Chapter 8: Relocation under the URA and 104(d)

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 CDBG-DR-assisted projects.

Section 8-A. Overview

Applicable Regulations

There are four major types of requirements that cover relocation (and acquisition) activities in CDBG-DR 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) and
- ✓ 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.
- ✓ Consolidated Notice for CDBG-DR (87 FR 31736, May 24, 2022) which waives or modifies requirements listed above for CDBG-DR funded activities.

49 CFR Part 24

Section 104(d) and 5305(a)(11) of Title 1, Housing and Community Development Act of 1974; 24 CFR 570.496(a)

24 CFR 570.606

An over-riding principle in the CDBG-DR 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.

Grantees 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.

URA the HUD Way - the 8-part web-based modular training course provides basic information and resources to HUD grantees and funding recipients on URA requirements for

HUD funded projects.
https://www.hudexchange.info/trainings/ura-the-hud-way/

State of Kentucky, Residential Anti-Displacement and Relocation Assistance Plan (RARAP) as modified for CDBG-DR can be found on the DLG Disaster Recovery webpage.

Overview of Requirements

Displacement results when people or a non-residential entity moves permanently as a direct result of the disaster impacts, acquisition, demolition, or rehabilitation of property for CDBG-DR-funded projects. Below are the primary requirements for displaced persons.

Section 514 of the Stafford Act

For CDBG-DR beneficiaries, residents could have been displaced at the time of the disaster event. Per Section 414 of the Stafford Act, persons displaced by the disaster event are eligible for relocation if post-disaster actions taken on their pre-disaster residence would have displaced them if they were still able to live in the housing unit (e.g., severely damaged home is demolished using CDBG-DR due to public safety issue of structure). If this action triggers URA, there is a responsibility to locate the previous occupants and provided them full housing replacement costs under URA. However, the Consolidated Notice, modifies Section 414 requirements and states that this requirement is waived "to the extent that they 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 date** of the latest applicable Presidentially declared disaster undertaken by the grantees or subrecipients, provided that the project was not planned, approved, or otherwise underway before the disaster." All CDBG-DR activities for the 2021 disasters will occur more than a year after the latest applicable disaster.

Uniform Relocation Act

The Uniform Relocation Act (URA) protects all persons who are displaced by a federally-assisted project **regardless of their income**.

49 CFR Part 24

Section 104 (d)

Section 104(d) typically extends housing replacement assistance from the standard 42 months under URA to 60 months for households determined to be LMI. This 60-month requirement is reduced to the standard 42-month requirement under the Consolidated Notice waivers and alternative requirements.

24 CFR 570.496(a)

Additionally, 104(d) requires the "loss" of low and moderate-income housing units in a community through CDBG-DR-funded demolition or conversion to be replaced with new affordable units unless the replacement is waived in the Consolidated Notice. Owner-occupied housing is exempt from one-for-one replacement if the unit was substantially damaged by the disaster or the unit meets the definition of "not suitable for rehabilitation".

- ✓ **Rental Units:** The Consolidated Notice **does not** wiave104(d) requirement for one-for-one replacement of low and moderate-income dwelling units (as defined by the regulations) that are demolished or converted using CDBG-DR funds to a use other than low-moderate income permanent rental housing. More information can be found later in the chapter.

Section 8-B. Definitions

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

Who Is Displaced under the URA and CDBG-DR?

The URA, the CDBG-DR regulations and alternative requirements each address specific circumstances that would qualify someone as an "involuntarily displaced person."

49 CFR 24.2(g); Handbook 1378, Chapter 1, Paragraph 1-4

Handbook 1378, Chapter 8, Paragraph 8-23

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 CDBG-DR 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 CDBG-DR 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 CDBG-DR funds is approved.

Voluntary vs Involuntary Displacement

The URA is triggered when persons are involuntarily displaced by a federally funded action. For example, any time eminent domain is used to acquire a property that is owner-occupied, that is always considered "involuntary" displacement. Similarly, any time a tenant is displaced by an activity (even if the activity is to repair the tenant's unit) it is always considered involuntarily displacement.

Voluntary displacement happens when the property owner agrees to the federally funded action (e.g., acquisition, rehabilitation, or reconstruction) that requires them to move permanently or temporarily from their property. This does not trigger the URA because the property owner has the ability to agree to the action or not agree to the action, unlike a tenant who does not have authority over the property. For the purposes of this chapter, the term "displaced" means the owner or tenant was involuntarily displaced and eligible for URA assistance.

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

Handbook 1378:
Chapter 1-4, Paragraph I- 4

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

- ✓ This event establishes a presumption that a project may have begun (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 DLG 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-DR regulations also define a "displaced person" as:
  - A tenant who moves permanently after the CDBG-DR-funded acquisition or rehabilitation, and the increased rent is not affordable (they are "economically displaced").

The CDBG-DR program regulations cover "economic displacement," while the URA is silent on this issue. If rents are increased after the CDBG-DR 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.

Handbook 1378;
Chapter 1; Paragraph 4–5;
24 CFR 570.606(b)(2)(D)

- ✓ The URA also protects the following "displaced persons":
- ✓ A tenant-occupant of a dwelling who receives a Notice of 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-DR-assisted project (for example, the building now leases units to serve

persons who were homeless or require supportive housing). Under the CDBG-DR program, leases of 15 years or more are considered acquisitions for the purposes of the URA.

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

It is expected that the 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."

Persons Not Considered Displaced

24 CFR 570.606(b)(2)(i)

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

49 CFR 24.2(a)(9)(ii)(k)

- ✓ The person has no legal right to occupy the property under state or local law; or

Handbook 1378, Chapter 1, Paragraph 1-4 J (1)

- ✓ 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

Handbook 1378, Chapter 1, Paragraph 1-4 J (2)
Attachment 8-1: Notice to Prospective Tenants

- ✓ The person moves into the property after the date of the application for CDBG-DR 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 8-1 for a sample notice to provide to prospective tenants.

49 CFR 24.2(a)(9)(ii)(C); Prospective Tenants

Attachment 8-1: Sample Notice to Prospective Tenants

People are also not considered displaced if:

49 CFR 24.2(a)(9)(ii)(I)

- ✓ 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).

