# Chapter 14
## Acquisition and Relocation

## Policy Changes or Updates Table

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<tr>
<th>ACTION</th>
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<th>CHANGE #</th>
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<th>SUMMARY OF ACTION</th>
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<tr>
<td>Approval</td>
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<td>Entire document</td>
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<td>Update</td>
<td>1.1</td>
<td>1</td>
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<td>Added ER requirement for Water and Wastewater projects related to Acquisition.</td>
<td>7/15/2022</td>
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## State of Missouri CDBG Policy Statement

### In Effect for Annual Grants:

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<th>Year</th>
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<td>2020</td>
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<td>2021</td>
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### In Effect for DR/MIT Grants:

- DR-4317 B-18-DP-29-0001
- DR-MIT B-18-DP-29-0002
- DR-4451 B-19-DF-29-0001
PART ONE: ACQUISITION

14.1 INTRODUCTION

The Uniform Act (UA) applies to displacement that results from acquisition, demolition, or rehabilitation for 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 undertaken). Subrecipients must assure they have taken all reasonable steps to minimize the displacement of persons (defined as families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted with CDBG funds.

The following is the governing guidance that covers relocation and acquisition in HUD Programs: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, regulations can be found at 49 CFR 24 (revised 2005); Section 104(d) of the Housing and Community Development Act of 1974; CDBG Program Regulations at 24 CFR 570.488, 24 CFR 570.606 (Subpart K); and Section 414 of the Stafford Act. HUD Handbook 1378 provides HUD policy and guidance on implementing the UA and 49 CFR Part 24 for HUD funded programs and projects. Additionally, Federal Register Notices covering supplemental appropriations for disaster recovery may contain waivers and alternative requirements.

NOTE ENVIRONMENTAL REVIEW COMPLIANCE: No project related acquisition may occur after the date of the pre-application public hearing until the Environmental Review process is completed and DED has issued an "Authority to Use Grant Funds".

Proposals submitted to the Missouri Water/Wastewater Review Committee are also subject to the CDBG environmental review requirements. Acquisitions may not occur after a proposal has been submitted to the MWWRC unless CDBG’s ER process has been completed, and a pre-grant approval has been issued by DED.

14.2 OVERVIEW

14.2.1 The Uniform Act was passed to achieve the following public policy objectives:

1) Encourage and expedite the acquisition of real property by amicable agreements between Subrecipients and property owners;

2) Avoid litigation and relieve congestion in the courts;

3) Assure consistent treatment for property owners in Federal programs; and,

4) Promote public confidence in Federal land acquisition practices.

14.2.2 Relocation Assistance

The intent of the Act is to establish a uniform policy for fair and equitable treatment of persons that are displaced as a result of "federally-assisted" program. Relocation assistance must be provided as specified in the applicable provisions of the Uniform
Act; or, if applicable, under Section 104(d) of the Housing and Community Development Act.

**14.2.3 When does the Uniform Act Apply to Your Project Acquisitions?**

Property acquisition under the UA begins with the Subrecipient’s formal decision to acquire a specific property or properties for a CDBG-funded project. Compliance with the UA is required because anytime CDBG funds are used in a project it causes the project to be deemed a federally assisted project. As such, the Subrecipient’s project acquisition activities becomes subject to the requirements of Uniform Act, at 49 CFR 24, as amended. Typically, the acquisition and relocation regulations of the Uniform Act are applicable to a project from the date of the Subrecipient’s pre-application public hearing. At the public hearing, the applicant publicly announces their intent to submit an application for CDBG funds for their proposed project to DED.

The UA applies to the following four types of project acquisitions: permanent and temporary easements necessary for the project; a parcel of land; a long-term lease of 50-years or more; and right-of-ways. Determine the type of acquisition(s) that are necessary for your project with your project’s engineer or architect. Then, acquire the property in compliance with the requirements of the Uniform Act. The Uniform Act applies even when property is donated.

**14.3 DEFINITIONS**

**14.3.1 Persons Considered Displaced**

Displacement occurs when a “person” (family, individual, business, nonprofit organization or farm) moves as a direct result of a CDBG-assisted acquisition, demolition, or rehabilitation project.

Direct result includes the following:

A. After notice by the Subrecipient to move permanently from the property, if the move occurs after the initial official submission to the State for grant, loan, or loan guarantee funds that are later provided or granted;

B. After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity;

C. Before the date described above, if either HUD or the Subrecipient (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity;

D. After the initiation of negotiations if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:

1. The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon completion of the project, including a monthly rent that does not exceed the greater of the tenant’s monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household’s average monthly gross income; or
2. The tenant is required to relocated temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or

3. The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

14.3.2 Persons Not Considered Displaced

A. A person with a court ordered eviction for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the Subrecipient (or State, as applicable) must determine the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

B. A person who moves in the property after the date of the notice described in paragraph (B) in the section above, but who received a written notice of the expected displacement before occupancy;

C. An owner-occupant of the property who moves as a result of voluntary acquisition or as a result of voluntary rehabilitation or demolition. Note that the tenant of such a structure would be eligible for relocation benefits.

D. A person who the Subrecipient (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination;

E. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy a binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.

14.3.3 Involuntary vs. Voluntary Acquisitions

The involuntary procedures of the UA apply when a Subrecipient decides that it will ultimately use their power of eminent domain to acquire the land or easement should the Uniform Act acquisition process fail. The acquiring agency must determine if acquisition will be voluntary or involuntary before starting the process. Once the Subrecipient decides on a voluntary acquisition, the use of eminent domain is no longer an option.

For involuntary acquisition, a Subrecipient must follow all steps of Subpart B of the Uniform Act to complete acquisitions that are determined to be necessary for the
implementation of the Subrecipient’s CDBG project. The acquisition process is detailed on pages 6-11 of this chapter.

Please note that if acquisition and/or relocation activities are part of your CDBG project, the property owner of the land, easement, or structure being acquired must be informed of their UA rights. A property owner must be provided a preliminary acquisition notice letter and the HUD acquisition brochure or, if applicable, the DED/CDBG Easement brochure.

If the right of eminent domain will not be used or does not exist, the acquisition is voluntary. In the event the acquisition negotiation with the property owner(s) is unsuccessful, the Subrecipient will end the acquisition process. Subrecipients are required to follow two basic procedures of the Uniform Act. Refer to the chart in the appendix titled “General UA Acquisition Process”. Subrecipients must provide a written acquisition notice and provide a written offer letter. In the acquisition notice and offer letter, the Subrecipient must inform the property owner that either they do not have eminent domain authority; or that they have eminent domain authority, but will not use it. In the offer letter, the Subrecipient must provide the property owner the amount of the market value based on an opinion or on an appraisal. Refer to the sample HUD voluntary acquisition letters in the appendix to this chapter.

Please Note the Following:
Sample acquisition and relocation notices, brochures, and other applicable documents are provided on the CDBG website at: https://ded.mo.gov/content/community-development-block-grants
Sample Acquisition and Relocation documents may be found at the HUD website: www.hud.gov/relocation

The Uniform Act does NOT apply to temporary easements that are exclusively for the benefit of the property owner; that is, one that is “not necessary” for or not directly related to the project. The UA is also not applicable when the acquired property is from a government agency and the acquiring Subrecipient does not have the power of eminent domain.

14.4 GENERAL PROPERTY ACQUISITION REQUIREMENTS AND PROCEDURES

14.4.1 Acquisition Procedure
Property acquisition under the Uniform Act (UA) is a sequential process that begins with the Subrecipient’s decision to acquire a specific property or easement for a project funded in part or in whole with CDBG funds. All project acquisitions made after the applicant’s (application) public hearing date are subject to either the voluntary procedures of the Uniform Act or to the involuntary Subpart B procedures of the Uniform Act, regardless of the source of funding for the acquisition activities. The typical acquisition process under Subpart B of the UA is itemized below:
1) **Determine the specific acquisitions that are necessary for your CDBG project:**
Review each of the project activities with the grant administrator, engineer/architect, Subrecipient’s staff, and the council or commission to determine the specific properties that must be obtained for your project. Acquisition deemed necessary for project implementation may include: a parcel of land for a water tower or for a sewer treatment site; land and/or a building for a community center; permanent or temporary easements for water or sewer line activities; a long term lease (50 years or more); or, right-of-way for a street or a rail spur for an industrial park project. A purchase or a donation of property or an easement is considered an acquisition under the Uniform Act.

