

## CHAPTER 7 RELOCATION

### INTRODUCTION

This chapter provides an overview of the necessary requirements regarding displacement and relocation of residential and Non-Residential occupants under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA), and Section 104(d) of the Housing and Community Development Act of 1974 [Section 104(d)]. Also explained are the requirements regarding 'one-for-one housing replacement' under Section 104(d).

It is important to note that the CDBG Program does not support permanent displacement as an activity for proposed projects, nor is one-to-one housing replacement a supported project activity. Project activities that require occupants, residential or Non-Residential, be permanently displaced, or if the project triggers one-to-one housing replacement, will not be eligible for CDBG funds. Projects where occupants may be relocated for less than 12 months is permissible with CDBG Director approval. The cost of temporary relocation is required to be covered by the UGLG or private building owner and is not eligible to contribute as match, nor reimbursed by CDBG funds. The UGLG, local policy allowing, may opt to fund temporary relocation costs.

The CDBG Program does not consider occupants to be "displaced" if the project necessitates only temporary relocation for a period not exceeding 12 months, and only if certain stringent protections are applied. As such, much of this chapter will discuss how to be compliant with temporary relocation requirements. The costs associated with temporary location can vary greatly. Costs to temporarily relocate could be as minimal as covering the cost of hotel and food for a few days, or as broad as covering the costs associated with rent increase, moving all personal property and loss of wages if moving interrupts an occupant's work schedule. Temporary relocation activities may not be supported under the CDBG program. CDBG Director approval must be granted prior to obtaining an Offer Letter or Letter of Interest. It is vital that the UGLG Grantee/Agency take great care in documenting the procedure involved with relocation activities.

### SECTION 1 - APPLICABLE REGULATIONS

Relocation activities are governed by four separate regulations:

1. Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24).
2. Section 104(d) and 105(a) (11) of Title I of the Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR 570.496(a) (the Barney Frank Amendment).
3. 24 CFR Part 42 governing displacement in HUD-assisted housing.
4. 24 CFR Part 570.488 of the CDBG State Small Cities regulations.

It is vital that all reasonable steps are taken to minimize relocation on federally assisted projects. This includes, but is not limited to, considering feasibility in carrying out large projects in stages to allow for minimized relocation, or potential displacement. Relocation assistance is costly and can seriously affect project viability and may cause timeline delays and financial burden to the parties implementing the project. Consider the following when determining whether relocation is a necessary activity:

- Income generated by occupants
- Family characteristics
- Impact on minority populations
- Impact on the elderly, large families, and persons with disabilities
- Relocations options for businesses
- On-going advisory assistance to those that could be permanently displaced
- Other stakeholders and entities to be involved during relocation, or potential displacement

After strong consideration of whether relocation is necessary, there are several requirements to documenting compliance and ensuring equitable and fair treatment of those to be relocated:

- Coordination among State, local and neighborhood agencies will be necessary. This will reduce duplicative efforts and reduce time for both the implementors of the project, and the persons displaced.
- Consultation with the persons relocated is required, as well as disclosing any relocation activities in public hearings relevant to the project.
- Identification of resources is required to assist the persons displaced.

The URA intends to ensure persons relocated as a result of federally assisted projects are treated fairly, consistently, and equitably so that relocated persons do not suffer disproportionate injuries as a result of the projects benefit. Projects that are unable to avoid or mitigate relocation activities must ensure compliance with aforementioned regulations, and in a manner that is efficient and cost effective. Demolition of occupied buildings are not eligible for CDBG assistance.

Note: Regardless of whether temporary relocation occurs or not, it is vital that notices and advisory services are provided to current and prospective tenants.

## **SECTION 2 – RESIDENTIAL TEMPORARY RELOCATION**

The URA requires tenants who only need to be temporarily relocated, for a period of 12 months or less, to be treated equally as to those defined as “displaced” persons. Temporarily relocated tenants are provided the same services and resources, however they are not considered to actually be displaced<sup>1</sup>, the Agency will:

- Cover moving expenses to and from the temporary location,
- Provide payment of increased housing costs during the period of relocation,
- Provide a guarantee of a return to the same unit or to another unit in the same building or complex.
- Limit rental increase at the unit offered in the completed project.
- Assure that relocation does not exceed 12 months from the time of notice to vacate date

The URA does not cover owner-occupants who voluntarily participate in federally funded housing rehab programs. Payments to owner-occupants for relocation are INELIGIBLE CDBG costs but can be covered under an Optional Relocation Policy (Form 7-C), adopted by the Grantee UGLG. The Agency has broad discretion regarding payments to owners during the period of temporary relocation, i.e., short-term storage and housing costs. CDBG funds cannot be sought to assist in relocation activities, nor can it be part of local or private match.

### Section 104(d) Applicability

Due to the nature of eligibility under Section 104(d) of the HCDA, and the CDBG Program’s policy on permanent displacement, projects that are disclosed or determined to trigger Section 104(d) compliance are not be eligible to receive CDBG funds.

### Notice of Non-Eligibility

Immediately after the Offer Letter/Letter of Interest, or the Initiation of Negotiations (whichever comes first), the UGLG must provide a notice to tenants that are not eligible for relocation assistance (Form 7-I), meaning:

- The individual or family has no legal right to occupy the property (a squatter); or where the individual or family is subject to eviction for serious or repeated violation of the terms and conditions of the lease or occupancy agreement; violation of applicable federal, state or local law; or other good cause.
- The notice must explain that they do NOT qualify for relocation benefits and explain the tenant’s rights to appeal.
- In these cases, the UGLG may pursue the necessary legal proceedings to remove the tenants from the property.

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<sup>1</sup> URA definition of displaced person means any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the 90-day or 180-day length of occupancy requirements), permanently, or as a result of temporary relocation exceeding 12 months.

In rare instances where a property owner has reason to believe a tenant has no legal standing or is subject to a legal eviction, the property owner must inform the UGLG and receive direct approval before providing the occupant with official notice of ineligibility and proceeding with any eviction actions.

### SECTION 3 – RESIDENTIAL TEMPORARY RELOCATION PROCEDURE

An Agency is required to complete the following steps whenever resident tenants are present, in real property, seeking CDBG assistance for a project:

#### Provide Notice

All tenants must receive a General Information Notice (GIN) (Form 7-F) as soon as feasible to provide preliminary information on the proposed project and the tenants potential rights and protections. “As soon as feasible” is typically after review of the CDBG application and obtaining an Offer Letter or Letter of Interest. A GIN is required to be sent via certified mail or hand delivered mail; requiring a signature from the current tenants.

