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Acquisition and Relocation

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9 Acquisition and Relocation

9.1 Overview

This policy for acquisition and relocation will apply to housing and infrastructure programs that involve the participation of property owners who apply for assistance or acquisition of real property using federal funds. If a property owner who applies to the program has tenants that must move due to Community Development Block Grant Disaster Recovery (CDBG-DR) program activity, the tenants are considered displaced. The displacement may be temporary or permanent depending on the type of recovery activity.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, both displaced residential and nonresidential tenants are afforded rights and protections to minimize permanent and involuntary displacement as the direct result of a federally assisted activity.

To help affected households and businesses and comply with the URA, 49 CFR Part 24, as amended, and the U.S. Department of Housing and Urban Development's (HUD) Handbook 1378, "Tenant Assistance, Relocation and Real Property Acquisition,"[1] (HUD Handbook 1378), Oregon Housing and Community Services (OHCS) has adopted a Residential Anti-Displacement and Relocation Assistance Plan (RARAP) that aligns with the URA.

This chapter includes the policies on relocation assistance required by federal regulations and HUD policies.

This policy will ensure, at a minimum, the following:

- The uniform, fair, and equitable treatment of persons whose real property is involuntarily acquired or who are involuntarily displaced in connection with federally funded projects
- The provision of relocation assistance to displaced persons to lessen the emotional and financial burden of displacement
- The availability of decent, safe, and sanitary (DSS) housing within the displaced person's financial means

[1] A direct link to this resource is available in the Useful Resources section within this chapter: CPD Handbook 1378.0 | HUD.gov / U.S. Department of Housing and Urban Development (HUD).

- The improvement of housing conditions of displaced persons living in substandard housing
- Expedited acquisition by agreement and without pressure

Several federal laws apply to projects assisted in whole or in part with CDBG-DR funds that include any of the following activities:

- Acquisition of real property
- Acquisition of permanent and temporary easements
- Displacement of businesses, farms, nonprofit organizations, and persons living in the project area
- Qualification of personal property owned by someone other than the homeowner as displaced (even if no person is living on the site)
- Demolition or conversion of occupied and/or vacant livable low- to moderate-income (LMI) dwelling units
- Any federally assisted demolition projects
- Housing rehabilitation

This chapter provides an overview of the different guidelines but does not include in-depth information on these subjects. For more information, reach out to your contract administrator.

9.2 Definitions

The terms used in this section have the following meanings, unless indicated otherwise. Other applicable definitions may be found in 49 CFR Part 24 and HUD Handbook 1378 Chapter 5. Effective June 3, 2024, all definitions related to the URA can be found at 49 CFR Part 24.2(a). The terms listed here shall be considered consistent with and applicable when used by subrecipients:

30-Day Notice To Vacate: A letter issued to a tenant with a specific date of at least 30 days in advance to vacate the property. The urgent need provisions described in 49 CFR Part 24.203(c)(4) allows an agency or subrecipient to require an occupant to vacate with less than 90 days' notice. However, an agency may not make up an urgent need. It cannot issue a notice to proceed to a demolition contractor, then use the imminent demolition to substantiate a danger to the tenant's health and safety to reduce the required notice period.

90-Day Notice To Vacate: A letter issued to a tenant with a specific date of at least 90 days in advance to relocate from the property. This letter is required by 49 CFR Part 24.203(c).

Alien Not Lawfully Present in the United States: A foreign national who is not lawfully present in the United States as defined in 8 CFR Part 103.12:

- An alien present in the United States who has not been admitted or paroled into the United States per the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose stay in the United States has not been authorized by the U.S. Attorney General
- An alien who is present in the United States after the period of stay authorized by the U.S. Attorney General ends or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States

Appeal: A written request from a tenant, regardless of form, to review and revise a determination made by any OHCS program.

Applicant: Any individual who submits an application for assistance to CDBG-DR programs.

Appraisal: An independent and impartial written statement by a qualified appraiser. It states a defined value for a well-described property as of a specific date. It is supported by the relevant market data and analysis.

Base Monthly Rent: Average monthly cost for rent and utilities at the displacement dwelling before displacement, as determined by the agency. If a tenant pays little or no rent, the fair market rent becomes the base, unless this causes a hardship.

Business: Any lawful activity (except a farm operation) that is conducted:

- Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or any other personal property
- Primarily for the sale of services to the public
- Primarily for outdoor advertising display purposes that must be moved
- By a nonprofit organization that has proven its nonprofit status under applicable state law

Citizen: Citizens of the United States and noncitizen nationals.

Community Development Block Grant Disaster Recovery (CDBG-DR): A federal program administered by HUD that provides grant funds to local and state governments to assist with eligible recovery efforts after a natural disaster. This may include homeowner and rental repairs and elevations, acquisition or buyout of damaged or at-risk properties, and infrastructure repairs.

Comparable Replacement Dwelling: An unsubsidized unit available on the private market and within the financial means of the displaced person.

Decent, Safe, and Sanitary Dwelling (DSS): A dwelling that meets the strictest local housing and occupancy code, federal agency regulations, or the agency's regulations or written policy. The dwelling shall:

- Be structurally sound, weather tight, and in good repair.
- Have a safe electrical wiring system adequate for lighting and other divides.
- Have a heating system capable of sustaining a healthful temperature of approximately 70 degrees for a displaced person.
- Have adequate living space for the displaced person and their needs. Occupancy of sleeping rooms must not exceed local, state, or federal housing code regulations.
- Have a separate, well-lit, and ventilated bathroom that provides privacy to the user. It must include a sink, bathtub, or shower stall and a toilet in good working order and properly connected to the suitable water sources and a sewage drainage system.
- Have safe, clear open space exits at ground level.
- Be free of any barriers that would prevent reasonable entrance or exit or use of the dwelling by displaced person with a disability.

Displaced Person: Any person, family, individual, business, or nonprofit organization who moves from real property or moves personal property from real property. This action is a direct result of an acquisition, rehabilitation, or demolition by a federally assisted program.

- As a direct result of a written notice of intent to acquire the initiation of negotiations for, or the acquisition of such real property in whole or in part for a project.
- As a direct result of rehabilitation or demolition for a project.
- As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under 49 CFR Part 24.205(c) and moving expenses under 49 CFR Parts 24.301–303.

This includes a person who occupies the real property prior to its acquisition but who does not meet the length of occupancy requirements of the URA as described at 49 CFR Parts 24.401(a) and 24.402(a):

Persons Required To Move Temporarily: A person, or their property, must move from the real property due to the project but is not required to relocate permanently. Such determination will be made by the agency in accordance with any requirement, policy, or guidance established by the federal agency funding the project (see Appendix A to 49 CFR Part 24.2(a)). All the benefits for persons who must move on a temporary basis are described in 49 CFR Part 24.202(a).

