

CHAPTER 2

General Relocation Requirements

2-1 INTRODUCTION.

- A. Purpose of Chapter. This chapter describes the general requirements covering the treatment of displaced persons (defined in Paragraph 1-4 I.) and persons that will not be displaced (defined in Paragraph 1-4 J.) for the proposed project (see 49 CFR 24 Subpart C). Policies that cover planning, notices, advisory services and filing claims for payment are contained in this Chapter. (Policies governing relocation payments are described in Chapters 3 and 4.)
- B. Flowchart of Relocation Process. Appendix 1 (Reserved).

2-2 PROJECT PLANNING (49 CFR 24.205(a) and (b)).

- A. Minimize Displacement. Consistent with the goals and objectives of the applicable HUD program, Agencies shall assure that they take all reasonable steps to minimize displacement as a result of a project. For example, if feasible, a residential occupant of a building to be rehabilitated shall be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable dwelling unit in the building/complex following completion of the project (see funding program regulations for specific requirements). If necessary, the Agency should also consider the feasibility of carrying out large projects in stages, if permissible under program regulations or Notices of Funding Availability (e.g., HOPE VI/Choice Neighborhood Program projects).
- B. Budgetary Implications. Early, common sense planning is necessary to ensure that sufficient funds will be budgeted to comply with applicable law and regulations. Relocation assistance is costly and can seriously affect the viability of a project. Errors in judgment or determinations on eligibility or payments can lead to costly litigation, project delays, and serious financial consequences to the Agency and its partners.
- 1) An Agency should carefully analyze all potential relocation and acquisition project costs prior to submission of an application for HUD funding (or before it commits HUD funds to a subgrantee or subrecipient) and may need to reanalyze the project budget as work progresses to factor in any unforeseen expenses.
 - 2) Consideration needs to be given to resource needs to address: (a) Replacement housing based on the number of households to be displaced; tenure (owner or tenant); resident income; purchase or rental cost and

utility costs; family characteristics; impact on minorities, the elderly, large families, and persons with a disability; (b) replacement business locations based on the number, type, and size of businesses, farms and/or non-profit organizations to be displaced (if any); (c) the need for providing on-going advisory services to displaced persons; and (d) the need, if any, for advisory services to other persons in the neighborhood that will be adversely impacted by the project and who may be eligible for such assistance at the Agency's discretion.

- C. Coordination. The Agency shall take the steps necessary to ensure cooperation and coordination among government agencies, neighborhood groups and affected persons so that the project can proceed efficiently with minimal duplication of effort.
- D. Consultation with Property Occupants. Where feasible, the Agency should consult with the occupants of the site to be acquired, rehabilitated or demolished at an early stage. Resident participation in the design of a project is often required in HUD programs (see applicable program regulations for any specific participation requirements). When public meetings are held, the meeting room and presentation must be accessible and understandable to all persons in the intended audience, regardless of disability. A sample of an invitation to residents to participate in discussions regarding a proposal to rehabilitate, demolish, and/or reconstruct a public housing complex is attached as Appendix 18. This notice can be modified for use in other HUD programs.
- E. Determining Resource Needs (see 49 CFR 24.205(a)(1) through (5)). To the extent necessary and feasible, the Agency should conduct an on-site survey of occupants before approving a project. Optional guideforms that can be used to obtain detailed occupant information are the Site Occupant Record-Residential, in Appendix 8 and the Site Occupant Record – Nonresidential in Appendix 9. To obtain basic information from current public housing occupants about their replacement housing preferences, the optional Resident Survey guideform in Appendix 18a may be used (this form may also be edited for use in other situations). An Agency should plan to collect detailed information about each person's income and replacement housing needs in advance of the event triggering the ION date (see paragraph 1-4 T.) at which time a specific Notice of Relocation Eligibility must be provided, as well as identify available comparable replacement housing resources in a sufficient number to meet the project needs. If a shortage of comparable replacement housing resources is anticipated, the agency should develop a plan to adequately address the shortage including housing of last resort measures.
- F. Review by HUD. Individual HUD program regulations or Notices of Funding Availability (NOFAs) may specify the level and timing of HUD review of Agency planning activities and budgets. Where a pre-award review is not

G. completed, these activities may be covered in a routine HUD monitoring review. Whether or not HUD reviews a proposed project budget or relocation strategy, HUD approval of financial assistance for the project is premised on the Agency's certification of compliance with the URA and applicable regulations. See Paragraph 1-6.

