

Chapter 4 – Uniform Relocation Assistance

Words to Know:

Acquisition – The purchase of real property. The Uniform Relocation Act Final Rule established that the acquisition of both permanent and/or temporary easements (with some exceptions) are subject to the 49 CFR Part 24 subpart B acquisition requirements.

Displacement – An individual, family, partnership, association, corporation, or organization, which moves from their home, business, or farm, or moves their personal property, as a direct result of acquisition, demolition or rehabilitation for a federally funded project.

GIN – A General Information Notice is a notice provided pursuant to the URA that notifies tenants about the project, planned development, timeline, and potential displacement.

Relocation – An individual, family, partnership, association, corporation, or organization which moves from their home, business, or farm, or moves their personal property, as a direct result of acquisition, demolition, or rehabilitation for a federally funded project for less than 12 months.

Overview

Federally funded projects, including CDBG, fall under the requirements of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (commonly referred to as the Uniform Relocation Act or URA). The URA establishes requirements for the fair and consistent acquisition of real property for federally funded projects and ensures uniform, fair, and equitable treatment to persons, families, individuals, businesses, nonprofit organizations, and farms, that must relocate as a result of acquisition, demolition, infrastructure/construction, or rehabilitation. The purpose of this chapter is to provide guidance to CDBG grantees on the complex issue of acquiring real property, including permanent easements, consistent with the requirement of federal URA statutes and HUD regulations, and to address any relocation that may be triggered as a result of CDBG-assisted activities, regardless of whether the acquisition results in temporary relocation or permanent displacement.

Federal requirements for relocation of households or businesses are extensive and complex. In enacting the URA, Congress intended to discourage displacing LMI persons and households by CDBG projects. While permanent displacement should be rare, rehabilitation of occupied properties often results in residents being temporarily relocated within or from the affected property. Similarly, acquisition will typically be undertaken on a voluntary basis, but involuntary acquisition is also discussed in the following material.

The objectives of the URA are accomplished through relocation notices (for example, GIN) advisory services, and payments, as appropriate for the circumstances. Specific URA requirements are based on whether an acquisition is involuntary or voluntary and whether any associated displacement is temporary or permanent. In most cases, acquisition is voluntary, such as the purchase of land for a town water well site or a property owner agreeing to sell a property to a buyer to build housing. In housing projects, residents are often temporarily relocated while a multi-family building is rehabilitated, rather than being permanently displaced.

Section 104(d) of the Housing and Community Development Act of 1974 may also apply when projects are CDBG funded and involve demolition or conversion of occupied LMI household units. The intent of Section 104(d) is to: (1) ensure that certain HUD programs maintain the number of affordable housing units by requiring one-for-one replacement of demolished or converted affordable housing units; and (2) provide special relocation assistance to LMI tenants displaced by certain HUD projects involving demolition of a housing unit or conversion of LMI units to uses other than housing of LMI qualified residents. To comply with Section 104(d), grantees must follow Commerce's Residential Anti-Displacement and Relocation Assistance Plan, which can be found in the "URA and Public and Community Facilities" toolkit and develop their own specific plan pertinent to their project.

Prior to applying for CDBG funds, prospective grantees should consult CDBG Application Guidelines which detail how to comply with the URA and Section 104(d), as applicable. Once