Voluntary acquisitions. A tenant who moves as a direct result of a voluntary acquisition as described in 49 CFR Parts 24.101(b)(1)–(3) is eligible for relocation assistance. This applies when there is a binding written agreement between the agency and the owner that obligates the agency, without further election. Federal funding agencies should develop binding policies for agreements used in their programs or projects. They should trigger eligibility for tenants as displaced persons.

This does not include options to purchase and conditional purchase and sale agreements within paragraph (iii) until all conditions to the agency's obligation to purchase the real property have been satisfied.

The agency may find that a tenant who moves before a binding agreement is eligible for relocation assistance once a binding agreement exists. This allows for the establishment of eligibility (see Appendix A to 49 CFR Part 24.2(a)).

Persons not displaced. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

- A person who moves before the start of negotiations (see 49 CFR Part 24.403(d)), unless the agency decides that the person was displaced as a direct result of the program or project.
- A person who initially occupies the property after the date of its acquisition for the project.
- A person who has occupied the property to obtain assistance under the URA.
- An owner-occupant who moves because of an acquisition of real property as described in 49 CFR Part 24.101(a)(2) or (b)(1) or (2), or because of the rehabilitation or demolition of the real property. However, the tenant displacement due to any acquisition, rehabilitation, or demolition for a federal or federally assisted project is subject to this part.
- A person whom the agency determines is not displaced because of a partial acquisition.

- A person who, after receiving a notice of relocation eligibility, is notified in writing that they will not be displaced for a project. This notification is only issued if the person has not moved. Otherwise, the agency must reimburse the person for expenses incurred while under a binding relocation contract entered into after the effective date of the notice of relocation eligibility.
- An owner-occupant who conveys their property, as described in 49 CFR Part 24.101(a)(2), (b)(1), or (2), after receiving written notice that an agreement cannot be reached on the property's sale, the agency will not acquire the property. However, any tenant displacement is subject to the regulations in this part.
- A person who has the right to use and occupy real property for life following its acquisition by the agency.
- An owner who has the right to use and occupy real property for a fixed term after its acquisition by the Department of the Interior under Public Law 93-477, Appropriations for National Park System, or Public Law 93-303, Land and Water Conservation Fund. The exception is if the owner is still a displaced person for purposes of 49 CFR Part 24 Subpart D.
- A person who is determined to be in unlawful occupancy prior to or after the start of negotiations, or a person who has been evicted for cause, as provided for in 49 CFR Part 24.206. However, they may receive advisory assistance to help the project.
- A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with 49 CFR Part 24.208.
- Temporary, daily, or emergency shelter occupants are in most cases not considered displaced persons. Agencies can name a shelter occupant as displaced based on a long stay or other special conditions. Agencies should provide advisory assistance to all occupants at the start of negotiations.

Disability: A physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. For the CDBG-DR program, "disability" has the same meaning as federal law under the Social Security Act, as amended; 42 U.S.C. 423(d); the Americans with Disabilities Act of 1990, as amended; 42 U.S.C. 12102(1)–(3); and in accordance with HUD regulations at 24 CFR Parts 5.403 and 891.505.

Dwelling: The place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house, a single-family unit in a two-family house, multifamily or multipurpose property, a unit of a condominium or cooperative housing project, a non-housekeeping unit, a manufactured housing unit (or mobile home), or any other residential unit.

Easement: The right of one property owner to use of the land of another owner for a limited purpose (e.g., permanent easement or temporary construction easement).

Economic Displacement: If rents are increased after the CDBG-DR project is complete and the new rent exceeds 30% of the tenant's gross monthly income, they would be considered "economically displaced." Generally, an increase in rent within the first year of the project is seen as related to the federally funded project and may trigger "economic displacement" benefits.

Fair Market Rent (FMR): Determines standard payment amounts for HUD rental assistance programs. They include the shelter rent plus all utilities and are used to determine similar units for replacement housing payments in the URA.

General Information Notice (GIN): This required notice, under 49 CFR Part 24.203(a), informs potentially displaced individuals that they may be displaced and that they should not move. It covers general URA requirements and rights.

Head of Household: The adult head of the household whose income determines eligibility, rent, or participation in CDBG-DR programs as outlined in 24 CFR Part 5.504.

Household: All persons occupying the same housing unit, regardless of their age or relationship to each other. Once a tenant is eligible for temporary or permanent relocation assistance, all persons who live in the household must be identified so that proper relocation resources and assistance can be provided.

HUD Housing Quality Standards (HQS): HUD's housing quality standard as defined by 24 CFR Part 982.401.

Initiation of Negotiations (ION) Date: The trigger to issue the Notice of Eligibility for Relocation Assistance ("NORE") or Notice of Non-Displacement ("NND").

Landlord: A person or organization that owns and leases apartments, building space, buildings, or land to others.

Limited English Proficiency (LEP): Persons who do not speak English as their primary language or who have a limited ability to speak, read, write, or understand English because it is not their primary language.

Mobile Home or Manufactured Housing Unit (MHU): A dwelling unit composed of one or more components substantially assembled in a manufacturing plant and transported to a building site on its own chassis for placement on a supporting structure. An MHU is built in accordance with the standards established in HUD's building code for manufactured housing. An MHU is not built in accordance with the standards established in the state and local building codes that are applicable to site-built homes. The term "mobile home" may be used interchangeably with an MHU. However, the manual generally uses the term MHU to refer to both types of housing.

Modular Home: A dwelling unit composed of two or more components substantially assembled in a manufacturing plant and transported to a building site by truck for final assemble on a permanent foundation. A modular home must be built in accordance with the standards established in the state and local building codes that are applicable to site-built homes. Modular homes do not include mobile homes.

Notice of Intent To Acquire, Rehabilitate, and/or Demolish (NOI): An agency's written communication to a person to be displaced, either permanently or temporarily, which clearly states the agency's intent to acquire, rehabilitate, and/or demolish the property. The notice establishes eligibility for relocation assistance prior to the invitation of negotiations and/or prior to the commitment of federal financial assistance to the activity.

Notice of Relocation Eligibility (NORE): A notice that must be issued promptly after a written notice of intent. It must describe the available relocation assistance, the estimated amount of assistance based on the displaced person's circumstances and needs, and how to get assistance. This notice must be specific to the person and their situation so that they will have a clear understanding of the type, amount, and number of payments and/or any other assistance they may claim.

Notice of Non-Displacement (NND): A notice provided to persons who will not be permanently displaced for a HUD-assisted project. Such persons may have to move to another unit within the project or move temporarily while the property is rehabilitated. The terms of the move must be reasonable, and costs for the move must be covered by the project. This notice is not required by the URA. HUD policy requires that this notice is used to inform persons within the project who will not be permanently displaced but who may be impacted because of the project. A person who will not be displaced by the project may choose to leave the project site. However, if an accurate and timely Notice of Non-Displacement was provided before they moved, they are presumed ineligible for relocation payments.