Handbook 1378, Chapter 1, Paragraph 1-4 J (4)

- ✓ 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 DLG 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 and Chapter 9: Acquisition of this Handbook for more information on voluntary acquisition.) (**NOTE:** Tenants living in properties that are acquired via a voluntary acquisition are covered by the URA regardless of their willingness to move.)

  Handbook 1378, Chapter 1, Paragraph 1-4 J (3)

  Handbook 1378, Chapter 5
  Chapter 9: Acquisition
  49 CFR 24.2(a)(9)(ii)(E)

- ✓ 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.

  49 CFR 24.2(a)(9)(ii)(G)

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. Refer to Chapter 10: Housing for more information.

  49 CFR 24.2(a)(9)(ii)(H)

- ✓ The person is not lawfully present in the United States unless denial of benefits would result in “exceptional and extremely unusual hardship” to a lawfully-present spouse, child, or parent. This prohibition covers all forms of relocation assistance under the URA including both replacement housing payments (RHP) and moving assistance.

  49 CFR 24.2(a)(9)(ii)(L)
  Public Law 105-117, passed on November 21, 1997; Final Rule published on February 12, 1999

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 United States C.1101 et seq) and whose stay in the United States has not been authorized by the United States Attorney General. It includes someone who is in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

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

displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

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

Initiation of Negotiations (ION)

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

For CDBG-DR 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. (See Chapter 9: Acquisition)

Chapter 9:
Acquisition

- ✓ Whenever real property is acquired by a subrecipient that has the legal power under the Eminent Domain Act of Kentucky 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.

24 CFR 570.606
49 CFR 24.2(a)(15)

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.

Project

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

Handbook 1378,
Chapter 1, Paragraph 1-4 DD
49 CFR 24.2(a)(22)

- ✓ 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) requirements are triggered if the activity is CDBG-DR funded and the HUD assisted activity is part of a single undertaking.

Handbook 1378,
Chapter 7, Paragraph 7-10

- ✓ In order to determine whether a series of activities are a project, look at:
  - **Timeframe**—Do activities take place within a reasonable timeframe of each other?
  - **Objective**—Is the single activity essential to the overall undertaking? If one piece is unfinished, will the objective be incomplete?
  - **Location**—Do the activities take place on the same site?
  - **Ownership—**Are the activities carried out by, or on behalf of, a single entity?

Section 8-C. General Relocation Requirements under the URA

The URA covers all types of involuntarily displaced persons, including both residents and businesses. It also covers the temporary relocation of existing occupants. The following sections of the handbook 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, subrecipient grant administrators are asked to consult with DLG before proceeding with the acquisition or relocation of mobile homes.

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 8-2 provides a typical relocation scenario in a flow chart indicating key dates in the process.

Attachment 8-2:
URA Relocation Flow Chart with Trigger Dates

Planning for Relocation

If CDBG-DR 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." The relocation plan must be submitted to DLG after the funding award as part of the evidentiary materials needed for the release of funds. Subrecipients are encouraged to contact DLG early in this process to consider the timing and project implications for projects potentially involving temporary or permanent relocation.

Attachment 8-3:
Guideform Residential Antidisplacement and Relocation Plan

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-DR 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-DR funds

The plan must be adopted by the local governing body.

A sample of this plan is included as Attachment 8-3 of this chapter.

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 8-4: 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.

Attachment 8-4:
Household Case Record

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

General Information Notice

The General Information Notice (GIN) is referred to in Chapter 9 as 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 project administrator 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.

Handbook 1378: Appendix 2 and 3, General Information Notices for Residential Tenants

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.)

Handbook 1378, Appendix 4: Notice of Non-displacement

Handbook 1378, Appendix 6

Notice of Eligibility for Relocation Assistance

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 – see link listed in text box. Note that these two brochures are for residential relocation only. There are different requirements for relocation of businesses, farms, and nonprofit organizations. Contact DLG for guidance on non-residential relocation.

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 8-12). The 90-Day Notice may **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 8-13 of this chapter.

Relocation Assistance to Displaced Homeowners Brochure

and

Attachment 8-12: 90-Day Move Notice

Handbook 1378, Chapter 2, Paragraph 2-3(c)

Attachment 8-13: Tenant Assistance/Relocation Process Flow Chart

Discrimination in Relocation

Obviously, subrecipients must ensure that there is no discrimination in the relocation process. Individual displacees who have been discriminated against may not know how to take action on their own. Legal action is often too expensive to be a practical solution for them. The 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. See Chapter 7: Fair Housing of this handbook for additional information.

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

- ✓ The displacee can send a complaint to DLG within 180 days of the incident, simply telling DLG what happened. The subrecipient's relocation officer or grant administrator should advise the displacee of this option and assist in preparing the complaint if the displacee desires to make one. Upon receipt of the complaint, DLG 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 Kentucky Commission on Human Rights (phone number 1-800-292-5566).
- ✓ Recommend that the displacee go to court.
- ✓ A suit may be filed in federal court, in which case the displacee should consult either an attorney or the local Legal Aid Society for assistance. The subrecipient's relocation officer should advise the displacee regarding both sources of help. If the court finds in favor of the displacee, it can stop the sale of the house or the rental of the apartment to someone else, and award the displacee damages and court costs.

Section 8-D. Residential Displacement under the URA

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

Advisory Services for Displaced Households

The subrecipient should work with the household that will be involuntarily 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.
- ✓ Subrecipient must offer or pay for transportation (e.g., taxi, rental car) to inspect comparable units or the actual unit selected by the displaced person.
- ✓ Subrecipients should make every effort to identify "communities of opportunity" for comparable housing located outside of areas of with concentration of low income and minority households, 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.)

Comparable Replacement Dwelling Units

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

- ✓ The regulations stipulate that no person is to be displaced unless at least one (1), and preferably three (3), comparable dwellings are made available to the potential displacee. However, DLG requires the subrecipient to document the case file if three comparable dwellings are not identified.

