

9. ACQUISITION, RELOCATION & ONE-FOR-ONE REPLACEMENT

9.1 Statutory & Regulatory Requirements

Statutes:

- Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (42 USC 4601 et. seq.)
- Section 104(d) HCD Act of 1974, as amended
- 42 USC Sec. 3537c, Prohibition of Lump Sum Payments
- Relocation Assistance Act (LB 254, March 27, 1989) RRS of Nebraska

Regulations:

- 49 CFR Part 24, Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs, as amended (www.fhwa.dot.gov/hep/49cfr24.htm)
- 24 CFR Part 42, Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs
- 24 CFR §92.353, Displacement, relocation, and acquisition in HOME, as amended

HOME-funded projects are subject to relocation requirements contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, and its implementing regulations at 49 CFR Part 24, and also Section 104(d) of the Housing and Community Development Act of 1974 (also known as the "Barney Frank Amendments"). Further, projects are subject to the Nebraska Relocation Assistance Act.

This Chapter provides an overview of acquisition and relocation requirements but is not a complete discussion of requirements and compliance. Awardees should refer to HUD Handbook 1378 Tenant Assistance, Relocation and Real Property Acquisition when acquiring and/or rehabilitating occupied properties. Handbook 1378 is available at: (http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/cpd/13780). Also, see additional HUD online resources at: <https://www.hudexchange.info/programs/relocation/> and the Relocation Process Flow Chart <https://files.hudexchange.info/resources/documents/URA-the-HUD-Way-Real-Property-Acquisition-Process.pdf>

A summary of the changes enacted by the URA is found in [Attachment 3](#).

9.1.1 Overview of Requirements

Whenever federal funds are used in a project involving the acquisition, rehabilitation or demolition of real property, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) generally applies. Some of the key URA responsibilities include:

- For Real Property Acquisition (Involuntary Acquisition – under threat or use of eminent domain):
 - Appraise property before negotiations
 - Invite the property owner to accompany the appraiser during the property inspection
 - Provide the owner with a written offer of just compensation and a summary of what is being acquired
 - Pay for property before possession
 - Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses
 - Note that agency responsibilities for voluntary acquisitions differ. Refer to 49 CFR 24.101(b) and HUD Handbook 1378 Chapter 5 for additional information.

- For Residential Displacements:
 - Provide relocation advisory services to displaced tenants and owner occupants;
 - Provide a minimum 90 days written notice to vacate prior to requiring possession;
 - Reimburse for moving expenses; and
 - Provide payments for the added cost of renting or purchasing comparable replacement housing.

- For Nonresidential Displacements (Businesses, Farms, and Nonprofit Organizations):
 - Provide relocation advisory services.
 - Provide a minimum 90 days written notice to vacate prior to requiring possession.
 - Reimburse for moving and reestablishment expenses.

In some cases, the use of HOME funds for demolition or conversion of low- or moderate-income housing may also trigger Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)). Distinct from the URA, section 104(d) requirements may be triggered by the demolition or conversion of lower-income dwelling units. Activities that involve acquisition alone do not trigger 104(d) though they may trigger the URA. Rehabilitation activities that cause conversion or demolition may trigger 104(d) requirements. Generally, section 104(d) requirements may apply when HOME assistance is used for a project involving demolition or conversion.

Section 104(d) requires:

- Replacement, on a one-for-one basis, of all occupied and vacant occupiable low-income dwelling units that are demolished or converted to a use other than low-income housing in connection with an activity assisted under the HCD Act; and
- Provision of certain relocation assistance to any lower income person displaced as a direct result of the following activities in connection with Federal assistance for demolition of any dwelling unit, or conversion of a low- or moderate-income dwelling unit to a use other than a LOW/MOD residence. The relocation assistance and payments for eligible persons under Section 104(d) are similar to those required for the URA, but are calculated in a slightly different manner, and factors in 60 months of assistance vs. 42

months for the URA. Section 104(d) eligible displaced persons may choose to receive relocation assistance under either Section 104(d) or the URA.

9.1.2 HOME Minimizing Displacement Policy

As a general philosophy (as well as a specific program requirement in some instances), HUD requires program administrators to take all reasonable steps to minimize displacement as a result of a HUD-assisted program. This includes:

- Considering whether or not displacement will occur as part of funding decisions and project feasibility determinations;
- Assuring, whenever possible, that residential occupants of buildings to be rehabilitated are offered an opportunity to return;
- Planning rehabilitation projects to include "staging" where this would minimize displacement; and
- Following notification and advisory services procedures carefully to assure that families do not leave because they are not informed about plans for the project or their rights. This can be a costly mistake.

As part of its consolidated plan under 24 CFR Part 91, the State must adopt and make public its Residential Anti-displacement and Relocation Assistance Plan to implement Uniform Relocation Act and Section 104(4) requirements, following the guidance in CPD Notice 94-16.

9.1.3 Section 104(d)

Section 104(d) protection covers displacement as a result of demolition or conversion of permanent housing units. The definition of conversion includes a unit which no longer rents at or below the FMR as a result of HOME assistance.

Section 104(d) regulations apply only to low-to-moderate income (LMI) persons who must move permanently as a direct result of the conversion of an LMI dwelling unit or the demolition of an LMI unit. Conversion occurs when unit is rehabilitated, and the rents exceed Fair Market Rents after the rehabilitation, or the unit is no longer available for housing.

A lower income person is eligible for Section 104(4) assistance if:

- The unit it occupies is demolished with HOME funds; or
- The person is displaced as a result of a HOME-funded conversion if the unit previously rented (rent and utilities) below the Section 8 Fair Market Rent (FMR) and after the HOME-funded activity it rents above the FMR or the unit is no longer a permanent housing unit.

If a lower income person remains in a project converted with HOME funds, but rents are increased, the Section 104(4) economic displacement rules may apply.

Non-low-income residents of a HOME-funded project who are displaced (physically or economically) are not eligible for Section 104(4) assistance but are eligible for URA assistance.

9.1.4 One-For-One Replacement

HOME funds may not be used to reduce the supply of low-income dwelling units. Section 104(d) of HCDA1974 requires units that are lost to be replaced by another affordable unit.

A low income dwelling unit for this purpose is one where the market rent, including utilities, does not exceed the Fair Market Rent (FMR) of the Section 8 Existing Program, and where the unit is in standard condition, in substandard condition but suitable for rehabilitation, or has been occupied within the year prior to the commitment of HOME funds. A unit does not have to be replaced if it does not meet these criteria (rent and condition). Income of the current resident does not apply to this determination.

Reconfiguration of units is permissible, but the total number of bedrooms must not be reduced, or they must be replaced.

Replacement units must be in the jurisdiction, in standard condition, and designed to remain affordable to low-income families for at least 10 years. Replacement units must be provided no more than one year before or three years after demolition. Configuration of the replacement units can be different, provided the total number of replacement bedrooms at least equals the number of bedrooms removed. Substandard units vacant at least three months before the commitment of funds may be rehabilitated and counted as replacement units.

The Department must disclose the replacement units to the public and to HUD.

9.2 Acquisition

The applicability of URA to acquisitions that are funded with HOME depend upon whether the acquisition is considered voluntary or involuntary. The URA requirements for voluntary and involuntary acquisitions differ significantly. While there are protections for property owners in both circumstances, only involuntary acquisitions trigger the full acquisition requirements of the URA [29 CFR 24, Subpart B]. Under the URA, an acquisition is considered to be involuntary when the awardee acquires property under the threat or use of eminent domain.

For guidance on acquisitions, refer to Handbook 1378 Chapter 5.

Involuntary Acquisitions

URA covers acquisition for involuntary purchases. Recent Congressional appropriations have restricted the use of eminent domain for acquisition, so awardees should consult with the Department prior to commencing actions on an acquisition where eminent domain is possible or expected.

If involuntary, the awardee must complete all of the following steps:

- Notify the Department of the involuntary acquisition.
- Provide Relocation Order/Determination of Necessity of Taking.
- Provide required Acquisition and Relocation notices and brochures.
- Obtain appraisal(s).

- Obtain an Appraisal Review.
- Develop Relocation Plan and submit to the Department for review and approval.
- Determine Just Compensation and Offering Price.
- Initiate and proceed with negotiations.
- Make a Written Jurisdictional Offer (if negotiations fail) and execute an Administrative Settlement (if necessary).

For appraisal standards, see Handbook 1378, Paragraphs 5-2 to 5-4.

Two notification requirements apply: Notice of Interest and Notice of Just Compensation.

Note that conflict of interest provisions apply when the owner is an employee or officer of the grantee or the awardee of funding. See Handbook 1378 Paragraph 5-9.