Not Suitable for Rehabilitation: OHCS defines a residential property as "not suitable for rehabilitation" if any of these conditions apply:

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

- Repairs exceed $50,000.
- Homes cannot be rehabilitated or reconstructed in place under existing agency policies and award caps due to legal, engineering, or environmental constraints, such as permitting, extraordinary site conditions, or historic preservation.

Power of Attorney (POA): An authorization to act on someone else's behalf in a legal or business matter.

Program or Project: The term "project" means any activity or series of activities undertaken with federal financial assistance received or expected in any phase. When federal financial assistance is used for any activity or in any phase of a project, planned or intended, and the activities are determined to be interdependent, the statutory and regulatory requirements of the URA and the specific HUD funding source(s) are applicable. Interdependence is best determined by whether one activity would be done if not for another. As a result, any activity "in connection with" a federally funded project can be subject to all regulations of that funding source even though the activity may not be directly funded by that source. HUD "projects" are defined according to program rules.

Reconstruction: Demolition and rebuilding of a housing unit on the same lot in substantially the same footprint and manner.

Rehabilitation: Repair or restoration of housing units in the disaster-impacted areas to applicable construction codes and standards.

Reasonable Accommodation: In certain circumstances, displaced households need reasonable accommodation to benefit from temporary or permanent relocation activities in conjunction with housing assistance programs. Displaced households who need reasonable accommodation should notify their housing program staff immediately.
All forms, written materials, and verbal messages used to communicate with displaced households are made available in the household's primary language, should the household indicate that they have a limited English proficiency (LEP).

Replacement Unit: The unit the person moves into and may or may not be one of the units provided as comparable to a permanent unit.

Review Appraisal: A qualified professional meets the requirements of a review appraiser as determined by OHCS and required in 49 CFR Part 24.103(d)(1). They review and ensure that all appraisals of property for the buyout programs meet professional standards.

Section 104(d): A section of the Housing and Community Development Act of 1974, as amended (HCDA), (Pub. L. 93-383, 42 U.S. C. 5301 et seq.), and the implementing regulations at 24 CFR Part 42, that requires a residential anti-displacement and relocation assistance plan. It must provide:

- One-for-one replacement of occupied and vacant livable LMI income dwelling units demolished or converted to another use in connection with a development project. The project must be assisted under 24 CFR Parts 570 and 92.
- Relocation assistance for all LMI persons who occupied housing that is demolished or converted to a use other than for LMI housing.

Note: Section 104(d) has been modified under the Consolidated Notice, and those modifications are detailed in section 104(d) section of this document.

Tenant: A person who has the temporary use and occupancy of property owned by another (24 CFR Part 24.2(a)).

Tenancy: A situation where one individual leases real property to another.

The Uniform Relocation Act (URA): Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA, Uniform Act, or Uniform Relocation Act), (Pub. L. 91-646, 42 U.S.C. 4601 et seq.), and the government wide implementing regulations found at 49 CFR Part 24.

U.S. Department of Housing and Urban Development (HUD): The federal department for fair housing and housing assistance programs such as CDBG-DR program funds. HUD administers, monitors, and distributes funds to grantees.

9.3 Applicable Regulations

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

1. The URA regulations, effective June 03, 2024, implementing the URA, as amended at 49 CFR Part 24: ecfr.gov/current/title-49/subtitle-A/part-24
2. Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR Part 570.496(a): ecfr.gov/current/title-24/section-570.496
3. 24 CFR Part 570.606 of the CDBG regulations, which requires compliance with the regulations listed above: ecfr.gov/current/title-24/section-570.606

Additional regulations specific to the CDBG-DR funding and Public Law 117-43 provide further requirements and waivers on the HUD website located at hud.gov/program_offices/comm_planning/cdbg-dr/regulations#2020.

9.3.1 HUD Acquisition and Relocation Guidance

HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, change 15, issued July 31, 2019, and the U.S. Department of Transportation regulation located at 49 CFR Part 24 updated June 3, 2024, provide the information necessary to address any type of acquisition and contain detailed guidance on HUD's URA requirements. The handbook and all sample guide forms are located at hud.gov/program_offices/administration/hudclips/handbooks/cpd/13780.

9.4 Waivers, Modifications, and Alternative Requirements per the Consolidated Notice

9.4.1 Section 414 of the Stafford Act

This section allows persons eligible for replacement housing payment under the URA to continue to be eligible for funds if they cannot meet occupancy requirements because of a presidentially declared disaster. This requirement has been waived by the Consolidated Notice to apply to the CDBG-DR activities funded within one year after the disaster declaration date. To determine if Section 414 is waived, the earliest of the following dates is the point in which a project is considered funded by the:

- Date of an approved Request for Release of Funds and Certification;
- Date of Completion of the site-specific environmental review when a program uses tier reviews; or
- Date of sign off by an approving official when a project is converted to exempt under 24 CFR Part 58.31(a)(12)

All CDBG-DR activities for the 2020 Labor Day Disasters should be funded more than a year after the latest applicable disaster, and Section 414 requirement is waived.

9.4.2 Section 104(d)

HUD has provided the following alternative requirements for section 104(d) compliance for the use of CDBG–DR funds allocated under the Consolidated Notice.

Term for Rental Assistance Payments: Section 104(d) typically extends housing replacement assistance from the standard 42 months under URA to 60 months for households determined to be LMI. This 60-month requirement for LMI households is waived in the Consolidated Notice and reduced to the standard 42-month URA requirement.

Applicability of One-for-One Replacement: The section 104(d) one-for-one replacement housing requirements apply to occupied and vacant livable lower-income dwelling units demolished or converted in connection with an activity assisted by CDBG-DR. This waiver exempts all disaster-damaged, owner-occupied lower-income dwelling units that meet the grantee's definition of "not suitable for rehabilitation" from the one-for-one replacement housing requirements of 24 CFR Part 42.375. Before carrying out activities that may be subject to the one-for-one replacement housing requirements, the subrecipient must define "not suitable for rehabilitation" in its policies and procedures governing these activities. More information can be found later in the chapter on rental units.

9.5 Acquisition

The CDBG-DR Consolidated Notice allows for two types of acquisition with CDBG-DR funds. Acquisition for redevelopment allows subrecipients to purchase real property for eligible activities for CDBG-DR and redevelop them. A buyout acquisition is the purchase of real property to reduce future risk of property damage by demolishing all structures on the property and leaving it as open space or to be used for flood mitigation purposes. Please review the Action Plan for any potential inclusion of funds to be used for buyout acquisition projects.

The following general requirements apply to both forms of acquisition under CDBG-DR. Additionally, URA requirements apply equally to both forms of acquisition. For the purposes of this chapter, "property to be acquired" refers to any kind of permanent interest such as fee simple title, land contracts, permanent easements, long-term leases (50 years or more), and rights-of-way. Temporary easements are also subject to all the same rules as other forms of acquisition unless the temporary easement exclusively benefits the property owner. Subrecipients should also be aware that all methods of acquisition (e.g., purchase, donation, or partial donation) are covered by the URA.

