optional Temporary
Relocation Assistance
Policy](#)

If a Grantee chooses to provide temporary relocation assistance to owner-occupants, the Grantee must adopt an Optional Temporary Relocation Assistance Policy.

Guidance for Owner-Occupant Temporary Relocation in Rehabilitation Projects

The Grantee should develop written policies as early as possible in the application stage so occupants can make suitable arrangements to move from of their homes with the least amount of disruption. Because the URA does not cover owner-occupants who voluntarily participate in housing rehabilitation programs, the Grantee has broad discretion regarding payments to owners during the period of temporary relocation. If a Grantee chooses to provide temporary relocation assistance to owner-occupants through a "voluntary" CDBG Program, the Grantee must adopt an optional relocation assistance policy.

[24 CFR 570.488](#)
&
[24 CFR 570.606\(d\)\(2\)](#)

The owner-occupant may be encouraged to stay with family or friends (noting the requirement to inspect these units to ensure the units are decent, safe and sanitary and lead-safe), but if there are circumstances in which there is no suitable alternative, and the owner would be faced with a hardship, the agency may set a policy that describes what constitutes a "hardship" and provide a certain level of financial assistance.

An agency may negotiate with various hotels to establish an attractive rate and pay the negotiated rate on the owner's behalf. The hotel units must be decent, safe and sanitary, and cannot present a lead-paint hazard to occupants. Agencies should inspect the hotel units prior to signing an agreement to use them as a resource. In addition, agencies may provide a stipend for meals if the temporary unit does not have cooking facilities.



Temporary Relocation of Tenants in Rehabilitation Projects

Tenants are protected by the URA during temporary relocation. HUD's Handbook 1378 suggests that at least 30 days advance notice be given to tenants prior to the temporary move. In addition, the tenant must be provided:

[HUD Handbook 1378, Chapter 2, Paragraph 2-7](#)

Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at such housing. (They are still responsible for paying their share of the rent for the unit undergoing renovation.)

Appropriate advisory services, including reasonable advance written notice of:

- 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 terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and
- The provisions of reimbursement for all reasonable out-of-pocket expenses.

The tenant must receive a Notice of Non-displacement which advises a person that they may be or will be temporarily relocated.

[Notice of Non-Displacement](#)

Once it becomes evident that the tenant will need to be temporarily relocated, the Grantee should send a Temporary Relocation Notice to inform households who will be temporarily relocated of their rights and of the conditions of their temporary move. (See Appendix 9-7 for a Sample Temporary Relocation Notice.)

[Appendix 9-7: Sample Temporary Relocation Notice](#)

Tip: The Notice of Non-displacement is very important when dealing with temporary relocation because it helps prevent temporary moves from becoming permanent.

Guidance on Tenant Temporary Relocation

To assist with the temporary relocation of tenants, the Grantee could encourage tenants to identify their own temporary housing (within the established guidelines), but ultimately the



agency is responsible for finding suitable shelter until rehabilitation is complete. In addition, the agency could use hotel rooms and provide a meal stipend if there are no cooking facilities. The stipend could vary depending on the age of the children in the household (if any).

The terms and conditions of the temporary move must be reasonable, or the tenant may become "displaced." The Grantee should be aware that the temporary unit need not be comparable, but it must be suitable for the tenant's needs. It must be inspected, found to be decent, safe, sanitary, and lead safe. The HUD Section 8 Existing Housing Program Inspection Checklist may be used to document the inspection. If the tenant claims to be paying rent to a friend or family member, the Grantee should document that rent was paid and the housing was suitable. The tenant must be provided adequate advance notice to move out of their unit and back when rehabilitation work is complete. A good rule of thumb suggested by HCD is that temporary relocation is reasonable for six months or less. Anything in excess of one year is considered permanent displacement, under federal regulations.

[Section 8 Existing Housing Program Inspection Checklist \(HUD Form 52580\)](#)

If the owner of the property is planning to raise the rent or offer a different unit in the property (that exceeds the greater of their former rent or 30% of gross monthly income), the tenant must be notified of these changes before moving back. If the cost of rehabilitation including lead hazard control work causes the rent to be increased and creates a rent burden ("economic displacement"), the tenant is protected by the URA and could be eligible for relocation assistance.