HUD considers all tenants within a proposed HUD-assisted project involving acquisition or rehabilitation to be displaced for the purposes of issuing a GIN. After submitting the CDBG Application and receiving an Offer Letter or Letter of Interest, or Initiation of Negotiations (delivery of initial written offer of just compensation) to acquire a building has been issued, the Agency is required to provide a GIN to all tenants. The GIN must include at a minimum the following:

- Information on whether the residential occupant will or will not be temporarily displaced in connection with the proposed project;
- An explanation of what happens if temporary relocation lasts more than 12 months, and how the tenant will be offered all permanent displacement assistance as a displaced person under the URA;
- Advising the tenant to NOT MOVE to avoid jeopardizing relocation assistance if they must temporarily relocate;
- That the tenant will not be required to move without advance written notice;
- That the tenant has the right to appeal the Agency’s determination regarding eligibility for assistance.
- The GIN must be signed by an appropriate official of the displacing Agency.
- Along with the GIN, the Agency must provide the tenant:
  - Relocation Assistance Brochure (Form 7-J);
  - The UGLG’s adopted policy on relocation activities (Form 7-A).

The GIN must be in plain, understandable language, and must indicate the name and phone number of a person to be contacted for questions. At this point the Agency will need to create and maintain a relocation file for each household/person that may be temporarily relocated. Include copies of notices and all notes that sufficiently document the timeline of events, issues, and/or concerns. It may be appropriate and beneficial to personally contact the tenants in order to establish and maintain a good working relationship.

In the event a potential tenant is interested in moving into the unit or building, the Agency or building owner is required to provide a Move-In Notice (Form 7-G); a written notice provided to a prospective tenant after the project has received an Offer Letter or Letter of Interest. If the person is provided with a Move-in Notice before leasing and occupying the property and agrees to occupy under the terms of the notice, the person is not eligible for relocation assistance – even if project activities require relocation. Failure to issue a Move-in Notice may result in the Agency incurring liability for relocation costs.

The Agency may not provide any notice to vacate until after Decent, Safe and Sanitary (DSS) comparable dwelling is identified and agreed upon by the tenant. Agencies will provide a 90-Day Notice to Vacate, which will state either:

- The date as the earliest by which an occupant will be required to move, or
- That the occupant will receive further notice, at least 30 days’ in advance, indicating the specific date by which to move.

A longer notice may be appropriate for persons who will be relocated for an extended period of time (over 6 months) or if the move will include moving all personal property. Shorter notice periods may be appropriate based on an urgent need due to danger, health or safety issues or if the person will be temporarily relocated for only a short period of time, such as a few days.

At the time that CDBG funds are approved or when a Grant Agreement is executed, the tenants of the building receiving CDBG assistance will be provided a Notice of Non-Displacement SAMPLE (Form 7-H). If tenants will be temporarily relocated and continued occupancy is possible upon project completion, the notice must explain the reasonable terms and conditions under which the tenant may continue to lease and/or occupy the property and explain that the tenant will be reimbursed for all reasonable extra expenses (Hand deliver & obtain written acknowledgement of receipt or mail by certified or registered, first class mail, return receipt requested Form 7-H).

#### Provide Advisory Services

At the time the Offer Letter/Letter of Interest has been issued, and the GIN has been sent out to tenants, the next step is to provide Advisory Services.

Advisory services are the single most important part of a successful relocation. Advisory services ensure that the Agency determines the needs of temporarily relocated persons, provides an explanation of available relocation assistance and explains the right to appeal if they are not satisfied with Agency decisions. Advisory services necessary to document include:

- Communicating to the tenants, and at public hearing meetings, that temporary relocation will be occurring,
- Conducting personal interviews with tenants to objectively assess the persons specific needs (unit size, location, accessibility, pets, etc.)
  - Obtain a copy of the current lease to ensure the same terms will be applied post-project completion, and that the occupant resides lawfully to be eligible for URA assistance.
- Provide referrals to community organizations or other sources of assistance (social services, housing counseling, etc.)
- Proposed temporary unit inspections, at temporary location and the unit tenants will return to after project completion, to ensure Decent, Safe and Sanitary dwelling arrangements,
- Provide the Relocation Plan schedule and budget to address questions around security and safety measures while construction is occurring on units, and
- Walkthrough claims and reimbursement policies and procedures that are timely and fair.

The Agency is required to conduct personal interviews as part of the advisory services. The goal of the interview is to determine the needs and preferences of the tenants to be temporarily relocated. Additional information necessary to collect includes basic household composition and income, the identification of potential barriers or challenges to the relocation, obtaining proof of lawful residency, and providing information about the project and assistance for which the occupant may be eligible to receive.

Advisory services will be on-going throughout the project until tenants are returned to their original unit, or to a previously agreed upon and decent, safe and sanitary dwelling that has been inspected, within the same building or complex. If translation services or materials are necessary, they are the responsibility of the Agency. Translated materials can also be found at the HUD Exchange, <https://www.hudexchange.info/programs/relocation/forms/>.

After identifying that project activities will result in the temporary relocation of tenants, and after Notices are sent and Advisory services have begun, the Agency will need to begin the process of finding tenants decent, safe, and sanitary (DSS) dwelling that meets local housing and occupancy codes. At a minimum, the dwelling must:

- Be structurally sound, weather-tight, and in good repair;
- Contain a safe electrical wiring system adequate for lighting and other devices;
- Contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees)
- Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the “displaced”<sup>2</sup> person;

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<sup>2</sup> “Displaced” in this instance also include persons or families temporarily relocated; HUD treats DDS criteria equally.

- Have a separate, well lighted and ventilated bathroom;
- Contain unobstructed egress to safe, open space at ground level; and
- For a person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

Additionally, the DSS will need to be, as feasible, functionally equivalent to the dwelling being relocated from. The term functionally equivalent performs the same function and provides the same utility. While a dwelling need not possess every feature of the original dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;

- Adequate in size to accommodate the tenants;
- In an area not subject to unreasonable adverse environmental conditions;
- In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
- On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses;
- Currently available to the displaced person on the private market (except as provided in URA Sec. 24.2 (a)(6)(ix)); and
- Within the financial means of the displaced person eligible for a replacement housing payment. This means that after receipt of all acquisition and relocation payments under this regulation (including any amount deducted because of rent owed the Agency), the price or rent (including utilities), as appropriate, of the replacement dwelling offered as a comparable does not exceed the price or rent (including utilities) of the dwelling from which relocating.
- For a person receiving government housing assistance before relocation, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply.

After interviewing tenants, and documenting dwelling preferences, the Agency is required to begin searching for a comparable, temporary dwelling that satisfies the DSS and functionally equivalent requirements. Record all available and comparable dwellings. At least one (1) comparable dwelling must be identified, however three (3) is preferred.

#### Lead-Based Paint Hazards Requirements for temporarily displaced residential tenants

The lead-based paint regulations (Title X of the 1992 Housing and Community Development Act) that went into effect on September 15, 2000, contain rules concerning the temporary relocation of residential tenants (renters and owners) before and during hazard reduction activities.