Acquisition rules must be followed whenever:

- The subrecipient undertakes the purchase of property directly.
- The subrecipient hires an agent, private developer, or other URA representative to act on their behalf.
- The subrecipient provides a nonprofit or for-profit entity organization with funds to purchase a property.

Subrecipients must also adhere to environmental review requirements as they relate to acquisition, including the requirements regarding options and conditional contracts pending environmental clearance.

9.6 Voluntary Versus Involuntary Acquisition

The URA regulations at 49 CFR Part 24 Subpart B state the real property acquisition requirements for federal and federally assisted programs and projects under the URA. The URA regulations have different requirements for acquisitions of a voluntary nature and for acquisitions under threat or use of eminent domain or condemnation.

9.6.1 Voluntary

Voluntary acquisitions are transactions with no threat or use of eminent domain meeting the criteria stated in 49 CFR Part 24.101(b)(1) through 33.

An acquisition will be considered "voluntary" when all the following conditions in paragraphs (b)(1)(i) through (iv) are met:

- No specific site or property needs to be acquired, although the agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly (see Appendix A, 49 CFR Part 24.101(b)(1)(iii)).
- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all the property within the area is to be acquired within specific time limits.
- The agency will not acquire the property if negotiations do not result in an amicable agreement, and the owner is so informed in writing.
- The agency will inform the owner in writing of what it believes to be the market value of the property.

9.6.2 Involuntary

Involuntary acquisitions occur when the acquisition is subject to threat or use of eminent domain. Under the URA, voluntary acquisitions that satisfy the requirements of 49 CFR 24.101(b)(1)–(33) are not subject to the acquisition requirements of 49 CFR Part 24 Subpart B. A common misconception is that a "willing seller" or "amicable agreement" means a transaction is "voluntary." This is not necessarily true under the URA, and the applicable requirements of involuntary acquisition of real property must be satisfied for purposes of the URA.

URA requirements for voluntary acquisitions and involuntary acquisitions differ significantly for property owners. While there are protections for property owners in both circumstances, only involuntary acquisitions trigger both the acquisition and housing replacement requirements for displaced homeowners.

9.6.2.1 Fair Market Value

The current fair market value (FMV) should be paid for the property to be acquired. The FMV for properties that are involuntarily acquired and are subject to 49 CFR Part 24 Subpart B cannot exceed the value as determined by a professional appraiser unless there is clear evidence the acquisition will:

- Go to eminent domain proceedings
- Raise the cost above FMV/negotiated price with the cost of completing eminent domain proceeding

This MUST be clearly documented and should be a rarity.

9.6.2.2 Eminent Domain

HUD prohibits the use of HUD funds for eminent domain-related activities that do not result in a public purpose. Therefore, CDBG-DR funds cannot be used for an eminent domain acquisition unless the final use of the property will serve the public interest.

9.6.2.2.1 Eminent Domain Purchases From the Federal Government

If an agency does not have the authority to acquire property from the federal government through condemnation, the acquisition will meet the requirements of 49 CFR Part 24.101(b)(3). In accordance with this regulation, if the agency wanting to acquire the property from the federal agency does not have authority to acquire through condemnation, such acquisition is not subject to URA basic acquisition policies. Unlike voluntary acquisitions from a private party under 24.101(b)(2), there are also no seller notification requirements.

9.6.3 Basic Project Development Concepts

When developing your project, here are some basic concepts to keep in mind:

- “Buy vacant” for projects funded by CDBG-DR because relocation requirements are complicated and expensive.
- If there is going to be a relocation during the project, the subrecipient must have a “relocation plan” in place.

- One-for-one replacement does not necessarily have a time limit; replacement depends on whether the property meets the alternative section 104(d) requirements and is vacant/occupiable (i.e., suitable for rehabilitation).

9.7 Acquisition Requirements

URA applies to acquisition of a fee simple title; acquisition of fee title that is subject to retention of a life estate or a life use; acquisition by leasing where the lease term, including option(s) for extension, is 15 years or more; and the acquisition of easements.

Handbook 1378 includes an Acquisition Checklist (hud.gov) and General Acquisition Process (hud.gov) for grant recipients to use in adhering to these complicated requirements.

Prior to commencement (notices mailed to property owners), considered by the subrecipient to be "voluntary," each acquisition must receive concurrence from OHCS that the acquisition is voluntary and "not subject to" the requirements of Subpart B of the URA.

9.7.1 Initiation of Negotiations

To assist subrecipients to comply with URA acquisition requirements, some sample initial notices and agreements with property owners regarding proposed acquisition are attached. These include:

- Voluntary Acquisition-Informational Notice-Agency With Eminent Domain Authority (hud.gov)
- Involuntary Acquisition With Threat/Use of Eminent Doman (hud.gov)
- When A Public Agency Acquires Your Property Brochure.DOC (live.com)

The recipient's file must state the way this notice was delivered (e.g., personally served or certified mail return receipt requested) and the date of delivery. If the letter was personally served, it is necessary to obtain a written receipt of delivery from the property owner at the time of delivery.

The state can also provide information booklets, sample notices, and other materials to assist subrecipients.

9.7.2 Appraisal Requirements

In most cases, the URA requires the subrecipient to obtain an independent appraisal of the property, permanent easement, or temporary construction easement prior to negotiating a sale with the property owner. Independent appraisals are necessary as documentation that acquisition costs are “reasonable and necessary” per federal regulations.

An exception to this requirement, known as the “Low Value Waiver,” may be allowed for small, uncomplicated acquisitions with a FMV less than $15,000. This waiver may be available for properties up to $50,000 with prior written approval by OHCS.

An appraisal is not needed for voluntary transactions. However, the subrecipient must have on file evidence of how the FMV of the property was determined by a qualified person knowledgeable in land/property valuation.

An appraisal is needed for involuntary purchases. It is also required that the homeowner, or the owner’s designated representative, has an opportunity to be present during the appraisal process. If the property owner elects to have the subrecipient appraise the property, the subrecipient must obtain an appraisal and may not use the waiver valuation approach. When an appraisal is waived by a property owner for an involuntary transaction that is subject to Subpart B of the URA, the subrecipient must have on file a waiver valuation.

All appraisals must meet the minimum appraisal requirements of the URA. The URA requires an appraisal to be current; this means no more than 1 year or 12 months old at the time the offer of just compensation is made. Exhibit 7C of the URA includes a Guide to Preparing an Appraisal Scope of Work that can be used in meeting these requirements. Exhibit 7D includes a draft Agreement for Appraisal Services that can be used as a guide for entering into agreements with companies providing appraisal services. Exhibit 7E includes a Certificate of Appraiser that can be used for “subject to” acquisitions or other acquisitions where an appraisal is obtained.

Property owners that are subject to involuntary acquisition subject to Subpart B, and a waiver valuation is not used, have the right to accompany the appraiser when the appraisal is conducted on their property. Exhibit 7F includes an example invitation to the property owner, or their designated representative to accompany the appraiser.