The term "economic displacement" is used to cover households who lived in the project prior to the federally-funded activity (acquisition or rehabilitation) and whose rent is raised resulting in a move because they can no longer afford to remain.

If the rent will be increased and the household can no longer afford to stay, the Grantee should treat the household as a displaced person and provide them with all of the assistance outlined under Section 8-D including: Advisory Services, Moving Expenses, and a Replacement Housing Payment as needed.

Section 9.5 Non-Residential Relocation under URA

Displaced businesses (including nonprofit organizations and farm owners) are entitled to advisory services and relocation assistance under the URA. A business is defined for this purpose as:

[49 CR 24.2\(a\)\(4\)](#)



- A for-profit business, engaged in any lawful activity involving purchase, sale of goods or services, manufacturing, processing, marketing, rental of property, or outdoor advertising when the display must be moved;
- To qualify for assistance, the business must meet the definition of a "displaced person" discussed earlier in this chapter. It must move permanently as a direct result of an assisted project involving acquisition, rehabilitation, or demolition.

[Handbook 1378,
Chapter 1,
Paragraphs 1-4](#)

The URA provides coverage for business owners (whether they are on-site or not), for owner/occupants of a business, and for tenants operating a business in rented space.

Business versus Residential Assistance

URA coverage for moving expenses is similar for residential and non-residential displacees. Qualified businesses may choose between a fixed payment or actual moving expense. The fixed payment is based on a formula, rather than a schedule.

[Handbook 1378,
Chapter 4, Paragraphs
4-2 & 4-5](#)

A displaced business is eligible to choose a fixed payment if the Grantee determines that:

- The business either (a) discontinues operations, or (b) it relocates but is likely to incur a substantial loss of its existing patronage (The URA presumes this unless there is a preponderance of evidence to the contrary.); and
- The business is not part of a commercial enterprise having more than three other entities which are not being displaced by the Grantee, and which are under the same ownership and engaged in the same or similar business activities; and
- The business contributed materially to the income of the displaced person; and
- The business operation at the displacement property is not solely for the rental of that real property to another property management company.
- Actual moving expenses provide for reimbursement of limited reestablishment expenses.
- There are differences between coverage for residential and non-residential displacees.
- A 90-day Notice to Move may be issued without a referral to a comparable site.

[Handbook 1378,
Chapter 4, Paragraph 4-3](#)



- Businesses are entitled to temporary moving expenses; however, displaced businesses are not eligible for 104(d) assistance.

Owners or tenants who have paid for improvements will be compensated for their real property under acquisition rules. A complete, thorough appraisal is essential to making these decisions.

Advisory Services

Non-residential moves are often complex. Grantees must interview business owners to determine their relocation needs and preferences. Displaced businesses are entitled to the following:

- Information about the upcoming project and the earliest date they will have to vacate the property;
- A complete explanation of their eligibility for relocation benefits and assistance in understanding their best alternatives;
- Assistance in following the required procedures to receive payments;
- Current information on the availability and cost to purchase or rent suitable replacement locations;
- Technical assistance, including referrals, to help the business obtain an alternative location and become reestablished;
- Referrals for assistance from state or federal programs, such as those provided by the Small Business Administration, that may help the business reestablish, and help in applying for funds; and
- Assistance in completing relocation claim forms.

Notices and Inspections

The Grantee must provide a business to be displaced with written information about their rights and provide them with a General Information Notice (GIN) tailored to the situation when a Notice of Interest is issued to the property owner. See Appendix 3a to HUD Handbook 1378 for a sample GIN to use for businesses (non-residential tenants). The General Information Notice should include:

[Handbook 1378, Chapter 2, Paragraph 2-3 B](#)

[Sample GIN Non-Residential Tenant](#)

[Notice of Eligibility for Business Relocation Assistance](#)



- 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. (See Appendix 7 of HUD Handbook 1378 for a sample of this notice.)
- A general description of relocation assistance payments they could receive, the eligibility requirements for these payments, and the procedures involved. The HUD Information Booklet, Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms (HUD 1043-CPD) includes this general information and should be given to the business.
- Information that they will receive reasonable relocation advisory services to help locate a replacement site, including help to complete claim forms;
- Information that they will not be required to move without at least 90 days' advance written notice; and
- A description of the appeal process available to businesses.