2) **Determine the Owner(s) of the Property:** Obtain documentation of ownership of the properties that must be acquired for the project, which are the deed and the legal description of the property from the Office of the County Recorder of Deeds. Review the deed and legal description of the property to determine if there are any existing easements or liens. NOTE: CDBG funds may not be used to remove liens or to perfect the owner’s title. Title defects must be cleared by and at the expense of the property owner(s), or with non-CDBG funds.

3) **Notice:** Provide a Preliminary Acquisition Notice and HUD Brochure to the Owner(s): For full fee simple title, long term lease, and right-of-way acquisition, provide the owner with a preliminary acquisition notice letter, and the HUD brochure, “When a Public Agency Acquires Your Property”. The letter, inclusive of the HUD Brochure, must be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered the signature of the property owner and the date it was received is required to document receipt. Copies of the Subrecipient’s preliminary acquisition notice and all other acquisition letters and compliance records should be maintained in individual files established under the name of each property owner who donated or sold their property for the project. A sample preliminary acquisition notice is provided in the appendix and online.

For permanent and temporary easement acquisitions, provide the owner with the DED/CDBG easement brochure. The brochure is the Subrecipient’s formal notice to inform the easement owners of their rights under the Uniform Act. The brochure must also be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered, the signature of the property owner and date received are required to be in their individual acquisition file. Copies of this combination notice/brochure and all other related acquisition records should be maintained in separate files established for each individual property owner. The DED/CDBG easement brochure must be provided to each property owner even if acquisition activities are paid with funds from another agency, private or local match. The DED/CDBG Easement brochure may be found in the appendix of this chapter.

4) **Determine Just Compensation with Appraisals or Valuation**

   Appraisals and Review Appraisals
The Uniform Act requires both an appraisal and a review appraisal when the value of the property or easement exceeds $10,000. The Subrecipient must procure both a licensed Missouri appraiser and a review appraiser in accordance with the CDBG competitive proposal method. For a listing of licensed appraisers, you may contact the Missouri Real Estate Appraisers Commission at: 573-751-0038; or online at: http://pr.mo.gov/appraisers.asp

No appraiser shall have an interest in the property to be acquired. A professional service contract that includes the requisite civil rights provisions in Appendix 1 of the CDBG Contract Management Chapter must be executed with both the project’s appraiser and review appraiser. A sample HUD appraisal contract is available upon request from DED; however, DED recommends the use of the standard appraisal contract used by licensed Missouri appraisers.

The Uniform Act requires the Subrecipient or their appraiser to invite the property owner to accompany her/him during the appraisal inspection of their property. The Act also requires that the appraiser not consider race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of the property. The appraiser shall disregard any decrease or increase in fair market value of the real property caused by the project to the extent permitted by applicable state law.

Both the appraisal and review appraisal must be maintained by the Subrecipient in the acquisition file for each individual property owner. Under RSMO 339.535, State certified real estate appraisers and state licensed appraisers shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the appraisal standards board of the appraisal foundation. Therefore, an appraisal & review appraisal must meet the USPAP standards, under Missouri law.

A licensed Missouri appraiser, independent of the first appraiser, must do the review appraisal. The review appraiser and the original property appraiser cannot be from the same firm. The review appraisal must be written, and should focus on the adequacy of the first appraiser’s supporting data, methodology, and the soundness of the first appraiser’s opinion of fair market value based on that information. The review appraisal is only a review and not a second full appraisal. The review appraiser should also provide a recommendation as to the fair market value of the property; this requirement should be stated in the scope of work for the RFP and their signed contract. If the review appraiser’s amount differs from the original appraisal, the Subrecipient must do one of the following: use the review appraiser’s recommended fair market value; secure an additional appraisal; or, have the original appraiser correct their appraisal to be consistent with the review appraiser’s report.

5) **Property Valued at $10,000 or less**

An appraisal and review appraisal may also be used to determine the value of properties valued at $10,000 or less, but they are not required under the UA. However, an official written determination of (opinion of) value is still required to be made in writing and placed in each property owner’s acquisition file. The
Subrecipient has to make a determination that an appraisal is unnecessary because the valuation is uncomplicated and the fair market value is estimated at $10,000 or less, based on a review of available data (Section 24.102c (2) (ii). Available data for example, may be the price per acre based of recent property sales of similar property in the area.

The determination must contain supporting information, made by a qualified person familiar with the local property market values. Use a license real estate agent, broker, or another independent appraiser to develop the written (opinion) determination of value. The determination of value must be placed in the project file of the property owner.

6) Donations

No provision of the Uniform Act (UA) regulation prevents a property owner, after being fully informed of their UA right of just compensation, from donating their property or easement to the Subrecipient for a CDBG-assisted project. The amount of compensation is based on a review of available data or an appraisal of the real property. The property owner must also be informed of their right to accompany the appraiser during the appraisal visit.

Because a property owner is entitled to just compensation under the Uniform Act, a donation should never be assumed; their willingness and intent to donate must be documented. A “Waiver of Just Compensation and Appraisal Rights” form should be prepared by the Subrecipient for the property owner’s signature after the property owner voluntarily agrees to donate their easement or parcel of land and/or building. The waiver should clearly state that the property owner understands that she/he cannot be required to donate the property or be required to sell the property to the Subrecipient at less than the amount of the appraised value. The waiver should clearly indicate that the owner voluntarily agrees to donate, and their intent to voluntarily release the Subrecipient of its UA obligation to determine a just compensation amount based upon an appraisal.

Because a property owner is entitled to an appraisal or a determination of value before making a decision to donate, it is incumbent on the Subrecipient to document that the owner is made aware of their appraisal right and elects to waive their right to an appraisal before obtaining the signed waiver. If they do not waive their appraisal right, use the sample form titled, “Waiver of Only Right of Just Compensation.” Both sample “waiver” forms may be found in the appendix of this chapter.

When the property is donated to the Subrecipient by the property owner, the Subrecipient is responsible for paying all costs and fees associated with the transfer of title and recording the property in the Subrecipient’s name. Under the Uniform Act process, a property owner must not incur any costs, unless that cost pertains to the perfection of the owner’s title. Documentation requirements include a waiver signed by each property owner stating they were made aware of their UA rights and intend to donate. The signed waiver must be kept by the Subrecipient in each property owner’s acquisition file. The Subrecipient must
keep records that a property owner was fully informed of their UA rights by
documenting their receipt of a DED/CDBG Project Easement Brochure, or the
preliminary acquisition notice and HUD brochure, “When a Public Agency
Acquires Your Property”. Promptly record the donated property with the
County’s Recorder of Deeds Office. Both brochures are in the appendix.

7) **Issue Written Offer and the Statement for the Basis of Just Compensation:** The
next step is for the Subrecipient to formally issue a written offer to the property
owner to purchase the property, inclusive of the written “Statement of the Basis
for the Offer of Just Compensation.” The offer cannot be less than the
Subrecipient’s official determination of market value, or the appraised value of
the property. The offer letter must specify the amount of the offer, a date on
which the negotiation for the sale of the property can begin, and should provide
for a reasonable response date by the property owner. For acquisition purposes,
14 - 30 days is considered reasonable per UA Appendix A, 24.102(f). The property
owner may accept the offer, reject the offer, or make a reasonable counter
offer by the response date. A sample offer letter may be found in the appendix.

8) **Negotiations Under the UA**

   **Successful Negotiated Settlement of the Offer:**

   If the initial offer is not accepted, the Subrecipient should negotiate for the sale
   of the property. The owner must be provided a reasonable opportunity to
   respond to the offer, and to make a counter offer based on information the
   owner presents as relevant to determining the market value of the property. If
   the Subrecipient accepts the counter offer, the Subrecipient must have written
documentation in its project files to show that the negotiated settlement amount
   was reasonable, prudent and in the public interest.

   When CDBG funds are used to pay the acquisition cost, the Subrecipient shall
   prepare a written justification to show that the available market information
   (e.g., appraisals, recent court awards, or estimated trial cost or condemnation
   hearing time and costs) supported the amount of the negotiated settlement
   inclusive of costs of the risk of trial, i.e., the time and legal costs of going through
   the condemnation process.