Once the appraisal is done, a review of the appraisal is necessary to ensure that it meets applicable appraisal standards and requirements. The review appraiser needs to determine that the appraiser’s documentation, including valuation data and the analyses of that data, demonstrates the soundness of the appraiser’s opinion of value.

9.7.3 Donations

The URA applies to donations. Subrecipients must not accept or negotiate donations of real property or easements unless the specific provisions of the URA are followed. Donated property does not have to be appraised if the requirements of the URA are met (see 49 CFR Part 24.102(c)(2)(i)).

9.7.4 Purchase Options, Sales, Agreements, and Other Agreements

Federal acquisition rules must be followed prior to negotiating permanent easements, purchase options, sales agreements, or donation agreements. In cases where there is an existing option to purchase property for a project, all disclosures must be made to the property owner prior to exercising the option. When an option is exercised, a contract of sale is entered. An "earnest money agreement" is not an option to purchase.

To assist subrecipients to comply with tenant access notification requirements, use of tenant access clauses in purchase options is recommended. This clause requires the property owner to allow the tenant access for the purpose of obtaining information and issuing notices.

9.7.5 Environmental Review Requirements

The subrecipient cannot enter any legal binding commitment to a particular site before the environmental review is complete and an issuance of the Release of Funds (ROF) has been received from OHCS. Refer to Chapter 3 for more information on the Environmental Review Process. However, an option agreement on a particular proposed site or property is allowable prior to completion of the environmental review if the option agreement is subject to a determination by the subrecipient of the desirability of the property for the project as a result of the completion of the environmental review, issuance of the ROF by the state, and the cost of the option is a nominal portion of the purchase price. Refer to Chapter 3 for more details.

9.7.6 Insurance Requirements

Recipients and subrecipients must at a minimum provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the recipient or subrecipient, respectively. Federally owned property need not be insured unless required by the terms and conditions of the federal award consistent with 2 CFR Part 200.310.

Recipients should familiarize themselves with all applicable regulations and work with their OHCS contract administrator to ensure that all requirements are met.

9.8 Section 104(d)

9.8.1 Alignment With the URA for CDBG-DR

Activities and projects undertaken with CDBG–DR funds may be subject to the URA, section 104(d) of the HCDA (42 U.S.C. 5304(d)), and CDBG-DR program requirements related to displacement, relocation, acquisition, and replacement of housing, except as modified by waivers and alternative requirements provided in the Consolidated Notice. HUD is waiving or providing alternative requirements in this section to promote the availability of DSS housing with respect to the use of CDBG–DR funds allocated under the Consolidated Notice.

9.8.2 Section 104(d) One-For-One Replacement Requirements for CDBG-DR

Section 104(d) requirements of the HCDA generally include:

- One-for-one replacement of all occupied and vacant occupiable LMI dwelling units that are demolished or converted to a use other than LMI permanent housing in connection with an activity assisted under the HCDA.

In accordance with the Consolidated Notice, some components of the section 104(d) requirements have been waived:

- This waiver exempts all disaster-damaged owner-occupied or occupiable lower-income dwelling units that meet the grantee’s definition of “not suitable for rehabilitation” from the one-for-one replacement housing requirements of 24 CFR Part 42.375.

9.8.3 Not Suitable for Rehabilitation

OHCS defines a residential property as “not suitable for rehabilitation” if any of these conditions apply:

- The property is declared a total loss.
- Repairs would exceed 50% of the cost of reconstruction.
- Repairs exceed $50,000.
- Homes cannot be rehabilitated or reconstructed in place under existing agency policies and award caps due to legal, engineering, or environmental constraints, such as permitting, extraordinary site conditions, or historic preservation.

9.8.4 Section 104(d) Resources

Contact an OHCS contract administrator for the applicable federal regulations and assistance if your project involves demolition or conversion of housing units.

9.8.5 Section 104(d) Checklist

Relocation Assistance: The requirements for section 104(d) that pertain to tenant assistance are waived in accordance with the Consolidated Notice. Under the notice, LMI persons and households who reside in a unit that is subject to replacement will only receive 42 months of benefits as persons and households under the URA, and not the 60 months for projects not tied to disaster recovery. To determine if the section 104(d) waiver applies, use the following checklist:

1. Are CDBG-DR funds used in the project?
2. If yes, the Consolidated Notice waiver will apply.

One-for-One Replacement: To determine if the unit is subject to one-for-one replacement use the following checklists:

1. Are CDBG-DR funds in the project?
2. Was the residential property substantially damaged by the disaster and meets the definition of "not suitable for rehabilitation"?
3. Will the unit be demolished or converted to another use?
4. If the answers to 1–3 above were all "yes," then the unit **does not** need to be replaced per the Consolidated Notice waiver.

If the residential dwelling does not meet the three criteria above, the following checklist will need to be applied to determine if one-for-one replacement is needed.

1. Are CDBG-DR funds in the project?
2. Is the unit occupied or a vacant-livable lower-income dwelling?
   Note: Vacant Occupiable: The unit is standard, vacant, and suitable for rehab or dilapidated but has been occupied within the last three months.
3. Will the unit be demolished or converted to another use?
4. If answers to 1–3 above were all yes, then the unit must be replaced.

24 CFR Part 42.375(b)(2) requires one-for-one replacement. This means a duplex with two one-bedroom/one-bathroom units cannot be replaced by a single-family dwelling containing three bedrooms and two bathrooms. The duplex must be replaced by a like

duplex of two units containing one bedroom/one bathroom each or two similar sized one-bedroom units within a larger complex.

9.9 URA Requirements

In accordance with the provisions of the URA a displaced person is an individual, family, partnership, association, corporation, nonprofit or organization that moves either temporarily or permanently from their home, business, or farm, or moves their personal property, as a direct result of the acquisition, demolition, or rehabilitation of real property for a CDBG-DR project. Displaced persons are eligible for relocation assistance under the URA.

HUD has developed several brochures for people who are eligible for relocation assistance. All are available online at the HUD. They are:

- Relocation Assistance to Tenants Displaced From Their Homes (HUD 1042-CPD)
- Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms (HUD 1043-CPD)
- Relocation Assistance to Displaced Homeowner Occupants (HUD 1044-CPD)

The URA relocation requirements are triggered when persons are displaced by a federally funded action. For example, anytime eminent domain is used to acquire a property that is owner-occupied, it is always considered a permanent displacement and the owner is entitled to relocation benefits. Similarly, anytime a tenant is displaced by an activity, even if the activity is to repair the tenant's unit, the tenant is considered displaced, even though it is for a temporary period, which cannot exceed one year.

The requirements for relocation assistance and advisory services under the URA do not apply when the property owner agrees or applies for the federally funded action (e.g., acquisition, rehabilitation, or reconstruction) that requires them to move permanently or temporarily from their property. This does not trigger the URA requirements because the property owner voluntarily applied for a program, unlike a tenant who does not own the property. What if a project proponent already started a project?