2-3 RELOCATION NOTICES (49 CFR 24.203).

A. HUD Information Brochures. An Agency may meet most of the general information requirements required by the URA by providing the displaced person with a copy of the appropriate HUD information brochure along with the required Notice (see list below). Printed copies of the HUD information brochures are available from HUD's Regional Relocation Specialists and local field offices, and from HUD's Direct Distribution Center at 1-800-767-7468. Copies can also be downloaded or printed from HUD's website at: www.HUD.GOV/Relocation. There are five (5) brochures available:

1) When a Public Agency Acquires Your Property (HUD-1041-CPD)

Relocation Assistance to Tenants Displaced From Their Homes (HUD-1042-CPD)

3) Relocation Assistance to Displaced Homeowner Occupants (HUD-1044-CPD)

4) Relocation Assistance to Displaced Businesses, Nonprofit Organizations and Farms (HUD-1043-CPD)

5) Relocation Assistance to Persons Displaced from their Homes (Section 104(d)) (HUD-1365-CPD). This brochure is only used where both the URA and section 104(d) are applicable to the project (see Paragraph 1-2 B.).

B. General Information Notice (GIN) (49 CFR 24.203(a)). The URA regulations require that persons who are scheduled to be displaced must be provided with a GIN as soon as feasible. Many HUD projects can involve both persons who are actually displaced and persons who are not displaced. In most programs, if the tenant-occupant of a dwelling moves permanently from the property

after submission of an application for HUD financial assistance, the tenant will be presumed to qualify as a “displaced person.” To minimize such unintended displacements, HUD policy considers all occupants within a proposed HUD-assisted project involving acquisition, rehabilitation or demolition as scheduled to be displaced for purposes of issuing a GIN. All occupants, therefore, must be provided with a GIN. For those persons the Agency does not plan to displace, this GIN should be modified to explain that the project has been proposed, explain that they will not be displaced, and caution the person not to move (complete with an explanation of the ramifications of moving on his/her own). Suggested guide forms for these GINs can be found in Appendices 2, 2a, 3, and 3a.

C. Notice of Relocation Eligibility (NOE) (49 CFR 24.203(b)). The NOE must be issued promptly after the ION (see Paragraph 1-4 T.), and must describe the available relocation assistance, the estimated amount of assistance based on the displaced person’s individual circumstances and needs, and the procedures for obtaining the assistance. This Notice must be specific to the person and their situation so that they will have a clear understanding of the type and amount of payments and/or other assistance they may be entitled to claim. Guide form notices of relocation eligibility are contained in Appendices 5, 6, and 7.

D. Notice of Nondisplacement. If a person does not qualify as a displaced person (see Paragraph 1-4 J.), HUD policy requires that such persons be provided with a Notice of Nondisplacement (see Paragraph 1-4 AA.) to advise them of the Agency’s determination and their right to appeal. If continued occupancy is possible upon completion of the project, the notice must explain the reasonable terms and conditions under which the person may continue to lease and/or occupy the property upon completion of the project. If a person moves permanently from the property after ION, and the person has not been provided with a Notice of Nondisplacement, HUD’s view is that the person will usually qualify as a “displaced person.” Even if there was no intention to displace the person, if they were not given timely information essential to making an informed judgment about a move, it is assumed that the person’s move was an involuntary move caused by the project. See the guideform notice in Appendix 4.

- 1) A Notice of Nondisplacement may advise a person that they may be or will be temporarily relocated (see 49 CFR 24.2(a)(9)(ii)(D), including Appendix A, and Paragraph 1-4 II). If a residential occupant will be temporarily relocated, the Agency must provide reasonable advance written notice of:
 - (a) the date and approximate duration of the temporary relocation (not to exceed 1 year);
 - (b) the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
 - (c) the terms and conditions under which the person may lease and occupy a decent, safe and sanitary dwelling in the building/complex upon completion of the

project; (d) the costs which will be reimbursed (see paragraph 2-7 A.); and (e) the advisory services which will be available to them.