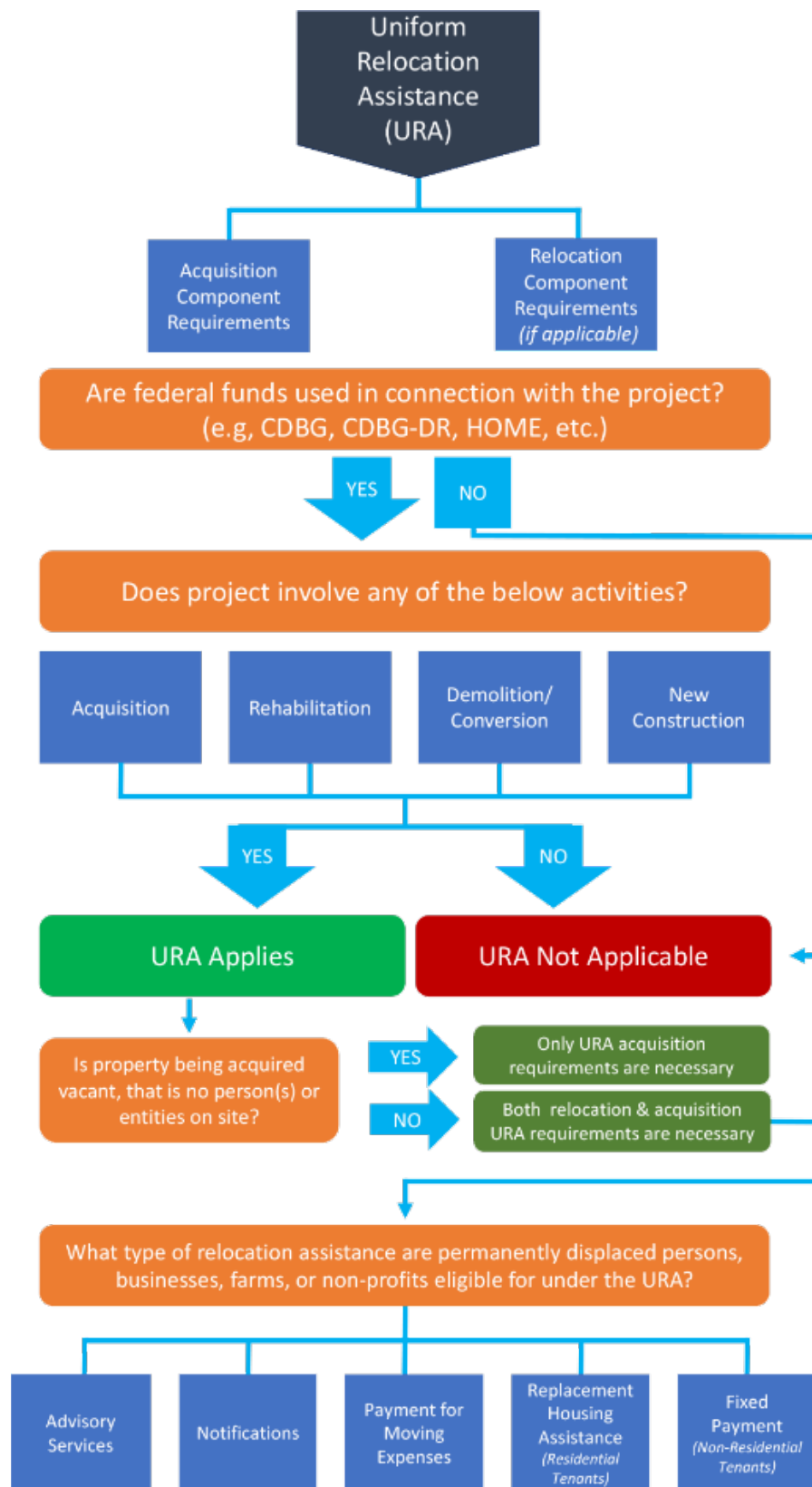
awarded, grantees must ensure their own project-specific RARAP is current and outlines the methods by which the grantee will track tenant turnover to ensure all tenants receive GINs, track tenant reasons for moving out, and document the process used to temporarily relocate tenants during rehabilitation activities. Grantees are encouraged to become familiar with the tools and resources outlined in the “URA and Public and Community Facilities” toolkit and to work closely with their project specialist to ensure compliance.

Each section of this chapter will refer to the “URA and Public and Community Facilities” toolkit for procedures, sample letters, notices, and forms to assist the grantee in complying with acquisition and relocation requirements. Furthermore, this chapter includes a summary of applicable federal and state laws, as well as those regulations that apply to those relatively rare cases where it is necessary to relocate a business or residential household.