Voluntary Acquisitions

Voluntary sales are those that are negotiated between the seller and purchaser without the threat of eminent domain or condemnation (i.e., the purchaser does not have the power of eminent domain or has agreed in writing not to do so). Also, purchases from government agencies are considered voluntary if the purchaser does not have the power of condemnation.

The sale price may be negotiated, but the property owner must be informed of certain facts about the acquisition including the fair market value of the real property and the inapplicability of relocation benefits and assistance.

Except for notification provisions, voluntary purchases are not regulated by URA. However, tenants are still eligible for relocation benefits in a voluntary acquisition.

When a voluntary acquisition occurs, the awardee must complete the following steps:

- Notify the Department of the voluntary acquisition
- Determine Fair Market Value
- Provide Notice/Letter of Intent to Purchase
- Provide Acquisition and Relocation Rights brochures, as applicable
- Initiate and proceed with negotiations
- Execute Purchase Agreement
- Maintain all documents in the project file.

Under the URA, relocation assistance may not be waived, although if eminent domain will not be used, a voluntary acquisition can include a determination that the owner would not qualify for relocation benefits. However, an owner cannot waive the rights of tenants on the property in either a voluntary or involuntary acquisition. Tenants are always eligible for relocation benefits in a voluntary acquisition scenario.

9.3 Who Is Displaced & Not Displaced

Displacement occurs when a "person" (defined to include a family, individual, business farm or nonprofit organization) or their property is displaced as a DIRECT RESULT OF federally assisted acquisition, demolition or rehabilitation.

A person is displaced if THEY MOVE because the person is required to move by the owner, developer or agency, or not offered a decent, safe, sanitary and affordable unit in the project; or treated "unreasonably" as part of a permanent or temporary move. A person may also be considered a displaced person if the necessary notices are not given or provided in a timely manner and the person moves for any reason.

Also, persons who moved because they are not offered an affordable unit can be considered "economically displaced" and may receive relocation assistance or tenant-based rental assistance to prevent displacement.

Who Is Not Displaced? Persons not displaced include those who:

- Persons temporarily relocated from their dwellings for less than 12 months during rehabilitation or demolition;
- Illegal aliens, as the URA prohibits providing relocation assistance to persons not lawfully present in the U.S.;
- Were evicted for cause, BUT not if the eviction is taken to evade paying relocation assistance;
- Have no legal right to occupy the property (e.g. squatters), but a formal lease is not required to have a legal right;
- Occupied the property for the purpose of obtaining relocation benefits;
- Before leasing and occupying the property, receive written notice of the possibility that displacement or an increase in rent may occur and that relocation assistance will not be provided;
- Retain the right of use and occupancy of the property after acquisition (life estates); or
- After being fully informed of their rights, waive them.

The awardee decides (and HUD agrees in writing) were not displaced as a direct result of the project. When in doubt, ask the HUD Field Office for a determination.

9.3.1 Nonresidential Relocation

Nonresidential relocation can also be extremely complex and expensive. Agencies should be cautious when conducting nonresidential displacements under the URA. It is recommended for agencies to seek guidance and assistance from knowledgeable persons with this expertise early in the process.

In addition to relocation advisory services, nonresidential displaced persons may be eligible for other relocation assistance including relocation payments for moving expenses and reestablishment. Eligible moving costs for displaced businesses, nonprofit organizations or

farms are at 49 CFR 24.301(g). Reestablishment expenses are available to a “small business”, nonprofit organization or farm (49 CFR 24.304) Some costs for moving and reestablishing a business, nonprofit organization or farm are not eligible, and are listed at 49 CFR 24.301(h).

What types of moving options are available to nonresidential displaced persons? The URA provides the following moving options:

- Payment for the actual, reasonable moving costs and related expenses, and
- Payment for actual, reasonable reestablishment expenses, or
- A fixed payment “in lieu of” moving and reestablishment costs.

9.4 Relocation Assistance

Displaced persons are provided:

- Notices
- Advisory services
- Replacement housing assistance
- Moving and related expenses

Persons who will remain after the HOME-funded activity must be provided:

- Notices
- Advisory services
- Tenant-based rental assistance if needed to keep the unit affordable
- Temporary relocation assistance, if applicable

9.4.1 Timing for Eligibility

The Initiation of Negotiations (ION) (49 CFR 24.2(a)(15)) generally is the milestone for determining a person’s eligibility for relocation assistance, including moving costs and a replacement housing payment. For HOME, the ION date is defined to be the date of execution of the written agreement covering the acquisition, demolition or rehabilitation. (§92.353(c)(3))

However, §92.353(c)(2) indicates that displaced persons are covered if they move:

- After notice by the owner to move permanently from the property, if the move occurs on or after the date of the submission of an application to the PJ if the applicant has site control or approval by the PJ if the applicant does not have site control at the time of the application, or
- earlier if the PJ or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or
- if the tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition and before the tenant is provided written notice offering the opportunity to lease and occupy a dwelling under reasonable terms, is required to relocate temporarily and does not return, is required to move to another dwelling unit but is not offered reimbursement or other conditions of the move are not reasonable.

9.5 Information and Notices

Awardees need to provide adequate information and disclosure to all occupants that may be affected by the HOME-funded activity. Generally, the awardee may meet most of the general information requirements required by the URA by providing the affected person(s) with a copy of the appropriate HUD information brochure along with the required Notice as described below and in Paragraph 2-3 of Handbook 1378.

9.5.1 Information Brochures

Printed copies of the HUD information brochures in English and Spanish are available from HUD's Regional Relocation Specialists and local field offices, and from HUD's Direct Distribution Center at 1-800-767-7468. Copies can also be downloaded or printed from HUD's website at: www.HUD.GOV/Relocation.

- 1) When a Public Agency Acquires Your Property (HUD-1041-CPD) and its Spanish version, Cuando Una Agencia Pública Adquiere su Propiedad (HUD-1041-CPD-1)
- 2) Relocation Assistance to Tenants Displaced From Their Homes (HUD-1042-CPD) and its Spanish version, Asistencia Para La Reubicación a Inquilinos Desplazados de Sus Hogares (HUD-1042-CPD-1)
- 3) Relocation Assistance to Displaced Homeowner Occupants (HUD-1044-CPD) and its Spanish version, Asistencia Para la Reubicación a Propietarios Residentes de Vivienda Desplazados (HUD-1044-CPD-1)
- 4) Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms (HUD-1043-CPD) and its Spanish version, Asistencia Para la Reubicación a Negocios, Organizaciones sin Fines de Lucro y Granjas Desplazados (HUD-1043-CPD-1)
- 5) Relocation Assistance to Persons Displaced from their Homes (Section 104(d)) (HUD-1365-CPD) and its Spanish version, Asistencia Para la Reubicación a Personas Desplazadas de sus Viviendas (Sección 104(d)) (HUD-1365-CPD-1). This brochure is only used where both the URA and section 104(d) are applicable to the project (see Paragraph 1-2 B.).

9.5.2 Relocation Notices

Who Needs a Notice?

Virtually EVERYONE needs a notice of some kind. All occupants are entitled to timely notice explaining whether or not they will be displaced.

- Occupants to be displaced must be informed of their eligibility for relocation assistance and the nature of the assistance.
- Occupants not to be displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.

Different notices serve different purposes and must be tailored both to the specific project circumstances, and the individual circumstances of the residents.

Failure to provide correct and timely notices can be one of the most expensive mistakes that a relocation specialist can make.

What Notices Are Required?

The primary notices required under the URA include:

- **General Information Notice (GIN):** Informs affected persons of the project and that they may be displaced by the project. It emphasizes that the household should not move at this time.
- **Notice of Relocation Eligibility (NOE):** Informs persons that they will be displaced by the project and establishes their eligibility for relocation assistance and payments.
- **Notice of Nondisplacement:** If a person does not qualify as a displaced person (see Paragraph 1-4 J.), HUD policy requires that such persons be provided with a Notice of Nondisplacement to advise them of the determination and their right to appeal. If continued occupancy is possible upon completion of the project,
- **90 Day Notice:** Informs displaced persons of the earliest date by which they will be required to move. For residential displaced persons, this notice may not be issued unless a comparable replacement dwelling is available, and the displaced person is informed of its location and has sufficient time to lease or purchase the property.
- **Notice of Intent to Acquire:** Before a binding sales contract is executed, owners who are voluntarily selling a property must receive notice indicating that the property is being purchased with federal assistance, the property will not be taken by eminent domain; and the estimated fair market value of the property. This notice is required even if the property was already listed for sale. If the notice is not given, the Awardee may be vulnerable to a claim that the acquisition was "involuntary" and therefore covered by relocation requirements.
- **Notice to Owner:** As soon as an awardee has identified properties that it might be interested in acquiring for a HUD-funded project, it needs to notify the owner(s) in writing of its interest in acquiring the property and the basic protections applicable under the URA.
- **Move-in Notice:** Informs households moving into potential projects after the application that they may be displaced and that they will not be entitled to assistance. (Awardees can also elect not to give this notice; move ins are then eligible for assistance if displaced.)