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

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

Under the state CDBG program, rehabilitation of owner-occupied units is considered voluntary. Therefore, the relocation requirements of the URA do not apply regardless of whether or not the unit is being treated for lead-based paint. Any payments made on an owner-occupants' behalf would be addressed in an Optional Relocation Policy, as adopted locally.

The lead rule further requires that temporary dwelling units also not have lead-based paint hazards. Therefore, the UGLG is required to ensure that dwelling units used for temporary relocation are lead safe. This means ensuring that temporary dwelling units were built after 1978 or are visually inspected to ensure no lead hazards are present. If an occupant chooses to

move to a temporary dwelling unit that does not pass a visual inspection or cannot otherwise be determined to be lead safe, the UGLG may provide a release of liability waiver for occupant signature, and submit to the CDBG Program Specialist; waiver must be sent via certified mail or hand delivered mail, requiring a signature from the tenants. Elderly residents residing in units undergoing lead reduction activities may waive their rights to temporary relocation assistance but only if the UGLG obtains a written and signed Elderly Waiver for Temporary Relocation (Form 7-L).

#### Additional Residential Temporary Relocation Considerations

Although the Agency assists the residential tenant in finding comparable relocation units, the Agency cannot mandate where the tenants relocate. In the case that a tenant proposes to temporarily relocate with family/friend(s), they must agree to a DSS inspection in order to claim assistance afforded under the URA.

If a person must be temporarily relocated from a unit that had cooking facilities to a unit that lacks basic cooking facilities (e.g., a hotel), the Agency would reimburse the increased out-of-pocket costs for meals. Where a person will be temporarily relocated from a public housing unit to a non-public housing unit, increased rental and/or utility cost for the unit would be reimbursable and an eligible out-of-pocket cost for the period of time they occupy the temporary unit.

If rent is raised or a different unit will be offered when returning to the project, the tenant must be notified prior to moving back. If rent increase causes a rent burden to the tenant, the tenant is covered by the URA and would be eligible for permanent relocation assistance; an activity that the CDBG Program does not support. Rent increases that “economically displace” tenants, also considered permanently displaced, will jeopardize the project’s fundability.

Once a temporary unit is identified and approved by the tenant, the Agency will need to provide 30-days advanced notice to vacate. As with previous notices, the notice to vacate/move must be personally served or sent by certified or registered first-class mail, return receipt requested.

Last Resort Housing Measures (49 CFR 24.404) regulates that whenever comparable replacement dwellings are not available within the monetary limits for “displaced” owner-occupants and tenants, the Agency must provide additional alternative assistance under the provisions of this section. Other Last Resort Housing Measures, Section 206, also authorizes Agencies to use project funds to undertake special measures, such as the construction, rehabilitation, or relocation of housing; the purchase of land and/or housing and later sale or lease to, or exchange with, the person; the provision of a direct loan; and the removal of barriers for persons with disabilities. All of this in an effort to address inadequate access to comparable housing. Last Resort Housing Measures costs are the responsibility of the Grantee UGLG or Agency.

#### Provide Relocation Assistance and Payment

After providing notices, providing advisory services, and identifying decent, safe and sanitary housing that is functionally equivalent to the unit relocated from, and providing at least 30 days’ notice to vacate the property, the Agency must provide reimbursement for moving expenses. The Agency must ensure payment is prompt and expedited.

Tenants who are relocated temporarily must be reimbursed on a ‘per diem’ basis. Reimbursement is for all actual, necessary, and reasonable expenses due to the temporary relocation regardless of whether the tenant completes the move independently, or with the assistance of hired services. All expenses related to relocation are to be covered by the Agency, by the building owner, or by the UGLG if they have an adopted Optional Relocation Policy. Eligible expenses include, but are not limited to:

- Packing and unpacking to and from the temporary location;
- Payment of increased housing costs during the period of relocation;
- Moving and storage of the occupant’s property impacted by construction, not to exceed 12 months;
- Transportation for persons and personal property, not exceeding a distance of 50 miles, unless justified by the Agency;
- Costs for reasonable expenses due to the relocation including meals;
- Provide transportation to view comparable sites;
- Compensated for loss of work;
- Disconnecting/dismantling, removing, reinstalling/reassembling appliances and other personal property;
- Utility hookups (including cable and telephone);
- Insurance for replacement value of property;

- Credit checks;
- Guarantee on limitation on a rental increase for the rehabilitated unit to be returned to; and
- A guarantee of return to the same unit, or to another unit in the same building or complex.

Example: A multifamily housing property is being rehabilitated, including adding a fire sprinkler system. This welcome investment in fire safety will require shutting down the water for short periods of time over multiple days. This work will include installing piping in the corridors and ceilings within each unit, thus requiring time-consuming, noisy, disruptive, dirty and dusty drywall demolition and replacement and painting in addition to the pipe installation and testing. As a result of the scope of this work, the residents (either in the entire building or by phases depending on the design of the installation schedule) will be required to vacate the building for up to five (5) days while the work is being performed in their units and adjacent corridors. In this case, temporary relocation is required. Although a five (5) day period is relatively short, temporary relocation requirements apply and must be documented for each tenant impacted. Consider also, that the tenant may not need to move all possessions to the temporary unit, particularly if the temporary dwelling is within the same building the project is occurring.

If temporary relocation exceeds a 12-month period, the tenant is considered permanently displaced and afforded all the rights under the URA. However, the occupant can be offered alternatives if mutually agreed on between the Agency and occupant:

- The occupant can continue to remain temporarily relocated for an agreed to period (based on new information about when they can return to the displacement unit), or
- Permanently relocate to the unit which has been their temporary unit if it is available to do so, or
- Choose to permanently relocate elsewhere with URA assistance.

#### Processing Payment

It is required that residential tenants file for relocation reimbursement within 18 months of completed relocation activities, or project close-out.

Estimated funds for relocation activities will be required to be escrowed by the Agency prior to executing a grant agreement. This ensures the tenant's efficient and expedited reimbursement, after verifying actual relocation expenses. Before releasing payment from the escrowed account, the Agency or a designated representative will conduct an internal and external inspection of the replacement unit to determine whether it meets the DSS threshold. A copy of the inspection report will be included with the occupant's relocation file, along with the following:

- If the occupant chooses to relocate to a local community, a local official may be delegated to perform the dwelling inspection to ensure DSS.
- The Agency may choose to not authorize payment if a dwelling selected does not pass the DSS threshold. The occupant must be notified of the unit's ineligibility.
- In the event of a disaster, imminent threat to public health or welfare, state of emergency declared by the President or Governor, the occupant standards for replacement dwellings may be waived.

URA Relocation payments are not considered income [49 CFR 209] but may affect the rent or eligibility for a person who seeks Section 8 or public housing assistance after a cash payment is made. These "gap" payments should be excluded from income as "temporary, nonrecurring, or sporadic income". An Agency may not request or suggest that the occupant waive rights for reimbursement under the URA.