For more information about URA and requirements triggered by specific project activities, see the [HUD Handbook 1378: Tenant Assistance, Relocation, and Real Property Acquisition](#) guide and applicable HUD forms available in English and other languages online. Below is a flowchart with high level information about the URA.

Acquisition

Consistent with applicable federal laws and regulations, two different acquisition procedures are defined and described: voluntary acquisition and involuntary acquisition. Grantees involved in the acquisition of real property and permanent easements for CDBG-assisted activities should keep the following key issues in mind, regardless of whether the acquisition is voluntary or involuntary.



- Property owners are entitled to receive at least the appraised fair market value for acquired property and improvements
- Condemnation litigation should be avoided and used only as a last resort

As much as possible, sites for proposed CDBG activities should be chosen so that displacement of businesses and residential households is avoided. Finally, all acquisitions should be documented in accordance with procedures outlined in Section IV.

Grantee Responsibilities

For each acquisition activity, the grantee must first determine if the acquisition is voluntary or involuntary to determine how any anticipated transaction is governed by the URA, including 1987 amendments. The Act and amendments to the Act deal specifically with real property acquisition. It is important to note that not all real property acquisitions are subject to the stricter provisions of the URA. Regardless of whether the acquisition is voluntary or involuntary, if it results in displacement, persons or businesses displaced by the acquisition are entitled to relocation assistance under the URA. Despite its complexity and expense, relocation may be an important and necessary element of a CDBG-assisted project.

Voluntary Acquisitions

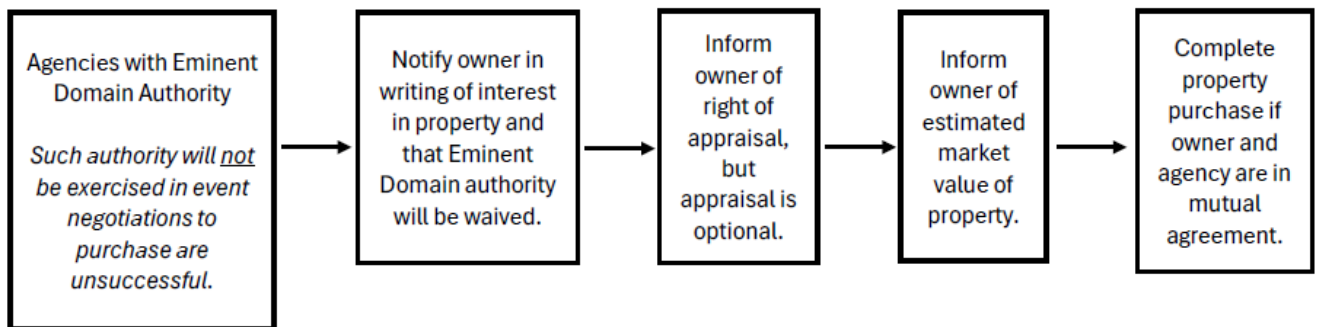
Public Entity

For a public agency with the power of eminent domain, acquisition can be considered voluntary, and not subject to the stricter requirements of the URA, if **all** the following conditions are present:

- The public agency determines and informs the property owner in writing that it will not use its power of eminent domain to acquire the property (or permanent easements) if negotiations fail to result in an amicable agreement.
- No specific site or property is designated for acquisition, although the grantee may have a general geographic area in mind.

- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all the property within the area will eventually be acquired.
- The grantee informs the owner of its estimate of the market value of the property. An appraisal is not required; however, a person familiar with real estate values must prepare the estimate, and the grantee's files must include an explanation of the basis for the estimate. An appraisal must be completed if the property owner requests it.