[Handbook 1378, Chapter 7, Paragraph 7-7](#)

[Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms](#)

If a business must be displaced, a tailored Notice of Relocation Eligibility (NOE) must be provided as soon as possible after the Initiation of Negotiations (ION). This Notice should:

- Inform the business of the effective date of their eligibility.
- Describe the assistance available and procedures.
- If necessary, a 90-day Notice to Move may be sent after the initiation of negotiations.

The business must be told as soon as possible that they are required to:

- Allow inspections of both the current and replacement sites by the Grantee's representatives, under reasonable terms and conditions;
- Keep the Grantee informed of their plans and schedules;
- Notify the Grantee of the date and time they plan to move (unless this requirement is waived); and
- Provide the Grantee with a list of the property to be moved or sold.

[Handbook 1378, Chapter 4, Paragraphs 4-7](#)



Grantees need to be aware of when a property will be vacated. In many situations, the Grantee must be on-site during a business move to provide technical assistance and represent the Grantee's interests. In accordance with state law, any property not sold, traded or moved by the business becomes the property of the Grantee. To be certain that the move takes place at a reasonable cost, an inventory containing a detailed itemization of personal property to be moved should be prepared and provided to the Grantee. The Grantee should verify this inventory and use it as a basis of comparison with bids or estimates and eventual requests for payment.

Reimbursement of Actual Moving Expenses

Any displaced business is eligible for reimbursement of reasonable, necessary actual moving expenses.

[Handbook 1378, Chapter 4, Paragraphs 4-2 and 4-3](#)

- Only businesses that choose actual moving expenses—versus a fixed payment—are eligible for a reestablishment expense payment.
- Grantees should not place additional hardships on businesses, but they can limit the amount of payment for actual moving expenses based on a least-cost approach.
- Businesses may choose to use the services of a professional mover or perform a self-move. Eligible expenses include:
 - Transportation of personal property;
 - Packing, crating, uncrating, unpacking of personal property;
 - Disconnecting, dismantling, removing, reassembling, and reinstalling machinery, equipment, and personal property;
 - Storage of personal property;
 - Insurance for replacement value of personal property in connection with the move and/or storage;
 - Any license, permit or certification required at the new location;
 - Professional services to plan the move, move the personal property or install the personal property at the new location;

[Handbook 1378, Chapter 4, Paragraph 4-3](#)



- Provision of utility service from the Right of Way to the business;
- Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site).
- Impact fees or one-time heavy utility use assessments;
- Re-lettering signs and replacing existing stationery that are obsolete due to the displacement; and
- Reasonable costs incurred while attempting to sell items that will not be relocated.

A business is eligible for either a "Direct Loss" or "Substitute Equipment" payment if the displacee will leave or replace personal property. A business can accept either of these (but not both) for an item.

A "Direct Loss" payment can be made for personal property that will not be moved. Payments can also be made as a result of discontinuing the business of the nonprofit or farm. The business must make a good faith effort to sell the personal property (unless the Grantee determines it is unnecessary) in order to be eligible for a Direct Loss payment. A Direct Loss payment is based on the lesser of:

[49 CFR 24.301\(g\)\(14\)](#)

- The fair market value of the item for continued use at the displacement site, minus the proceeds from the sale, or
- The estimated cost to move the item, with no allowance for the following: storage, or reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business is discontinuing, the cost to move is based on a moving distance of 50 miles.

A "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.



Certain costs incurred while searching for a replacement location are also eligible. Businesses are entitled to reimbursement up to \$2,500. Grantees can pay more than this if they believe it is justified. Costs may include reasonable levels of such items as:

- Transportation;
- Meals and lodging away from home;
- Time spent while searching, based on a reasonable pay salary or earnings; and
- Fees paid to a real estate agent or broker while searching for the site. (Note that commissions related to the purchase are not eligible costs.)

The Grantee may pay other moving and related expenses that the Grantee determines are reasonable and necessary and are not listed as ineligible. Payment of other reasonable and necessary expenses may be limited by the Grantee to the amount determined to be least costly without causing the business undue hardship.

There may be instances where a person is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization. Eligible expenses for moving the personal property are listed above.