49 CFR 24.204

- ✓ 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 grantee may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling.
- ✓ Adequate in size to accommodate the occupants.
- ✓ If the displaced household were over-crowded, the comparable must be large enough to accommodate them.
- ✓ In an area not subject to unreasonable adverse environmental conditions.
- ✓ In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment.
- ✓ On a site that is typical in size for residential development with normal site improvements, including customary landscaping.
- ✓ Currently available to the displaced person on the private market (unless they are displaced from subsidized housing as described below).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 may use Attachment 8-6: 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.

Attachment 8-7: HUD Form 40061 may 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).

Attachment 8-6:
Section 8 Existing Housing Program Inspection Checklist HUD Form

Attachment 8-7:
Selection of Most Representative Comparable Replacement Dwelling for Computing an RHP

Handbook 1378, Appendix 6
Notice of Eligibility for Relocation Assistance

Replacement Housing Payments

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

49 CFR 24.401 and 24.402
49 CFR 24.404(a)

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 DLG if this situation is likely to occur.

49 CFR 24.209 and 24.207(f)

Replacement Housing Assistance for 90-Day Homeowners

Only homeowner-occupants who were in residency for 90 days prior to an offer to purchase their home ("ION") *USING INVOLUNTARY ACQUISITION* are eligible for a replacement housing payment as "displaced persons". If homeowners were in occupancy for less than 90 days prior to the ION, they are protected by the URA as "displaced persons" but the calculation is made using the same method used for tenants.

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

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

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

42 U.S.C. 4623(a)(1) and 42 U.S.C. 4624(b)

- ✓ 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 should use the HUD claim form in 40057. If an owner elects to become a renter, the RHP can be no more than the amount 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.

HUD Claim Form 40057
https://www.hud.gov/sites/documents/40057.PDF
Claim Form for 90-day Homeowner

Replacement Housing Payments for Displaced Tenants

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

The replacement housing payment is intended to provide affordable housing for a 42-month period. Although the URA regulations establish a $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.

42 42 U.S.C. 4624(a)

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:
  - 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
  - The monthly rent and estimated average utility costs of the displacement dwelling.

URA cash rental assistance must be provided in "other than a lump sum" , 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 so that the funds can be used for a purchase of a replacement unit .

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

HUD Claim Form 40058:
Claim for Rental Assistance or Down Payment Assistance
https://www.hudexchange.info/news/revised-hud-ura-relocation-claim-forms-and-brochures/

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 displacees under the "Last Resort Replacement Housing" provisions of the regulations. This situation can occur in communities where there is a limited supply of available comparable units or when the replacement housing payment for a comparable unit exceeds the $7,200 limit. Subrecipient should contact DLG to confer on how to proceed.

49 CFR 24.404

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.

Handbook 1378, Chapter 3, Paragraph 3-6

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:

1. Replacement Housing Assistance – assistance exceeds the maximum assistance found at 49 CFR Part 401(b) or 402(a) for replacement housing payment

2. Other Last Resort Housing – construction of new housing or rehabilitation of existing housing to provide comparable, replacement dwelling units

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

If the program makes the determination that, based on comparable, available dwelling units, relocation assistance will be provided under replacement housing of last resort, 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 DLG.

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 (ION), the household may have jeopardized their eligibility for relocation assistance.

However, after the ION , (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 (NOE) or a Notice of Nondisplacement. If these notices are not sent in a timely or complete manner and the household moves out, HUD may require that the replacement housing be based on the actual unit they have chosen (if that exceeds a possible comparable), if that unit qualifies as decent, safe and sanitary. The budgetary consequences can be substantial.

Relocation into a Substandard Unit

If an individual locates or moves into a replacement unit that is not decent, safe and sanitary and that move occurred because the 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 can 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 NOE but the household moved anyway to a substandard unit, the subrecipient must inform the displacee that if they remain in a substandard unit, they will be eligible only for moving expenses and not for replacement housing payments. The subrecipient must also inform the displacee that if he or she moves into standard housing within a year from the date he or she moved from the displacement dwelling and files a claim within 18 months of the date of displacement, he or she will be eligible for a replacement housing payment. A sample letter is provided as Attachment 8-8 of this chapter.

Attachment 8-8:
Sample Letter to Relocatee in a Substandard Unit

Payment for Residential Moving and Incidental Expenses

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

- ✓ Commercial mover selected through competitive bids obtained by the 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 Kentucky, which is available on their website.

Fixed Residential Moving Cost Schedule (2015):
http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm

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 and include only eligible expenses, which are:

49 CFR 24.301(b) and (g)(1-7)

- ✓ Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs for a distance beyond 50 miles are not eligible, unless the subrecipient 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 subrecipient 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 the agency to be reasonable and necessary.

49 CFR 24.301(h)

The following are ineligible expenses:

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

If the displaced homeowner/tenant chooses a fixed payment based upon a schedule established by the Department of Transportation, Federal Highway Administration (FHWA), the following 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 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). A current schedule is accessible on HUD's website.

www.hud.gov/relocation

Fixed Residential Moving Cost Schedule (2015): http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm

- ✓ *Occupant of Dwelling with Congregate Sleeping Space (Dormitory).* The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily occupied by three or more unrelated persons is $100.
- ✓ *Homeless Persons*. A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a

fixed moving expense payment. (Such a person may, however, be eligible for a payment for actual moving expenses.)

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

49 CFR 24.401(e)(4)

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

49 CFR 24.301(h)(12)

Section 8-E. Temporary Relocation

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

Any temporary relocation may not exceed 12 months or the household is considered displaced. Subrecipients must administer their temporary relocation activities consistently and treat all people in similar circumstances the same. All terms must be "reasonable" or the temporarily-relocated household may become eligible as a "displaced person".

Lead-Based Paint Hazards Requirements and Relocation

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

24 CFR Part 35
24 CFR 570.608

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

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

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

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

Tip: **Elderly residents living in units undergoing lead hazard reduction activities may waive the requirement to temporarily relocate but only if the subrecipient obtains a written and signed waiver. (See Attachment 8-5.)**

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 are built after 1978 or have undergone a visual assessment and dust wipe sampling to ensure no lead hazards are present.

