

XIV. Acquisition and Relocation

In executing CDBG-NDR funded projects, subgrantees may need to acquire real property to complete specific activities. As the grantee, HCD will not directly acquire any property as part of an NDR project. Therefore, to ensure compliance with local, state, and federal acquisition and relocation requirements, subgrantees will be monitored by HCD prior to any acquisition and throughout the grant process.

A. Federal Acquisition and Relocation Overview

Prior to acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Act (URA) and Real Property Acquisition Act of 1970 (as amended in 1986) apply. The following sections provide a brief overview of the federal laws and regulations that subgrantees must adhere to when carrying out projects where real property is acquired and/or persons are displaced.

1. Uniform Relocation Act (URA)

The URA's objectives are to ensure that property owners and displaced persons (households, businesses, nonprofit organizations, and farms) impacted by federally funded projects are treated fairly, consistently and equitably; that property owners are paid a fair market price for their property; and displaced persons are provided the required relocation assistance. The URA also seeks to minimize litigation and ensure that federal agencies implement the regulations efficiently and cost effectively.

The URA's implementing regulations, beginning at 49 CFR part 24, include steps that subgrantees must follow when purchasing real property via voluntary or involuntary acquisition transactions. These regulations also provide steps for determining temporary relocation benefits or permanent displacement benefits.

2. HUD Section 104(d)

Section 104(d) requires subgrantees to provide permanent displacement benefits to low income residential households and requires replacement of all affordable housing units that are removed from the local housing stock as the result of a HUD-assisted project. If an individual is eligible for both URA and Section 104(d) benefits, HCD and its subgrantees will pay the higher of the two costs to the low-income household. Furthermore, subgrantees must take steps to ensure that any low income housing units that are demolished or converted are replaced. This will ensure that the overall low-income housing stock does not decrease, see 24 CFR part 570(a) for the implementing regulations.

Finally, Section 104(d) of the Housing and Community Development Act of 1974, as amended, requires that, as a condition to receiving federal assistance, subgrantees must utilize a residential anti-displacement and relocation assistance plan (RARAP). Each year, HCD includes its RARAP in its Annual Plan, submitted to HUD. HCD requires its subgrantees who are acquiring property with relocation to certify that either they will develop a RARAP plan of their own or that they will follow HCD's RARAP. Prior to beginning any acquisition, subgrantees must submit their RARAP plans to HCD for approval.

3. Waived Requirements

To speed the recovery effort and simplify the administration of projects, HUD has waived requirements of Section 104(d) dealing with one-for-one replacement of lower-income dwelling units demolished or converted in connection with CDBG-assisted development projects for housing units damaged by one or more disasters.

HUD has also waived the relocation assistance requirements contained in Section 104(d) of the HCDA to the extent that they differ from the URA (42 USC 4601 et seq.) and HUD has approved waivers that modify the URA requirements. For specifics related to these waivers, subgrantees should consult the federal register notices pertaining to the NDRC.

4. Technical Assistance Resources

To ensure that subgrantees follow proper acquisition and relocation procedures, and avoid making ineligible payments, HCD and its TA consultant will provide technical assistance to subgrantees. In addition, subgrantees are encouraged to review the HUD Handbook 1378, which consolidates the basic statutory and regulatory requirements of the URA and Section 104(d), and related implementing regulations. It is a comprehensive and valuable reference for all jurisdictions participating in HUD funded programs.

A copy of Handbook 1378 is available on HUD's [website](#). Relocation information for displaced persons is also available at the Federal Highway Administration's web site at www.fhwa.dot.gov/realestate/relrght.html

B. Roles and Responsibilities

The following section defines the roles and responsibilities for ensuring compliance with URA and Section 104(d).

1. Subgrantees

For the CRC project, Tuolumne County is responsible for the design and construction of up to two CRCs. When the county purchases property to locate a CRC, it is responsible for addressing relocations related to the acquisition.

For the BUF project, HCD will procure a CDBO to implement the project. This CDBO is in charge of making sure any acquisitions and relocations that occur as a result of the BUF project are conducted in line with all federal, state, and local requirements.

State and local relocation and acquisition laws may also be triggered on activities implemented by subgrantees. When federal, state, or local laws/regulations are not consistent, HCD will require itself and its subgrantees to comply with the most restrictive.