- 2) If a person is ineligible for relocation assistance [see Paragraph 1-4 B. (Alien not lawfully present in the U.S.) or Paragraph 1-4 MM. (Unlawful occupant)] HUD policy requires that such persons be provided with a written notice of their ineligibility for relocation assistance, the reason they are ineligible, and their right to appeal the Agency's determination.

E. Ninety-Day Notice (49 CFR 24.203(c)). The 90-day notice shall not be given before the displaced person is issued a notice of relocation eligibility (or notice of ineligibility) for relocation assistance. The date provided in this notice may be different for each person or group of persons in a project area based on whether or not the project will be phased, the location of the occupied building(s), or the project schedule. The 90-day notice need not be issued if: (a) there is no structure, growing stock, or personal property on the real property, or (b) the occupant made an informed decision to relocate and vacated the property without prior notice to the property owner, (c) in the case of an owner-occupant who moves as a result of a voluntary acquisition described in 49 CFR 24.101(b)(1) or (2), the delivery of possession is specified in the purchase contract, or (d) the person is an unlawful occupant (see Paragraph 1-4 MM.).

- 1) The urgent need provisions described in 49 CFR 24.203(c)(4) permit an Agency to require an occupant to vacate on less than 90 days notice. However, an Agency may not artificially create an "urgent need" (e.g. by issuing a notice to proceed to a demolition contractor, then using the imminent demolition to substantiate a danger to the resident's health and safety in order to cut short the notice period which is otherwise required).
- 2) State or local law may dictate the form and timing of a moving notice to be issued to an unlawful occupant, if any.
- 3) HUD also recommends that Agencies provide a minimum of 30 days notice to move to persons who will not be displaced but who need to be temporarily relocated. 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 all personal property on site. 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.
- 4) The URA regulation prohibits Federal participation in relocation payments or relocation advisory services to aliens not lawfully in the U.S., but does not prohibit notices (see 49 CFR 208). Often illegal aliens and legal residents reside together. Giving every lawful occupant these notices (see

definition of an unlawful occupant at 49 CFR 24.2(a)(29)) will assure compliance with the Uniform Act.

- F. Combined Notice (NOE and 90-Day Notice). Where time to begin work on the project is critical, HUD policy permits an NOE and a 90-Day Notice to be combined into one Notice and issued on or before ION (e.g., where moving tenants before snowfall will enable the project to move forward with roof replacements). All persons must still be provided with a minimum of 90 days notice prior to requiring that they move, unless the urgent need provisions in 49 CFR 24.203(c)(4) are met.
- G. Notice of Intent to Acquire (49 CFR 24.203(d)).
- H. Notice to Owner (of real property) (49 CFR 24.102(b)). As soon as an Agency has identified properties that it might be interested in acquiring for a HUD-funded project, the Agency needs to notify the owner(s) in writing of its interest in acquiring the property and the basic protections applicable under the URA. This may include acquisitions made before an application for HUD financial assistance, if the Agency anticipates receiving such assistance for the project. If the Agency does not wish to trigger a person's eligibility for relocation assistance at the time of this notice, it should ensure that the notice is not confused with a Notice of Intent to Acquire (which is specifically used to establish relocation eligibility prior to ION). While the Notice to Owner merely informs the property owner of the Agency's interest in acquiring the property, the Notice of Intent to Acquire is a commitment. A Notice to Owner is required for all acquisitions where there is HUD financial assistance in any part of the project costs, except acquisitions meeting the requirements of 49 CFR 24.101(b)(1) or (2). See Chapter 5 for additional information on the acquisition process and guideforms.
- I. Move In Notice. See paragraph 1-4 Y.
- J. Manner of Notices (49 CFR 24.5). Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice (e.g., due to lack of literacy, or disability) must be provided with appropriate services, alternative formats, and/or counseling. Each notice shall indicate the name and telephone number (including the telecommunication device for the deaf (TDD) number, if applicable) of a person who may be contacted for answers to questions or other needed help. If a project will not result in a rent increase, or require permanent or temporary relocation, a GIN or Notice of Nondisplacement may be served by posting it in accessible locations and providing a copy to the tenants' representative.