Temporary Relocation of Owner-Occupants in Rehabilitation Projects

An owner-occupant who participates in a CDBG-DR 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.

Attachment 8-5:
Elderly Waiver for Relocation

Guidance for Owner-Occupant Temporary Relocation in Rehabilitation Projects

24 CFR 570.488 and 570.606(d)(2)

- ✓ The subrecipient should develop written policies as early as possible in the application stage so occupants can make suitable arrangements to move from of their homes with the least amount of disruption. Because the URA does not cover owner-occupants who voluntarily participate in housing rehabilitation programs, the subrecipient has broad discretion regarding payments to owners during the period of temporary relocation. If a subrecipient chooses to provide temporary relocation assistance to owner-occupants through a "voluntary" CDBG-DR Program, the subrecipient must adopt an optional relocation assistance policy.
- ✓ 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. The subrecipient must inspect the hotel units prior to signing an agreement to use them as a resource. In addition, the subrecipient may provide a stipend for meals if the temporary unit does not have cooking facilities.

Temporary Relocation of Tenants in Rehabilitation Projects

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

Handbook 1378, Chapter 2, Paragraph 2-7

- ✓ Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at such housing. (They are still responsible for paying their share of the rent for the unit undergoing renovation.)
- ✓ Appropriate advisory services, including reasonable advance written notice of:
- ✓ The date and approximate duration of the temporary relocation;
- ✓ The address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- ✓ The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and
- ✓ The provisions of reimbursement for all reasonable out-of-pocket expenses.

Handbook 1378, Chapter 2, Paragraph 2-7

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 should send a Temporary Relocation Notice to inform households who will be temporarily relocated of their rights and of the conditions of their temporary move. (See Attachment 8-15 for a sample Temporary Relocation Notice.)

Handbook 1378 , Appendix 4: Notice of Nondisplacement

Attachment 8-15: Sample Temporary Relocation Notice

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

Guidance on Tenant Temporary Relocation

To assist with the temporary relocation of tenants, the 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 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 8-6: Section 8 Existing Housing Program Inspection Checklist shall be used to document the

Attachment 8-6: Section 8 Existing Housing Program Inspection Checklist

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 suitable. The tenant must be provided adequate advance notice to move out of their unit and back when rehabilitation work is complete. A good rule of thumb suggested by DLG 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 Section 8-D including Advisory Services, Moving Expenses, and a Replacement Housing Payment as needed.

Optional Relocation

[Need to add content]

Section 8-F. Non-Residential Relocation under the URA

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

49 CR 24.2(a)(4)

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

Handbook 1378,
Chapter 1, Paragraphs 1-4

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

Business versus Residential Assistance

URA coverage for moving expenses is similar for residential and non-residential displacees. Qualified businesses may choose

Handbook 1378,
Chapter 4, Paragraphs 4-2 and 4-5

between a fixed payment or actual moving expense. The fixed payment is based on a formula, rather than a schedule.

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

- ✓ The business either (a) discontinues operations, or (b) it relocates but is likely to incur a substantial loss of its existing patronage (The URA presumes this unless there is a preponderance of evidence to the contrary.); and
- ✓ The business is not part of a commercial enterprise having more than three other entities which are not being displaced by the subrecipient, and which are under the same ownership and engaged in the same or similar business activities; and
- ✓ The business contributed materially to the income of the displaced person; and
- ✓ The business operation at the displacement property is not solely for the rental of that real property to another property management company.
- ✓ Actual moving expenses provide for reimbursement of limited reestablishment expenses.
- ✓ There are differences between coverage for residential and non-residential displaces.
- ✓ A 90-day Notice to Move may be issued without a referral to a comparable site.
- ✓ Businesses are entitled to temporary moving expenses; however, displaced businesses are not eligible for 104(d) assistance.

Handbook 1378, Chapter 4, Paragraph 4-3

HUD 1043 Booklet: Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms

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

Advisory Services

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

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

Notices and Inspections

The subrecipient must provide a business to be displaced with written information about their rights, and provide them with a General Information Notice (GIN) tailored to the situation when a Notice of Interest is issued to the property owner. See Attachment 16(a) for a sample GIN to use for businesses (non-residential tenants). The General Information Notice should include:

Handbook 1378, Chapter 2, Paragraph 2-3 B

Attachment 8-16(a): Guideform GIN Non-Residential Tenant to be displaced

- ✓ An explanation that a project has been proposed and caution the business not to move until they receive a Notice of Eligibility for Relocation Assistance. (See Attachment 8-16(b) for a sample of this notice.)

Attachment 8-16(b): Guideform Notice of Eligibility for Relocation Assistance—Business

- ✓ A general description of relocation assistance payments they could receive, the eligibility requirements for these payments, and the procedures involved. The HUD Information Booklet, Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms (HUD 1043-CPD) includes this general information and should be given to the business.

Handbook 1378, Chapter 7, Paragraph 7-7

- ✓ Information that they will receive reasonable relocation advisory services to help locate a replacement site, including help to complete claim forms;

Handbook 1378, Chapters 2 and 4, Paragraphs 2-3 B and 4-2b

- ✓ Information that they will not be required to move without at least 90 days' advance written notice; and
- ✓ A description of the appeal process available to businesses.

Handbook 1378, Chapter 2, Paragraph 2-3 C

If a business must be displaced, a tailored NOE must be provided as soon as possible after the ION (see Attachment 8-16(a) for a sample notice). This Notice should:

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

Handbook 1378, Chapter 4, Paragraph 4-2b

- ✓ The business must be told as soon as possible that they are required to:
- ✓ Allow inspections of both the current and replacement sites by the subrecipient's representatives, under reasonable terms and conditions;
- ✓ Keep the subrecipient informed of their plans and schedules;
- ✓ Notify the subrecipient of the date and time they plan to move (unless this requirement is waived); and
- ✓ Provide the subrecipient with a list of the property to be moved or sold.

Subrecipients need to be aware of when a property will be vacated. In many situations, the subrecipient must be on-site during a business move to provide technical assistance and represent the subrecipient's interests. In accordance with state law, any property not sold, traded or moved by the business becomes the property of the subrecipient.