[49 CFR 24.301 \(e\)](#)

Businesses may have personal property that is considered low value, high bulk such as stock piled sand, gravel, minerals, metals or other similar items in stock. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the Grantee, the allowable moving cost payment shall not exceed the lesser of:

- The amount which would be received if the property were sold at the site; or
- The replacement cost of a comparable quantity delivered to the new businesses location.

See HUD Form 40055 for a sample claim form for moving and related expenses for businesses.

[Claim for Actual Reasonable Moving and Related Expenses - Non-Residential \(HUD Form 40055\)](#)



Reestablishment Expenses

Only certain small businesses are eligible for reestablishment expenses, up to \$25,000. "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.

Eligible items included in the \$25,000 maximum figure are:

- Repairs or improvements to the replacement site, as required by codes, or ordinances;
- Modifications to the replacement property to accommodate the business;
- Modifications to structures on the replacement property to make it suitable to conduct business;
- Construction and installation of exterior advertising signs;
- 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;
- Estimated increased costs of operation for the first two years at the replacement site for such items as:
 - Lease or rental charges,
 - Utility charges,
 - Personal or property taxes, and
 - Insurance premiums.
- Other reestablishment expenses as determined by the Grantee to be essential to reestablishment.

[Handbook 1378,
Chapter 4, Paragraph
4-6 and 4-7](#)

[42 U.S.C. 4622\(a\)\(4\)](#)



Ineligible Expenses

The following are ineligible for payment as an actual moving expense, as a reestablishment expense, or as an "other reasonable and necessary expense":

[49 CFR 24.301\(h\)](#)

[49 CFR 24.304\(b\)](#)

- Loss of goodwill;
- Loss of profits;
- 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 the Grantee;
- 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 "reestablishment expenses."

Fixed Payments

A displaced business may select a fixed payment instead of actual moving expenses (which include reestablishment expenses) if the Grantee determines that the displacee meets the following eligibility criteria:

[Handbook 1378,
Chapter 4, Paragraph
4-7](#)

[49 CFR 24.305](#)

- The nature of the business cannot solely be for the purpose of renting the site/property to others.



- The business discontinues operations or it will lose a substantial portion of its business due to the move. (The latest regulations state that a business is presumed to meet this test unless the Grantee can demonstrate it is not "location sensitive".)
- The business is not part of an operation with more than three other entities that are not being acquired/displaced and:
 - The ownership is the same as the displaced business, and
 - The other locations are engaged in similar business 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 occurred (or the Grantee may select a more equitable period) the business or farm operation:
 - Had average gross earnings of at least \$5,000; or
 - Had average net earnings of at least \$1,000;
 - Contributed at least 33 1/3 percent (one-third) of the owner's or operator's average annual gross income from all sources;
 - If the Grantee determines that the application of these criteria would cause an inequity or hardship, it may waive these criteria.

The amount of the fixed payment is based upon the average annual net earnings for a two-year period of a business or farm operation.

Net earnings include any compensation obtained from the business that is paid to the owner, the owner's spouse, and dependents. Calculate net earnings before federal, state, and local income taxes for a two-year period. Divide this figure in half. The minimum payment is \$1,000; the maximum payment is \$40,000.

[Handbook 1378,](#)
[Chapter 4, Paragraph 4-7](#)
and
[42 U.S.C. 4622\(c\)](#)

The two-year period should be 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 payment 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.
- When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:
 - Shared equipment and premises, and
 - Substantially identical or inter-related business functions and financial affairs that are co-mingled, and
 - Entities that are identified to the public and their customers as one entity, and
 - The same person or related persons own, control, or manage the entities.

[49 CFR 24.305\(b\)](#)

Businesses must furnish Grantees with 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, and
- Other financial information accepted by the Grantee.

The HUD form "Claim for Fixed Payment in Lieu of Payment for Actual Reasonable Moving and Related Expenses" (HUD Form 40056) should be used to claim the fixed payment. If another form is used, it should provide the same information in at least the same level of detail (see HUD Form 40056).