URA acquisition rules apply any time an acquiring entity:

- Undertakes the purchase of property directly
- Provides a nonprofit or for-profit entity with funds to purchase the property
- Hires an agent or consultant to act on its behalf in acquisition

- Undertakes acquisition on or after a CDBG-DR application submission date unless the acquiring entity demonstrates that the acquisition was unrelated to the proposed activity
- Undertakes an acquisition before the application submission date and the acquisition was intended to support a subsequent CDBG-DR activity

If a project proponent already started a project, the URA is not triggered if they are not receiving CDBG-DR or other federal assistance. However, if they are going to need CDBG-DR assistance, OHCS needs to ensure that the acquisition activities of the subrecipient conform with the URA requirements.

If CDBG-DR assistance is used for any part or phase of the project, the URA must be followed, even if local or other non-Community Development Block Grant funds are used to pay the acquisition costs.

9.10 Displacement

9.10.1 Residential Anti-Displacement and Relocation Assistance Plan

All subrecipients are required to follow the Oregon RARAP. If needed, reach out to OHCS for a copy of the plan.

9.10.2 Permanent Versus Temporary Relocation

Tenants and homeowners can be permanently or temporarily displaced depending on the type of activity that is displacing the tenant or homeowner and the length of time they will be out of the property.

A displaced person will be considered permanently displaced if the property that the tenant or homeowner occupies becomes unavailable through an action funded in whole or in part with federal funds. If the tenant or homeowner must leave the property for a temporary amount of time (e.g., less than a year) and the tenant can return to the property after the federal activity ends, the tenant would be considered temporarily displaced. URA advisory services and moving expenses are the same whether persons are permanently or temporarily displaced.

Permanent Relocation	Temporary Relocation
• Relocation advisory services • Rental assistance differential for 42 months or down payment assistance to purchase home if residential tenant • Re-establishment cost if nonresidential • Moving expenses	• Relocation advisory services • Rental assistance differential for up to 12 months • Moving expenses from residence to new temporary residence • Storage while temporarily displaced • Moving expenses to move back to original unit

Note: If the tenant or homeowner is not able to return to their unit or another appropriate, affordable unit at the site within 12 months, they are considered permanently displaced and eligible for relocation assistance and advisory services as defined by the URA. In this circumstance, the tenant or homeowner will be contacted by the OHCS relocation specialist, and a revised NORE will be issued, including the additional amount of 42 months of assistance that will be received.

9.10.3 Optional Relocation

OHCS may permit subrecipients to provide optional relocation assistance (ORA) services in accordance with 24 CFR Part 570.606(d) for persons displaced by CDBG-DR activities that do not qualify for assistance under the URA. Specifically, homeowners who have voluntarily agreed to participate in a program that will displace them either on a temporary or permanent basis who are not eligible to receive relocation assistance under the URA but may be provided moving or relocation assistance under an ORA plan.

Per the CDBG-DR allocation notice, the regulations at 24 CFR Part 570.606(d) are waived to the extent that they require optional relocation policies to be established at the state level. This waiver makes clear that grantees receiving CDBG-DR funds may establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies.

The optional relocation policy must be in writing and:

- Be available to the public.
- Describe the relocation assistance that the subrecipient has determined to provide.
- Provide equal relocation assistance within each class of displaced persons according to 24 CFR Part 570.606(d).

The Optional Relocation Plan must be reviewed and approved by OHCS prior to implementation.

9.10.4 Tenant Notices

All occupants of property that will be acquired, rehabilitated, or demolished due to a CDBG-DR project must receive timely notices about their rights under the URA. The notices include:

General Information Notices (GIN): Informs the occupant(s) of a possible project and includes the appropriate HUD booklet. In this case, it would be “Relocation Assistance to Tenants Displaced From Their Homes” (HUD booklet 1042-CPD). This notice must be issued as soon as possible after it has been determined that CDBG-DR funds are intended to be used for the project.

Note on Unfound Displaced Tenants: If the tenants who were issued a GIN vacated for personal reasons before the initiation of negotiations (ION) (i.e., the date the CDBG-DR grant agreement is fully executed between the recipient and the state) **they do not qualify as displaced**. GINs should be issued as soon as possible. Anyone who vacates a property after the subrecipient applies for funds but before receiving a GIN could be considered displaced by the project and be eligible for benefits and assistance under the URA.

If there are unfound displaced tenants that qualify for benefits under the URA, subrecipients must take whatever steps are necessary to remedy oversights.[2] Subrecipients must take all corrective actions necessary to comply with the URA. OHCS recommends one of the two following potential paths:

1. Agency properly provided the GIN that advised the tenant not to move and used all reasonable procedures to locate the tenant(s): The regulations allow the tenant(s) 18 months to file a claim for URA benefits. The deadline may need to be waived if there are extenuating circumstances.
3. Agency did not properly provide GIN: The tenant(s) now have extenuating circumstances and can file a request to indefinitely extend the 18-month window to file a claim for URA benefits.

If the tenant(s) files a valid claim for benefits, they must be paid.

[2] Common oversights that require remedy include inadequate replacement housing, failure to provide notices, advisory services, and underpayments.

Notice of Eligibility (NOE): Informs occupants that they will be displaced and are eligible for URA benefits. This includes levels of assistance to be provided under URA rules.

90-Day Notice To Vacate: This is a letter issued to a tenant, at least 90 days in advance. It informs the tenant of the date by which they must relocate from the property.

9.11 Intake and Eligibility

An intake meeting should be scheduled with all affected displaced owner-occupants or tenants to discuss relocation benefits and eligibility. This meeting gives the owner-occupant or tenant a chance to learn about the process, ask questions, and submit the necessary income verification information. Owner-occupants or tenants should receive a written notification of their eligibility for benefits after displacement is confirmed and after other eligibility items have been confirmed (e.g., living in property before the notice of intent, citizenship/legal residency, or other eligibility criteria). The subrecipient must determine current occupancy and conduct owner-occupant or tenant interviews.

9.11.1 Certify Income and Determine National Objective

In addition to completing eligibility-related documentation, the owner-occupant or tenant household must complete an income certification so that national objective can be determined as LMI benefit or urgent need.

9.11.2 Intake Negotiations

Once eligibility and national objective are determined, the owner-occupant or tenant file stays “on hold” pending the ION. In an acquisition program, this is generally immediately after the contract of sale date (when the buyer and seller have entered into an agreement for the property to be purchased).

9.11.3 Identify Comparable Dwellings

Once an occupant is found eligible for URA relocation assistance, the subrecipient must offer one or more comparable units to the displaced person. The comparable dwellings must be as much like the home from which they are displaced as is possible. This includes matching the size and function, having the same principal features, and having a similar location (e.g., reasonable access to a person’s employment, schools, medical facilities, general neighborhood characteristics). The comparable dwellings must also offer proper environmental conditions and meet DSS and HUD Housing Quality Standards (HQS). The comparable unit must be available for use/occupancy.