- 2-4 RELOCATION ADVISORY SERVICES (49 CFR 24.205(c)). Providing a written Notice or series of Notices, along with the HUD brochure, is not sufficient to assure that the person who is affected by the project understands his/her rights and responsibilities. As soon as feasible, the Agency shall contact each person who is affected by the project to discuss his/her needs, preferences and concerns. Whenever feasible, contact shall be face-to-face. A list of minimum relocation advisory services may be found in 49 CFR 24.205(c).
- 2-5 GENERAL REQUIREMENTS – CLAIMS FOR RELOCATION PAYMENTS (49 CFR 24.207). HUD has developed a series of optional claim forms that can be used to compute payments and obtain certification of a person’s status as a citizen, national, or alien who is lawfully present in the U.S. Copies of these forms can be found at Appendices 11, 12, 13, 14, 16, and 17; are available from HUD’s Direct Distribution Center at 1-800-767-7468; and can be downloaded or printed from HUD’s website at: www.HUD.GOV/Relocation.
- A. Expeditious Payment (49 CFR 24.207(b)).
 - B. Advanced Payments (49 CFR 24.207(c)).
 - C. Time for Filing (49 CFR 24.207(d)).
 - D. Notice of Denial of Claim (49 CFR 24.207(e)).
 - E. No Waiver of Relocation Assistance (49 CFR 24.207(f)).
 - F. Expenditure of Payments (49 CFR 24.207(g)).
 - G. Occupants of Displacement Dwelling Move Separately (49 CFR 24.403(a)(5)).
- 2-6 RELOCATION PAYMENTS NOT CONSIDERED AS INCOME (49 CFR 24.209).
- A. “Gap” Payments. The URA statute and regulations require that relocation payments received by a displaced person be excluded from income under Federal law, except Federal low-income housing assistance programs. Many HUD housing programs, therefore, consider relocation payments as income for purposes of establishing eligibility and/or rent. In certain programs, HUD makes an exception where an RHP “gap” payment is being made: 1) To a displaced subsidized tenant to defray the additional cost for rent/utilities associated with his/her move into another type of subsidized unit (e.g., moving from a public housing unit to a Housing Choice Voucher unit) or 2) in the case of a low-income person, whose government housing subsidy cannot reduce their rental and utility payments to 30% of their average monthly gross income and the difference is made up by a URA “gap” payment (e.g., in the Housing Choice Voucher Program where the local payment standard is too

low to enable the displaced person to lease and occupy decent, safe, and sanitary replacement housing in the local marketplace at 30 percent of their income for rent and utilities). These “gap” payments should be excluded from income as “temporary, nonrecurring, or sporadic income” whenever these payments represent compensation for additional costs incurred as a result of the displacement, provided these “gap” payments do not duplicate any housing subsidy the family would otherwise be entitled to under HUD programs.

B. Moving to Subsidized Housing After Displacement. In the situation where a displaced person is vested with an RHP based on an unassisted private market unit and the person later applies for a HUD housing subsidy, the RHP should be considered as income for purposes of establishing eligibility and rent. Therefore, unless the person voluntarily refuses to accept continued RHP payments and the payments are discontinued by the displacing Agency, the RHP would be added to other income received by the person (or be considered as imputed income for the person, as in the case of a TANF recipient who has lost welfare benefits). If the person is still eligible for the HUD housing subsidy, continued payment of the RHP and the additional HUD subsidy may also constitute a duplication of assistance payments prohibited under 49 CFR 24.3.