Handbook 1378, Chapter 4, Paragraphs 4-2b (2) and 4-2d

To be certain that the move takes place at a reasonable cost, an inventory containing a detailed itemization of personal property to be moved should be prepared and provided to the subrecipient. The subrecipient should verify this inventory and use it as a basis of comparison with bids or estimates and eventual requests for payment.

Handbook 1378, Chapter 4, Paragraphs 4-2b (2)

Reimbursement of Actual Moving Expenses

Handbook 1378, Chapter 4, Paragraph 4-2a

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

- ✓ Only businesses that choose actual moving expenses—versus a fixed payment—are eligible for a reestablishment expense payment.
- ✓ Subrecipients should not place additional hardships on businesses, but they can limit the amount of payment for actual moving expenses based on a least-cost approach.
- ✓ Businesses may choose to use the services of a professional mover or perform a self-move. Eligible expenses include:
  - Transportation of personal property;
  - Packing, crating, uncrating, unpacking of personal property;
  - Disconnecting, dismantling, removing, reassembling, and reinstalling machinery, equipment, and personal property;
  - Storage of personal property;
  - Insurance for replacement value of personal property in connection with the move and/or storage;
  - Any license, permit or certification required at the new location;
  - Professional services to plan the move, move the personal property or install the personal property at the new location;
  - Provision of utility service from the Right of Way to the business;
  - Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site).
  - Impact fees or one-time heavy utility use assessments;
  - Re-lettering signs and replacing existing stationery that are obsolete due to the displacement; and
  - Reasonable costs incurred while attempting to sell items that will not be relocated.

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

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

49 CFR 24.301(g)(14)

- ✓ The fair market value of the item for continued use at the displacement site, minus the proceeds from the sale, or
- ✓ The estimated cost to move the item, with no allowance for the following: storage, or reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business is discontinuing, the cost to move is based on a moving distance of 50 miles.
- ✓ A "Substitute Equipment" payment can be made when an item used by the business, nonprofit, or farm is left in place, but is promptly replaced with a substitute item that performs a comparable function at the new site. A Substitute Equipment payment is based on the lesser of:
- ✓ The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
- ✓ The estimated cost to move and reinstall the item, but with no allowance for storage.

Certain costs incurred while searching for a replacement location are also eligible. Businesses are entitled to reimbursement up to $2,500. Subrecipients can pay more than this if they believe it is justified.

Costs may include reasonable levels of such items as:

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

Handbook 1378,
Chapter 4, Paragraph 4-4a

49 CFR 24.301 (e)

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

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

Businesses may have personal property that is considered low value, high bulk such as stock piled sand, gravel, minerals, metals or other similar items in stock. When the personal property to be moved is of

low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the subrecipient, the allowable moving cost payment shall not exceed the lesser of:

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

See HUD Form 4055 for a sample claim form for moving and related expenses for businesses.

HUD Form 4055
Claim for Actual Reasonable Moving and Related Expenses—Businesses
https://www.hud.gov/sites/documents/40055.PDF

Reestablishment Expenses

Only certain small businesses are eligible for reestablishment expenses, up to $25,000. "Small businesses" for this purpose are defined as those with at least one, and no more than 500 people, working at the project site. Businesses displaced from a site occupied only by outdoor advertising signs, displays, or devices are not eligible for a reestablishment expense payment.

- ✓ Eligible items included in the $25,000 maximum figure are:
- ✓ Repairs or improvements to the replacement site, as required by codes, or ordinances;
- ✓ Modifications to the replacement property to accommodate the business;
- ✓ Modifications to structures on the replacement property to make it suitable for conducting the business;
- ✓ Construction and installation of exterior advertising signs;
- ✓ Redecoration or replacement at the replacement site of soiled or worn surfaces, such as paint, paneling, or carpeting;
- ✓ Other licenses, fees, and permits not otherwise allowed as actual moving expenses;
- ✓ Feasibility surveys, soil testing, market studies;
- ✓ Advertisement of the replacement location;
- ✓ Estimated increased costs of operation for the first two years at the replacement site for such items as:
  - Lease or rental charges,
  - Utility charges,
  - Personal or property taxes, and
  - Insurance premiums.
- ✓ Other reestablishment expenses as determined by the subrecipient to be essential to reestablishment.

Handbook 1378, Chapter 4, Paragraph 4-3
49 CFR 24.304 and 42 U.S.C. 4622(a)(4)

Ineligible Expenses

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

Handbook 1378,
Chapter 4, Paragraph 4-4b

- ✓ Loss of goodwill;
- ✓ Loss of profits;
- ✓ Personal injury;
- ✓ Interest on a loan to cover any costs of moving or reestablishment expense;
- ✓ Any legal fees or other costs for preparing a claim for a relocation payment, or for representing the claimant before the subrecipient;
- ✓ The cost of moving any structure or other real property improvement in which the business reserved ownership;
- ✓ Costs for storage of personal property on real property already owned or leased by the business before the initiation of negotiations;
- ✓ Costs of physical changes to the replacement site above and beyond that required to move and reestablish the business;

Handbook 1378,
Chapter 4, Paragraph 4-4c

- ✓ The purchase of capital assets, manufactured materials, production supplies, or product inventory, except as permitted under "moving and related costs;" or
- ✓ Interior and exterior finishes solely for aesthetic purposes, except for the redecoration or replacement of soiled or worn surfaces described in "reestablishment expenses."

Fixed Payments

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

Handbook 1378,
Chapter 4, Paragraph 4-5
49 CFR 24.305

- ✓ The nature of the business cannot solely be the rental of property to others.
- ✓ The business discontinues operations or it will lose a substantial portion of its business due to the move. (The latest regulations state that a business is presumed to meet this test unless the subrecipient can demonstrate it is not "location sensitive".)
- ✓ The business is not part of an operation with more than three other entities where:
- ✓ No displacement will occur, and
- ✓ The ownership is the same as the displaced business, and
- ✓ The other locations are engaged in similar business activities.

- ✓ The business contributed materially to the income of the displaced business.