   Every attempt should be made to negotiate an amicable agreement with the
   owner. If it is believed that the cost of the condemnation proceeding or resulting
delays in project implementation would be greater than the additional amount
being requested by the property owner, the owner's proposed higher value or a
negotiated amount may be accepted, if it is a reasonable amount.

   **Unsuccessful Negotiation of the Offer:** Send a “final offer letter” to the property
   owner that includes a final response deadline. The letter must not be coercive
   and the response deadline must be reasonable, i.e., 14 – 30 days. If the property
   owner fails to respond by the deadline, the Subrecipient may exercise their
   statutory right of condemnation after the expiration of the response deadline
   that is stated in the final offer letter. Refer to final offer letter in the appendix.
NOTE: Coercive actions are prohibited: A Subrecipient must not take any coercive action against a property owner in order to induce an agreement for the price to be paid for their property.

Condemnation: The condemnation process can be more expensive than a negotiated price, and the Subrecipient is required to pay the amount established by the condemnation commissioners or by the court in a condemnation trial proceeding. For this reason, the Subrecipient must determine and fully document the reasonableness of the costs of proceeding to condemnation. If a Subrecipient decides to acquire the property through the condemnation process, it must follow the state’s condemnation process.

9) Transfer Title: Once an acquisition is successful or a condemnation proceeding is completed, the following tasks remain:

Record the transfer of ownership of the parcel or the easement to the Subrecipient. The deed, easement, or the applicable form of the specific type of acquisition must be promptly recorded at the office of the County Recorder of Deeds.

Pay recording fees and other incidental acquisition fees. The Subrecipient must pay for or reimburse the property owner for all reasonable costs incidental and associated with the transfer of title. These costs include, but are not limited to, recording fees, transfer taxes, evidence of title, and the legal description.

A Subrecipient is not responsible for costs required to perfect a property owner’s title.

14.5 RECORDKEEPING TO DOCUMENT UNIFORM ACT COMPLIANCE

14.5.1 Overview
It is important that the Subrecipient keep records sufficient to document compliance with the provisions of the Uniform Act. A recommended acquisition recordkeeping system is provided below. Every acquisition document, correspondence, or form required by the UA acquisition process must be found in each individual property owner’s project file for a CDBG project monitoring review. Always maintain a separate file for each property owner.

14.5.2 HUD’s Acquisition and Relocation Handbook 1378, 6-3 Recordkeeping Requirements
A Subrecipient must have the following acquisition documents in each property owner’s project file:

1) Identification of property owner(s) and their property, e.g., deed and contact information;

2) Documentation that the property owners were informed of their Uniform Act rights, e.g., acquisition notice and HUD brochure or DED/CDBG brochure;
3) Copy of appraisal and review appraisal;

4) Copy of written purchase offer and “statement of the basis for the determination of just compensation; and, documented date of delivery to property owner(s):

5) Copy of purchase contract;

6) Copy of closing statement, HUD-1 form, identifying incidental expenses; evidence that owner received net proceeds from sale, e.g., copy of cancelled check or wire payment;

7) Copy of recorded deed in name of Subrecipient;

8) Copy of any appeal or complaint and agency response;

9) Condemnation Commissioner’s Report or Condemnation Trial Judgement, if applicable.

ACQUISITION APPENDIX

13 Acquisition Process Under Uniform Act

14 General Uniform Act Acquisition Process – Voluntary vs Involuntary

DED website DED / CDBG Project Easement brochure
1. **PLAN PROJECT**
   - estimate costs and staffing needs
   - hold public hearings
   - decide on plan of action

2. **PROJECT APPROVED**
   - establish organization and train staff
   - establish mgmt control system and procedures for coordinating acquisition and relocation
   - establish recordkeeping procedures (par. 6-3)

3. **INFORM OWNER**
   - indicate interest in acquiring the property
   - indicate basic protections under law and general acquisition procedures (par. 5-2b)

4. **BASIC PREPARATION**
   - obtain preliminary title evidence
   - obtain boundary survey and legal description
   - obtain appraisal(s), include property analysis, if appropriate (owner invited to accompany appraiser) (par. 5-2c and 5-3)

5. **DETERMINE PURCHASE OFFER**
   - reviewer examines appraisal(s), seeks necessary corrections, and prepares statement explaining basis for action (par. 5-4)
   - establish just compensation (par. 5-2d)

6. **WORK WITH OWNER**
   - provide written purchase offer of just compensation to owner (par. 5-2d)
   - provide summary statement of basis for offer (par. 5-2e)
   - explain acquisition procedures (par. 5-2f)
   - negotiate price and other terms and conditions of sale (par. 5-2f)

7A. **CONCLUDE SUCCESSFUL NEGOTIATIONS**
   - ensure purchase agreement fully details terms and conditions

7B. **CONCLUDE UNSUCCESSFUL NEGOTIATIONS**
   - send final written offer
   - condemnation suit filed, estimate of just compensation deposited in court (par. 5-2f)

8A. **COMPLETE SETTLEMENT**
   - ensure owner executes deed
   - complete settlement cost statement detailing payment of purchase price and incidental expenses (par. 5-6)
   - pay net amount and obtain owner receipt (par. 5-2f)
   - record deed

8B. **COMPLETE CONDEMNATION**
   - court trial and award
   - pay deficiency judgment, if any, and incidental costs (par. 5-6)
   - record court order

9. **FOLLOW-UP**
   - execute lease covering period until relocation is completed (par. 5-2m)
   - obtain final title evidence (e.g., title insurance)
   - maintain records to demonstrate compliance with law and regulations (par. 6-3)
   - evaluate program, and improve procedures for future

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**Acquisition Process Under the URA**
## GENERAL URA ACQUISITION PROCESS
(Refer to 49 CFR 24 Subpart B for detailed acquisition requirements)

<table>
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<tr>
<th>VOLUNTARY ACQUISITIONS</th>
<th>INVOLUNTARY ACQUISITIONS</th>
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<tr>
<td><strong>49 CFR 24.101(b)(1)-(5)</strong></td>
<td><strong>49 CFR 24.101(a) &amp; (b)</strong></td>
</tr>
<tr>
<td>Determine if proposed acquisition satisfies criteria and requirements of 24.101(b)(1)-(5). If acquisition doesn’t meet criteria (e.g., is subject to threat or use of eminent domain), refer to involuntary acquisition process and comply with 49 CFR 24 Subpart B requirements.</td>
<td>Determine if proposed acquisition is subject to threat or use of eminent domain. If not subject to eminent domain, refer to voluntary acquisition process and comply with applicable requirements of 49 CFR 24.101(b)(1)-(5).</td>
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<tr>
<td><strong>24.101(b)(1)</strong> - Agencies with eminent domain authority but will not use: must meet all conditions of 24.101(b)(1)(i) – (iv). (see esp. 24.101(b)(1)(i) &amp; (ii))</td>
<td>* Notify owner of agency’s interest in acquiring property and protections under the Uniform Act (see 24.102(b)) (Optional: issue Notice of Intent to Acquire (see 24.203(d))</td>
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<tr>
<td>* Agency will not acquire property if negotiations fail, and owner is so informed in writing (see 24.101(b)(1)(iii))</td>
<td>* Appraise property and invite owner to accompany appraiser (see 24.102(c))</td>
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<td>* Agency informs owner in writing of property’s estimated market value (see 24.101(b)(iv))</td>
<td>* Review the appraisal (see 24.104)</td>
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<tr>
<td>* Owner/s &amp; owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(i))</td>
<td>* Establish estimate of just compensation for property (see 24.102(d))</td>
</tr>
<tr>
<td><strong>24.101(b)(2)</strong> – Agencies or persons without eminent domain authority:</td>
<td><strong>24.101(b)(2)</strong> – Agencies or persons without eminent domain authority:</td>
</tr>
<tr>
<td>* Prior to offer, inform owner unable to acquire if negotiations fail (see 24.101(b)(2)(i))</td>
<td>* Provide owner with written offer and summary statement for property (see 24.102(a))</td>
</tr>
<tr>
<td>* Inform owner of property’s estimated market value (see 24.101(b)(2)(ii))</td>
<td>* Negotiate with owner for purchase of property (see 24.102(f))</td>
</tr>
<tr>
<td>* Owner/s &amp; owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(ii))</td>
<td>* If negotiations successful, complete sale and reimburse property owner for related incidental expenses (see 24.106)</td>
</tr>
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<td><strong>24.101(b)(3)</strong> – Acquisition from a Federal agency, State, or State agency, if acquiring agency without eminent domain authority:</td>
<td>* If negotiations unsuccessful, consider an administrative settlement (see 24.102(i))</td>
</tr>
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<td>* Owner/s &amp; owner occupants not eligible for relocation assistance / displaced tenants may be eligible (see 24.2(a)(9)(i))</td>
<td>* Displaced persons eligible for relocation assistance (see 24.2(a)(9)(i))</td>
</tr>
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PART TWO: URA-BASED RELOCATION ASSISTANCE

14.6 INTRODUCTION
This chapter provides detailed guidance regarding relocation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) and Section 104(d), as well as one-for-one unit replacement requirements. It outlines the procedures that subrecipients should follow to ensure compliance with both the URA and 104(d). In addition, information is provided to calculate payments to displaced persons, to keep records, and comply with other relocation requirements that may be applicable to projects utilizing State of Missouri CDBG-DR funds.