Comparable dwellings are compared using HUD Form 40061 (see HUD Handbook 1378, Appendix 12), and a “most comparable dwelling” is chosen based on objective criteria. Benefits are calculated based on the selection of the “most comparable dwelling” and the rent and utilities of the displacement dwelling. Subrecipients must develop a methodology for determining estimated monthly utility costs at the replacement unit when comparing the actual utility costs at the displacement dwelling. The simplest way of doing this is looking at the utility allowance worksheets for local housing authorities or Section 8 agencies.

Note: If looking for comparable units for persons residing in public housing, using a comparable public housing unit is an eligible comparable. However, if the displaced person is not a public housing recipient, they cannot be provided with a public housing replacement unit as a comparable.

9.11.4 Send Notice of Eligibility and 90-Day Notice

NOEs and 90-day notices inform the occupants of the day they must vacate the property. Displaced persons may not be given fewer than 90 days to vacate their residence. However, 90-day notices may not be issued until residential tenants are provided an NOE and referred to available, comparable replacement housing. The subrecipient can combine the NOE and the 90-Day Move Notice into a single notice if the date to vacate is known. If not, the 90-Day Move Notice can be issued separately later.

If, during the project development stage, the subrecipient identifies a potential tenant displacement, they must have documentation that they sent the GIN to the tenant when the grant application is submitted to the state. Use certified mail, return receipt required, or have the tenant sign the notice to acknowledge receipt of the notice.

Tenants who did not receive their notices by the time required may be entitled to additional relocation benefits under federal law.

There are many notices, depending upon the details of the situation. The subrecipient must review the various notices required per HUD Handbook 1378.

Examples of the four most used notices are:

1. General Information Notice for Residential Tenant Not Displaced (hud.gov)
2. General Information Notice for Residential Tenant To Be Displaced (hud.gov)
3. Notice of Non-Displacement to Residential Tenant (hud.gov)
4. Notice of Eligibility for URA Relocation Assistance-Residential Tenant (hud.gov)

If an owner or tenant did not receive the required notices, a complaint can be filed either by contacting the HUD Region X office or by filing a complaint online at hud.gov/fairhousing/fileacomplaint.

9.11.5 Determine Eligibility and Amount of Assistance

Specific instructions for meeting all federal relocation requirements are beyond the scope of this chapter. Subrecipients with projects that may result in any person or business moving, temporarily or permanently, must use HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition, Change 15, issued July 31, 2019, and Part V of the U.S. Department of Transportation regulation located at 49 CFR Part 24, updated June 3, 2024, and discuss the requirements with the OHCS contract administrator for their project at the beginning of the project.

If the displaced person is found to be eligible for benefits, HUD Forms 40054 and 40058 must be completed. These forms calculate the amount of assistance the tenant will receive. HUD Form 40054 calculates payments for the tenant's moving expenses. HUD Form 40058 establishes required relocation expenses equivalent to 42 months of the tenant's rent increase or 42 months of any monthly rent amount over 30% of the tenant's monthly income. The tenant and an authorized representative of the subrecipient must sign HUD Forms 40054 and 40058 (see HUD Handbook 1378, Appendix 11 and Appendix 14).

The income of the displaced person is not a factor in determining basic eligibility, but it is a factor in calculating the amount of assistance they are required to receive. There is no income cutoff for eligibility for relocation assistance. Anyone who is displaced may be entitled to URA assistance.

9.12 Relocation Advisory Services

In accordance with 49 CFR Part 24.205(c)(2)(ii), programs will provide relocation advisory services to displaced persons. In addition to providing the required notices, the relocation advisor will contact the impacted displaced household(s), schedule an interview, obtain tenant documents, and ensure tenants understand their rights and responsibilities. During this interview, the program will inform the displaced household of advisory services.

These services include:

- Determining the needs and preferences of displaced persons
- Explaining available relocation assistance, such as moving costs and replacement housing, eligibility requirements, and the process for obtaining assistance

- Explaining a tenant's right to appeal if they are not satisfied with program decisions, including written appeal procedures
- Offering transportation to inspect the referred housing
- Providing information about other assistance, such as legal services, financial services, and housing counseling
- Providing information on current and ongoing listings of available comparable dwellings for residential displacements
- Informing the displaced person in writing of the comparable dwelling unit
- Informing the tenant that they do not have to move unless at least one comparable replacement dwelling is made available
- Inspecting the dwelling to determine if it meets DSS requirements
- Providing counseling and other assistance to minimize hardship in adjusting to relocation
- Providing other required and appropriate assistance

URA advisory services and moving expenses are the same whether permanently or temporarily displaced.

9.13 Moving Expenses

Moving expenses must be reasonable and necessary. The displaced person may choose to receive payment for moving expenses by commercial mover, reimbursement of actual expenses, a fixed payment from the Federal Highway Administration, or any combination of the above.

At the date of this publication, the most current residential moving cost schedule can be found at fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm.

Recipients should check the website above to obtain the most current moving cost schedule.

9.14 Relocation Assistance and Payments

The URA provides relocation assistance and payments to eligible persons displaced from their homes, businesses, and farms as a direct result of a federally funded program or project. Residential tenants and owner occupants of 90 days or more that are displaced from their dwellings may be eligible for a replacement housing payment, rental assistance, or down payment assistance.

Information regarding eligibility for this assistance is available at fhwa.dot.gov/real_estate/policy_guidance/low_income_calculations.

If the subrecipient has any questions about the calculation methods or other elements of relocation assistance requirements, they should request technical assistance through their OHCS contract administrator.

Cash rental assistance payments must be made in installments and not a lump sum. Relocation assistance payments for residential tenants must be disbursed in installments. Lump sum payments may be made only to cover eligible moving expenses and a down-payment on the purchase of replacement housing, which may include incidental expenses. Once the NOE has been issued and the full amount of relocation assistance has been established, the regular installments paid shall remain the same, regardless of whether there is any later change in the person's income or rent or in the condition or location of the person's housing.

The subrecipient can determine the frequency of the disbursements. However, if not paid monthly, there should be at least three installment payments, unless the rental assistance is $500 or less. Where the rental assistance is $500 or less, the payment can be in two installments with at least four months between payments.

9.15 Rental Assistance Payment

Assistance can be provided as rental assistance or down payment assistance. Rental assistance is a replacement housing payment (RHP). The amount of RHP varies depending on family income. The URA establishes a cap on payments at $99,570. This cap can be exceeded if there is insufficient comparable housing in the local market. In these “last resort” housing situations if relocation assistance is insufficient, the subrecipient may provide the funds necessary. Information relating to “Replacement Housing of Last Resort” situations can be found in 24 CFR Part 24.404 and Chapter 3 of HUD Handbook 1378. Rental assistance must be provided with payments made to the displaced person.