Handbook 1378, Chapter 4, Paragraph 4-5c

- ✓ The term "contributed materially" means that during the two taxable years prior to the taxable year in which the displacement occurred (or the subrecipient may select a more equitable period) the business or farm operation:
- ✓ Had average gross earnings of at least $5,000; or
- ✓ Had average net earnings of at least $1,000;
- ✓ Contributed at least 33 1/3 percent (one-third) of the owner's or operator's average annual gross income from all sources;
- ✓ If the subrecipient determines that the application of these criteria would cause an inequity or hardship, it may waive these criteria.

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

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

The two-year period should be the two tax-years prior to the tax year in which the displacement is occurring, unless there is a more equitable period of time that should be used:

Handbook 1378, Chapter 4, Paragraph 4-5d (1) and 42 U.S.C. 4622(c)

- ✓ If the business was not in operation for a full two-year period prior to the tax year in which it would be displaced, the net earnings should be based on the actual earnings to date and then projected to an annual rate.
- ✓ If a business has been in operation for a longer period of time, and a different two-year period of time is more equitable within reason, the fixed payment should be based on that time period.
- ✓ When income or profit has been adjusted on tax returns to reflect expenses or income not actually incurred in the base period, the amount should be adjusted accordingly.

Handbook 1378, Chapter 4, Paragraph 4-5d (2)

- ✓ When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:

Handbook 1378, Chapter 4, Paragraph 4-5d

  - Shared equipment and premises, and
  - Substantially identical or inter-related business functions and financial affairs that are co-mingled, and
  - Entities that are identified to the public and their customers as one entity, and
  - The same person or related persons own, control, or manage the entities.

Businesses must furnish the subrecipient with sufficient documentation of income to justify their claim for a Fixed Payment. This might include:

- ✓ Income tax returns,
- ✓ Certified or audited financial statements,
- ✓ W-2 forms, and
- ✓ Other financial information accepted by the subrecipient

Optional form HUD-40056 "Claim for Fixed Payment in Lieu of Payment for Actual Reasonable Moving and Related Expenses" (Appendix 17 of HUD Handbook 1378) may be used to claim the fixed payment. If another form is used, it should provide the same information in at least the same level of detail.

HUD Form 40056
Claim for Fixed Payment in Lieu of Payment for Actual Moving and Related Expenses—Businesses
https://www.hudexchange.info/news/revised-hud-ura-relocation-claim-forms-and-brochures/

Section 8-G. Relocation Requirements under Section 104(d)

The relocation requirements of Section 104(d), have been modified under the Consolidated Notice to reduces the period for which replacement housing payments are calculated for LMI households from 60 months to the URA standard requirement of 42 months. Additionally, the Consolidated Notice has waived or modified the requirement to replace affordable low- and moderate-income dwelling units that have changed to a use other than a low- and moderate-income dwelling when funded with CDBG-DR. The specific waivers and alternative requirements regarding Section 104(d) in the Consolidated Notice are discussed in the sections below.

24 CFR 570.496a(c)(2) and (3)

Section 8-H. Section 104(d) One-for-One Unit Replacement

The basic concept behind the Section 104(d) requirements is that CDBG-DR funds may not be used to reduce a jurisdiction's stock of affordable housing.

The 104(d) regulations state that: "All occupied and vacant occupiable low- and moderate-income dwelling units that are demolished or converted to a use other than as low- and moderate-income dwelling unit in connection with an assisted activity must be replaced with comparable low-income affordable dwelling units." The Consolidated Notice waives this requirement when owner-occupied residential units are substantially damaged by the disaster, or the property meets the definition of “not suitable for rehabilitation”.

24 CFR 42.375(a)

In the CDBG-DR Action Plan, DLG defines a residential property as “not suitable for rehabilitation” if any of these conditions apply:

- The property is declared a total loss.
- Repairs would exceed 50% of the cost of reconstruction.

- Homes cannot be rehabilitated under existing agency policies and award caps due to legal, engineering, or environmental constraints such as permitting, extraordinary site conditions, or historic preservation.

All other owner-occupied or occupiable units that will be removed from inventory must be replaced on a one-for-one basis.

The limited waiver to the 104(d) one-for-one replacement requirement applies to owner-occupied or occupiable units only and is not extended to renter-occupied units. **All low-and-moderate renter-occupied or occupiable units are required to be replaced on a one-for-one basis in accordance with 104(d).**

Before obligating or expending funds that will directly result in demolition or conversion, the subrecipient must make public and submit to DLG the information required in the subrecipient's Residential Anti-displacement and Relocation Assistance Plan (RARAP).

Key Considerations for 104(d)

There are four key issues in understanding the one-for-one replacement requirement.

- ✓ Which dwelling units must be replaced (and which need not be replaced)?
- ✓ What counts as a replacement dwelling unit?
- ✓ What information must be made public and submitted to the state before execution of contracts?
- ✓ What is the exception to one-for-one replacement rules?

All replacement housing units must initially be made available for occupancy at any time during the period beginning one (1) year before the subrecipient makes public the project information required in accordance with the RARAP and ending three (3) years after the commencement of the demolition or rehabilitation related to the conversion or change of use. Also, a One-for-One Replacement Summary Grantee Performance Report must be submitted before relocation activities can begin and kept updated (informing DLG of updates) for the low- and moderate-income units demolished or converted in the project. See Attachment 8-18(b) for a sample of the One-for-One Replacement Summary Grantee Performance Report.

Attachment 8-18(b): One-for-One Replacement Summary Grantee Performance Report

Dwelling Units That Must Be Replaced

Subrecipients must replace a housing unit if the unit **meets all four conditions** listed below:

- ✓ **Condition 1**: It meets the definition of low/moderate dwelling unit. A low/mod dwelling unit is defined as a dwelling unit with a market rent (including an allowance for utilities) that is equal to or less than the Fair Market Rent (FMR) for its size. A reduced rent charged to a relative or on-site manager is not considered market rent. Fair Market rents may be found on the HUD website at http://www.huduser.org/portal/datasets/fmr.html.