2-7 TEMPORARY RELOCATION (49 CFR 24.2(a)(9)(ii)(D), Appendix A). “In 1987, the Uniform Act was amended to cover displacement from Federal and federally-assisted programs or projects as a direct result of rehabilitation. To counter the disincentive this might create for a tenant temporarily displaced from a residence while that residence is being rehabilitated, we considered such a person not to be displaced, if, and only if certain stringent protections are applied. These included covering moving expenses to and from the temporary location, payment of increased housing costs during the period of relocation, the guarantee of a return to the same unit, or to another unit in the same building or complex, and a limitation on a rental increase at the rehabilitated replacement unit.”¹ Appendix A to the URA regulations provides guidance for temporarily relocating residential tenants and businesses in the many instances in which federally- assisted projects involve the acquisition, rehabilitation, or demolition of apartments, homes, commercial buildings, etc., which could allow for a quick return for the original occupants.

A. While Appendix A to the URA regulations has historically included provisions for temporary relocation, in 2005 a new one-year limitation was imposed on temporary relocations. An Agency which fails to meet its obligation to return a temporarily relocated person to the project within one year, may be liable for all costs connected with a subsequent permanent displacement of the person beginning at the end of the one year period

¹ Preamble, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs: Final Rule, 49 CFR Part 24, 70 FR 589, 592 (January 4, 2005).

(including a Replacement Housing Payment (RHP) for a residential occupant). The 2005 rule also made provision for the temporary relocation of a business which might have to be shut down due to rehabilitation of a site.

- 1) An Agency must reimburse a temporarily relocated person for reasonable out of pocket expenses incurred in connection with a temporary move. Such costs include moving expenses and increased housing costs.
 - a) An Agency may develop a schedule of moving estimates by unit size based on estimates from local movers to enable it to determine the reasonableness of moving costs. However, the Agency cannot use this schedule to place a fixed-payment maximum on the cost of any resident's move, if a higher amount is warranted and reasonable based on the actual amount of household goods to be moved or other extenuating circumstances that can be documented or explained. The URA Fixed Residential Moving Cost Schedule may be a useful resource in some circumstances (see 49 CFR 24.302).
 - b) Persons who will be temporarily relocated should be required to submit their moving cost estimates for Agency approval prior to the move and be warned that failure to submit an estimate ahead of time may result in the resident not being fully reimbursed. An Agency needs to determine that the possessions to be moved and the moving costs are reasonable and necessary (especially where only a partial move is required, see c. below).
 - c) A temporarily relocated person may not need to move all of his/her possessions (e.g., in the case of rehabilitation to only one room of a residence, the Agency may determine that only the possessions in that one room and some basic necessities may need to be moved based on the duration or location of the rehabilitation work).
- 2) An Agency must provide direct payment or reimbursement for all disconnection and reconnection of necessary utilities, i.e., water, sewer, gas, and electricity either by: 1) Paying the expenses directly to the applicable utility company on behalf of the resident, or 2) reimbursing the resident for the cost of transferring utility services to the replacement or temporary unit (documentation of the cost must be provided to the Agency by the resident).
- 3) Under the URA, the Agency is not required to reimburse a person for new or increased security or utility deposits that are refundable. Under the URA, refundable deposits are not considered a cost. However, to ease the burden such expenses might cause at the time of a temporary move, the Agency may elect to advance funds for such deposits under a repayment agreement, or may pay such deposits on behalf of the temporarily

relocated person (provided any refund will be made to the Agency and not the person)² or, if payment is allowed under HUD program regulations or funding guidelines (e.g. under an optional relocation assistance policy permitted under HOME or CDBG grants), an Agency may choose to pay for new or increased utility deposits. An Agency should have a formal written policy on such payments as part of a written relocation plan or optional relocation assistance policy.

