

URA/Section 104(d)



Triggers for Decision Makers

Disaster Recovery Training
Houston, Texas
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Uniform Act Overview 49 CFR 24



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Protections and assistance establish minimum standards for federally funded programs and projects that require the **acquisition, rehabilitation, or demolition** of real property and/or displace persons from their homes, businesses, or farms as a result.

Uniform Act Objectives



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- Provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.
- Ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement.
- Ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means.
- Improve the housing conditions of displaced persons living in substandard housing.
- Encourage and expedite acquisition by agreement and without coercion.

Uniform Act Requirements



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- Applies to all Federally funded projects funded in whole or in part with acquisition, rehabilitation, or demolition in any phase.
- Administrative requirements required PRIOR TO making written offers to purchase real property.
- Notice requirements to all occupants timed in conjunction with acquisition actions.
- Payment for moving and increased costs of housing or reestablishing non-residential entities as a result of displacement.

URA Triggers



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When does the Uniform Act apply and how does that impact my project?

URA Implementation



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- Programs or projects which have acquisition as an activity are subject to the acquisition regulations.
- Persons displaced as a result of acquisition, demolition, or rehabilitation is subject to the relocation requirements.
- HUD has additional definitions of who qualifies as a displaced person, economic displacement & temporary relocation standards in Handbook 1378.

What Triggers The URA?



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- General Information Notices to be issued to property owners/occupants “as soon as feasible.”
 - Project pre-application or application stage.
- Displacement assistance is usually required if one of the three following actions:
 - The initiation of negotiations for the project occurs (based on several possible dates per regulations), or
 - Upon issuance of a “Notice of Intent to Acquire,” or
 - Actual acquisition, rehab, or demo of a property.

Acquisition Issues



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“Voluntary” vs. “Involuntary”
Acquisitions & Valuation



For agencies *with* eminent domain authority, if all of the following apply:

- No specific site is needed and any of several properties could be acquired for project purposes; and
- The property is not part of an intended, planned, or designated project area where other properties will be acquired within specific time limits; and
- The agency informs the owner in writing of the property's market value; and
- The agency also informs the owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement.

URA “Voluntary” Acquisitions



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For agencies without eminent domain authority, if all of the following:

- The agency notifies the owner in writing of the property’s market value; and
- The agency notifies the owner, prior to making an offer, that it will not acquire property if an amicable settlement cannot be reached; and
- If tenants are displaced, the tenants are provided relocation assistance.

Voluntary Acquisition Waiver



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Requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an arm’s length voluntary purchase *carried out by a person that does not have the power of eminent domain, in connection with the purchase and occupancy of a principal residence by that person.*

- Disclosures are not required by individuals who use CDBG disaster recovery funds to purchase a primary residence.

Voluntary Acquisition Hot Topics



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- **Agencies** must still make URA disclosures to owners of properties sought for “buyouts.”
- Owner-occupants are **not eligible** for URA relocation assistance in voluntary transactions.
- Voluntary buyouts for owner-occupants may require optional relocation plans to provide financial incentives to move out of a flood-prone area.
- If an acquisition does not meet all applicable “voluntary” requirements then it is considered “involuntary” & the full Subpart B obligations apply.

Voluntary Acquisition Hot Topics



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- Tenants displaced by voluntary acquisitions are always generally eligible for URA assistance – consider cost impacts of subsequent displacement by individuals purchasing homes under this waiver.
- Repair, rehabilitation, & reconstruction of affordable rental housing programs may require temporary relocation assistance for tenants – can be a significant administrative requirement.
- Long-term leases of more than 15 years are considered acquisitions subject to the URA acquisition requirements (either voluntary or full Subpart B).

Valuation



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Payment of pre-flood values for buyouts may be based on either pre-flood or post-flood values for the acquisition of properties located in a flood way or floodplain.

- In using CDBG disaster recovery funds for such acquisitions, the grantee must uniformly apply whichever valuation method it chooses.

Flood Buyout Programs



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Project costs & success may be determined in large part if flood buyouts are designed as “voluntary” or “involuntary.”

- Relocating an entire town or area & requiring involuntary buyouts may be effective in eliminating future flood claims but persons may not be required to relocate to a “new” town or specific location.
- Voluntary flood buyouts may create inefficiencies in providing public services & unappealing neighborhoods for remaining residents.

URA Residential Relocation Waivers



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Flexibility in Providing Relocation Assistance

30% of Household Income



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URA provisions are waived to the extent that they require financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30% of household income. To the extent that a tenant has been paying rents in excess of 30% of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30% would not be required.

- ***Before using this waiver, the state must establish a definition of “demonstrable hardship.”***

30% of Household Income



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HUD would consider the state's definition of "demonstrable hardship" & application of this waiver on a consistent basis across programs or projects.

- Potential cost savings to the state in utilizing this alternative should be weighed against the ability to complete projects in a timely manner & potential perception of disparity resulting in relocation appeals.

Comparable Replacement Dwelling



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Certain “Comparability” requirements are waived to allow all or a portion of a replacement housing payment obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy (e.g., Section 8 voucher or certificate) **provided** that the tenant is also provided referrals to suitable, available rental replacement dwellings where the owner will participate in the TBRA program & the period of authorized assistance is at least 42 months.

Comparable Replacement Dwelling



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- Consider for use where TBRA program subsidies may be available but funds for cash relocation assistance is limited.
- Represents an additional option not typically available under regular URA regulations.

Residential Moving Payments



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Suspension of the requirement to offer a displaced person the option to receive a “moving expense & dislocation allowance” based on the FHWA fixed schedule, ***provided*** that the grantee establishes & offers the person a moving expense allowance under a schedule that is reasonable & takes into account the number of rooms in the dwelling, if the person owns & must move the furniture, & expenses described in 49 CFR 24.301.