14.7 OVERVIEW

14.7.1 Applicable Regulations
There are four major types of requirements that cover relocation (and acquisition) activities in CDBG programs:
- The URA regulations, effective February 2005 implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24);
- Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Part 570.496(a);
- 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.
- An over-riding principle in the CDBG program and the URA is that the subrecipient shall assure that it has taken all reasonable steps to minimize displacement in implementing activities.

TIP: HUD Handbook 1378 (recently updated) is a resource available for relocation information. It can be downloaded from HUD’s website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780
Subrecipients should also refer to the Department of Transportation’s Federal Highway Administration’s Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs. It may be downloaded from the Federal Highway Administration’s website at http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr4924a.htm

14.7.2 Overview of Requirements
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.

The Uniform Relocation Act (URA) protects all persons who are displaced by a federally-assisted project regardless of their income. However, Section 104(d) only protects low/moderate income persons (within 80% of the Area Median Income limit for their household size).

Section 104(d) requirements focus on the “loss” of low and moderate-income housing
rental units) in a community through CDBG-funded demolition or conversion. Section 104(d) has two distinct components:

- **People:** 104(d) specifies relocation assistance for displaced low- and moderate-income renter households.
- **Units:** 104(d) requires one-for-one replacement of low and moderate-income dwelling units (as defined by the regulations) that are demolished or converted using CDBG or HOME funds to a use other than low-moderate income permanent housing. More information can be found later in the chapter.

**14.7.3 CDBG-DR Waivers from 83 FR 5844 for DR-4317**

*One-for-One Replacement Housing, Relocation, and Real Property Acquisition Requirements.* Activities and projects undertaken with CDBG–DR funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601 et seq.) (“URA”) and section 104(d) of the HCD Act (42 U.S.C. 5304(d)) (Section 104(d)). The implementing regulations for the URA are at 49 CFR part 24. The regulations for section 104(d) are at 24 CFR part 42, subpart C. For the purpose of promoting the availability of decent, safe, and sanitary housing, HUD is waiving the following URA and Section 104(d) requirements with respect to the use of CDBG–DR funds allocated under this notice:

- **Section 104(d) one for one replacement.** One-for-one replacement requirements at section 104(d)(2)(A)(i) and (ii) and (d)(3) of the HCD Act and 24 CFR 42.375 are waived in connection with funds allocated under this notice for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation. The section 104(d) one-for-one replacement requirements generally apply to demolished or converted occupied and vacant occupiable lower-income dwelling units. This waiver exempts disaster-damaged units that meet the Grantees definition of “not suitable for rehabilitation” from the one-for-one replacement requirements. Before carrying out activities that may be subject to the one-for-one replacement requirements, the Subrecipient must define “not suitable for rehabilitation” in its action plan or in policies/procedures governing these activities. A Subrecipient with questions about the one-for-one replacement requirements is encouraged to contact the HUD regional relocation specialist responsible for its jurisdiction. HUD is waiving the section 104(d) one-for-one replacement requirement for lower-income dwelling units that are damaged by the disaster and not suitable for rehabilitation because it does not account for the large, sudden changes that a major disaster may cause to the local housing stock, population, or economy. Further, the requirement may discourage Grantees from converting or demolishing disaster damaged housing when excessive costs would result from replacing all such units. Disaster-damaged housing structures that are not suitable for rehabilitation can pose a threat to public health and safety and to economic revitalization. Grantees should reassess post-disaster population and housing needs to determine the appropriate type and amount of lower-income dwelling units to rehabilitate and/or rebuild. Grantees should note that the demolition and/or disposition of PHA owned public housing units is covered by section 18 of the
United States Housing Act of 1937, as amended, and 24 CFR part 970.
• **Relocation assistance.** The relocation assistance requirements at section 104(d)(2)(A) of the HCD Act and 24 CFR 42.350 are waived to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by this notice, for activities related to disaster recovery. Without this waiver, disparities exist in relocation assistance associated with activities typically funded by HUD and FEMA (e.g., buyouts and relocation). Both FEMA and CDBG funds are subject to the requirements of the URA; however, CDBG funds are subject to section 104(d), while FEMA funds are not. The URA provides at 49 CFR 24.402(b) that a displaced person is eligible to receive a rental assistance payment that is calculated to cover a period of 42 months. By contrast, section 104(d) allows a lower-income displaced person to choose between the URA rental assistance payment and a rental assistance payment calculated over a period of 60 months. This waiver of the section 104(d) relocation assistance requirements assures uniform and equitable treatment by setting the URA and its implementing regulations as the sole standard for relocation assistance under this notice.

• **Tenant-based rental assistance.** The requirements of sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(vii), 24.2(a)(6)(ix), and 24.402(b) are waived to the extent necessary to permit a Subrecipient to meet all or a portion of a Grantees replacement housing payment obligation to a displaced tenant by offering rental housing through a tenant based rental assistance (TBRA) housing program subsidy (e.g., Section 8 rental voucher or certificate), provided that comparable replacement dwellings are made available to the tenant in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months. Failure to grant this waiver would impede disaster recovery whenever TBRA program subsidies are available but funds for cash replacement housing payments are limited and such payments are required by the URA to be based on a 42-month term.

• **Arm's length voluntary purchase.** The requirements at 49 CFR 24.101(b)(2)(i) and (ii) are waived to the extent that they apply to an arm’s length voluntary purchase carried out by a person who uses funds allocated under this notice and does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person. Given the often large-scale acquisition needs of Grantees, this waiver is necessary to reduce burdensome administrative requirements following a disaster. Grantees are reminded that tenants occupying real property acquired through voluntary purchase may be eligible for relocation assistance.

• **Optional relocation policies.** The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established at the Subrecipient level. Unlike the regular CDBG program, States may carry out disaster recovery activities directly or through Subrecipients, but 24 CFR 570.606(d) does not account for this distinction. This waiver makes clear that...
Grantees receiving CDBG–DR funds under this notice may establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies. This waiver is intended to provide States with maximum flexibility in developing optional relocation policies with CDBG–DR funds.

- **Waiver of Section 414 of the Stafford Act.** Section 414 of the Stafford Act (42 U.S.C. 5181) provides that “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) [42 U.S.C. 4601 et seq.] [''URA''] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA]''. Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project may become eligible for a replacement housing payment notwithstanding their inability to meet occupancy requirements prescribed in the URA. Section 414 of the Stafford Act (including its implementing regulation at 49 CFR 24.403(d) (1), is waived to the extent that it would apply to real property acquisition, rehabilitation or demolition of real property for a CDBG–DR funded project commencing more than one year after the Presidentially declared disaster undertaken by the Grantee, or subrecipients, provided that the project was not planned, approved, or otherwise underway prior to the disaster. The Department has surveyed other federal agencies’ interpretation and implementation of Section 414 and found varying views and strategies for long-term, post-disaster projects involving the acquisition, rehabilitation, or demolition of disaster-damaged housing. The Secretary has the authority to waive provisions of the Stafford Act and its implementing regulations that the Secretary administers in connection with the obligation of funds made available by this notice, or the Grantees use of these funds. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCD Act. (1) The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than one year after the date of the Presidentially declared disaster considering the majority of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence. (2) This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons’ eligibility for relocation assistance and payments under the URA is not impacted by this waiver.