[Claim for Fixed Payment in Lieu of Actual Moving and Related Expenses – Nonresidential \(HUD Form 40056\)](#)



Section 9.6 Relocation Assistance Requirements under Section 104(d)

The relocation requirements of Section 104(d) differ from URA requirements. The Grantee is required to provide certain relocation assistance to any lower-income person displaced as a direct result of (1) the demolition of any dwelling unit, or (2) the conversion of a low- and moderate-income dwelling unit to a use other than a low- and moderate-income dwelling in connection with an assisted activity. The rules implementing the Section 104(d) relocation requirements for the State CDBG program are found at 24 CFR 42.

[24 CFR 42 Subpart C](#)

Such 104(d) replacement housing payments are available only to low- or moderate-income households. In addition, Section 104(d) relocation assistance is not triggered for a project, but rather for a household within a specific unit. The benefit determination requires additional, multiple calculations to arrive at the relocation benefits paid. Appendix 7-1 to HUD Handbook 1378 summarizes the major differences between URA and Section 104(d) relocation assistance.

[Summary of Major Differences between 104\(d\) and URA Relocation Assistance](#)

Eligibility

To be eligible for Section 104(d) relocation assistance, a person must meet certain criteria. Under Section 104(d), a displaced person is a lower-income tenant who moves permanently, in connection with an assisted activity, as a direct result of conversion of a low- and moderate-income dwelling unit or demolition of any dwelling unit.

[24 CFR 42.305](#)

Amount of Assistance

Under Section 104(d), each displaced household is entitled to choose either assistance at URA levels (detailed earlier in the chapter) or the following relocation assistance:

- Advisory services (same as under URA) - Includes notices, information booklets, explanation of assistance, referrals to comparable housing and counseling.
 - In general, both 104(d) and the URA require that a General Information Notice, and a Notice of Non-displacement or a Notice of Eligibility for Relocation Assistance be provided.

[General Information Notices for Residential Tenants](#)
[Notice of Eligibility](#)



- The Notice of Non-displacement informs residential occupants who will remain in the project area after completion of the assisted activity of their rights and of the terms and conditions of their remaining in the property. [Notice of Non-Displacement](#)

- The Notice of Eligibility for Relocation Assistance informs residential occupants who will be displaced of their rights and levels of assistance under 104(d). Note that the availability of Section 8 assistance to a displaced person will reduce the level of replacement housing payment provided. See details provided below.

- Payment for moving and related expenses (the same as under URA). Payment for actual reasonable moving and related expenses or a moving expense and dislocation allowance based on a schedule that is available on the HUD website. Also, see HUD Form 40054 for the claim form to use for moving costs and related expenses. [Fixed Residential Moving Cost Schedule](#)

- Security Deposits (not required under URA) - The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit.

- Credit checks (not required under URA) - Required to rent or purchase the replacement dwelling unit (also eligible under URA).

- Interim living costs (same as for URA) - The person shall be reimbursed for actual reasonable out-of-pocket costs incurred in connection with temporary relocation, including moving expenses and increased housing costs if the person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public.

- Replacement Housing Assistance: The 104(d) replacement housing payment is intended to provide affordable housing for a 60-month period. There is no cap on the 104(d) replacement housing payment. As with URA, the 104(d) payment is calculated using the cost of the tenant's actual, decent, safe and sanitary replacement dwelling (including utilities) or a comparable replacement dwelling.

- The replacement housing payment makes up (for a 60-month period, not 42 months as in URA) the difference between:
 - The rent and utility costs for the actual replacement dwelling (or comparable), and



- The tenant's Total Tenant Payment, calculated as the greater of either:
 - ✓ Thirty percent of adjusted income;
 - ✓ ten percent of gross income;
 - ✓ the welfare rent (see 24 CFR 5.628(a)(3)); and
 - ✓ minimum rent in accordance with 24 CFR 5.630.

[24 CFR 5.628\(a\)\(3\)](#)

[24 CFR 5.630](#)

NOTE: The amount of the rent at the displacement unit is NOT used in calculating the RHP under 104(d).

Persons eligible for assistance under Section 104(d) are also eligible for URA assistance. In order for such persons to make an informed decision, Grantees must determine and inform the person of the amount of replacement housing assistance available under Section 104(d) housing assistance and available under the URA.

The Grantee has the option to offer all or a portion of this 104(d) rental assistance through a Section 8 Housing Choice Voucher, if the Grantee has access to a Voucher and provides referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Existing Housing Program.