- 4) If the person has telephone, cable service, or Internet access at the displacement unit, the Agency must reimburse the person for costs involved in transferring existing service, if any (not the monthly service cost).
- 5) In an emergency, if a person must be temporarily relocated for the duration of the emergency situation from a unit that had cooking facilities to a temporary unit that lacks basic cooking facilities (e.g., a hotel), it is appropriate to reimburse the increased out of pocket costs for meals. Reimbursement may be based on paid receipts or on a "per diem" basis, as established by the Agency. Reimbursement for such expenses should be addressed in Agency policy. A person who has been moved to such a location in an emergency situation must be returned to their original unit or relocated to other decent, safe, and sanitary housing within a reasonable amount of time after the emergency has abated.
- 6) If after relocating to a temporary unit under reasonable conditions, a person chooses to move to another temporary unit of his/her own volition, the Agency must continue to pay any reasonable increased housing expenses, as long as the selected unit is decent, safe, and sanitary and the Agency was informed prior to the move so that the Agency can determine that the increased costs are reasonable. The increased housing cost of the temporary unit initially occupied by the person, or of any unit later occupied by the person, should not exceed the cost of the decent, safe, and sanitary temporary unit offered by the Agency. (The person is responsible for the moving costs.)
- 7) If the person is required to move from the temporary unit by the Agency (or the Agency agrees to the move from the temporary unit for good cause, e.g. health issues), the Agency must assist the person to locate other decent, safe, and sanitary housing and may pay all costs associated with the move and increased housing expenses.
- 8) Where a person is evicted for cause from a temporary unit, the person may not be entitled to continued temporary housing costs, the person may lose

² In this case, lawful deductions from security deposits made by a landlord or utility company may be charged to the resident by the Agency. Any agreement with the resident to pay a deposit on their behalf should stipulate how and when repayment of non-refunded security deposit(s) must be made.

his/her right of return to the displacement site, and the person may not be entitled to relocation payments as a displaced person (see paragraph 1-4 J.1).

- 9) Where a person will be temporarily relocated from a public housing unit to a non-public housing unit, if there is an increased rental and/or utility cost for the unit, residents will be entitled to reimbursement for the additional out-of-pocket costs³ for the period of time they occupy the temporary unit. All reasonable increases in utility costs must be covered by the PHA, even if the PHA utility allowance is lower than the actual costs to the resident. The temporary unit must be decent, safe, and sanitary. Prior to selection of any unit, public housing residents should be sure to notify the PHA and have the unit inspected.
- B. "After the one-year period, the final rule requires that a residential tenant be offered permanent relocation assistance. Such tenants may be given the opportunity to choose to continue to remain temporarily relocated for an agreed to period (based on new information about when they can return to the displacement unit), choose to permanently relocate to the unit which has been their temporary unit, and/or choose to permanently relocate elsewhere with Uniform Act assistance. It is expected that temporary relocations will be rare, and, for HUD funded projects, clearly planned for in the development of the project, and used only where a tenant is guaranteed a replacement unit in the project or unit from which they were displaced."⁴
- C. Whenever there is any possibility that a person may not be able to return to a project, particularly where a reduced number of units will be available after completion of the project, Agencies are advised to provide displacement assistance applicable to a permanent move. In large and/or phased projects where completion will occur years in the future, there is no reasonable way an Agency can guarantee an occupant the right to return at the time of issuing a GIN or a NOE. Therefore, persons occupying such projects should be notified of their eligibility for the full amount of permanent relocation assistance available under the URA.
- 1) No person who has been displaced from a project should be precluded from applying to and being considered for occupancy in the project after completion (see Paragraph 1-4 EE, Resident Return Policies, Return Criteria, or Re-occupancy Plan).
 - 2) The URA does not require that an agency pay for a return move to the project once a person has been permanently displaced (an agency is obligated to pay for the return move of any person that is temporarily

³ See paragraph 2-6 A.

⁴ Preamble, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs: Final Rule, 49 CFR Pat 24, January 4, 2005, 70 FR 589.

relocated). If allowed under HUD program regulations or funding guidelines (e.g. optional relocation assistance permitted under HOME or CDBG grants), an Agency may choose to pay for return moves for persons who had been permanently displaced. An Agency should have a formal written policy on payment for return moves, which may be part of a written relocation plan or optional relocation assistance policy.

- D. Where a business is to be temporarily relocated, the Agency should be careful to plan the temporary relocation assistance with input from the business in order to identify what costs will be reasonable and necessary. At the discretion of the Agency, if temporary relocation appears to be too complex or costly, permanent displacement may be justified as more cost-effective (e.g. where a business is subject to special environmental emission or processing requirements; has large and/or specialized production equipment that must be disconnected, moved, and reconnected; has extensive production inventory that must be moved to the temporary site; or that requires rail or shipping access not available for temporary use).