2. California Department of Housing and Community Development

HCD is responsible for oversight and management of the BUF and CRC. HCD will monitor its subrecipients and contractors throughout the acquisition process and will evaluate their compliance with regulatory requirements during desk monitoring and site visits. During these monitoring reviews and visits, HCD will review records and assess whether they contain all the required documentation.

C. Federal Acquisition and Relocation Rules

1. Basic Rules of URA Real Property Acquisition

Federal acquisition rules apply to real property sales with federal assistance when subgrantees purchase:

- Title to the property;
- Permanent easements – not temporary easements;
- A life estate to the property; and
- A long-term lease to the property, which allows for an extension of fifty years or more.

Acquisition rules must also be followed when subgrantees:

- Undertake the purchase of property directly;
- Provide a nonprofit or for-profit entity with funds to purchase the property;
- Hire an agent or contractor to act on their behalf; and
- Provide federal assistance to individuals who are acquiring their own home.

2. Involuntary Verses Voluntary Acquisition

Subgrantees must understand the critical difference between acquisition of property when the sale is voluntary versus involuntary. For all NDR projects, HCD only allows subgrantees to make voluntary acquisitions.

Voluntary acquisitions occur when the grantee acquires real property at fair market value from an owner who has submitted a proposal to the community for purchase of their property in response to a public advertisement. The grantee may undertake a voluntary acquisition when a site needed for a Disaster Recovery CDBG project can be satisfied by more than one property. Property owners can then voluntarily, in response to the advertisement, let the grantee know of the availability of their property and enter into negotiations for the sale of the property. Voluntary acquisition is not subject to the URA.

3. Basic Rules of URA Temporary Verses Permanent Relocation

Temporary relocation rules dictate that tenants can only be relocated for up to 12 months. After 12 months the tenant will be eligible for permanent relocation benefits. Temporary relocation, like a voluntary sale, is the most common type of relocation activity, because it is the simplest, least time consuming, has a lower legal risk, and is much less expensive than permanent relocation.

D. Activities that Trigger Compliance with the URA and other Federal Laws

When subgrantees implement the following activities, paid for with HUD funds, they must determine and document in their records which acquisition and/or relocation compliance procedures must be followed:

- 1) Acquisition or demolition of residential or commercial property;
- 2) Rehabilitation of housing (hard and soft costs) including mitigation of lead-based paint or other hazards;
- 3) New construction of housing, commercial structures or public facilities/improvements, if part of a project involving acquisition or demolition;
- 4) Rehabilitation of public facilities or improvements;
- 5) Economic development (acquisition of land, and commercial rehabilitation);
or
- 6) Permanent easements for water, sewer, or other public facility projects.

E. Project Definition

In deciding which properties to acquire, subgrantees must carefully map out a compliance plan (RARAP) and determine what staff or contractors will be required to facilitate the property purchase and/or relocation efforts. At any time during the process, subgrantees may call on HCD for technical assistance. Furthermore, subgrantees must establish a file for each property that will be acquired and for each displaced person. HCD reserves the right to inspect these records at any time until the grant has been closed out.

1. Project Review

Subgrantee staff must determine what activities and geographic boundaries comprise the project and document that process for the project file. Staff review project definitions in HUD program regulations or, if project is not defined in program regulations, reviews the URA definition at 49 CFR §24. 2(a)(22). Project determinations will be reviewed by HCD staff prior to initiating negotiations with any property owner. When necessary, HCD and subgrantee staff may consult with the Relocation Specialist at the HUD Field Office early in the planning phase.

2. Project Documentation

Subgrantee staff must document all project activity in the project file. Documentation includes maps identifying project boundaries with streets, addresses, buildings, all parcel numbers, and the names of all property owners and tenants for each building. HCD will review documentation as part of its regular monitoring activities and audits.

F. Multiple Funding Sources of Acquisition and Relocation

Some projects may be funded by more than one HUD funding source, other federal programs, tax credits, and/or state or local funds. When combining funding sources, the unique rules for income qualification, deed restrictions, targeted participants, etc.

must be considered for each source. When issues arise as to which law to follow, subgrantees shall follow the most restrictive and should contact HCD for technical assistance. If necessary, HCD will reach out to the Relocation Specialist at the HUD Field Office early in the planning phase. In addition, subgrantees may hire a contractor, specializing in acquisition and relocation, to provide technical assistance on its relocations and acquisitions.