#### *Manner of Disbursing Rental Assistance*

Assistance payments for residential tenants who are temporarily relocated must be disbursed in installments, except for lump sum payments<sup>3</sup>, which may be made to cover moving expenses, or incidental expenses related to moving, such as moving supplies, or lost wages if tenant loses hours due to moving requirements. Whenever the payment is made in installments, the full amount of the approved payment shall be disbursed in regular installments, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing. The frequency of these disbursements may be

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<sup>3</sup> Lump sum payments also include down payment on the purchase of replacement housing, but only for instances in which voluntary or involuntary, permanent displacement occurs.

determined by the Agency. However, if not paid monthly, HUD recommends that there be no less than three installment payments, except when the rental assistance payment is \$500 or less. Where the rental assistance payment is \$500 or less, it is recommended that payment may be made in two installments with no less than a four-month interval between payments.

Section 206 of the URA authorizes the use of project funds to provide such additional cash assistance whenever the payment ceiling<sup>4</sup>, \$7,200 for renters, is insufficient to provide comparable replacement housing, or DSS housing, additional or alternative assistance must be provided. Note, exceeding the payment ceilings at 49 CFR 24.401(b) and 24.402(b) is commonplace. To ensure that a displaced or relocated person is not unduly burdened financially, the Agency is required to provide additional cash or alternative assistance (see 49 CFR 24.404(c)(1)(i)-(iv)).

#### Record Keeping

A relocation file must be maintained for each occupant, and must include the following documents:

#### **Residential Notices**

- 7-F GIN Residential Tenants Not Displaced SAMPLE
- 7-G Move In Notice to Prospective Tenant SAMPLE
- 7-H Notice of Non-Displacement Non-Residential and Residential Tenants Not Displaced SAMPLE
- 7-I Notice of Non-Eligibility SAMPLE

#### **Residential Temporary Relocation**

- 7-J Relocation Assistance to Tenants Displaced from their Homes, HUD-1042-CPD
- 7-K Site Occupant Record Residential
- 7-L Elderly Waiver for Temporary Relocation SAMPLE
- 7-M Record of Advisory Assistance and Other Contacts
- 7-N Comparable Replacement Dwelling, HUD-40061
- 7-O Resident Survey SAMPLE
- 7-P Residential Relocation Management Report
- 7-Q Residential Claim for Moving and Related Expenses, HUD-40054
- 7-R Non-Displacement Checklist
- 7-S Claim for Rental Assistance or Down Payment Assistance, HUD-40058

### **SECTION 4 – NON-RESIDENTIAL TEMPORARY RELOCATION**

The URA requires Non-Residential occupants who only need to be temporarily relocated, for a period of 12 months or less, to be treated equally as to those defined as displaced. Temporarily relocated Non-Residential occupants are provided the same services and resources, however they are not considered to actually be displaced<sup>5</sup>. Temporary relocation of a business or non-profit is expected to be rare. A business is defined as:

1. A for-profit business, engaged in any lawful activity involving purchase, sale of goods or services, manufacturing, processing, marketing, rental of property, or outdoor advertising when the display must be moved.
2. A non-profit organization, such as a church or social service agency.
3. A farm operation.

Non-Residential relocation eligibility extends to owner/occupants of a business, and occupants operating a business in rented space.

<sup>4</sup> Payment ceiling also includes \$ 31,000 for displaced owner- occupants, but only for instances in which permanent and involuntary displacement occurs.

<sup>5</sup> URA definition of displaced person means any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the 90-day or 180-day length of occupancy requirements), permanently, or as a result of temporary relocation exceeding 12 months



Sometimes CDBG projects may require a business to shut down temporarily. For example, some infrastructure projects may require that a street be torn up and the business shut down for the duration of construction. The UGLG may have to temporarily relocate the business for a period of time, unable to operate due to displacement.

UGLGs must exercise caution and plan accordingly if a proposed project requires a business to temporarily cease operations and must notify MEDC prior to taking any action. In the event a business must be shut down for any length of time due to rehabilitation of a site or building, it may either be:

- Temporarily relocated and reimbursed for all reasonable out of pocket expenses; OR
- Determined to be permanently displaced at the UGLG's option.

Payments to occupants for relocation are ineligible for CDBG assistance but can be covered under an adopted Optional Relocation Policy, adopted by the Grantee UGLG. The Agency has broad discretion regarding payments to owners during the period of temporary relocation, i.e., short-term storage and rent. CDBG funds cannot be sought to assist in relocation activities, nor can it be part of local or private match.

#### Section 104(d) Applicability

Section 104(d) protects persons or units, but does not protect businesses, nonprofits or other private entities.

## **SECTION 5 – NON-RESIDENTIAL TEMPORARY RELOCATION PROCEDURE**

An Agency is required to complete the following steps whenever nonresident occupants, such as businesses and nonprofits, are present, in real property, seeking CDBG assistance for a project:

#### Provide Notice

All occupants must receive a General Information Notice (GIN) (Form 7-T) as soon as feasible to provide preliminary information on the proposed project and the occupants potential rights and protections. "As soon as feasible" is typically after review of the CDBG application and obtaining an Offer Letter or Letter of Interest. A GIN is required to be sent via certified mail or hand delivered mail; requiring a signature from the current occupants.

- Information on whether the Non-Residential occupant will or will not be temporarily displaced in connection with the proposed project;
- An explanation of what happens if temporary relocation lasts more than 12 months, and how the occupant will be offered all permanent displacement assistance as a displaced business under the URA;
- Advising the occupant to NOT MOVE to avoid jeopardizing relocation assistance if they must temporarily relocate;
- That the occupant will not be required to move without advance written notice;
- That the occupant has the right to appeal the Agency's determination regarding eligibility for assistance.
- The GIN must be signed by an appropriate official of the displacing Agency.
- Along with the GIN, the Agency must provide the occupant:
  - Relocation Assistance Brochure (Form 7-U);
  - The UGLG's adopted policy on relocation activities (Form 7-C).

Non-Residential occupants must also be notified of inspections for current and replacement sites, of changes in plans/schedules, dates and time moving will occur, and a list of property to be moved or sold.

The GIN must be in plain, understandable language, and must indicate the name and phone number of a person to be contacted for answers to questions. At this point the Agency will need to create and maintain a relocation file for each Non-Residential occupant that may be temporarily relocated. Include copies of notices and all notes that sufficiently document the timeline of events, issues, and/or concerns. It may be appropriate and beneficial to personally contact the occupants in order to establish and maintain a good working relationship.

In the event a potential occupant is interested in moving into the building the Agency or building owner is required to provide a Move-In Notice (Form 7-G); a written notice provided to a prospective occupants who is interested in moving into a project after the project has received an Offer Letter or Letter of Interest. If the prospective occupant is provided with a Move-in Notice before leasing and occupying the property and agrees to occupy the property under the terms of the notice, the occupant is not eligible for relocation assistance. Failure to issue a Move-in Notice may result in the Agency incurring liability for relocation costs if the occupants are required to be temporarily relocated or end up permanently displaced.