Residential Moving Payments



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- Provides agencies flexibility to offer fixed residential moving payments that reflect possible increased costs of local labor & transportation costs.
- This option does not require evidence of actual costs incurred by the displaced household.
- Households still have the option to choose a payment for actual & reasonable moving expenses.

Section 104(d) 24 CFR 42



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Overview & Waivers

104(d) Triggers



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The use of these HUD program funds:

- CDBG
- HOME
- UDAG

In a project involving:

- Demolition of “low-income dwelling units”
- Conversion of “low-income dwelling units”

Funds used solely for “program administration” or “relocation assistance” do not trigger 104(d).

104(d) Overview



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- Residential Antidisplacement and Relocation Assistance Plan (RARAP) certification.
- Increased relocation assistance to lower income residential tenants displaced as a result of demolition/conversion of a lower income dwelling in connection with an assisted activity.
- One-for-one replacement of all “occupied” & “vacant occupiable” lower income dwellings demolished/converted.

One-for-One Replacement Waiver



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One-for-one replacement requirements are waived for low- and moderate-income dwelling units:

- (1) damaged by the disaster,
- (2) for which CDBG funds are used for demolition, and
- (3) which are not suitable for rehabilitation.

One-for-One Replacement Waiver



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Encourages recovery by easing requirements for acquiring, converting, or demolishing disaster-damaged housing .

- Projects/programs do not need to make public or submit to HUD a one-for-one replacement plan.

Relocation Assistance Waiver



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Section 104(d) relocation assistance requirements are waived to the extent they differ from the URA & its regulations at 49 CFR 24 following waivers to buyouts & other activities covered by the URA & related to disaster recovery housing activities assisted by the funds covered by FR-5250-N-01 & included in an approved Action Plan.

Relocation Assistance Waiver



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Simplifies project administration where residential relocation of low-income persons is necessary since only one replacement housing calculation is required (URA).

- Eliminates potential disparity between persons displaced by projects funded by other federal agencies not subject to 104(d).

Stafford Act & the URA



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Occupancy Requirements for Displacement Dwellings

Section 414 Waiver



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- Section 414 of the Stafford Act provides:
“Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act].”
- Implemented at 49 CFR 24.403(d)

Section 414 Waiver



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- Households may be forced to move as a result of a presidentially declared disaster before a HUD-assisted program or project reaches initiation of negotiations & would otherwise displace the person.
- Even if persons are not in occupancy, a household may still be eligible for URA assistance as a displaced person.

Section 414 Waiver



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- The nature of long-term recovery projects are such that reconstruction and implementation may continue for years after the disaster.
- There is no statute of limitations or other timeframe applicable to Section 414 of the Stafford Act.
- Louisiana & Texas requested a waiver of Section 414 for their 2008 disaster recovery programs.

Section 414 Waiver



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For 2008 supplemental appropriations, programs or projects covered by this waiver that are initiated ***within 3 years after*** the applicable disaster, each state must comply with one of two alternative Section 414 requirements.

Section 414 Waiver



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1. URA relocation assistance to former residential occupants whose dwelling is acquired, rehabilitated, or demolished for a covered program even if their actual displacement was caused by the disaster.
2. Re-housing plan for a covered program or project, as determined on a program or project-wide basis, if the Alternative One substantially conflicts with recovery purposes.

For programs & projects initiated after the 3-year period, the alternative requirements do not apply; instead the waiver is applicable.

Section 414 Waiver



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- Re-housing plan minimum contents are further detailed in FR-5337-N-01 pertaining to the “Second 2008 Act.”
- Persons displaced by the effects of the disaster may apply for assistance under approved disaster recovery programs.
- States that did not request/receive this waiver do not have a statute of limitations on Section 414 applicability.

Mixed Finance Issues



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Pitfalls of Leveraging Funding Sources

Disaster CDBG vs. Other Federal Funds



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“Federal financial Assistance” means a grant, loan, or contribution provided by the U. S., except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a personal residence.

- Tax credits and FHA mortgage insurance are ***not*** “Federal financial assistance.”

Disaster CDBG vs. Other Federal Funds



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Waivers & alternative requirements apply only to the CDBG supplemental disaster recovery funds appropriated in the Supplemental Appropriations Act, *not to funds provided under the regular CDBG program.*

- Or any other HUD programs or funds from other federal agencies (FEMA, VA, DOT, etc.).

Disaster CDBG vs. Other Federal Funds



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- All other federal sources of funding used in projects where acquisition, rehabilitation, or demolition will occur are subject to standard URA regulations.
- Use of regular CDBG, HOME, or UDAG funds in a project will also carry full 104(d) obligations regarding one-for-one replacement & relocation assistance.

URA & 104(d) Resources



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- www.fhwa.dot.gov/realestate/index.htm
 - Free online 6-hour URA training course & interactive tutorial
 - Uniform Act Frequently Asked Questions & Answers
 - Fixed Move Schedule & Mortgage Interest Differential Calculator
- www.hud.gov/relocation
 - HUD Handbook 1378 – policies, notices, & claim guide forms
 - Acquisition & Relocation brochures
 - URA vs. 104(d) overviews & comparison chart
 - Planning & Budgeting Guide for HUD-Funded Projects
 - Contact your Regional Relocation Specialist

Questions & Answers



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THANK YOU FOR COMING!

Sara Hernandez, HUD Region 6

Arkansas, Louisiana, Oklahoma, New Mexico, Texas

Sara.M.Hernandez@hud.gov

(817) 999 – 8746