Fair Market Rents: http://www.huduser.org/portal/datasets/fmr.html

AND

- ✓ **Condition 2**: It is occupied or is a vacant occupiable dwelling unit. A vacant occupiable dwelling unit is defined as:
  - A dwelling unit in standard condition (regardless of how long it has been vacant); or
  - A vacant unit in substandard condition that is suitable for rehabilitation (regardless of how long it has been vacant); or
  - A dilapidated unit, not suitable for rehabilitation, which has been legally occupied within three months from before the date of agreement.

AND

- ✓ **Condition 3**: It is to be demolished or converted to a unit with a market rent (including utilities) that is above the FMR or to a use that is no longer for permanent housing (including conversion to a homeless shelter).

AND

- ✓ **Condition 4**: The unit does not meet the 104(d) waiver in the Consolidated Notice for owner-occupied units.

It is important to note that the income of the particular occupant is irrelevant in one-for-one replacement. It is also important to note that local funds used to match a CDBG-DR grant (including those in excess of the required match amount) are defined as any monies expended to support CDBG-DR activity, which means that the use of the matching funds for the demolition or conversion of a unit that meets the criteria listed above would also trigger the Section 104(d) replacement requirements.

Criteria for Replacement Units

Replacement low- and moderate-income dwelling units may be provided by any public agency or private developer. Replacement units must meet all of the following criteria:

- ✓ Replacement units must be located within the subrecipient's jurisdiction and, to the extent feasible and consistent with other statutory priorities, the units shall be located within the same neighborhood as the units lost.

Applicable statutory priorities include those promoting housing choice, avoiding undue concentrations of assisted housing, and prohibiting development in areas affected by hazardous waste, flooding, and airport noise.

Replacement units must be sufficient in number and size to house no less than the number of occupants who could have been housed in the units that are demolished or converted.

- ✓ The number of occupants who could have been housed in units shall be determined in accordance with applicable local housing occupancy codes. The subrecipient may not replace those units with smaller units (e.g., a 2-bedroom unit with two 1-bedroom units) unless the subrecipient, before committing funds, must provide information to citizens and to DLG demonstrating that the proposed replacement is consistent with the housing needs of lower-income households in the jurisdiction.

Provided in standard condition and vacant; rehabilitation of occupied units toward replacement does not count. Replacement low- and moderate-income dwelling units may include units that have been raised to standard from substandard condition if:

- ✓ The unit must have been vacant for at least three months before execution of the agreement covering the rehabilitation (e.g., the agreement between the subrecipient and the property owner); and
- ✓ No one was displaced from the unit as a direct result of the CDBG-DR assisted activity.

Provided within a four (4)-year timeframe:

- ✓ Replacement units must be initially made available for occupancy at any time during the period beginning one (1) year before the subrecipient's submission of the information required under 24 CFR 570.606(c) and ending three (3) years after the commencement of the demolition or rehabilitation related to the conversion.

24 CFR 570.606(c)(1)(iii)

- ✓ This period may slightly exceed four(4) years. However, DLG requires all replacement units to be available before the project is closed.
  - A subrecipient that fails to make the required submission, will lose the year before submission for counting replacement units
- ✓ Affordable for 10 years.
  - Replacement units must be designed to remain LMI dwelling units for at least 10 years from the date of initial occupancy.
  - A key factor in projecting affordability is the character of the neighborhood regardless of if they are funded by the community in which the replacement units are located. To qualify the affordable units must have written affordable agreements that ensure that the units will remain affordable for a period of time.
  - Replacement low- and moderate-income dwelling units may include, but are not limited to, public housing, existing housing receiving Section 8 project-based assistance, HOME, CDBG, Low Income Housing Tax Credits (LIHTC)or other publicly-funded units that have at least a 10-year affordability period.

Subrecipient Submission Requirements

Before a subrecipient executes a contract committing to provide CDBG-DR funds for any activity that will directly result in either the demolition of low- and moderate-income dwellings units or the conversion of low- and moderate-income dwelling units to another use, the subrecipient must make public by posting in the Chief Elected Official's (CEO) office and submit the following information in writing to DLG for monitoring purposes:

- ✓ **Description**—A description of the proposed assisted activity.
- ✓ **Location and number of units to be removed**—The location on a map and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as a LMI dwelling units as a direct result of the assisted activity.

- ✓ **A time schedule** for the commitment and completion of the demolition or conversion.
- ✓ **Location and number of replacement units**—The location on a map and the number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units.
- ✓ **Written Agreement** that evidences enforceable affordable housing funding agreement or recorded restrictive covenants establishing LMI occupancy requirements for minimum 10 year period.
- ✓ If such data is not available at the time of the general submission, the submission shall identify the general location on an area map and the approximate number of dwelling units by size. Information identifying the specific location and number of dwelling units by size shall be submitted and disclosed to the public as soon as it is available.

Exception to One-for-One Replacement

Replacement is not required if DLG determines that enough standard, vacant, affordable housing serving the jurisdiction is available. A subrecipient may not execute a contract for demolition or rehabilitation of dwelling units for which an exception is sought until the exception is authorized in writing by DLG.

The one-for-one replacement requirement does not apply to the extent DLG determines, based upon objective data, that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the subrecipient's jurisdiction.

In determining the adequacy of supply, DLG will consider whether the demolition or conversion of the low- and moderate-income dwelling units will have a material impact on the ability of lower-income households to find suitable housing. DLG will consider relevant evidence of housing supply and demand including, but not limited to, the following factors:

- ✓ **Vacancy rate**—The housing vacancy rate in the jurisdiction.
- ✓ **Number of vacancies**—The number of vacant LMI dwelling units in the jurisdiction (excluding units that will be demolished or converted).
- ✓ **Waiting list for assisted housing**—The number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction. However, DLG recognizes that a community that has a substantial number of vacant, standard dwelling units with market rents at or below the FMR may also have a waiting list for assisted housing. The existence of a waiting list does not disqualify a community from consideration for an exception.
- ✓ **Consolidated Plan**—The needs analysis contained in the State's Consolidated Plan and relevant past predicted demographic changes.
- ✓ **Housing outside the jurisdiction**—DLG may consider the supply of vacant low- and moderate-income dwelling units in a standard condition available on a non-discriminatory basis in an area that is larger than the subrecipient's jurisdiction. Such additional dwelling units shall be considered if DLG determines that the units would be suitable to serve the needs of lower-income households that could be served by the low- and moderate-income dwelling units that are to be demolished or converted to another use. DLG will base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

Procedure for Seeking an Exception

The subrecipient must submit a request for determination for an exception directly to DLG. Simultaneously with the submission of the request, the subrecipient must make the submission public and inform interested persons that they have 30 days from the date of submission to provide to DLG additional information supporting or opposing the request. If DLG, after considering the submission and the additional data, agrees with the request, DLG must provide its recommendation with supporting information to HUD.