HUD has specific requirements relating to the three URA notices and also requires additional notices to be issued when conducting acquisition and relocation activities for HUD-funded programs and projects. Agencies should also refer to HUD Handbook 1378 Chapter 2 for more information on this topic. HUD Handbook 1378 is available on HUD's Real Estate Acquisition and Relocation web site at:

<http://www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm>

Additional notices may be appropriate under certain circumstances:

- **Temporary Relocation Notice:** Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move.

- Notices for Involuntary Acquisitions and Displaced Businesses
- Notice to Sellers. Before a binding sales contract is executed, owners who are voluntarily selling a property must receive notice that indicates:
 - o The property is being purchased with federal assistance;
 - o The property will not be taken by eminent domain; and
 - o The estimated fair market value of the property.

This notice is required even if the property was already listed for sale. If the notice is not given, the Awardee may be vulnerable to a claim that the acquisition was "involuntary" and therefore covered by relocation requirements.

When and How are Notices Served?

Notices may be issued by either the awardee or the owner. However, the awardee is ultimately responsible and must assure that timely and correct notices are given. HUD recommends that awardees issue the notices.

Notices must be personally served or sent by certified or registered first-class mail, return receipt requested. (Certified mail is less costly.)

Notices should be issued as soon as feasible. Although HUD Handbook 1378 defines the point of "initiation of negotiations" for HUD programs, the date of "application" is less clear. To avoid relocation problems awardees should establish policies defining when an application is received.

9.5.3 Relocation Advisory Services

Relocation advisory services are required under 49 CFR 24.205. Once the URA has been triggered, agencies must provide relocation advisory services to all eligible residential and nonresidential displaced persons. In addition to being required by law, relocation advisory services are the single most important part of a successful relocation program. Relocation advisory services are required to be provided to all eligible displaced persons including nonresidential displaced persons.

As part of relocation advisory services, the agency should:

- Determine the needs and preferences of displaced persons.
- Explain available relocation assistance.
- Explain a person's right to appeal if they are not satisfied with agency decisions.
- Offer and provide transportation to locate replacement housing.
- Offer other assistance and referrals (e.g. social services, financial referrals, housing inspection, etc.)
- Provide current and ongoing listings of comparable dwellings for residential displacements (to the extent possible, about replacement housing opportunities that may promote fair housing and moves to neighborhoods outside areas of racial concentration) and replacement sites for businesses.
- Supply information on other federal and state programs offering assistance and how to apply for them.

- Provide counseling and other assistance to minimize hardship in adjusting to relocation.
- Provide other required and appropriate assistance.

9.5.4 Moving and Related Out-of-Pocket Expenses

In addition to advisory services and possible replacement housing payments, awardees are expected to provide for moving-related expenses and out-of-pocket costs for either temporary or permanent moves.

The displaced person has the option of payment for actual reasonable moving and related expenses or a moving expense and dislocation allowance based on a Department of Transportation (DOT) schedule that is published periodically.

See Handbook 1378 Paragraph 3-2 for additional guidance (Chapter 4 for non-household moving.)

9.5.5 Replacement Housing Payments

Replacement Housing Assistance is available to both renters and homeowners. Assistance may be provided in the form of either rental assistance or purchase assistance. Rental Assistance may be in the form of a Replacement Housing Payment (discussed below) or, for eligible households, tenant-based rental assistance under Section 8 or HOME if it is available

Under 42 USC Sec 3537c, lump sum payments are prohibited, except where necessary to cover moving expenses or to make a downpayment on the purchase of a replacement dwelling. Cash rental assistance must be provided in installments, unless being used for purchase of a replacement home.

For further guidance on the calculation of relocation assistance payments, see Handbook 1378 Chapter 3, including:

- Payment for moving-relative expenses – Paragraph 3-2
- Replacement housing payments for homeowners – Paragraph 3-4
- Replacement housing payments for tenants – Paragraphs 3-5 (90-day occupants) and 3-6 (non 90-day occupants)

Relocation payments for businesses, farms and nonprofit organizations are contained in Handbook 1378 Chapter 4.

URA Replacement Housing Payment

Under the URA the amount of the Replacement Housing Payment a displaced tenant receives varies depending upon whether the family was in occupancy more or less than 90 days prior to the date of execution of the agreement. (See the chart on the following page for the two formulas.)

The URA Replacement Housing Payment is intended to provide affordable housing for a 42-month period. Although the URA regulations mention a \$7,200 limitation on payments, it also

requires that persons receive the calculated payment. Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed \$7,200.

The payment to which the family is entitled is calculated using the lower of the cost of the family's actual new unit (including estimated utilities) or a comparable replacement dwelling.

ASSISTANCE FOR TENANTS IN OCCUPANCY MORE THAN 90 DAYS	ASSISTANCE FOR TENANTS IN OCCUPANCY LESS THAN 90 DAYS
<p>Replacement Housing Payment makes up (for a 42 month period) the difference between:</p> <p>the lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and</p> <p>the lesser of:</p> <ul style="list-style-type: none"> > the tenant's average monthly gross income, or > the monthly rent and estimated average utility costs of the displacement dwelling > the welfare rent (in as-paid welfare localities only) 	<p>Replacement Housing Payment makes up (for a 42 month period) the difference between:</p> <ul style="list-style-type: none"> > the lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and > 30% of the tenant's average monthly gross income

**EXAMPLE: URA Replacement Housing Payment - Tenant
(Tenant in occupancy more than 90 days)**

1. Rent and utilities at actual replacement dwelling	\$600
2. Rent and utilities at comparable replacement dwelling	\$500
3. Lesser of 1 & 2	\$500
4. Rent and utilities at the displacement dwelling	\$400
5. 30% of gross monthly income	\$300
6. Lesser of 4 & 5	\$300
7. Replacement Housing Payment (3 minus 6 times 42 months)	\$500
	- \$300 =
	\$200
	x 42 =
	\$8,400

Section 104(d) Replacement Housing Pavements

The Section 104(4) Replacement Housing Payment is available only to lower income households who are displaced because their unit has been demolished or converted (as described previously).

The Section 104(d) Replacement Housing Payment is intended to provide affordable housing for a 60-month period. There is no cap on the Section 104(4) Replacement Housing Payment.

As with URA the payment is calculated using the lower of the cost of the tenant's replacement dwelling (including utilities) or a comparable replacement dwelling.

EXAMPLE: Section 104(d) Replacement Housing Payment

1. Replacement Unit Rent	\$500
2. Estimated Average Utilities	50
3. Replacement Unit Gross Rent	\$550
4. Comparable Unit Rent	\$490
5. Estimated Average Utilities	50
6. Comparable Unit Gross Rent	\$540
7. Annual Income	\$40,000
8. Adjustments (\$480 x3)	1,440
9. Adjusted Income	\$18,560
10. 10% of Gross Monthly Income ($\$40,000/12 \times .10$)	\$167
11. 30% of Adjusted Monthly Income ($\$18,560/12 \times .30$)	\$464
12. Welfare Rent	n/a
13. Total Tenant Payment (TTP) – lowest of 10, 11, 12	\$464
14. Comparable Unit Gross Rent (#6)	\$540
15. TTP (#13)	\$464
16. Monthly Difference (#14 minus #15)	\$76
17. Times 60 Months	X 60
18. Replacement Housing Payment	\$4,560

Both URA and 104(d) replacement housing payment calculations must be done for low-income person displaced.

Displaced tenants with incomes above the Section 8 Lower Income limit receive assistance under the URA.

Comparable Replacement Dwelling Unit

Comparable replacement units are used both for finding suitable housing for the relocatee to move to and also as a standard for determining the replacement housing payment. Comparable units are defined as follows:

- If the person did not receive a government rental housing subsidy before displacement, the comparable replacement dwelling must be an unsubsidized unit available on the

private market, unless the person is willing to accept a unit with either project-based or tenant-based assistance (if available).

- A comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.
- The comparable unit must be within the financial means of the displaced person (49 CFR 24.2(a)(6)(viii)).
- The comparable unit must be a decent, safe, and sanitary dwelling (DS&S) (49 CFR 24.2(a)(8)).