The Agency and Grantee UGLG must coordinate notice efforts. A 90-day notice to vacate for non-residential occupants does not require a referral to a comparable site. It is required that temporarily relocated Non-Residential occupants are reimbursed for all reasonable out of pocket expenses or are determined to be permanently displaced with the Agency's power of eminent domain (See Chapter 6, Acquisition). Any notice to vacate will include:

- The date as the earliest by which an occupant will be required to move, or
- State that the occupant will receive further notice, at least 30 days' in advance, indicating the specific date by which to move.

Owners or occupants who have paid for improvements will be compensated for their real property under acquisition rules. A complete, thorough appraisal is essential to making these decisions. Review Chapter 6, Acquisition for more information.

At the time that CDBG funds are approved or when a Grant Agreement is executed, the occupants of the building receiving CDBG assistance will receive a Notice of Non-Displacement SAMPLE (Form 7-H). If tenants will be temporarily relocated and continued occupancy is possible upon completion of the project, the notice must explain the reasonable terms and conditions under which the occupant may continue to lease and/or occupy the property upon completion of the project and explain that the occupant will be reimbursed for all of the occupants' reasonable extra expenses (Hand deliver and obtain written acknowledgement of receipt or mail by certified or registered, first class mail, return receipt requested Form 7-H).

#### Provide Advisory Services

At the time the Offer Letter or Letter of Interest has been issued, and the GIN has been sent out to occupants, the next step is to provide Advisory Services to the occupants. Non-Residential moves are often more complex.

Advisory services ensure that the Agency determines the needs of temporarily relocated businesses, non-profits, and farms, and provides an explanation of available relocation assistance and the right to appeal if not satisfied with Agency decisions. Specific advisory services include:

- Communicating to the occupants, and at public hearing meetings, that temporary relocation will be occurring,
- Conducting personal interviews with occupants to objectively assess the persons specific needs (size, location, accessibility, access to resources, etc.),
  - Obtain a copy of the current lease to ensure the same terms will be applied post-project completion, and that the occupant resides lawfully to be eligible for URA assistance.
- Replacement site requirements, current lease terms and other obligations, and financial capacity,
- Determine whether outside specialists are necessary to assist with moving,
- Resolution of personality/realty issues prior to time of appraisal of property,
- Estimated time required for business to vacate site,
- Estimates difficulty in locating a replacement property,
- Identify advance relocation payments necessary, and UGLG's legal capacity to provide payments,
- Assistance in complying with required procedures to receive payment,
- Current information on availability and cost to purchase replacement locations,
- Provide referrals to assistance from state or federal programs, such as provided by the Small Business Administration, including help in applying for any assistance,
- Provide the Relocation Plan schedule and budget to address questions around security and safety measures while construction is occurring on units,
- Walkthrough claims and reimbursement policies and procedures that are timely and fair.

The Agency is required to conduct personal interviews as part of the advisory services. The goal of the interview is to determine the needs and preferences of the occupants to be temporarily relocated. Additional information necessary to collect includes the identification of potential barriers or challenges to the relocation, obtaining proof of lawful occupancy, and providing information about the project and assistance for which the occupant may be eligible to receive (Form 7-V).

Advisory services will be on-going throughout the project until occupants are returned to their original building, or to a previously agreed space within the same building or complex, or if eligible and necessary a new building. If translation services or materials are necessary, they are the responsibility of the Agency. Translated materials can also be found at the HUD Exchange, <https://www.hudexchange.info/programs/relocation/forms/>.

#### Provide Relocation Assistance and Payment

After providing notices, providing advisory services, and identifying temporary or permanent replacement sites, and providing at least 30 days' notice to vacate the property, the Agency must provide reimbursement for moving expenses. The Agency must ensure payment is prompt and expedited.

Occupants who are relocated temporarily may be reimbursed in one of two ways:

1. Payment of actual, reasonable and necessary moving and related expenses, not to exceed \$25,000, and can also be used for reestablishment costs if eligible. (Form 7-X)
2. A fixed payment, in lieu of payment of actual, reasonable and necessary moving costs and reestablishment expenses, in an amount no less than \$1,000 and no more than \$40,000. Reimbursement expenses due to the temporary relocation are eligible regardless of whether the occupant completes the move independently, or with the assistance of hired services. (Form 7-Y)

All expenses related to the relocation are to be covered by the Agency, either the building owner or by the UGLG if they have an adopted Optional Relocation Policy. Eligible expenses include, but are not limited to:

1. Transportation occupant and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
2. Packing, crating, unpacking, and uncrating of the personal property.
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated appliances and other personal property, such as machinery, equipment, substitute personal property, and connections to utilities, necessary modifications to the personal property, necessary adaptations to the replacement property, the replacement site, utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
4. Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary to accommodate the occupant moving back to their original location.
5. Insurance for the replacement value of the property in connection with the move and necessary storage.
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
7. Any license, permit, fees or certification required of the occupant at the replacement location. Payment may be based on the remaining useful life of the existing license, permit, fees or certification.
8. Professional services to determine a site's suitability for operations.
9. Impact fees or a one-time assessment for heavy utility usage as determined necessary by the Agency.
10. Professional services as the Agency determines to be actual, reasonable and necessary for:
  - a. Planning the move of the personal property;
  - b. Moving the personal property; and
  - c. Installing the relocated personal property at the replacement location.
11. Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.
12. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

- a. The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or
  - b. The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, § 24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.
13. The reasonable cost incurred in attempting to sell an item that is not to be relocated.
  14. Purchase of substitute personal property. If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:
    - a. The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
    - b. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.
  15. Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:
  16. Transportation;
  17. Meals and lodging away from home;
  18. Time spent searching, based on reasonable salary or earnings;
  19. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;
  20. Time spent in obtaining permits and attending zoning hearings; and
  21. Time spent negotiating the purchase of a replacement site based on reasonable salary or earnings.
  22. Low value/high bulk

In the event that there is an **Actual Direct Loss of Tangible Personal Property**, the Non-Residential occupant will be eligible for additional assistance:

- May be eligible for a payment for the actual direct loss of tangible personal property which is incurred as a result of a move or discontinuance of the operation. This payment provides a business with the option to receive an alternate payment for certain items of personal property it may not want or need to move to the replacement location. This payment is also a useful option for businesses which decide to go out of business as a result of displacement. Generally, this payment option is used in connection with outdated equipment, old merchandise or other items a displaced business no longer wants or needs for its business operation.
- This payment is generally based on the lesser of the value of the item for continued use "as is" at the displacement site minus the proceeds from its sale, or, the estimated cost of moving the item, but with no allowance for storage nor any costs to reconnect equipment not in use or in storage. It is also important to note the cost of reinstallation for equipment in use does not include code modifications that would be required at the replacement location.