14.7.4 CDBG-DR Waivers from 85 FR 4681 for DR-4451
IV.C.2. Clarification and Amendment on Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Federal Register notice published on February 19, 2019 (84 FR 4842) provided a waiver and alternative requirement of Section 414 for all Grantees receiving a grant for a major disaster occurring in 2015, 2016, and 2017. This waiver and alternative requirements allowed Grantees that received a grant(s) under Public Laws 114–113, 114–223, 114–254, and 115–31 to carry out its programs under the same Section 414 requirements as its grant(s) under Public Laws 115–56 or 115–123. To clarify this provision and extend the Section 414 waiver and alternative requirement to include Grantees under those older Public Laws that are now receiving a grant under the 2018 and 2019 Appropriations Acts for a major disaster in 2018 or 2019, HUD is amending paragraph IV.2 of the February 19, 2019 notice by replacing it in its entirety with the following: “2. Waiver of Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). Section 414 of the Stafford Act (42 U.S.C. 5181) provides that “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) [42 U.S.C. 4601 et seq.] [‘‘URA’’] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by [the URA].” Accordingly, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced, as a direct result of any acquisition, rehabilitation, or demolition of real property for a federally funded program or project, may become eligible for a replacement housing payment, notwithstanding their inability to meet occupancy requirements prescribed in the URA. Grantees that received a CDBG–DR grant for a major disaster in 2015, 2016, or 2017 under Public Laws 114–113, 114–223, 114–254, or 115–31, and a CDBG–DR grant for a 2017, 2018, or 2019 major disaster under Public Laws 115–56, 115–123, 115–254, or 116–20 are subject to different alternative requirements with respect to protections afforded to tenants and homeowners under Section 414 of the Stafford Act. To avoid the administrative burden of implementing two different URA alternative requirements, HUD is authorizing Grantees under Public Laws 114–113, 114–223, 114–254, and 115–31 that also received a CDBG–DR grant under Public Law 115–56, 115–123, 115–254, or 116–20 to either: (a) Continue to follow Section 414 of the Stafford Act (or any Subrecipient-specific alternative requirement previously authorized by HUD) for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG–DR grants; or (b) follow the waiver and alternative requirement described in the following paragraph for its Public Laws 114–113, 114–223, 114–254, and 115–31 CDBG–DR grants. The Grantees programs under the most recent Public Laws (Pub. L. 115–56, 115–123, 115–254, or 116–20) are already required to follow the waiver and alternative requirement defined below. If a Subrecipient chooses to follow option (b) above then it must identify this approach in its policies and procedures related to that particular activity, and consistently apply that option for all displaced persons affected by that activity. The waiver and alternative requirement is as follows: Section 414 of the Stafford Act (including its implementing regulation at 49 CFR 24.403(d)(1)), is waived to the extent that it would apply to real property acquisition, rehabilitation, or demolition of real property for a CDBG–DR funded project.
undertaken by the Subrecipient or subrecipient, commencing more than one (1) year after the Presidentially declared disaster, provided that the project was not planned, approved, or otherwise underway prior to the disaster. For purposes of this paragraph, a CDBG–DR funded project shall be determined to have commenced on the earliest of: (1) The date of an approved Release for Request of Funds (RROF) and certification, or (2) the date of completion of the site-specific review when a program utilizes tiered environmental reviews, or (3) the date of sign-off by the approving official when a project converts to exempt under 24 CFR 58.34(a)(12). The Secretary has the authority to waive provisions of the Stafford Act and its implementing regulations that the Secretary administers in connection with the obligation of CDBG–DR funds covered under this waiver and alternative requirement, or the Grantees use of these funds. The Department has determined that good cause exists for a waiver and that such waiver is not inconsistent with the overall purposes of title I of the HCDA. The waiver will simplify the administration of the disaster recovery process and reduce the administrative burden associated with the implementation of Stafford Act Section 414 requirements for projects commencing more than one (1) year after the date of the Presidentially declared disaster, considering the majority of such persons displaced by the disaster will have returned to their dwellings or found another place of permanent residence. This waiver does not apply with respect to persons that meet the occupancy requirements to receive a replacement housing payment under the URA nor does it apply to persons displaced or relocated temporarily by other HUD-funded programs or projects. Such persons’ eligibility for relocation assistance and payments under the URA is not impacted by this waiver.’”

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

14.8.1 Persons Considered Displaced
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.
- The effective move date of the displaced person is based on whether:
  - If the Subrecipient has site control at the time the Subrecipient submits an application for State of Missouri CDBG funds for the project that is later approved, then the household is considered displaced on the submission date of the application; or
  - If the Subrecipient does not have site control when the application for State of Missouri CDBG funds, the effective date will be the date the Subrecipient 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 Nondisplacement after the application for State of Missouri CDBG funds is approved.

Even if there was no intent to displace the person, if a Notice of Nondisplacement 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 Subrecipient 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 Subrecipient 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 Subrecipient is responsible for finding the displaced tenant and providing appropriate relocation assistance, unless the Subrecipient 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 State of Missouri 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 the State of Missouri CDG project is complete, and the new rent exceeds 30% of the tenant’s gross monthly income, they would be “economically displaced.” Generally an increase in rent within the first year or the project is seen as related to the federally funded project and may trigger “economic displacement” benefits.

The URA also protects the following “displaced persons”:

- A tenant-occupant of a dwelling who receives a Notice of Nondisplacement 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 Nondisplacement, but moves permanently from the building комплекс, if the terms and conditions under which the tenant may remain are not reasonable.

It is expected that the Subrecipient 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 low- and moderate-income dwelling unit or the demolition of any dwelling unit, in connection with a State of Missouri CDBG-assisted activity.

14.8.2 Persons Not Considered Displaced
A person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:
• The person has no legal right to occupy the property under state or local law; or
• 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 Subrecipient determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; or
• The person moves into the property after the date of the application for State of Missouri CDBG funds and, before moving in, was provided 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 result of the project. See Attachment 5-1 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.
• 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. Subrecipients may not make this determination on their own. Contact DED for determination assistance.
• The person is an owner-occupant of the property who moves as a result of a
voluntary acquisition and received the voluntary acquisition notice. (Refer to Chapter 5 of HUD Handbook 1378.) (NOTE: Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)

- The person leaves due to code enforcement, unless the code enforcement results in rehabilitation or demolition for an assisted project. 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.
- 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.
- 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.

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 subrecipient 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 U.S.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.

14.8.3 Initiation of Negotiations
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 Nondisplacement. 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 subrecipient and the person owning or controlling the real property.
- If the displacement results from subrecipient demolition or rehabilitation and there is no related Subrecipient 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 subrecipient, 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 subrecipient and the owner.
- Whenever real property is acquired by a subrecipient that has the legal power under the Chapter 523 of Title 36 RSMo. and the acquisition is an involuntary transaction, the initiation of negotiations means the delivery of the initial written offer of just compensation by the subrecipient to the owner to purchase the real property for the project.

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.

14.8.4 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.

- 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.
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?

14.9 GENERAL RELOCATION REQUIREMENTS AND PROCEDURES UNDER THE 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 Chapter are 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 commercial 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 State of Missouri CDBG staff before proceeding with the acquisition or relocation of mobile homes.

Following the URA text, this chapter covers Section 104(d). A flow chart summarizing the relocation process can be found as Attachment 5-2 of this chapter.

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. Attachment 5-2 provides a typical relocation scenario in a flow chart indicating key dates in the process.

14.9.1 Planning for Relocation

If State of Missouri CDBG funds will involve relocation, the subrecipient must develop written policies and procedures for managing the anticipated relocation caseload in the form of a “relocation plan”, which is typically included as part of the subrecipient’s initial grant application to State of Missouri CDBG program.

Subrecipients are encouraged to contact State of Missouri CDBG program early in this process to consider the timing and project implications for projects potentially involving temporary or permanent relocation.

These procedures must be in compliance with all elements of the Final Rule implementing changes to the URA and the Residential Antidisplacement 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 subrecipient’s governing body.
• A sample of this plan is included as Attachment 5-3 of this chapter.

14.9.2 Advisory Services, Including Relocation Notices
The next step in the process is to provide relocation advisory services. This process requires the subrecipient 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.

Subrecipients should use Attachment 5-6: 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.