9.6 Optional Relocation Assistance

HOME funds may be used to provide relocation assistance to persons displaced by a project HOME funds may also be used to provide relocation assistance to persons covered by the regulations beyond that required.

If the additional assistance is not required by state or local law, the awardee must adopt a written policy describing the optional relocation assistance and provide for equal relocation assistance within each class of displaced persons. The Department must approve all optional assistance.

9.6.1 Housing of Last Resort

The URA requires that comparable decent, safe, and sanitary replacement housing within a person's financial means be made available before that person may be displaced. When such housing cannot be provided by using replacement housing payments, the URA provides for "housing of last resort." Housing of last resort may involve the use of replacement housing payments that exceed the URA maximum amounts. Housing of last resort may also involve the use of other methods of providing comparable decent, safe, and sanitary housing within a person's financial means.

Agencies have broad flexibility in the use of housing of last resort. It is intended to enable agencies to respond to difficult or special displacements, but it should not be used as a substitute for lack of time or lack of relocation advisory services.

9.7 Temporary Relocation Assistance

Residents who will remain in the project after rehabilitation may be required to move temporarily during rehabilitation. Assuming they are eligible, tenants may be allowed to remain in a project after rehabilitation, but not necessarily in the same unit.

Temporary relocation generally means that a person is displaced for less than a year while rehabilitation occurs but will return to the site or unit when work is completed. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. Any residential tenant who has been temporarily relocated for more than one year must be offered all permanent relocation assistance which may not be reduced by the amount of any temporary relocation assistance previously provided.

If a temporary dwelling is used for relocation, the unit must be suitable and decent, safe and sanitary -- but not necessarily comparable. All other conditions of the move must be "reasonable".

In addition to the Notice of Nondisplacement, the resident must, as a minimum, receive:

- Reasonable advance written notice of the date and approximate duration of the planned temporary move.
- Information about the terms and conditions under which the tenant will be returning to the unit when the project is completed.
- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary move including any increase in monthly rent/utility costs. (No claim form has been developed by HUD, but adequate documentation for reimbursements should be retained in grantee files.)

Under §92.353(b), HOME funds may be used to pay for reasonable out-of-pocket costs for the move and any increases in housing costs in the temporary dwelling.

The rent plus utilities of the permanent new unit within the project must not exceed the greater of the tenant's old rent plus utilities or a specified portion of income depending upon the HUD-assisted program (usually TTP or 30% of gross income).

See Handbook 1378 Paragraph 2-7 for additional guidance on temporary relocation.

9.7.1 Temporary Relocation for LBP Hazard Control

If a pre-1978 structure not otherwise exempt is to be rehabilitated, it is subject to 24 CFR Part 35 governing lead-based paint. §35.1345 requires occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, unless:

- Treatment will not disturb lead-based paint, dust-lead hazards or soil lead hazards;
- Only the exterior of the dwelling unit is treated, and openings in or near the worksite are sealed during hazard control work and cleaned afterward;
- Treatment of the interior will be completed within one period of 8-daytime hours and the worksite is contained; or
- Treatment of the interior will be completed within 5 calendar days, the worksite is contained, the worksite is cleaned at the end of work on each day, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

9.8 Relocation Plan

Section 205 of the URA requires that, "Programs or projects undertaken by a federal agency or with federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of such problems in

order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.”

Chapter 2 of Handbook 1378 outlines a planning process that includes consultation with occupants, coordination with other agencies, and the determination of needs and budget. The Department requires a Relocation Plan to be prepared to ensure compliance and to be able to certify compliance to HUD, as required by regulations.

This plan must be completed prior to final approval and commitment of funds, as it will directly affect the eligibility of the project and the budget needed to provide for relocation. Plans will be reviewed to determine if they adequately address:

- Notice requirements – whether issuance of the GIN (and Move-In Notices for interim tenants, as appropriate) has occurred or is planned, and whether procedures have been identified to ensure that all subsequent required Notices are issued as required by Handbook 1378 Paragraph 2-3.
- Advisory services – whether the process has been identified to contact occupants, survey income and preferences, provide guidance, and ensure fair housing standards are met.
- Moving and related expenses – whether required assistance has been estimated and budgeted.
- Replacement housing assistance – whether temporary and permanent housing assistance costs have been reasonably estimated and budgeted.

9.9 Relocation Process

9.9.1 Overview Flow Chart

See Attachment 9-2 for an overview flow chart of the relocation process.

9.9.2 Identify Households or Businesses to be Displaced, Establish a File for Each, and Issue a General Information Notice (GIN)

Definition

Maintain documentation that relocations are being carried out in conformance with the regulations.

Procedures

As early as feasible in the acquisition/relocation process, the awardee should identify individuals or businesses to be relocated. A person scheduled to be displaced is to be furnished with a written general description of the relocation program. The notice must at least inform the individual of the potential of displacement and describe the eligibility and payment procedures. It also must specify that the individual cannot be required to move without a 90-day's advance written notice. Other items should also be included.

The awardee must maintain a separate case file on each displaced family or business for three years after project completion or after receipt of final relocation payment, whichever is later.
All

documents pertaining to displacement must be retained in the case files. The Relocation File Checklist (Attachment 1) identifies all documents to be maintained.

Common Deficiencies

- Incomplete records.
- Failure to maintain for three years.

Supporting Materials

- Relocation File Checklist (**Attachment 1**)
- Check with the Department for additional information for business relocation.

9.9.3 Provide Notice of Relocation Eligibility and Informational Brochure to Each Displaced Household

Definition

The awardee must deliver or send a Notice of Relocation Eligibility (**Attachments 4 and 4a**) to all owner-occupants or tenants in occupancy promptly after the Initiation of Negotiations, defined as the date that the awardee makes an offer to purchase. This notice establishes eligibility for relocation payments and assistance.

The notice must:

1. Identify the project and inform the person of his eligibility for relocation payments and other assistance and the effective date of that eligibility.
2. Generally describe the relocation payment(s) for which he/she may be eligible and indicate the estimated amount or range of such payment(s), the basis of the estimate for any replacement housing payment, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
3. Inform him/her that he/she will be given other help (e.g. housing referrals) to facilitate the move.
4. State a specific date as the earliest date the occupant may be required to move or indicate a 30 day advance notice of the date to vacate.

Displacement Not a Notice to Vacate

In the Notice of Relocation Eligibility it is important for the awardee to emphasize that the notice is not a notice to vacate. The notice should indicate that no one will be forced to move until and unless they have been referred to at least one decent, safe and sanitary comparable house and that the occupants will have a minimum of 90 days notice to vacate after comparable housing has been located and referred. The notice should also contain a grievance procedure which outlines the appeals process including the grounds for filing an appeal, to whom appeals should be filed in the city, appropriate time limits and the right of appeal to the Department (**Attachment 5**).

This notice and all other notices to displacees must be written in plain, understandable language. They may be either hand delivered or sent by certified mail. Notices must also contain the name and phone number of a person who may be contacted for answers to questions or other needed assistance.

Keep in mind that mailed notices are appropriate for awardees able to read and understand. If there is any reason to believe the person is functionally illiterate or senile, hand delivery is far more preferable. If a displacee does not speak or read English, notices must be available in appropriate translations. Copies of all notices and evidence of their delivery should be retained in the relocation case files.

Common Deficiencies

- Inadequate Notice of Relocation Eligibility.
- Grievance procedure not provided to displacees.
- Translations not provided when appropriate.

Supporting Materials

- Sample Notice of Relocation Eligibility—Homeowners ([Attachment 4](#)).
- Sample Notice of Relocation Eligibility—Tenants Only ([Attachment 4a](#)).
- Sample Grievance Procedure ([Attachment 5](#)).

9.9.4 Contact Displacees to Provide Information and Determine Replacement Housing and Social Service Needs

Definition

Determine the housing or business replacement and social services needs of relocatees.

Procedures for Surveys

As soon as the initial notice is delivered or sent out, the awardee must interview each displacee to determine her/his need for assistance. A link to the sample interview format is provided below to show the type of information that is required. This survey format generally forms the basis of the Site Occupant Record.

<https://www.hud.gov/sites/documents/1378X18ACPDH.PDF>

The Site Occupant Record includes data identifying the parcel and dwelling; number of individuals and family units; family composition (including age, sex, location of employment, source and amount of income); veterans status of family members; description of current dwelling (number and type of rooms); length of time of occupancy; amount of housing payment or rent; replacement housing preferences regarding type of tenure, location and willingness to increase monthly payments; and other important characteristics (health/disability problems, special needs such as furniture, public assistance, etc.).