In the event that the project necessitates the **Purchase of Substitute Personal Property**, the Non-Residential occupant will be eligible for additional assistance:

- Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for substitute personal property in connection with a move to the replacement location. This payment generally provides a displaced business with the ability to modernize or replace equipment rather than move outdated or obsolete items.

- This payment is generally based on the lesser of the cost of the substitute item, including installation cost, minus the proceeds from the sale or trade of the replaced item, or, the estimated cost of moving and reinstalling the replaced item, but with no allowance for storage. The cost of moving and reinstalling the replaced item includes code modifications that would be required at the replacement location.

In the event that the Non-Residential occupant has **Low Value/High Bulk** stock (49 CFR 24.301(g)(18)), such as sand, gravel, minerals, metals, etc., and the moving costs exceed its, the Agency may consider offering this payment option. The allowable moving cost payment shall not exceed the lesser of the amount which would be received if the property were sold at the site, or, the replacement cost of a comparable quantity delivered to the new business location. If the Agency considers using this payment option, it is important for the agency to distinguish between items which may have been acquired as real estate and, therefore, are not considered personal property eligible for moving. Additionally, since the business is not actually receiving a payment to move the personal property, the business is not obligated to move the personal property. An Agency should therefore consider the consequences of leaving the personal property at the construction site.

If a Non-Residential occupant needs to be temporarily relocated, moving preparation may include an analysis of the market information by a qualified appraiser. At the discretion of the Agency, if temporary relocation appears to be too complex or costly, permanent displacement may be justified, examples including:

- Activities subject to special environmental emission or processing requirements.
- Large and/or specialized production equipment that must be disconnected, moved, and reconnected at a high cost.
- Extensive production inventory that must be moved.
- Rail or shipping access is not available.

Ineligible expenses include notification and inspection (49 CFR 24.301(i)) and personal property inventory (49 CFR 24.301(i)(1), 24.301(d), 24.103(a)(2)(i) & Appendix A, Section 24.103(a)(1)).

#### *Reestablishment Expenses*

Only certain small businesses are eligible for *re-establishment expenses* (Form 7-X). Small businesses for this purpose are defined as those with at least one, and no more than 500 people, working at the site. Businesses temporarily relocated from a site occupied only by outdoor advertising signs, displays, or devices are not eligible for a re-establishment expense payment. The maximum re-establishment expense payment allowed by the URA regulations is \$25,000. Eligible items included in this maximum figure are:

- Repairs or improvements to the replacement site, as required by codes, or ordinances;
- Modifications to the replacement property to accommodate the business
- Modifications to structures on the replacement property to make it suitable for conducting the business;
- Construction and installation of exterior advertising signs;
- Redecoration or replacement at the replacement site of soiled or worn surfaces, such as paint, paneling, or carpeting;
- Advertisement of the replacement location;
- Estimated increased costs of operation for the first two years at the replacement site for such items as lease or rental charges, utility charges, personal or property taxes, and insurance premiums;
- Other re-establishment expenses as determined by the UGLG (or its Agent) to be essential to re-establishment.

#### *Fixed Payments*

A business whose nature is not solely the rental of property to others may select a fixed payment (Form 7-Y) instead of actual moving expenses (which includes re-establishment expenses) if the UGLG determines that the business meets the following eligibility criteria:

1. The business discontinues operations or it will lose a substantial portion of its business due to the move.
2. The business is not part of an operation with more than three other entities where:
  - a. No displacement will occur; AND
  - b. The ownership is the same as the business; AND
  - c. The other locations are engaged in similar business activities.

3. The business contributed materially to the income of the impacted business. The term “contributed materially” means that during the two taxable years prior to the taxable year in which the displacement occurred (or the UGLG may select a more equitable period) the business or farm operation:
  - a. Had average gross earnings of at least \$5,000; OR
  - b. Had average net earnings of at least \$1,000; OR
  - c. Contributed at least 33 1/3% (one-third) of the owner’s or operator’s average annual gross income from all sources;

If the UGLG determines that the application of these criteria would cause an inequity or hardship, it may waive these criteria.

The amount of the fixed payment is based upon the average annual net earnings for a two-year period of a business or farm operation. Calculate net earnings before federal, state, and local income taxes for a two-year period. Divide this figure in half. The minimum payment is \$1,000; the maximum payment is \$40,000. The two-year period should be the two tax years prior to the tax year in which the displacement is occurring, unless there is a more equitable period of time that should be used. If the business was not in operation for a full two-year period prior to the tax year in which it would be displaced, the net earnings should be based on the actual earnings to date and then projected to an annual rate. If a business has been in operation for a longer period of time, and a different two-year period of time is more equitable within reason, the fixed payment should be based on that time period. When income or profit has been adjusted on tax returns to reflect expenses or income not actually incurred in the base period, the amount should be adjusted accordingly.

Net earnings include any compensation obtained from the businesses that are paid to the owner, the owner’s spouse, and dependents. When two or more entities at the same location are actually one business, they are only entitled to one fixed payment. This determination should be based on:

1. Shared equipment and premises,
2. Substantially identical or inter-related business functions and financial affairs which are co-mingled,
3. Identification of the entities as one entity to the public and customers, and
4. Ownership, control or management of the entities by the same person or related persons.

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

1. Income tax returns.
2. Certified or audited financial statements.
3. W-2 forms.
4. Other financial information accepted by the UGLG.

#### *Moving and Reimbursement*

It is required that Non-Residential occupants file for relocation reimbursement within 18 months of completed relocation activities, or project close-out. The revised regulations at 49 CFR 24.301(e) state that a business’s personal property may be moved by one or a combination of the following methods:

**Commercial move:** Based on the lower of two bids or estimates prepared by a commercial mover. At the UGLG’s discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

**Self-move:** A self-move payment may be based on one or a combination of the following:

- The lower of two bids or estimates prepared by two different commercial movers. At the UGLG’s discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.
- Supported by receipted bills for labor and equipment - Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity, and equipment rental fees should be based on the actual rental cost of the equipment, not to exceed the cost paid by a commercial mover.

Ineligible costs for actual moving expense, whether as a re-establishment expense, or as an “other reasonable and necessary expense” include:

1. Loss of goodwill;
2. Loss of profits;
3. Loss of trained employees;
4. Personal injury;
5. Interest on a loan to cover any costs of moving or reestablishment expense;
6. Any legal fees or other costs for preparing a claim for a relocation payment or for representing the claimant before the UGLG;
7. The cost of moving any structure or other real property improvement in which the business reserved ownership;
8. Costs for storage of personal property on real property already owned or leased by the business before the initiation of negotiations;
9. Costs of physical changes to the replacement site above and beyond that required to move and reestablish the business;
10. Expenses for searching for a replacement location;
11. The purchase of capital assets, manufactured materials, production supplies, or product inventory, except as permitted under “moving and related costs”;
12. Interior and exterior finishes solely for aesthetic purposes, except for the redecoration or replacement of soiled or worn surfaces described in “reestablishment expenses”;
13. Refundable security and utility deposits.