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

I. General Information Notice
The General Information Notice (GIN) is one of the required notices when there is involuntary acquisition. **This is a very important notice!**

As soon as feasible property owners should receive a GIN and copies of the GIN for each property included in the project should be included as a part of the grant application submission. The subrecipient must provide the GIN to notify each household and/or business that the potential for displacement exists, including potential acquisition of the property. Samples of the GIN are provided in Handbook 1378 as Appendix 2 and 3. 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 Subrecipient protects themselves from claims for relocation benefits that could have been avoided if the person would not have been displaced.

II. Notice of Eligibility and Notice of Nondisplacement
After grant approval, the subrecipient should determine who must be displaced and who will be allowed to remain in (or return to) the project. After making these determinations, the subrecipient should issue the appropriate relocation notices: either a Notice of Eligibility (for relocation assistance) or a Notice of Nondisplacement.
• The Notice of Eligibility informs occupants who will be displaced of their rights and levels of assistance under the URA.
• The Notice of Nondisplacement informs occupants who will remain in or return after completion of their rights under URA and of the terms and conditions of
their remaining in the property. (See Handbook 1378 Appendix 4 and 6 for samples of these notices.)

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 are available on the [HUD website](https://www.hud.gov). Note that these two brochures are for residential relocation only. There are different requirements for relocation of businesses, farms, and nonprofit organizations. Contact State of Missouri CDBG for guidance on non-residential relocation.

### III. Notice to Move

The subrecipient may issue a 90-Day Move Notice after a Notice of Eligibility has been sent and when the subrecipient wants to establish the move-out date (see Attachment 5-19). The 90-Day Notice must not be issued until at least one comparable unit has been identified and presented to the residential displaced person.

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 Attachment 5-20 of this chapter.

### IV. Discrimination in Relocation

Subrecipients must ensure that there is no discrimination in the relocation process. Displaced persons 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 subrecipient must provide assistance in cases of discrimination. There are also different equal opportunity protections for businesses and additional protections for Fair Housing for displaced persons.

If a displaced person has been discriminated against, there are two alternatives:

- The displaced person can send a complaint to State of Missouri CDBG within 180 days of the incident, simply telling State of Missouri CDBG what happened. The CDBG and subrecipient should advise the displaced person of this option and assist in preparing the complaint if the displaced person desires to make one. Upon receipt of the complaint, State of Missouri CDBG may take one or more of the following steps:
  - Investigate to see if the law has been broken;
  - Contact the person accused of the violation and try to resolve the discrimination complaint;
  - Refer the complaint to a local human rights commission for investigation and possible resolution and/or the Missouri Human Rights Commission (phone number 573-751-3325).
  - Recommend that the displaced person go to court.

- A suit may be filed in federal court, in which case the displaced person should consult either an attorney for assistance. The State of Missouri CDBG staff should
advise the displaced person regarding sources of help. If the court finds in favor of the displaced person, it can stop the sale of the house or the rental of the apartment to someone else, and award the displaced person damages and court costs.

14.10 RESIDENTIAL DISPLACEMENT UNDER THE 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.

14.10.1 Advisory Services for Displaced Households
The subrecipient should work with the household that will be displaced throughout the process to ensure the household is provided appropriate and required advisory services.

- Subrecipients must provide counseling and appropriate referrals to social service agencies, when appropriate.
- Subrecipients 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 displaced person 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 subrecipient 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.)

14.10.2 Comparable Replacement Dwelling Units
The subrecipient must make referrals to the replacement housing units (comparables) for displaced residential households. It is also recommended that the subrecipient inspect the comparables to determine if they are in decent, safe and sanitary condition, as defined at 49 CFR § 24.2(a)(68), (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 displaced person. However, State of Missouri CDBG requires the subrecipient to notify State of Missouri CDBG staff and document the case file if three comparable dwellings are not identified.
- A comparable replacement dwelling means a dwelling which it 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 subrecipient 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. (For example, a 7-member household living in a two bedroom unit must be offered a unit which complies with local occupancy codes);
- 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 subrecipient 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.

Subrecipients must use HUD Form 52580 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.

HUD Form 40061 must be used to identify the most representative comparable replacement dwelling units for purposes of computing a replacement housing payment. The subrecipient should then provide the potentially displaced household with a Notice of Eligibility for Relocation Assistance, Handbook 1378, Appendix 6. The notice must identify the cost and location of the comparable replacement dwelling(s).

14.10.3 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).

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

The revised regulations do not allow a Subrecipient 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. Subrecipients are encouraged to contact State of Missouri CDBG staff if this situation is likely to occur.

14.10.4 Replacement Housing Payments for 90-Day Homeowners
Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home ("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 and will be displaced using involuntary acquisition, 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 by the subrecipient using voluntary acquisition requirements, they are not eligible for relocation benefits under the URA.

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

To calculate the replacement housing payment for a 90-day homeowner, subrecipients must use the HUD Claim Form 40057. If an owner elects to become a renter, the RHP can be no more than the amount they would otherwise have received as an owner. The maximum payment is $31,000. The displaced homeowner must purchase and occupy the replacement unit in order to qualify for a RHP as a displaced owner-occupant of 90 days.

14.10.5 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 purchase agreement.

The replacement housing payment is intended to provide affordable housing for a 42-month period. Although the URA regulations establish a $7,200 limitation on rental assistance payments, it also requires that persons receive the calculated payment under replacement “Housing of Last Resort.” Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed $7,200. See Section 8-G Relocation Requirements under Section 104(d) to determine if applicable to your project.

For all tenants, the replacement housing payment makes up (for a 42-month period) the difference between:
- The lesser of rent and estimated utility costs at the replacement dwelling or
comparable unit; and

• The lesser of:
  o Thirty percent of the tenant’s average monthly gross household income (if the household is classified as low income—within 80% Area Median Income—using HUD’s income limits), or
  o The monthly rent and estimated average utility costs of the displacement dwelling.

URA 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 single lump sum, to be placed in escrow at the displaced person’s closing/title company, 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. The subrecipient must use the HUD Claim Form 40058 for rental assistance or down payment assistance.

I. Housing of Last Resort

When undertaking relocation activities, subrecipients must be sure to provide a comparable replacement dwelling in a timely manner. If the subrecipient cannot identify comparable replacement housing, they must seek other means of assisting displaced persons 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 or when the replacement housing payment for a comparable unit exceeds the $7,200 limit. Subrecipients should contact State of Missouri CDBG staff to confer on how to proceed.

The Last Resort sections of the URA require subrecipients 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 regulatory limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the disabled in a replacement dwelling.

The Replacement housing payment for 90-day occupants is limited for rental housing assistance not to exceed $7,200. During the development of the relocation plan, whenever it has been determined that comparable replacement housing is not available within the monetary means for displaced households or occupants, the program must provide additional alternative assistance under the housing of last resort provisions. Use of last resort housing is required where an owner-occupant or tenant cannot otherwise be appropriately housed within the monetary limits. Specifically housing of last resort can be provided in several methods:

• Replacement Housing Assistance – assistance exceeds the maximum assistance found at 49 CFR Part 401(b) or 402(a) for replacement housing payment
• Other Last Resort Housing – construction of new housing or rehabilitation of
existing housing to provide comparable, replacement dwelling units

- Option of Displaced Person – displaced household accepts alternative housing assistance, such as housing voucher or a project-based rental subsidy (if available)

If the subrecipient makes the determination that, based on comparable, available dwelling units, relocation assistance will be provided under this Section 5.5.5, the files will need to provide a detailed discussion of the available options existing within the market and make the case for why Housing of Last Resort is required. This determination may be on a case by case basis or determined on a project-wide basis. A determination of Last Resort assistance will need to be reviewed and approved by State of Missouri CDBG staff.

II. Early Movers: Relocation Prior to Notice of Eligibility

Some displaced persons will not wait for the subrecipient 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 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 subrecipient immediately send the Notice of Eligibility or Nondisplacement. If these notices are not sent in a timely or complete manner and the household moves out, State of Missouri CDBG or 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.

III. 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 subrecipient was not timely in the delivery of the required URA notices, the subrecipient may try to upgrade the unit to the decent, safe and sanitary standard. Alternately, the subrecipient may offer the household the opportunity to move to a decent, safe and sanitary unit and the subrecipient must pay for that move.