The people conducting these surveys and having personal contact with the individuals to be relocated should be very patient, capable of understanding the distress of the relocatees and of dealing with them in a non-threatening, helpful manner.

Some displacees may be elderly with a huge emotional investment in their present home. In the awardee's view, it may be a substandard dwelling unit; to the owner, it is a home which contains a lifetime's memories and mementos. Many will not want to relocate. The counseling and assistance required to serve these people adequately is substantial.

Depending upon the size and experience of the relocation staff, it may be appropriate to provide some counseling and assistance themselves while other social service needs will be best met through referral to public or private agencies. A single family may require a number of social service contacts. Physical and psychological problems may range from alcoholism to nervous breakdown, from unemployment to child abuse.

For this reason, the assigned staff must be aware of the kinds of services available. Staff should also develop the ability to distinguish serious problems which require outside professional assistance. Kinds of services and counseling commonly provided during the relocation process include the following:

Counseling Relocation Services

- Mortgage counseling and Fair Housing Laws.
- Help in completing or understanding forms or documents such as a purchase contract.
- Housekeeping and home maintenance practices.
- Budgeting and money management guidance.
- Recommendations concerning packing and moving.
- Family and personal counseling.
- Assistance in obtaining medical care.
- Help in obtaining clothing, food, furniture or appliances.
- Advice concerning social security, food stamps, welfare or veterans' benefits.
- Transportation assistance.
- Assistance with childcare or school adjustment.
- Employment counseling and job training.
- Senior citizen assistance.
- Family planning.
- Legal aid.
- Financial assistance.

In many cases, especially with regard to the elderly, it may be useful to ask if there are any relatives living in the surrounding area. If permission to contact these relatives can be obtained, these contacts can assist in developing appropriate relocation plans for the person. Some relatives will contribute money to the purchase of a dwelling; others will have special skills (e.g., lawyer, realtor) which can facilitate rehousing transactions. Sometimes, relatives can also encourage cooperation in the disclosure of information necessary to complete claim forms.

At the same time the interviewer is conducting the family survey, he/she should review the relocation process with the relocatees and insure they understand the process.

Special attention must be given to:

1. The assistance to be provided by the awardee.

2. The benefits available.
3. The fact that replacement housing payments cannot be made unless the household relocates into a standard unit.
4. The importance of keeping in touch with the awardee.
5. The need to notify the awardee before they move.

Common Deficiencies

- Family surveys not conducted.
- Counseling services not provided.
- Translations/bilingual assistance not provided when appropriate.

9.9.5 Identify Replacement Housing and Social Services Resources, Make Referrals

Definition

Inventory available resources and assist relocatees in finding suitable replacement housing, assist self relocatees.

Procedures

The primary purpose of the family survey is to provide the data needed to determine replacement housing needs. All replacement housing must be decent, safe and sanitary. The regulations define this to mean that the replacement unit must meet local housing or occupancy codes. The only times that local housing or occupancy codes do not define decent, safe and sanitary are when such codes do not exist or when the replacement unit is Section 8 assisted. In the latter instance, Section 8 Existing Housing Quality Standards define decent, safe and sanitary. The unit should also be free of lead-based paint hazards and of architectural barriers, if serving a handicapped person.

Comparable Replacement

In addition to being decent, safe and sanitary, the replacement unit must also be “functionally similar” to the acquired unit with respect to the number of rooms and living space unless additional or larger rooms are needed to meet safe, sanitary and decent criteria (i.e., one person per room; age/sex of children sharing bedrooms and the like). This means that a family of six living in a two-bedroom unit may require a four-bedroom replacement unit to meet local codes or Section 8 standards, if applicable.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms than the displacement dwelling. Such may be the case when a replacement dwelling is “adequate to accommodate” the displaced person and is found to be functionally similar to a larger but very rundown substandard displacement dwelling. They may choose a smaller unit, but the awardee must provide reasonable choices of comparable replacement units.

Further, the referral units must be within the financial means of the displaced persons. This is determined by the “make whole” financial means test, as follows:

- 90-day Homeowner. The test is met if a person receives the price differential, increased mortgage interest cost and all reasonable incidental expenses, not to exceed \$31,000.
- 90-Day Tenant and 90-179 Day Homeowner. The test is met if a person receives assistance equal to 42 times the increase in rent and utility costs that he or she is required to pay because of the displacement. For 104(d) the tenant receives up to 60 times the increase.

Last Resort Replacement

If the awardee finds it cannot identify comparable affordable replacement housing using these standards, and that the inability to relocate site occupants will jeopardize the project, it must use other means of assisting displacees under the “Last Resort Replacement Housing” provisions of the regulations.

Such alternatives include rehabilitation of, and/or additions to, an existing replacement dwelling; a replacement housing payment in excess of normal limits; construction of new units; relocation of a replacement dwelling; and removal of barriers to the handicapped in a replacement dwelling.

Inventory Housing

Having identified the replacement housing needs, the awardee must begin taking an inventory of available housing resources. In doing this, the awardee must be aware of affirmative action criteria that must be met when relocating low-income and minority persons.

The regulations require that the awardee make comparable replacement housing available to low-income or minority relocatees in areas that do not have concentrations of either low-income or minority households if such opportunities are available.

This means that if there are vacant, standard, affordable units available in middle/upper income areas or predominantly white areas of your community, low-income or minority relocatees must be given replacement housing choices in those areas before the awardee can give such relocatees a go-day notice to vacate. Furthermore, the regulations require that the awardee make available to low-income and minority families special counseling and related services, e.g., transportation and escort services.

In inventorying available resources, the awardee will be contacting landlords, realtors, and movers. It will read classified ads and tour neighborhoods looking for “For Rent” and “For Sale” signs. Eligible displacees may refuse to apply for public housing, either because they simply do not want to live in it or because they resent the investigation necessary to qualify them (the investigation of their incomes, in particular).

The process of finding suitable housing will involve continuous contact with displacees to solicit information, establish rapport, provide referrals to housing resources, accompany displacees to inspect possible dwellings and the like. Up-to-date information on the availability, prices, and rentals of comparable sales and rental housing must be provided. All units must be inspected and certified as being decent, safe and sanitary before being placed on a referral list.

Relocates Risk Compensation

1. Some relocates will not wait for the awardee to locate suitable units. They will search for their own units and relocate themselves. Occupants who relocate themselves risk not receiving the compensation to which they are entitled. This can happen because: The occupants do not know they are entitled to it and fail to apply.
2. The awardee is unable to trace them to their new quarters.
3. The new quarters are substandard (in which case the relocates still receive moving expenses). Self-relocates who do not inform the awardee of their plans forego a pre-move inspection of their new quarters.

An inspection after the move is made usually proves to be ineffective with regard to procuring needed repairs.

Replacement Units Meet Standards

If an individual locates or moves into a replacement unit that is not standard, the awardee must make every effort to upgrade the unit to decent, safe and sanitary standards in order to entitle the relocatee to benefits. This can include making a rehabilitation grant or loan, emergency repairs and the like with HOME funds or securing comparable assistance from other sources.

In the event remedial action to bring the unit to code is not available, the awardee must inform such relocates that if they remain in or move to a substandard unit they will be eligible only for moving expenses and not for replacement housing payments (**Attachment 6**).

The awardee must also inform them that if they move into standard housing within a year from the date they received payment for their acquired dwelling or from the date they moved from the acquired dwelling, whichever is later, and file a claim within 18 months, they will be eligible for a replacement housing payment.

Common Deficiencies

- Failure to provide assistance in locating suitable housing.
- Failure to provide replacement housing opportunities outside areas of low-income and/or minority concentration.
- Failure to provide counseling and assistance to relocates moving into substandard units.

Supporting Materials

- Sample Letter to Relocatee in Substandard Unit (**Attachment 6**).

9.9.6 Secure Replacement Housing for Displacees

Definition

Complete displacement and the move into replacement housing.

Procedures

The awardee has made a reasonable choice of suitable replacement housing opportunities available to the relocatee. At this point, the awardee may issue the 90-Day Notice to Vacate

(Attachment 7). This notice should not be issued before reasonable replacement housing has been made available.

The notice shall either state the earliest date by which the property must be vacated, or state that a second notice will be issued at least 30 days in advance of the date the property must be vacated. The date on which the property must be vacated cannot be less than 90 days after the awardee has made a comparable replacement unit available.

Prior to and following the 90 day notice, the awardee continues to work with the relocatees – inspecting units, certifying they meet decent, safe and sanitary standards; assisting or preparing mortgage applications, sales agreements, or leases as appropriate; assisting or preparing claim forms; processing and verifying claims; documenting claims and making payments.