The Agency may choose to not authorize payment if a space selected is not up to local building code. The occupant must be notified of the unit’s ineligibility. In the event of a disaster, imminent threat to public health or welfare, state of emergency declared by the President of Governor, occupant standards for replacement dwellings may be waived.

URA Relocation payments are not considered income [49 CFR 209]. These “gap” payments should be excluded from income as “temporary, nonrecurring, or sporadic income”. An Agency may not request or suggest that the occupant waive rights for reimbursement under the URA.

#### *Manner of Disbursing Rental Assistance*

Assistance payments for residential occupants who are temporarily relocated must be disbursed in installments, except for lump sum payments<sup>6</sup>, which may be made to cover moving expenses, or incidental expenses related to moving, such as moving supplies, or lost wages if occupant loses hours due to moving requirements. Whenever the payment is made in installments, the full amount of the approved payment shall be disbursed in regular installments, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing. The frequency of these disbursements may be determined by the Agency. However, if not paid monthly, HUD recommends that there be no less than three installment payments, except when the rental assistance payment is \$500 or less. Where the rental assistance payment is \$500 or less, it is recommended that payment may be made in two installments with no less than a four-month interval between payments.

Whenever the payment ceiling<sup>7</sup>, \$7,200 for renters, is insufficient to provide comparable replacement housing, or DSS housing, additional or alternative assistance must be provided. Generally, this is accomplished by providing additional cash assistance which exceeds the above ceiling limits. Section 206 of the URA authorizes the use of project funds to provide such additional cash assistance. Note, exceeding the payment ceilings at 49 CFR 24.401(b) and 24.402(b) is commonplace. To ensure that a displaced or relocated person is not unduly burdened financially, the Agency is required to provide additional cash or alternative assistance (see 49 CFR 24.404(c)(1)(i)-(iv)).

<sup>6</sup> Lump sum payments also include down payment on the purchase of replacement housing, but only for instances in which voluntary or involuntary, permanent displacement occurs.

<sup>7</sup> Payment ceiling also includes \$ 31,000 for displaced owner- occupants, but only for instances in which permanent and involuntary displacement occurs.

Estimated funds for relocation activities will be required to be escrowed by the Agency prior to entering into agreement for the project. This ensures the occupant efficient and expedited reimbursement, after verifying actual relocation expenses. Before releasing payment from the escrowed account, the Agency or a designated representative will ensure the following on file:

1. The Non-Residential occupants' reasonable advance notice of the date of the move or disposition of the personal property;
2. An inventory of items to be moved;
3. Permit that the Agency make inspections of the personal property. A copy of the inspection report will be included with the occupant's relocation file;
4. Documentation If the occupant chooses to relocate to a local community, a local official may be delegated to perform the building inspection.
5. Income tax returns.
6. Certified or audited financial statements.
7. W-2 forms.
8. Other financial information accepted by the UGLG.

#### Record Keeping

A relocation file must be maintained for each occupant, and must include the following documents:

1. Identification of business, address, racial/ethnic group classification, monthly rent, type of enterprise, and business' relocation needs and preferences (Form 7-V).
2. Evidence that the business received a timely GIN and a general description of the relocation payments and advisory services for which it may be eligible, basic eligibility conditions, and procedures for obtaining payments (Signed Form 7-T with return receipt or written acknowledgement).
3. Evidence of dates of personal contacts and a description of the services offered and provided (Form 7-M).
4. Identification of referrals to replacement properties, date of referrals, rents, date of availability and reason(s) business declined referral.
5. Identification of actual replacement property, rent and date of relocation (Form 7-V).
6. Replacement dwelling inspection report and date of inspection.
7. A copy of each approved claim form and related documentation, evidence that the business received payment (Form 7-X or 7-Y).
8. A copy of any appeal or complaint filed and the UGLG response.

All related documentation/communication, along with the completed Non-Displacement Checklist (Form7-H) must be submitted to your Program Specialist for review.

#### **Non-Residential Notices**

- 7-T General Information Notice (GIN) Non-Residential Tenant Not Displaced SAMPLE
- 7-G Move In Notice to Prospective Tenant SAMPLE
- 7-H Notice of Non-Displacement Non-Residential and Residential Tenants Not Displaced SAMPLE
- 7-I Notice of Non-Eligibility SAMPLE

#### **Non-Residential Temporary Relocation**

- 7-U Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms, HUD-1043-CPD
- 7-V Site Occupant Record, Non-Residential
- 7-M Record of Advisory Assistance and Other Contacts
- 7-W Non-Residential Relocation Management Report
- 7-X Claim for Actual Reasonable Moving and Related Expenses, Non-Residential, HUD-40055
- 7-Y Claim for Fixed Payment in Lieu of Payment for Actual Expenses, Non-Residential, HUD-40056



## SECTION 6 – URA POLICY

### Residential Anti-Displacement and Relocation Assistance Plan (RARAP) Requirements

An UGLG receiving funds from the State must certify to the State that it has in effect, and is following, a RARAP and that the UGLG will minimize displacement of persons as a result of assisted activities (Form 7-A). The plan, which must be adopted and made public, must:

1. Indicate the steps the UGLG will take to minimize displacement; AND
2. Provide for relocation assistance in accordance with 24 CFR Part 42.350; AND
3. Provide for one-for-one replacement units to the extent required by 24 CFR Part 42.375. One-for-One Replacements forms identified on last page.

The RARAP, along with the completed RARAP Checklist (Form 7-B), must be submitted to the MEDC for review before moving forward.

### Optional Temporary Relocation Policy Requirements for Voluntarily Displaced Residential Owner Occupants

If the UGLG chooses to provide optional temporary relocation assistance to owner-occupants, the UGLG must adopt an Optional Temporary Relocation Assistance Policy (Form 7-C). At a minimum, the policy must contain the following elements:

1. Number of households expected to need temporary relocation services; AND
2. Description of how much advance notice will be given for the move and return move and the estimated length of time the relocation will require per unit; AND
3. Description of the types of anticipated temporary relocation costs to be incurred and reimbursed utilizing grant funds and the documentation that will be required for reimbursement; AND
4. Description of how temporary relocation payments will be made; AND
5. Description of how temporary units will be determined to be lead-free.

The determination of the amount of assistance to be provided must be reasonable. The adopted policy, along with the completed Optional Temporary Relocation Policy Checklist (Form 7-D), must be submitted to your MEDC Program Specialist for review before moving forward.