In the event the subrecipient was timely in the delivery of the Notice of Eligibility but the household moved anyway to a substandard unit, the subrecipient must inform the displaced individual that if they remain in a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments. The subrecipient must also inform the displaced person 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.

14.10.6 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 subrecipient 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 Missouri.

The updated regulations at 49 CFR 24.301(b) clarified that subrecipients cannot allow residential self-moves based on the lower of two bids. If reimbursement of actual expenses for a self-move is chosen, the Subrecipient must determine that the expenses are reasonable and necessary, based on Chapter 5: Cost Reasonableness, and include only eligible expenses, which are:

- Transportation of the displaced person and personal property. (This may include reimbursement at the current State of Missouri 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.
- Credit checks.
- Utility hook-ups, including reinstallation of telephone and cable service.
- Other costs as determined by State of Missouri CDBG staff to be reasonable and necessary.

The following is a non-exhaustive list of 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 apply:
- 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.
- This payment is determined according to the applicable schedule published by
  FHWA. The most current schedule was published in 2015.
- 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 subrecipient may increase the payment accordingly
  (i.e., count it as two rooms) with approval from State of Missouri CDBG staff.

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.

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

14.11 TEMPORARY RELOCATION
Subrecipients administering housing rehabilitation programs should establish written
policies for temporary relocation of both owner-occupants and tenants as part of their
Residential Antidisplacement and Relocation Plan.

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”.

14.11.1 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.

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
- 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 chapter apply.

TIP: Elderly residents living in units undergoing lead hazard reduction activities may waive the requirement to relocate but only if the Subrecipient obtains a written and signed waiver.

The lead rule further requires that temporary dwellings not have lead-based paint hazards. Therefore, subrecipients 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.

14.11.2 Temporary Relocation of Owner-Occupants in Rehabilitation Projects
An owner-occupant who participates in a CDBG Subrecipient’s housing rehabilitation program is considered a voluntary action under the URA, provided that code enforcement was not used to induce an owner-occupant to participate.

If a subrecipient chooses to provide temporary relocation assistance to owner-
occupants, the subrecipient must adopt an Optional Temporary Relocation Assistance Policy as part of the subrecipient’s Residential Antidisplacement and Relocation Plan.

Guidance for Owner-Occupant Temporary Relocation in Rehabilitation Project

The subrecipient should develop written policies as early as possible in the application stage so occupants can make suitable arrangements to move from their homes with the least amount of disruption. Because the URA does not cover owner-occupants who voluntarily participate in housing rehabilitation programs, the subrecipient has broad discretion regarding payments to owners during the period of temporary relocation.

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 subrecipient may set a policy that describes what constitutes a “hardship” and provide a certain level of financial assistance.

A subrecipient 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. Subrecipients should inspect the hotel units prior to signing an agreement to use them as a resource. In addition, subrecipients may provide a stipend for meals, not to exceed the State of Missouri’s meal per diem rates, if the temporary unit does not have cooking facilities.

14.11.3 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:

- 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 Nondisplacement (Handbook 1378, Appendix 4) which advises a person that they may be or will be temporarily relocated. Once it becomes evident that the tenant will need to be temporarily relocated, the subrecipient must 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 Attachment 5-24 for a sample Temporary Relocation Notice.)

TIP: The Notice of Nondisplacement is very important when dealing with temporary relocation because it helps prevent temporary moves from becoming permanent.

To assist with the temporary relocation of tenants, the subrecipient could encourage tenants to identify their own temporary housing (within the established guidelines), but ultimately the subrecipient is responsible for finding suitable shelter until rehabilitation is complete. In addition, the subrecipient could use hotel rooms and provide a meal stipend, not to exceed the State of Missouri’s meal per diem rates, 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 subrecipient 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. Attachment 5-12: Section 8 Existing Housing Program Inspection Checklist must be used to document the inspection. If the tenant claims to be paying rent to a friend or family member, the subrecipient should document that rent was paid and the housing was compliant with decent, safe, and sanitary requirements. The tenant must be provided adequate advance notice to move out of their unit and back when rehabilitation work is complete.

TIP: A good rule of thumb suggested by the State of Missouri CDBG is that temporary relocation is reasonable for six months or less. Anything in excess of one year is considered permanent displacement.

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 subrecipient should treat the household as a displaced person and provide them with all of the assistance outlined under this chapter, as applicable.

14.12 APPEALS
The Subrecipient must develop an appeals procedure. It must outline the appeals process, including the grounds for filing an appeal, which appeals would be filed in the
locality, appropriate time limits, and the right of appeal to State of Missouri CDBG staff. See Attachment 5-29 for sample grievance procedures.

**14.13 URA RECORDKEEPING REQUIREMENTS**

**14.13.1 Overview**

1. **List of Occupants:** For each project, the Subrecipient’s files shall include a list or lists identifying the name, address, and race/ethnicity, age, and gender if single head of household.

2. **Project Contact Log:** Maintain a contact log in the file of each displaced household.

3. **Description of Relocation Advisory Services:** A general description of the Subrecipient’s relocation advisory services for which the person may be eligible, including assistance to relocate to a comparable replacement dwelling, basic eligibility requirements, and procedures for obtaining payments. The Subrecipient’s advisory services may be described in the form of a booklet or flyer.

4. **Offer Three Comparable DSS Replacement Dwellings:** File must contain an offer of preferably three replacement properties with addresses, rent/utility costs or sale prices of the dwellings, and documentation to show they are currently available for sale or rent. Designate which property is the “most comparable replacement dwelling.”

5. **Decent, Safe, and Sanitary Inspections:** Have copies of the inspection reports of the offered comparable replacement dwellings. The reports must show the date of inspection and that each dwelling met HUD’s DSS Housing Quality Standards (HQS).
   - If the displaced family chooses a residence that was not offered by the Subrecipient, that residence must be inspected by the Subrecipient to ensure that it meets HUD’s DSS standards. If it does not meet those standards, it must be rehabilitated to meet the DSS HQS standards before the displaced family may move into it. However, if the renovations are cost prohibitive, the family must be provided the option of incurring the additional renovation costs; or, selecting another residence that does meet HUD’s DSS standards.

6. **File Retention Period:** Relocation files should be maintained for a five-year period after the closeout of the project by DED.

**14.13.2 Records on Displaced Persons**

The Subrecipient must maintain a separate case file on each residential and non-residential displaced person. The case file must contain the following:

- Identification of person, address, racial/ethnic group classification, age and sex of all members of the household, household income, monthly rent and utility costs (if the unit is a dwelling), type of enterprise (if non-residential), and person’s
relocation needs and preferences. The list may be maintained manually or electronically and may be used to track progress in implementing the relocation process.

- A list of all persons occupying the real property on:
  - The date of the application for CDBG-DR assistance;
  - The date the applicant obtained site control, if this is not obtained until after the date the State of Missouri CDBG application was made;
  - The date of Initiation of Negotiations applicable to the project. (Refer to Chapter 8, Handbook 1378 to identify the applicable date for State of Missouri CDBG projects.)

- A list of all persons moving into the project after the application for State of Missouri CDBG funds has been made but before the project was completed.

- Evidence that the person received a timely General Information Notice and a general description of the relocation payments and advisory services for which he/she may be eligible, basic eligibility conditions and procedures for obtaining payments.

- Evidence that the person received a timely written Notice of Eligibility for Relocation Assistance and, for those displaced from a dwelling, the specific comparable replacement and the related cost to be used to establish the upper limit of the replacement housing payment.

- Evidence of dates of personal contacts and a description of the advisory services offered and provided.

- Identification of referrals to replacement properties, date of referrals, rents/utility costs (if rental dwelling), date of availability and reason(s) person declined referral.

- Identification of actual replacement property, rent/utility cost (if rental dwelling) and date of relocation.

- Replacement dwelling inspection report and date of inspection.

- A copy of each approved claim form and related documentation, evidence that the person received payment and if applicable, the Section 8 Certificate or Housing Voucher.

- A copy of any appeal or complaint filed and the Subrecipient response. State of Missouri CDBG staff also requires a separate complaint file be maintained for all general complaints.