Common Deficiencies

- Timing and language of 90-Day Notice incorrect

Supporting Materials

- Sample 90 Day Notice/30 Day Notice (**Attachment 7**)

9.9.7 Determine Moving and Related Expenses

Displacees are eligible for two types of relocation payments: moving costs and replacement housing payments.

Moving Costs (Residential)

Moving Costs: All displaced persons as defined by the regulations, are eligible for moving costs. The displaced person can choose to receive either actual moving and related expenses, supported by bills and other documentation, of costs for:

- Transportation up to 50 miles of displacee, family and personal property.
- Packing and unpacking personal property.
- Disconnecting, dismantling, reassembling and reinstalling relocated household appliances and other personal property.
- Storage.
- Insurance in connection with move and storage.
- Other costs related to move if approved by awardee as reasonable.

OR

- A fixed moving expense and dislocation allowance based on the rooms of furniture, where occupant provides furniture; or where occupant does not provide furniture.

MOVING COSTS (Non-Residential)

- Transportation up to 50 miles for personal property.

- Packing and unpacking the personal property.
- Disconnecting, dismantling, removing, reassembly and installing relocated and substitute machinery, equipment and other personal property, including connection to utilities available nearby.
- Storage (not to exceed 12 months) if necessary.
- Insurance in connection with moving and storage.
- License, permit, or certification required by the displacee for re-establishment at the replacement location.
- Professional service charges necessary to planning the move, the moving, and the reinstalling of the personal property.
- Re-lettering signs and replacement stationery if made obsolete by the move.
- Actual direct loss of tangible property.
- Substitute personal property which is used as part of a business, farm operation or nonprofit organization provided that the original property is not moved and that any proceeds from the sale or trade-in of the replaced item is subtracted from the cost of the substitute item.
- Searching for a replacement location (amount not to exceed \$1,000).
- Other moving-related expenses if approved by the awardee as reasonable.
- “No documented self-moves” based on the lowest of two acceptable bids or estimates obtained by the awardee.

OR

- A fixed moving expense allowance computed on the average net earnings for the two-taxable years prior to the date of displacement. The amount is to be not less than \$1,000 nor more than \$40,000 for a business or farm operation. The payment is to be \$2,500 for a nonprofit organization. To qualify for a fixed payment in lieu of actual moving cost it must be determined that a business or a nonprofit organization cannot be relocated without a substantial loss of existing patronage or net income and it is not a part of a commercial enterprise having other establishments engaged in the same or similar activity.

Non-residential moving costs are calculated using the form Claim for Actual Moving Costs and Related Expenses or Claim for Fixed Payment in Lieu of Actual Moving and Related Expenses can be found here: <https://www.hud.gov/sites/documents/40056.PDF>

Re-Establishment Expenses (Non-Residential)

In addition to moving costs, a business may be eligible to receive a payment, not to exceed \$25,000, for expenses actually incurred in relocation and reestablishing at a replacement site. These expenses must be reasonable and necessary and include:

- Improvements made to the new site as required by law.
- Modifications to the new site to accommodate the business.
- Costs for construction of new exterior signage.

- Costs of utilities from right-of-way.
- Redecoration/replacement of worn services.
- Licenses, fees and permits when not included in moving expenses.
- Estimated increased operation costs for two years.
- Advertisement of new site.
- Professional services and feasibility studies relating to the new site.

Replacement Housing Payments

These payments are available to owner-occupants and tenants who meet the following criteria:

Owner-Occupants who have:

- Owned and occupied the acquired dwellings for at least 180 days prior to initiation of negotiations.
- Purchased and occupied decent safe and sanitary comparable units within one year of completing acquisition or date of move from property.
- Filed a claim within 18 months of the time the move is completed.

Tenants and 90-day owners who have:

- Occupied the acquired units 90 days prior to initiation of negotiations.
- Relocated into decent, safe and sanitary comparable units.
- Filed a claim within 18 months of the time move is completed.

The relocation benefit is based on the difference between what units comparable to the acquired unit are being sold or rented for, and not on the cost of the unit into which the displacee wants to move.

It should be clearly understood by everyone involved in the acquisition/relocation process that the benefits under the URA are “rights” to which the displacee is entitled and that the awardee’s job is to ensure that all displacees receive the maximum amount of benefit to which they are entitled. There are no income or need criteria for benefits. Certain benefits may be prorated for unrelated individuals living together.

In addition to financial assistance, displacees are also entitled to receive housing referrals, counseling and referrals to social service agencies.

Common Deficiencies

- Unfamiliarity with the relocation process and the benefits and assistance required for displacees under the URA.

9.9.8 Process Claims and Make Payments

Definition

Assist or prepare claim forms: process and verify claims; document claims and make payments.

Procedures

Relocation claims may be filed up to 18 months following the completion of a move. This means that claims can be filed months, after the conclusion of the HOME award. Therefore, if there are unsettled relocation cases at the time of close out of the award, the awardee should show maximum payments for each potential claimant as unpaid costs on the closeout documents otherwise, the Department may cancel the funds remaining in the award and the awardee would be financially liable for relocation costs. This also highlights the need to try and expedite relocation.

Relocation Claim Forms

- Claim for Moving Costs and Related Expenses-Families and Individuals; and
- Claim for Replacement Housing Payment for 90-day Homeowner; or
- Claim for Rental Assistance Payment; or
- Claim for Downpayment Assistance.

Payment Responsibility

The awardee is responsible for ensuring that all payments are made in a timely fashion. Payments should be issued within 30 days following submission of sufficient documentation to support the claim.

The regulations further state that advance payments must be made where they would avoid or reduce a hardship. When advance payments are made, the awardee must document that the payment was used for the purpose intended. The awardee should have the claimant sign a letter acknowledging receipt of relocation payments and services (**Attachment 8**).

Downpayment Payment

Payments for downpayment assistance must be applied to the purchase price of a replacement dwelling and related incidental expenses. Payments for rental assistance to owners or renters need not be applied to housing costs. The rental assistance payment may be made in a lump sum or in installments. The awardee has no right to question the uses to which that payment is put; it need not be accounted for beyond receipt by the claimant.

Denied Claim for Payment

If a person makes a claim for payment and must be denied because the unit is substandard, the awardee must inform the claimant why the claim is being denied, indicate the assistance available for bringing the current unit up to decent, safe and sanitary standards, and the on-going opportunity to qualify for assistance by moving to a standard unit, providing the move is completed within 12 months of the date of removal from the acquired dwelling or receipt of final payment (if owner-occupant), whichever is later; and that the claim is submitted within 18 months of the completion of the move.

Documentation of Non-Payment

In any instance in which payments are not made, the awardee must be able to fully document its efforts to provide payments, the reasons payments were not made, and signed waivers of payment if possible. The regulations mandate that any claim for payment be submitted to the locality within a period of 18 months after displacement. The awardee should strictly adhere to this limitation and fully document its initial notification of this requirement and all subsequent reminders.

Waiver of Relocation

In a voluntary acquisition, owner-occupants may be required to waive their relocation benefit rights as a condition of sale. The awardee should have them sign a form indicating they understand what their relocation rights and benefits are and indicating that they are voluntarily waiving these rights. A waiver of relocation benefits does not apply for tenants.

If relocation has not been completed within 6 months of the date of issuance of the Notice of Relocation Eligibility, the awardee must provide in its file a written explanation of delay and plan for timely completion.

Common Deficiencies

- Failure to document claim.
- Inaccurate computation of relocation payments.
- Rental assistance payment not made in a lump sum.

Supporting Materials

- Sample Letter of Acknowledgement of Services and Payments Rendered (**Attachment 8**).