Section 8-I. Record Keeping

Each subrecipient is responsible for maintaining readily available and retrievable records in sufficient detail to demonstrate compliance with the URA, 104(d) and applicable relocation program regulations, irrespective of any tasks assigned to the real property owner. These records must be maintained for a period of no less than five (5) years after final project close-out, or the date all persons have received all of the required relocation assistance required, whichever is the latest date.

Each notice that the subrecipient is required to provide to a property owner or occupant must be mailed certified or registered, first-class mail, return receipt requested. The return receipt must be affixed to each individual relocation case file.

A subrecipient may also use hand delivery of any notice. When using hand delivery, a written acknowledgment of receipt must be obtained from the addressee and retained in each individual relocation case file.

Attachment 8-19: Relocation File Checklist identifies all the information required for each file. Subrecipients should keep a copy of the checklist in front of each relocation file for tracking purposes and to facilitate state and local review.

Attachment 8-19:
Relocation File Checklist

Records on Displaced Persons

The subrecipient must maintain a separate relocation case file on each residential and non-residential displaced person. The relocation 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 CDBG-DR application was made;
  - The date of ION applicable to the project. (Refer to Chapter 8, Handbook 1378 to identify the applicable date for CDBG-DR projects.)

- ✓ A list of all persons moving into the project after the application for CDBG-DR funds has been made but before the project was completed.
- ✓ Evidence that the person received a timely GIN 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 NOE and, for those displaced from a dwelling, the specific comparable replacement unit 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. DLG also requires a separate complaint file be maintained for all general complaints.

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 GIN 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.
- ✓ If by staying in the project there is a possibility the occupant may become "rent burdened," there are three options available to the subrecipient:
  - The subrecipient can provide additional subsidies to make the unit affordable (e.g., tenant-based rental assistance),
  - The owner can elect to limit rent increases for some units where the increase would result in a rent burden, or
  - If neither of the above options is feasible, the subrecipient must consider the occupant a displaced person and issue a NOE . 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, this documentation is especially important to ensure that the person does not have a basis for filing a claim for relocation payments as a "displaced person."

Records of Occupants in Private Owner Rehabilitation Projects

For each private owner, 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 relocation case 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).

Records on Temporarily Relocated Households

The subrecipient must establish individual relocation case file for each household that was temporarily relocated on a voluntary basis. At a minimum, each relocation 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 household during the temporary displacement;
- ✓ Date household 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.

Records on 104(d) One-for-One Replacement

The subrecipient will be required to keep a list of all properties that are required to be replaced on a one-for-one basis. The list must include information about each unit to be replaced including:

- ✓ Size (by bedroom) of units to be replaced;
- ✓ Location of units to be replaced
- ✓ Size (by bedroom) of replacement units
- ✓ Location of replacement units
- ✓ Affordability periods of replacement units
- ✓ Date replacement units were occupiable

Section 8-J. 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 DLG. These are outlined in Chapter 9: Acquisition and apply to appeals concerning relocation.

Attachment 8-17:
Grievance Procedures

See Attachment 8-17 for sample grievance procedures.

This will be deleted with the final document. This is the appendix.

- Common Changes:
  - CDBG to CDBG-DR
  - subgrantee no grantee

Chapter 8: Relocation, Displacement and One-for-One Replace

Attachment 8-01 Notice to New Tenants (.pdf - 23 kb)
Attachment 8-02 URA Relocation Flow Chart With Trigger Dates (.pdf - 121 kb)
Attachment 8-03 Guideform Residential Antidisplacement and Relo Assoc Plan (.pdf - 69 kb)
Attachment 8-04 Sample Household Case Record (.pdf - 1075 kb)
Attachment 8-05 Elderly Waiver for Relocation - Sample Form (.pdf - 132 kb)
Attachment 8-06 Section 8 Existing Housing Program Inspection Checklist (HUD 52580) (.pdf - 649 kb)
Attachment 8-07 Selection of Most Representative Comparable Replacement (HUD 40061) (.pdf - 33 kb)
Attachment 8-08 Sample Letter to Relocatees in a Substandard Unit (.pdf - 66 kb)
Attachment 8-09 Sample Guideform Notice of Eligibility for Section 104(d) Relocation (.pdf - 28 kb)
Attachment 8-10 Sample Guideform Notice of Eligibility for Section 104(d) Relocation (.pdf - 26 kb)
Attachment 8-11 Summary of Major Differences Between 104(d) and URA Relocation Assistance (.pdf - 81 kb)
Attachment 8-12 Sample 90-Day and 30-Day Notice to Vacate (.pdf - 63 kb)
Attachment 8-13 Tenant Assistance/Relocation Process Flow Chart (.pdf - 77 kb)
Attachment 8-14 Residental Moving Expense and Dislocation Allowance Payment Schedule (.pdf - 111 kb)
Attachment 8-15 Sample Temporary Relocation Notice (.pdf - 190 kb)
Attachment 8-16a Sample General Information Notice (Non-residential) (.pdf - 122 kb)
Attachment 8-16b Sample Guideform Notice of Eligibility for Relocation Assistance - Businesses (.pdf - 45 kb)
Attachment 8-17 Sample Grievance Procedures (.pdf - 65 kb)
Attachment 8-18a One for One Replacement Summary Report Instructions (.pdf - 69 kb)
Attachment 8-18b One for One Replacement Summary Grantee Performance Report (.pdf - 45 kb)
Attachment 8-19 Sample Relocation File Checklist (.pdf - 250 kb)