### 14.13.3 Records of Persons Not Displaced

The Subrecipient must also maintain information on persons not displaced. For each occupant who has not been displaced, the Subrecipient must maintain evidence that the person received a timely General Information Notice indicating that he/she would not be displaced by the project. For each residential or non-residential occupant who was not displaced, evidence of the provision and receipt of a Notice of Nondisplacement is required to prevent potential relocation assistance to which the tenant would not otherwise be entitled.

If by staying in the project there is a possibility the occupant may become "rent burdened," there are three options available to the Subrecipient:

1. The Subrecipient can provide additional subsidies to make the unit affordable.
2 The owner can elect to limit rent increases for some units where the increase would result in a rent burden, or
3 If neither of the above options is feasible, the Subrecipient must consider the occupant a displaced person and issue a Notice of Eligibility for Relocation Assistance. If the occupant moves, the occupant is considered to be displaced by virtue of the activity that caused the rent to increase.

NOTE: Some rent-burdened tenants may elect to remain in the project and pay the higher rent. The tenant must be fully informed (via Notice of Eligibility for Relocation Assistance) of their rights to relocation assistance and waive those rights.

For tenants occupying a dwelling, there must be evidence that the tenant received a timely offer of:
- A reasonable opportunity to lease and occupy a suitable, affordable, decent, safe and sanitary dwelling on the real property, and
- Reimbursement of any out-of-pocket expenses incurred in connection with any temporary relocation or move to another unit on the real property.

For each occupant that is not displaced, but elects to move permanently from the real property, it is essential that the Subrecipient maintain this documentation to ensure that the person does not have a basis for filing a claim for relocation payments as a "displaced person."

14.13.4 Records of Occupants in Private Owner Rehabilitation Projects
For each privately owned, multi-family rehabilitation project, the Subrecipient must develop and maintain records identifying the name and address of:
- Category 1: All occupants of the real property at the time of submission of the application by the owner to the Subrecipient;
- Category 2: All occupants moving into the property after the submission of the application but before completion of the project; and
- Category 3: All occupants immediately following completion of the project.

The Subrecipient must be able to reconcile the available information on the persons in categories 1 and 2 above with the information on persons in Category 3 so that a person reviewing the files can account for occupants (i.e., remained in occupancy, were displaced and received relocation assistance, or elected to relocate permanently even though not displaced).

14.13.5 Records on Voluntarily Temporary Relocated Households
The Subrecipient must establish individual case files for each household that was temporarily relocated on a voluntary basis. At a minimum, each case file must contain the following:
- Name of homeowner or tenant being temporarily displaced;
- Address of unit being rehabilitated;
- Address of replacement dwelling unit;
- Copies of all financial records attributable to the displaced person during the
temporary displacement;
• Date displaced person(s) occupied the temporary unit and returned to the rehabilitated dwelling;
• Inspections of the condition of the relocation dwelling upon evacuation and prior to occupying the temporary unit; and
• All invoices for temporary relocation costs including all utility charges during the relocation and any other charges directly attributable to the temporary displacement.

14.14 GUIDE FOR JOINTLY FUNDED FEMA/CDBG BUYOUT PROJECTS & FOR SOLELY CDBG FUNDED BUYOUT PROJECTS

The Missouri Department of Economic Development manages CDBG disaster funds from HUD intended for communities in presidentially declared disasters. When CDBG disaster funds are received from HUD, DED will set up an application process for cities and counties to apply for those funds designed for the disaster needs in their community. Generally, the funds are used to address infrastructure and housing needs.

For acquisition and relocation activities, DED funds two types of projects:

1) **Jointly Funded FEMA/CDBG Buyout Projects** - CDBG funds are used as the 25% local match for the 75% of FEMA funds the Subrecipient receives from SEMA’s Hazard Mitigation Program. The funds are used to buyout flood damaged properties in that community. SEMA and DED work with the community to purchase land and homes to relocate the families to decent, safe, and sanitary housing. Since SEMA is the lead agency for these projects, their rules govern. SEMA’s grant administrator works with the Subrecipient to implement and administer the project. Acquisitions are done on a voluntary basis.

2) **Solely CDBG Funded Buyout Projects** – CDBG funds are 100% of the project’s funds, but it may include local cash or in-kind matching funds. For buyout projects solely funded with CDBG funds (where no FEMA funds are involved) a Subrecipient has the option to follow either the Uniform Act appraisal and review appraisal process, or follow SEMA’s acquisition and review appraisal appeal process. Acquisitions are done on a voluntary basis.

**Acquisitions for Jointly Funded FEMA/CDBG Projects:** SEMA requires a single appraisal to determine the market value of a home for the purpose of making an offer to purchase the dwelling from the property owner. Since buyout programs are voluntary programs, the Subrecipient never uses their statutory authority of eminent domain to acquire the dwelling. The property owner has 3 choices: (1) accept the Subrecipient’s offer; (2) appeal the amount of the offer to a SEMA review appraiser; or, (3) decide to withdraw from participating in the Subrecipient’s voluntary buyout program.
SEMA Appeal Process: If the property owner disagrees with the offer amount and would like to appeal the market value determination, the property owner may provide their own appraisal completed by a state certified appraiser (the property owner is responsible for the cost of this appraisal). Both appraisals will then be submitted to SEMA for review. SEMA’s review appraiser will review both appraisals and determine the most reasonable market value. Once a determination is made, SEMA will notify the Subrecipient and the Subrecipient should send a final offer to the property owner.

Acquisitions for Buyout Projects Funded Solely With CDBG Funds: With buyout projects that are solely funded with CDBG funds, the Subrecipient will have to procure a review appraiser for the purpose of conducting a desktop review of any property owner’s appeal of the Subrecipient’s buyout offer. The Subrecipient has two options when implementing a buyout program regarding the review appraiser.

1. **Follow the Uniform Act:** The Subrecipient will procure an appraiser and a review appraiser. The review appraiser will review the original appraisal. The Subrecipient will make an offer based on that determination of the market value of the property.
   a. The property owner may counter offer or withdraw from the Subrecipient’s voluntary buyout program.
   b. The Subrecipient may reject the property owner’s counter offer or withdraw from the voluntary buyout process; or,

2. **Follow SEMA’s Appraisal Review Process:** A Subrecipient may adopt the SEMA acquisition process as part of its buyout acquisition guidelines. Here, the original appraisal is used by the Subrecipient as the determination of market value to make their offer. A review appraiser is procured only if the property owner formally files an appeal of the Subrecipient’s determination of the market value of their property. If an appeal is filed by the property owner, they will have to agree, in writing, to accept the determination of value by the review appraiser or withdraw from the buyout process prior to the procurement of the review appraiser.

With a buyout project, the Subrecipient must inform the property owners at the beginning of the project, in their preliminary acquisition notice, that they will not use their statutory right of condemnation and that the buyout is strictly a voluntary program.

**Relocation Assistance:** Assistance will be governed by the Subrecipient’s adopted program guidelines.

1) **Jointly Funded FEMA/CDBG Projects:** SEMA is the lead agency; therefore, CDBG funds will be used to pay 25% of SEMA’s determined costs.

**Buyout Funded Solely with CDBG Funds:** The Uniform Act regulations will govern the amount and types of relocation assistance and will be part of the Subrecipient’s adopted buyout program guidelines. Housing replacement or rental assistance,
and moving expenses will be provided to the participants in the Subrecipient’s voluntary buyout program.

**ACQUISITION AND RELOCATION HELPFUL HINTS**

- The Uniform Act applies from the date of your CDBG pre-application public hearing forward.
- Maintain a separate acquisition file for each property owner who is covered by the requirements of the Uniform Act and/or a Disaster Buyout project, or the Section 104 (d) Anti-Displacement Requirements.
- Acquisition requires the completion of the CDBG Environmental Review Process PRIOR to acquiring an easement or parcel with private funds, local match, or with CDBG funds.
- Uniform Act regulations apply regardless of who pays the acquisition costs when CDBG funds are used in your project.
- Remember to provide the HUD acquisition brochure, When a Public Agency Acquires Your Property, to the property owner in all instances to inform them of their UA rights.
- For acquisitions valued at $10,000 or less, appraisals are not required; however, the Subrecipient is still required to document in writing, with a valuation report/opinion, how the amount of the offer (market value) was determined (recent sales, assessor’s appraisal, etc.). Have a written opinion of the property’s value from a licensed realtor or appraiser in project file.
- Always promptly record the deed or easement immediately after the acquisition.