G. Miscellaneous Acquisition Procedures

1. Waiver Valuations

For properties whose value is less than \$25,000, HCD requires its subgrantees to follow *49 CFR 24.102(c)* and *HUD Handbook 1378 Section 5-4 E, F, and G*.

2. Donations

For properties being donated, HCD requires its subgrantees to follow procedures outlined in *HUD Handbook 1378, Section 5-5*.

3. Temporary Easements

For temporary easements, HCD requires its subgrantees to follow procedures outlined in *HUD Handbook 1378 Section 5-2 (c)*.

H. Residential Anti-displacement

HCD is committed to minimizing project related displacement and the hardships it imposes even if the project does not currently involve housing activities. This includes direct displacement resulting from real property acquisition, rehabilitation, demolition, conversion, and any indirect displacement.

Residential occupants who are temporarily relocated from HUD-funded projects are not eligible for permanent relocation benefits, but they are eligible for out of pocket expenses for temporary relocation. The URA defines temporary relocation as relocation that lasts no longer than 12 months.

1. Initial Tenant Notifications

HCD requires its subgrantees to notify tenants of any potential displacement as soon as is feasible. If sellers refuse to grant subgrantee's staff to tenants, then staff should explain to the seller that tenant notification is to the seller's benefit as well as the buyer, as the notices inform the tenants not to move and to continue to pay rent and that they will forfeit any future HUD relocation assistance if they move prematurely.

If access is still not granted, staff must document in the file their attempts to obtain access and the dates access was denied or approved. For more information on tenant notifications, see *HUD Handbook 1378 - Section 5-3 (D)*.

I. Procedures for Displaced Individuals

In carrying out temporary relocation, subgrantees should consult *URA regulations at Appendix A 49 CFR §24.2(a)(9)(ii)(D)* and *HUD Handbook Chapter 2 Section 2-7*. At a minimum, HCD requires subgrantees to ensure that:

- Individuals who are displaced or relocated because of a project activity are fairly and fully compensated; and
- LMI dwelling units demolished or converted to non LMI dwelling uses are replaced.

The following steps must be undertaken by the subgrantee to meet this requirement:

- 1) Adoption of the State's Residential Anti-displacement and Relocation Assistance Plan (RARAP) or their own RARAP;
- 2) Certification that the adopted RARAP will be followed by the subgrantee; and
- 3) If required, adoption of the RARAP by the local governing body.

J. Demolition

Any unit occupied by a lower income resident that is demolished with CDBG funds triggers the requirement to provide relocation assistance to the occupant at Section 104(d) levels. See *HUD Handbook, Exhibit 7-1*. Whether or not a demolished unit must be replaced depends upon its condition and how long it has been vacant prior to demolition.

K. Record Keeping for Project Files

HCD requires its subgrantees to ensure that if CDBG NDR funds are used to acquire real property and the property continues to be used for its intended (and approved) purpose, proper records are maintained, steps are taken to protect and maintain it, and that if the property is sold, the subgrantee is reimbursed for the CDBG NDR share of the property's value. HCD will review project files on an ongoing basis to determine that they contain all the necessary information required by regulations.

L. Contracts with Acquisition and Relocation Contractors

Subgrantees may contract directly with acquisition and relocation contractors. If a contractor is used, agency staff consults with HCD (who may consult with HUD's Region IX Office), prior to engaging a contractor for services to provide acquisition and/or relocation services. Contractors hired for HUD projects must have previous experience with HUD programs and knowledge of both the URA and Section 104(d). Staff ensures that files include the selection process for the contractor. Contracts with acquisition and relocation contractors will contain the instruction to follow the procedures in this manual.

Each HUD statutory program has regulations that detail how to implement project activities involving acquisition and relocation. For NDR activities, HCD requires its subgrantees to follow the regulations at 24 CFR 570.606. If one dollar of CDBG funds is invested in a project where acquisition, rehabilitation, demolition, or code enforcement activities are involved, HCD and the subgrantee implementing those activities ensure that proper acquisition and relocation processes are followed.