Relocation Chapter Attachments

Attachment 1: Relocation File Checklist

Attachment 2: Relocation Process Flow Chart

[Attachment 3: Summary of Significant Changes In The URA](#)

Attachment 4: Sample Notice of Relocation Eligibility—90-day Homeowners

Attachment 4a: Sample Notice of Relocation Eligibility—Tenants

Attachment 5: Sample Grievance Procedure

Attachment 6: Sample Letter to Relocatee in Substandard Unit

Attachment 7: Sample 90 Day Notice/30 Day Notice

Attachment 8: Sample Letter of Acknowledgement of Services Rendered

Attachment 9-1. Relocation File Checklist

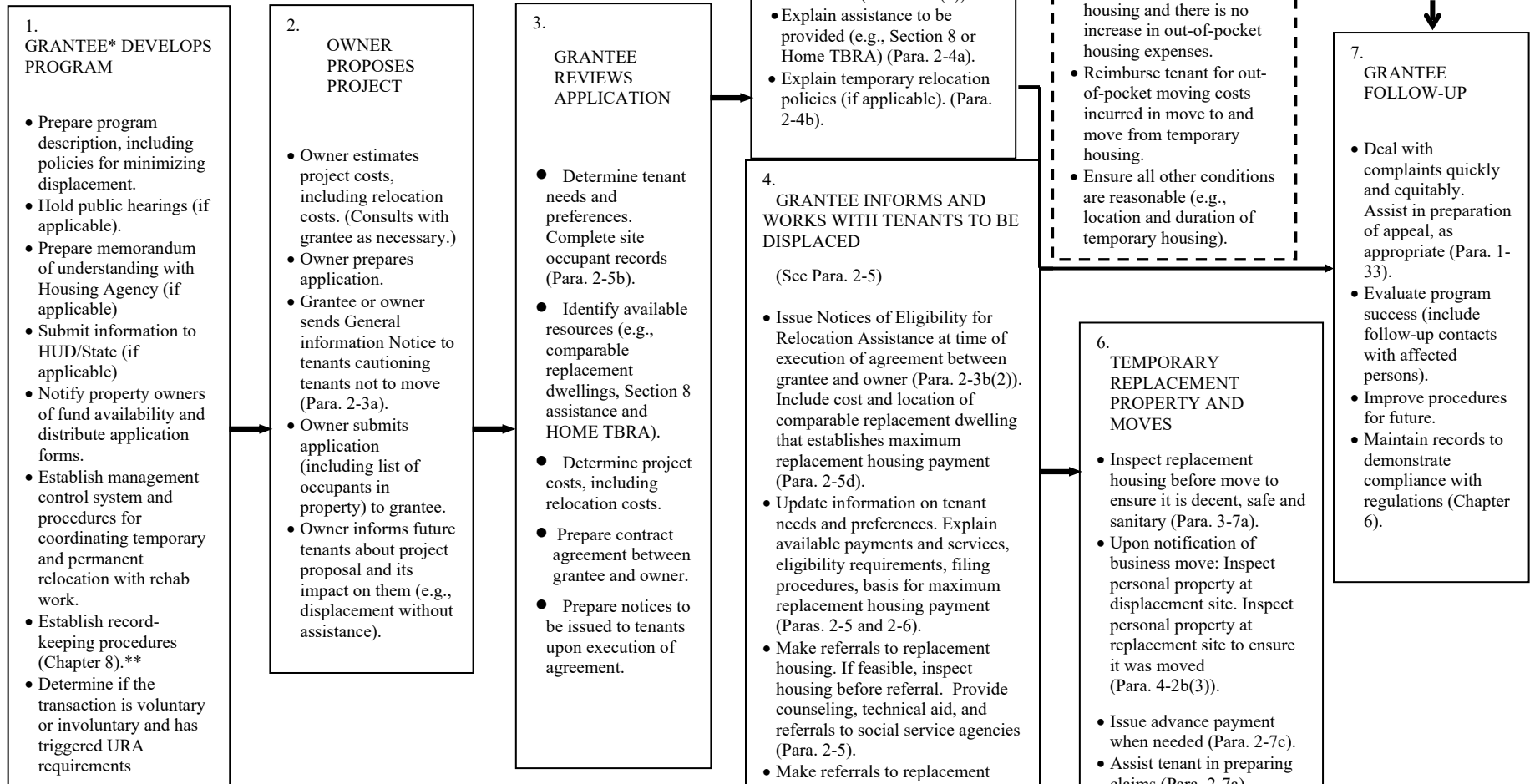
DOCUMENTS TO BE MAINTAINED IN RELOCATION FILES. A SEPARATE FILE SHOULD BE ESTABLISHED FOR EACH HOUSEHOLD OR BUSINESS DISPLACED.

- 1. Fully Completed Case Record Form
- 2. Copy of Notice of Relocation Eligibility
- 3. Evidence of Referrals to Suitable Replacement Housing or Business Locations
- 4. Copy of 90-Day Notice and Evidence of Receipt
- 5. Copy of 30-Day Notice and Evidence of Receipt, if applicable
- 6. Record of Inspection of Replacement Dwelling and Referral Units
- 7. Copy of each Relocation Claim Form and Supporting Documentation
- 8. Evidence of Verification of Claim and Receipt of Payment
- 9. Appeal, if filed, and disposition
- 10. Copies of Correspondence
- 11. Other Data:
 - Specify: If acquisition is voluntary, notice is sent to seller to inform them URA is not triggered, the seller is not eligible for relocation benefits, and the fair market price of the property.
- 12. If Relocation is not completed within six months following acquisition of property, explanation of delay and plan for timely completion.

See Handbook 1378 for additional guidance on recordkeeping requirements.

Attachment 9-2. Tenant Relocation

Private-Owner Rental Rehabilitation Under HUD-Assisted Program



* Term "grantee" includes HOME Entitlement Communities, State HOME awardees, HOME Participating Jurisdictions and awardees of State Home funds.

** References are to HUD Handbook 1378

Attachment 9-3: Summary of Significant Changes

SAMPLE

SUMMARY OF SIGNIFICANT CHANGES IN THE UNIFORM RELOCATION ACT (URA)

URA SECTION AMENDED	CHANGE	REMARKS
101(6)(A)	Extends URA coverage to persons as a direct result of rehabilitation, demolition or acquisition by a private entity.	
101(11)	Defines "displacing agency" to include person without power of eminent domain carrying out a program or project with Federal financial assistance that results in displacement.	
202(a)(4)	Adds new payment up to \$10,000 for business expenses to "re-establish a business" as component of payment for actual reasonable documented moving expenses.	Some expenses to re-establish mandated by current regulations;
203(a)	Raises ceiling on replacement containing housing payment for 180-day homeowner-occupant from \$15,000 to \$22,500.	Under present regulations "make whole" financial means test, the payment ceiling has no effect.
204(a)	Reduces period covered by rental assistance payment from 48 to 42 months.	
	Raises ceiling on total rental containing assistance payment from \$4,000 means test, to \$5,250.	Under present regulations "make whole" financial the payment ceiling has no effect.
204(b)	Eliminates present matching requirement for down-payment assistance payment above \$2,000.	
	Permits displacing agency to cap cash down payment at amount person would receive if renting a replacement dwelling.	Eliminates existing problem of budgeting for project in which potential downpayment assistance costs are much higher than potential rental assistance costs.
205(c)(3)	Revises (relaxes) law to require referral to comparable replacement housing before person is ordered meaningful. to move.	Significant change. It would permit URA rules that make payment caps under Sections 203 and 204
301(2)	Permits establishment of procedures for waiving appraisal of low-value property.	

Attachment 9-4. Sample Notice of Relocation - Homeowners

SAMPLE NOTICE OF RELOCATION ELIGIBILITY - 90-day HOMEOWNERS

Dear _____

On (date), the (acquiring agency) gave you a written offer to buy the building which you own at (address). The building is the site of (identify project).

This is a NOTICE OF RELOCATION ELIGIBILITY. In order to carry out our plans to develop the (identify project), it will be necessary for you to move sometime in the future. However, YOU DO NOT NEED TO MOVE NOW. And when you do move, you will be entitled to relocation payments and other assistance in accordance with regulations of the Federal Department of Housing and Urban Development (HUD). The effective date of this notice is (date of initiation of negotiations).

As the owner-occupant of the property, you are eligible to receive either (1) a payment for actual reasonable moving expenses, or (2) if you prefer, a fixed moving expense payment based on the number of rooms with furniture plus a \$200 dislocation allowance.

Also, you may be eligible for a replacement housing payment to help you buy or rent a home. Based on a recent review of the offering prices of available decent, safe and sanitary houses that are comparable to yours, we estimate that you should be able to buy a comparable house for approximately \$ _____. If you owned and occupied your home for a least 180 days prior to (date of initiation of negotiations) and you buy a decent safe and sanitary replacement house, you may receive a replacement housing payment to cover the following three costs:

1. The difference between the amount you were offered for your present home (\$ _____) and the cost of a decent, and sanitary replacement home. Based on our estimate of the cost of a comparable, decent, safe and sanitary home, you may be eligible for an amount up to \$ _____ for this purpose.
2. Payment of any costs incidental to the settlement on your new home.
3. The increased cost of interest on the mortgage(s), if any, on your present home.

However, your total replacement housing payment is limited to \$31,000, if you buy a replacement home. Should you wish to rent (rather than buy) a comparable house, our best estimate at this time is that you could qualify for a one-time replacement housing payment of \$ _____ covering rental assistance needs.