## SECTION 7 – DEFINITIONS, APPEAL PROCESS, EXCEPTIONS

### Displaced Person

The URA and Section 104(d) each define “displaced persons.” In addition, the CDBG regulations build upon these two definitions. For relocation activities under the URA [49 CFR 24.2(a)(9)]:

The term "displaced person" means any person (residential and non-residential tenants and owner occupants) that moves from the real property or moves his or her personal property from the real property, permanently, as a direct result of:

1. The acquisition or written notice of intent to acquire, or initiation of negotiations (ION) for such property, in whole or in part, for a project; OR
2. The rehabilitation or demolition of such real property for a project; OR
3. The acquisition, rehabilitation or demolition of (or written notice of intent to acquire, or initiation of negotiations for), in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for a person applies only for purposes of obtaining relocation assistance advisory services and a payment for moving and related expenses.

Section 104(d) is triggered when the "displaced person" means any lower income family or individual that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of the conversion of an occupied or vacant, livable LMI dwelling unit or the demolition of any dwelling unit, in connection with an assisted activity. Projects triggering Section 104(d) are not eligible for CDBG assistance.

### Persons Not Considered Displaced

Notwithstanding the provision of Subsection 570.606(b)(2)(i), a person does not qualify as a "displaced person" (and is not entitled to relocation assistance at URA levels), if:

1. The person has no legal right to occupy the property under state or local law (e.g., squatters); OR
2. The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement; violation of applicable federal, state or local law; or other good cause; and the UGLG determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance; OR
3. The person moves into the property after the date described in Subsection 570.606(b)(2)(i) and, before commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that he or she would not qualify as a "displaced person" as a result of the project.

### Initiation of Negotiations

For purposes of providing the appropriate notice and determining whether a displaced person qualifies for relocation assistance, the term Initiation of Negotiations (ION) differs by type of activity. When the UGLG is providing funding, or seeking to secure CDBG funds, for a private entity to rehabilitate, acquire, or demolish, the ION is the later of the execution of the grant agreement between the MSF and the UGLG or the execution of the agreement covering the rehabilitation, acquisition, or demolition.

### Appeals

If a person disagrees with the determination of the UGLG concerning the relocation payment(s) or other relocation assistance for which the person is eligible, the person may file a written appeal with the UGLG. See the grievance procedure outlined in Chapter 6: Acquisition. A person who is dissatisfied with the determination on the appeal may ask the MEDC to review that determination.

### Exception to One-For-One Replacement

The only exception to Section 104(d)'s one-for-one replacement of housing is if the MEDC determines that enough standard, vacant, affordable housing stock serving the jurisdiction is available. The UGLG may not execute a contract for demolition or rehabilitation of dwelling units for which an exception is sought until the exception is authorized in writing by the MEDC. The proof necessary to show low-to-moderate persons will not lose out on housing choice is extensive.

The one-for-one replacement requirement may not apply if objective data shows that there is an adequate supply of vacant lower income dwelling units, in standard condition, available on a non-discriminatory basis within the UGLG's jurisdiction.

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

1. Vacancy rate - The housing vacancy rate in the jurisdiction.
2. Number of vacancies - The number of vacant low- and moderate-income income dwelling units in the jurisdiction (excluding units that will be demolished or converted).
3. Waiting list for assisted housing - The number of eligible families on waiting lists for housing assisted under the United States Housing Act of 1937 in the jurisdiction. However, the MSF recognizes that a community that has a substantial number of vacant, standard dwelling units with market rents at or below the FMR may also have a waiting list for assisted housing. The existence of a waiting list does not disqualify a community from consideration for an exception.
4. Consolidated Plan – The needs analysis contained in the State's Consolidated Plan and relevant past predicted demographic changes.
5. Housing outside the jurisdiction - The MSF may consider the supply of vacant low- and moderate-income dwelling units in a standard condition available on a non-discriminatory basis in an area that is larger than the UGLG's jurisdiction.

Such additional dwelling units shall be considered if the MEDC determines that the units would be suitable to serve the needs of lower-income households that could be served by the low- and moderate-income dwelling units that are to be demolished

or converted to another use. The MEDC will base this determination on geographic and demographic factors, such as location and access to places of employment and to other facilities.

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

## CHAPTER 7 FORMS

### Plans

- 7-A Residential Anti-Displacement and Relocation Plan SAMPLE
- 7-B RARAP Checklist
- 7-C Optional Temporary Relocation Assistance Policy SAMPLE
- 7-D Optional Temporary Relocation Assistance Policy Checklist
- 7-E Optional Temporary Relocation Assistance Application SAMPLE

### Residential Notices

- 7-F GIN Residential Tenants Not Displaced SAMPLE
- 7-G Move In Notice to Prospective Tenant SAMPLE
- 7-H Notice of Non-Displacement Non-Residential and Residential Tenants Not Displaced SAMPLE
- 7-I Notice of Non-Eligibility SAMPLE

### Residential Temporary Relocation

- 7-J Relocation Assistance to Tenants Displaced from their Homes, HUD-1042-CPD
- 7-K Site Occupant Record Residential
- 7-L Elderly Waiver for Temporary Relocation SAMPLE
- 7-M Record of Advisory Assistance and Other Contacts
- 7-N Comparable Replacement Dwelling, HUD-40061
- 7-O Resident Survey SAMPLE
- 7-P Residential Relocation Management Report
- 7-Q1 Residential Claim for Moving and Related Expenses, HUD-40054
- 7-Q2 Claim for Temporary Relocation Expenses (Residential Moves), HUD-40030
- 7-R Non-Displacement Checklist
- 7-S Claim for Rental Assistance or Down Payment Assistance, HUD-40058

### Non-Residential Notices

- 7-T General Information Notice (GIN) Non-Residential Tenant Not Displaced SAMPLE
- 7-G Move In Notice to Prospective Tenant SAMPLE
- 7-H Notice of Non-Displacement Non-Residential and Residential Tenants Not Displaced SAMPLE
- 7-I Notice of Non-Eligibility SAMPLE

### Non-Residential Temporary Relocation

- 7-U Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms, HUD-1043-CPD
- 7-V Site Occupant Record, Non-Residential
- 7-M Record of Advisory Assistance and Other Contacts
- 7-W Non-Residential Relocation Management Report
- 7-X Claim for Actual Reasonable Moving and Related Expenses, Non-Residential, HUD-40055
- 7-Y Claim for Fixed Payment in Lieu of Payment for Actual Expenses, Non-Residential, HUD-40056

### One-for-One Replacement

- 7-Z Determining Lower Income Dwelling Units Checklist
- 7-AA Lower Income Residential Dwelling Units Rehab Suitability Checklist
- 7-AB Determination to Demolish SAMPLE
- 7-AC Actions That Trigger Section 104d One-for-One Unit Replacement Requirements Flowchart
- 7-AD Replacing Lower Income Residential Dwelling Units Checklist