Uniform Relocation Assistance – Voluntary Acquisition Flowchart



Non-Public Entity

For non-public entities with no powers of eminent domain, such as a non-profit organization or a person receiving federal financial assistance, the acquisition can also be considered voluntary, and **not subject to** the stricter requirements of the URA, if **both** of the following conditions are present:

- The entity determines and informs the owner in writing that it does not have the power of eminent domain, and, therefore, will not attempt to acquire the property if negotiations fail to result in an amicable agreement; and
- The buyer informs the property owner of its estimate of the market value of the property. **This notice must be in writing and provided BEFORE the property owner enters into the contract for sale.** An appraisal is not required, but a person familiar with the real estate values must prepare the estimate, and the grantee's files

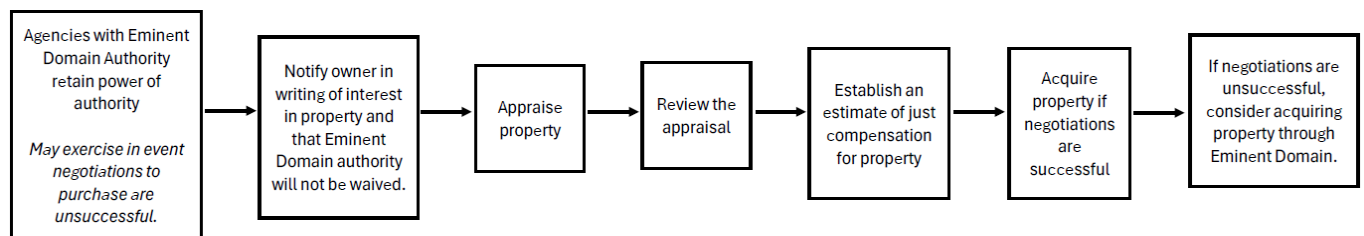
must include an explanation of the basis for the estimate. An appraisal must be completed if requested by the property owner.

The required notices must be in writing and provided before the property owner enters the contract for sale. If there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this information is provided.

Involuntary Acquisitions

An involuntary acquisition occurs when a public entity with eminent domain authority chooses not to waive its right of exercising eminent domain if negotiations fail to result in an amicable agreement. In these cases, an involuntary acquisition notice must be sent by certified or registered mail to the property owner to inform the owner of the grantee's intent to acquire the property and of the owner's basic protections under the URA. The notice should include information about conducting an appraisal, offering fair market value, instructions not to vacate the property, the name of project contact person, and owner's rights under the URA. The grantee must also enclose a copy of HUD's information booklets, "When a Public Agency Acquires Your Property", found [here](#).

Uniform Relocation Assistance – Involuntary Acquisitions Flowchart



Donated Real Property

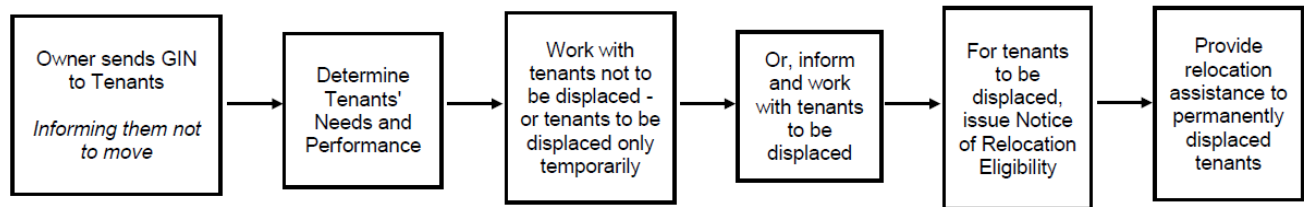
An owner whose real property is to be acquired may, after being fully informed by the grantee of the right to receive just compensation for property (or permanent easement), donate the property or any part thereof to the grantee. The grantee must obtain a valuation of the real property unless the owner, in writing, releases the agency from such obligation.

Relocation

General URA Relocation Process

Despite its complexity and expense, relocation may be an important and necessary element of a CDBG-assisted project. Following is an overview of the process.