I am enclosing a brochure titled, "Relocation Assistance to Displaced Homeowners." Please read the brochure carefully. It explains your rights and some things you must do to obtain a payment. (For example, to obtain a replacement housing payment you must move to a decent, safe, and sanitary home within one year after you vacate your present home.)

I want to make it clear that you will receive assistance to help you relocate. In addition to payments and housing referrals, counseling and other services are available to you.

A member of this office will soon contact you to determine your needs and preferences and to help you find and relocate to suitable replacement housing. He/She will explain your rights and help you to obtain the relocation payments and other assistance which are rightfully yours.

In the meantime, If you have any questions, please call (name), (title). He/She can be reached at (phone) or (address). We are sure that Mr./Ms. (name) can answer your questions.

Sincerely,

Attachment 9-4a. Sample Notice of Relocation—Residential Tenants

NOTICE OF RELOCATION-RESIDENTIAL TENANTS ONLY

(Date)

Dear _____

On *(date)*, the *(acquiring agency)* submitted a written offer to buy the building at *(address)*. The building is the site of *(identify project)*.

This is a NOTICE OF RELOCATION ELIGIBILITY. Our records indicate that you are occupying this building. In order that we can carry out our plans to develop the *(identify project)* it will be necessary for you to move sometime in the future. However, YOU DO NOT NEED TO MOVE NOW. And when you do move, you will be entitled to relocation payment and other assistance in accordance with regulations of the Federal Department of Housing and Urban Development (HUD). The effective date of this Notice is *(date of initiation of negotiations)*.

As an occupant of the property, you are eligible to receive either (1) a payment for actual reasonable moving expenses, or (2) if you prefer, a fixed moving expense payment based on the number of rooms with furniture plus a \$200, dislocation allowance.

Also, if you occupied your apartment for at least 90 days prior to *(date of initiation of negotiations)*, you may be eligible for a replacement housing payment to help you rent or purchase a home. Based on a recent review of rental costs in the area, it appears that the cost of rent, including utility charges, for available decent, safe, and sanitary apartments similar to yours is presently about \$_____ per month. If you must pay that amount to rent another apartment you may receive a one-time rental assistance payment of \$_____. Should you choose to buy a home, we estimate that you could qualify for a downpayment assistance payment up to \$_____. (Our staff will explain the procedures for computing a payment).

I am enclosing a brochure titled, "Relocation Assistance to Displaced Tenants". Please read the brochure carefully. It explains your rights and some things you must do to obtain a payment. (For example, to obtain a replacement housing payment, you must move to a decent, safe, and sanitary home within one year after you vacate your present apartment.)

I want to make it clear that you will receive assistance to help you relocate. In addition to payments and housing referrals, counseling and other services are available to you.

A member of this office will soon contact you to determine your needs and preferences and to help you find and relocate to suitable replacement housing. He/She will explain your rights and help you obtain the relocation payments and other assistance which are rightfully yours.

In the meantime, if you have any questions, please call *(name)*, *(title)*. He/She can be reached at *(phone)* or *(address)*. We are sure that Mr./Ms. *(name)* can answer your questions.

Sincerely,

Attachment 9-5. Sample Grievance Procedures

GRIEVANCE PROCEDURES

All written appeals, regardless of form, shall be promptly reviewed in accordance with the requirements of applicable law and HUD's Uniform Act implementing regulations (49 CFR Part 24, Subpart A-G).

Actions Which May be Appealed

You have the right to appeal any action of the (agency) on the following grounds:

failure to properly determine eligibility for, or the amount of, a relocation or other incidental expenses due under the Uniform Act.

Your acceptance of the amount offered you by this agency does not limit your right to appeal that determination and seek a larger payment.

Time Limits for Initiating an Appeal

The reasonable time limit of _____* days has been locally established for a person to file an appeal. (*NOTE: time limit shall not be less than 60 days after the notification of determination of the amount of claim to be paid has been received by the claimant).

Right to Representation

You have the right to be represented by anyone of your choice. There is no cost reimbursement for such representation.

Review of Files

You are permitted to inspect and copy all materials pertinent to your appeal, except those classified by this agency as confidential.

Scope of Review

All pertinent justification and other material submitted by you shall be considered in the appeal in order to ensure a fair and full review of the case.

Determination and Notification

Upon receipt of all information submitted by a claimant, a prompt review will be made. A written copy of the determination on the appeal, including explanation of the basis on which the decision was made, will be furnished. Additional information shall be provided on the right to seek judicial review if the claim is not fully granted.

Reviewing Official

The review of appeals shall be made by (name of official). This person was not involved in any of the actions which are being appealed but has knowledge of the Uniform Act procedures. Additionally, you have the right to appeal the decision on your claim with the Nebraska Department of Economic Development Division of Community and Rural Development, P.O. Box 94666, Lincoln, NE 68509

Attachment 9-6. Sample Letter to Relocatee in Substandard Unit

SAMPLE LETTER TO RELOCATEE IN A SUBSTANDARD UNIT

Date _____

Dear _____:

Relocation regulations established by the Department of Housing and Urban Development will not permit this organization to make a rental assistance payment to you until you move into an apartment or house that meets their definition of “safe, sanitary and decent” replacement unit. Your new apartment does not meet this definition because:

1. The wiring does not meet the City electrical code.
2. A two-bedroom apartment is too small for a family of five (2 adults, 1 16-year-old son, 1 14-year-old daughter and an 11-year-old son).

In order to be eligible for a replacement housing allowance you must move into an apartment or house that meets all these requirements within one year from the date you moved from your old apartment on 4th Street. You have to move into a qualified apartment or house by _____ to be eligible. Ms. Ellen Smith keeps a list of eligible houses and apartments and will help you find one and will arrange inspections of any apartments or houses you find on your own. Her phone number is 444-5441.

If you moved into a “safe, sanitary and decent house or apartment” by _____, you would be eligible to receive a rental assistance up to a maximum of \$7,200 to cover the difference in the month cost between your old apartment and a new apartment for 42 months, or the difference between your new rent and 25% of your gross monthly income, whichever is less. This payment will be made in a lump sum if you file a claim for benefits within 18 months after the date you move into a safe, sanitary and decent apartment.

In order to receive these benefits, you must relocate into a standard unit. Please contact Ellen Smith and she will help you find and move into a standard unit. She is also available to talk with you about any questions you might have.

Sincerely,

Attachment 9-7. Sample Notices to Vacate

SAMPLE 90-DAY NOTICE TO VACATE

Date

Dear

As you know, the city is purchasing your home (**apartment**). The purchase will be completed on **(date, must be no later than 60 days after date of this letter)**. We have been in contact with you since **(date)** to help you locate and move into suitable replacement housing. We have referred you to (number) such units.

The house (**apartment**) you are now living in must be vacated in 90 days by **(date, must be at least 60 days after date on this letter)**. We will send you a second notice 30 days before you must vacate.

If you have any questions or need additional assistance in completing your move, please call Ms. Ellen Smith at 441-4533.

Sincerely,

Mary Simmons
City Secretary

SAMPLE

30-DAY NOTICE TO VACATE

Date

Dear _____:

This letter is to inform you that you must vacate this house (**apartment**) within 30 days, on **(date, must be 30 days after date of this letter, and 30 days after City has title)**.

If you have any questions or need additional assistance to complete your move, please call Ms. Ellen Smith at 441-4533.

Sincerely,

Mary Simmons
City Secretary

Attachment 9-8. Sample Letter of Acknowledgement of Payment

LETTER OF ACKNOWLEDGMENT SERVICES AND PAYMENTS RENDERED

Department of Community Development
City of West Linn
City Hall
West Linn, Lillian 00153

To: _____, Relocation Officer

This is to certify that the Relocation Assistance, Services and Payments rendered by the Department of Community Development at the time of my displacement from _____ to _____ were done to my satisfaction.

I further certify that I have received reimbursement of my moving expense and/or Relocation Payment by the Department of Community Development checked below.

MOVING EXPENSE:

_____ Fixed payment of \$ _____.

_____ Reimbursement of paid receipt from a Mover or Direct Payment to a Mover of \$ _____.

ADDITIONAL RELOCATION PAYMENTS (Tenants and Certain Others)

_____ Downpayment Assistance of a lump sum of \$ _____.

_____ Rental Assistance Payment of \$ _____ in a lump sum.

REPLACEMENT HOUSING PAYMENT (Owner-Occupants)

Replacement Housing Payment in a lump sum of \$ _____.

DATE

CLAIMANT

BY