9.15.1 Housing of Last Resort

In accordance with the requirements found at 49 CFR Part 24.404(a)(2), this determination to exceed the amount under 49 CFR Part 24.401 or 24.402 and provide, as appropriate, additional assistance, is based on one of the following:

- A case-by-case determination based off good cause with consideration given to the availability of comparable replacement housing in the program or project area, resources available to provide comparable replacement housing, and the specific individual circumstances of the displaced person.
- A determination that there is little to no comparable replacement housing available to the displaced persons within an entire program or project area resulting in last resort housing assistance that is necessary for the area as a whole.
    - A program or project cannot be advanced to completion in a timely manner without last resort housing assistance.
    - The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

9.15.2 Conversion of Rental Payment to Down Payment for Home Purchase

A displaced tenant can choose to have the full amount of the 42-month rental assistance payment applied as a down payment for a home purchase. This would be in place of rent assistance. The entire purchase assistance payment for a DSS replacement dwelling must be applied at closing.

9.16 Replacement Housing Payment

Homeowners that are involuntarily displaced are eligible for assistance with replacement housing. Replacement housing assistance to purchase a replacement home must be a lump sum payment made to the mortgage lender or seller.

Only homeowner-occupants who lived in their house for 90 days before an offer to purchase their home, activating an involuntary purchase, are eligible for a replacement housing payment as “displaced persons” (90-day homeowner). The maximum payment is $41,200. If homeowners were living in their house for less than 90 days before the ION, they are protected by the URA as “displaced persons.” The calculation is the same method used for tenants.

Note: If an owner occupies a property purchased using voluntary acquisition requirements (non-mandatory purchase requirement), they are NOT eligible for URA relocation benefits.

For involuntary acquisitions, the ION is defined as the delivery of the written offer of just compensation by the subrecipient to the owner. The RHP made to a 90-day homeowner is the sum of:

- The lesser of the cost of the comparable unit identified by the program or the cost of the actual replacement unit that the homeowner chooses if a comparable option is not presented
- Additional mortgage financing cost
- Reasonable expenses incidental to purchase the replacement dwelling

To calculate the RHP for a 90-day homeowner, subrecipients should use the HUD claim form 40057 (see HUD Handbook 1378, Appendix 13). If an owner elects to become a renter, the RHP can be no more than the amount they would otherwise have received as an owner.

The displaced homeowner must purchase and occupy the replacement unit as their principal residence to qualify for a RHP as a displaced owner-occupant.

9.17 Lawful Presence

Any person who is an alien (foreign national) not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child.

The definition of an "alien not lawfully present in the United States" includes an alien present in the United States who has not been admitted or paroled into the United States according to the Immigration and Nationality Act (8 U.S.C. 1101), whose stay in the United States has not been authorized by the Secretary of Homeland Security; who is present in the United States after the expiration of the period of stay authorized by the Secretary of Homeland Security; or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility:

- In the case of an individual, certify that he or she is either a citizen or national of the United States or an alien who is lawfully present in the United States.
- In the case of a family, certify that each family member is either a citizen or national of the United States or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

- In the case of an unincorporated business, farm, or nonprofit organization, certify that each owner is either a citizen or national of the United States or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.
- In the case of an incorporated business, farm, or nonprofit organization, certify that the corporation is authorized to conduct business within the United States.

Relocation payments or relocation advisory assistance cannot be provided to a person who does not have this certification or who has been determined to be unlawfully present in the United States, unless ineligibility would result in exception and extremely unusual hardship to a qualifying spouse, parent, or child. An alien not lawfully present in the United States may claim an exceptional and extremely unusual hardship if the denial of relocation payments and advisory assistance will directly result in:

- A significant and demonstrable adverse impact on the health or safety of a spouse, parent, or child
- A significant and demonstrable adverse impact on the continued existence of the family unit of which the spouse, parent, or child is a member
- Any other impact that OHCS determines will have a significant and demonstrable adverse impact on such spouse, parent, or child

9.18 Relocate Tenant or Owner-Occupant

Displaced persons have no fewer than 90 days to relocate to a new dwelling. The displaced person must coordinate closely with the subrecipient's acquisition staff to ensure that the unit is vacant at time of purchase. The tenants or owner-occupants can choose any dwelling they want. They are not required to select the most comparable dwelling or any of the comparable dwellings noted on the HUD Form 40061 (see HUD Handbook 1378, Appendix 13). However, the unit they choose to occupy must be inspected to verify that it is DSS and meets HQS for the displaced person to receive housing assistance. If the displaced person selects a unit that fails inspections for codes and standards and necessary corrections cannot be made, the RHP cannot be provided for this unit. The displaced person may choose to move to one of the suggested comparable dwelling units or find another unit that can pass the DSS/HQS standards. If the displaced person wants to move into the unqualified unit, they will not receive the housing assistance but can still receive reimbursement for moving expenses.

9.18.1 Inspect New Unit

In cases of residential relocation, when the displaced person selects a new unit, the unit is inspected to ensure that it meets DSS/HQS standards. The subrecipient must also verify that the unit is not within a special flood hazard area (SFHA). The unit must not be in a SFHA, and it must meet DSS/HQS standards for the tenant or owner occupant to receive benefits.

9.18.2 Disburse Assistance Payment

Once an amount is determined, the moving expense payment to the tenant is disbursed. Once a new unit is chosen, the rental assistance payment should be issued in installments over a four-month period.

9.19 Appeals

All tenants will have an opportunity to file an appeal in accordance with the URA regulations at 49 CFR Part 24.10. Written complaints and appeals must be submitted in writing. An appeal should be filed 30 days after written notification of a program determination.

9.19.1 Actions That May Be Appealed

Persons being displaced may file an appeal if they believe the program has:

- Made a mistake in determining eligibility for payment
- Made an error in figuring the amount of payment
- Been unfair in refusing to waive the time limit for filing a claim or the purchase and occupancy requirements
- Not provided a reasonable choice of comparable replacement housing
- Not thoroughly inspected the replacement housing
- Not complied with the provisions concerning the notice of right to continue in occupancy

Appeals are limited to actions or decisions the individual making the appeal believes are in conflict with stated program policies or to be based on contestable facts. Program policies established by OHCS are not appealable.

9.19.2 Appeals Process

An appeal may be filed if a person believes that the subrecipient failed to properly determine the person's URA award. Initial review of the appeal will be conducted by an established appeals team. This team is independent from the group that originally made the decision being appealed. Each appeal will be reviewed against program policies and URA requirements. The panel will make a recommendation to the ReOregon program staff, who will make the final determination.

An appeal must be filed within 60 days after the person receives written notification of the subrecipient's determination of the person's claim. Appeals must be submitted by tenants in writing to the subrecipient's appeals team. The request must contain the following information:

- Tenant's name
- Tenant's mailing address
- Tenant's telephone number
- Tenant's email address (if available)
- The reason(s) the decision or action is being appealed
- Documentation that supports the request to overturn the decision or action