If a person then refuses Section 8 assistance, the Grantee has satisfied the Section 104(d) replacement housing assistance requirements. In such case, the displaced person may seek URA replacement housing assistance.

Cash rental assistance must be provided in installments, unless the tenant wishes to purchase a home. If the displaced tenant wishes to purchase a home, the payment must be provided in a lump sum so that the funds can be used for a down payment, including incidental expenses. The amount of cash rental assistance to be provided is based on a one-time calculation. The payment is not adjusted to reflect subsequent changes in a person's income, rent/utility costs, or household size. (Note: This guidance is also applicable under the URA.) Use HUD Form 40072 to calculate and document replacement housing payments made under Section 104(d) benefits.

[Claim for Rental or Purchase Assistance Section 104\(d\) \(HUD Form 40072\)](#)

Under Section 104(d), only housing cooperatives or mutual housing are eligible forms of ownership for down payment assistance. If someone eligible for Section 104(d) wants to purchase another form of homeownership with the replacement housing benefits, they must accept URA relocation benefits instead of Section 104(d).



Total Tenant Payment (TTP)

Under the URA, a displaced person's gross monthly income and old rent are used to calculate the replacement housing payment. However, under Section 104(d), the Total Tenant Payment (TTP) is used to establish the amount of replacement housing assistance.

[Handbook 1378, Chapter 7, Paragraphs 7-8 and 7-10](#)

Under Section 104(d), a displaced person is eligible for financial assistance sufficient to reduce the monthly rent and estimated average monthly utility costs for a replacement dwelling to the Total Tenant Payment (TTP).

To verify income in determining eligibility for assistance, a person must sign a release authorizing any financial institution or source of income to furnish the Grantee with income information. In order of acceptability, the three methods of verifying a person's income are:

- Third party written or oral verification. Such written verification/documentation should not be transmitted through the displaced person to the Grantee.
- Review of documents, when third party verification is unavailable. Documents may include items such as pay stubs, government benefits statements like social security, and income tax returns provided they are updated to project income.
- Notarized self-certification, unless the Grantee determines notarization is unnecessary.

Caution: The method of verifying income for the purposes of determining eligibility for housing assistance ([Chapter 2: National Objectives and Eligible Activities](#)) varies from what is described above.

Section 9.7 Appeals

The Grantee must develop a written and documented appeals procedure. A sample has been provided as Appendix 4-7.

Appeals

Grantees must promptly review all appeals in accordance with the requirements of applicable laws and the URA. Grantees must develop written procedures to resolve disputes relating to their acquisition,

[49 CFR 24.10](#)



relocation, and demolition activities. These written procedures must be communicated to all potentially affected parties prior to the initiation of negotiations.

Who May Appeal

Any person, family, or business directly affected by the acquisition and/or relocation activities undertaken by a Grantee may appeal. All appeals must be in writing and must be directed to the Authorized Official of the Grantee and the highest official of the administering agency undertaking the acquisition, relocation or demolition activity.

[Appendix 4-7:
Sample Grievance
Procedures](#)

A protestor must exhaust all administrative remedies as outlined in the Grantee's written procedures prior to pursuing judicial review.

Basis for Appeals

Any person, family, or business that feels that the Grantee failed to properly consider his or her written request for financial or other assistance must file a written appeal with the agency personnel identified within 60 days of the date of receipt of the administering agency's written determination denying assistance.

Review of Appeals

The Grantee shall designate a Review Officer to hear the appeal. The administrative officer of the municipality or his/her designee provided neither was directly involved in the activity for which the appeal was filed. The Grantee shall consider all pertinent justification and other material submitted by the person and all other available information that is needed to ensure a fair and full review of the appeal.

[49 CFR
24.10\(e\)\(f\)\(g\)\(h\)](#)

Promptly after receipt of all information submitted by a person in support of an appeal, the Grantee shall make a written determination on the appeal, including an explanation of the basis on which the decision was made and notify the person appealing a Grantee's decision.

If the appeal is denied, the Grantee must advise the person of his or her right to seek judicial review of the Grantee's decision.

Appendix 4-7 contains sample procedures that can be used by the Grantee to address potential complaints or appeals for decisions about URA and related laws. See [Chapter 4: Grantee Requirements](#).