General Relocation



Relocation of businesses and residential households may occasionally be necessary to implement CDBG-funded projects. Grantees submitting a CDBG application are required to follow Commerce’s “Anti-Displacement and Relocation Plan”. The objective of the plan is to minimize the displacement of residents and businesses as a result of CDBG-assisted activities. Displacement and relocation require advanced notice, identification of replacement housing for occupants, reimbursement of moving costs, one-to-one replacement of LMI housing units, and additional housing allowance for LMI households.

Careful planning of projects involving temporary relocation or potential displacement should be completed prior to submitting an application and receiving funding because local project budgets usually lack the resources to provide full fair market compensation to an active business. For residential households, in addition to fair market compensation, displaced residents are entitled to a guarantee of future housing affordability for up to 60 months following displacement, depending on which part of the URA is triggered.

Grantees planning CDBG-assisted projects that may involve either temporary relocation or permanent displacement of local residents or businesses as a result of their acquisition activities should contact their CDBG project specialist for guidance on the federal requirements that apply.

Avoiding Displacement

Consistent with the goals and objectives of the URA, as amended, and Section 104(d) of the Housing and Community Development Act of 1974, as amended, the grantee must undertake a minimum of one of the following steps to minimize the displacement of persons from their homes:

- a) Coordinate code enforcement with rehabilitation and housing assistance programs.
- b) Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent placing undue financial burden on long-established owners or tenants of multi-family buildings.
- c) Stage rehabilitation of apartment units to allow tenants to remain during and after rehabilitation by working on empty units or buildings first.
- d) Establish facilities to house persons who must be relocated temporarily during rehabilitation.
- e) Adopt public policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
- f) Adopt policies that provide reasonable protection for tenants faced with conversion to a condominium or cooperative.
- g) Establish counseling centers to provide homeowners and renters with information on the assistance available to help them remain in their neighborhood in the face of revitalization pressures.

Temporary Relocation

Temporary relocation usually occurs when the occupied property needs rehabilitation or repair, and the individuals or families must move out of the property for a period less than 12 months, until it has been made safe and habitable again. Temporary relocation must be provided, as provided in 24 CFR Part 290.17. Tenants who will not be required to move permanently shall be provided reimbursement of all reasonable cost of moving and any increase in monthly costs and utilities as well as advisory services for alternative temporary decent, safe, and sanitary housing.

Displacement

Relocation assistance must be provided to each LMI household permanently displaced by the demolition of housing or by the conversion of an LMI dwelling to another use as a direct result of CDBG-assisted activities. Pursuant to CFR Section 42.350, a displaced person or household may choose to receive either assistance under the URA and implementing regulations at 49 CFR Part 24 or assistance under Section 104(d) of the Housing and Community Development Act of 1974, including advisory services, moving expenses, security deposit and credit checks, interim living costs, and replacement housing assistance.

Record Keeping Requirements

The grantee is responsible for maintaining files and documentation on each property acquired. To assist the grantee, a URA Governed Acquisition Checklist has been developed to serve as an attachment for each project file (see the “URA and Public and Community Facilities” toolkit on Commerce’s [website](#)). By using the checklist and maintaining a comprehensive file in chronological order, the grantee can better and more easily comply with the URA documentation requirements and complete the acquisition process in a manner that complies with the requirements of the Act.

Applicable Requirements

42 USC § 4601, et seq. – URA is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property or involve displacing persons from their homes, businesses, or farms.

42 UCS § 5304(d) – Section 104(d) of the Housing and Community Development Act of 1974 supplements the URA and may be triggered by demolition or conversion of residential units as part of CDBG-assisted projects.

49 CFR Part 24 – Federal regulations that implement the URA and provides uniform procedures for the acquisition of real property for federal or federally assisted projects and

ensures the uniform and equitable treatment of persons and businesses displaced as a result of federal or federally assisted projects.

HUD Handbook 1378 explains and summarizes the Uniform Act and implementing regulations at 49 CFR Part 24 and delineates the requirements that are passed on to state CDBG programs and their grantees. The handbook can also be found online [here](#).

Consolidated Appropriations Act, 2014 – reinforces the inability of eminent domain to be implemented to acquire property on any economic development project involving CDBG funds.