50 Ways to (NOT) Lose Your Money
How to UNDERSTAND and FOLLOW HUD Relocation Rules

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Presentation Overview

Part 1 - The Rules

- What are HUD relocation requirements?
- What triggers them?
- What are the specific Program Rules (Regulation, NOFA, etc.)
- What is the URA? Section 104(d)? Section 18?
- How do you know which applies when?
- Who is eligible for benefits?
- What are the benefits?
- What is the timing?
- What is the process?
- What should I definitely NOT do?
Presentation Overview

Part 2

The 50 Ways...
Part 1 – The Rules
When is your project subject to HUD Relocation Requirements?
HUD Programs Mandating Relocation:

- HUD Section 104(d)
- HUD Section 18
- HUD RAD

HINT: Remember that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (URA) applies “across the board” while the above are Program Specific.
The URA...Just the Facts:

- Covers any Federal or federally-assisted project which involves real property acquisition, rehabilitation or demolition
- 19 Federal Agencies – Including DOT GSA HUD;
- Has been used nation-wide for almost 50 years;
- Sets minimum assistance standards and maximum payments;
- Provides guidance that can be applied uniformly and equitably.
Who does the Uniform Act Protect?

- Project and the Project Owner
- Property Owner/Displaced Persons
- Taxpayers
When is a project subject to the URA?

URA Requirements are most often triggered by the use of:

- HUD HOME funds
- HUD CDBG funds...*(Community Development Block Grants)*
- HUD HAP Contracts...*(i.e., Project Based Vouchers)*

...in ANY part of the Project!

*HUD Section 104(d) triggers *more* stringent relocation requirements.
*HUD Section 18 (demo/dispo) triggers *less stringent, but still mandatory*, relocation requirements.
*LIHTC programs do not automatically trigger the URA, but the use of *any* applicable federal funds *at any point* in the project (HOME, CDBG, HAP, etc.) will.
Why is that important?

Failure to comply with all applicable federal regulations (URA, Section 104(d), Section 18, etc.) can result in:

• High Risk to Schedule and/or Budget
• HUD Findings of Non-Compliance and Mandatory Corrective Action
• Bankruptcy of a Project/Developer (with the Grantee on the line to come up with additional funding.)
**Voluntary vs. Involuntary Acquisitions under URA**

**Voluntary:** Not Just Willing Buyer/Willing Seller

- Must meet specific regulatory criteria at 49 CFR 24.101(b)(1)-(5)
- Property Owners NOT eligible for relocation assistance;
- Tenants ARE eligible for relocation assistance;
- Relaxed acquisition requirements:
  - Estimated value instead of appraisal
  - No review appraisal
  - May offer less than market value

*HINT: Project owner must typically provide a HUD VOLUNTARY ACQUISITION LETTER to property owner during negotiations to avoid paying relo benefits to the owner and/or triggering the URA acquisition requirements.*

**Involuntary and other Subpart B Acquisitions:** Anything Not “Voluntary”

- Must follow all requirements of URA
  - Appraisal (including owner walk-through)
  - Review appraisal
  - Offer of just compensation

- Owners (and Tenants) DO qualify as displaced
What is the Timing?
Disclosure and Submission at Application Stage:

- Grantee develops program
- Owner proposes project
  - Owner demonstrates capacity and capability
  - Owner estimates costs *including relocation*
  - Owner sends General Information Notice (GIN) to tenants
- Grantee Reviews Application
  - Tenant needs and preferences determined in Relo Plan
  - Determination of relocation costs
  - Grantee/Owner agreement and tenant notices prepared
- Agreement signed
  - Notices of Non-Displacement or Notice of Eligibility sent to all tenants – Relocation Begins.

HINT: Know who occupies the property - don’t take the Sellers word for it! Appraisals often give clues about recent occupancy. Ask Sellers to sign occupancy certifications going back 90 days from purchase offer.
Disclosure and Submission at Application Stage:

More Hints

• No resident can be required to move for at least 90 days 
  AFTER they are formally offered relocation eligibility and 
  comparable housing through a specific benefit package.

• That 90-day period usually begins when HUD Funding 
  Agreement is signed or on the date of closing on the 
  property.

• DON’T BASE YOUR CONSTRUCTION SCHEDULE ON GETTING 
  A VACATED PROPERTY AT CLOSING – EVEN IF THAT IS 
  WHAT THE CONTRACT SAYS!
URA (and other HUD Program) Specifics
URA - Who is eligible?

A “displaced” person is a...

- Residential Occupant (Owner or Tenant)
- Business Occupant (Owner or Tenant)
- Personal Property Only (Owner or Tenant)

who permanently moves themselves and/or their personal property as a direct result of the project.
URA Residential Relocation Benefits

**Advisory Services**
Relocation Agent Provides:
- Notices
- Counseling
- Explanation of Rights and Benefits
- Help with Claims

**Comparable Housing:**
- Through vouchers (HCVs) or
- Replacement Housing Payments

**Moving Costs**
Miscellaneous...

Time period to move
• Not less than 90 days from notification of eligibility and (for residential) an offer of comparable replacement housing

Aliens not lawfully present in US
• Not eligible for payments or advisory assistance unless a hardship determination
• Lawful corporation can be found eligible
• FHWA guidance for addressing households with mixed legal status

Relocation payments
• Not considered income

Person can appeal
• Eligibility, amount of payment, housing comparability
HUD Section 104(d) Relocation Benefits – What is the trigger?

#1 – HOME or CDBG funds used, AND…

#2 - Housing is being:
  - Demolished, or
  - Lower-income housing is being converted to:
    - Non-housing (community center, hotel), or
    - Housing that rents above HUD Fair Market Rent (FMR)

**Hint**

If both of these factors are not present, 104(d) is not triggered.

Relocation benefits are only applicable to lower-income tenants, but 104(d) 1-for-1 replacement requirements apply regardless of occupancy.
Section 104(d) – Relocation

• Pays rent supplement for 60 months (vs. 42 mos. URA)
• Calculated with resident’s income, not rent to rent
• Downpayment assistance limited to purchase of Cooperative or Mutual Housing (not available in Colorado)
• Lower-income tenants can choose relocation assistance under either URA or Section 104(d)
• Owner-occupants are not covered (subject to URA)
• Businesses are not covered (subject to URA)
• Illegal Aliens are not excluded...yet.
HUD Section 18 Relocation

• NOT URA
• For PHA Demo/Dispo Projects
• No Replacement Housing Payments allowed
• Uses other Public Housing Units, Project based Section 8 vouchers, Tenant-based Section 8 vouchers
• Still requires moving payments and counseling
HUD Temporary Relocation

• Contained in Appendix A of URA Regs - (but not “URA” level benefits)

• Usually caused by rehabilitation

• Must pay all out-of-pocket expenses for housing and moving (out and back)

• Most provide DS&S temp housing

• Must pay per diem if temp unit has no kitchen

• If temp relo lasts over 1 year, must offer permanent relo benefits under URA.
Part 2 – The 50 Ways
1. Be aware that the seller cannot vacate the building by attrition, lease termination, or eviction before the sale.

2. Make sure your “voluntary” acquisition meets requirements of 24.101(b)(1)-(5) if you plan not to pay seller benefits. You must still pay tenants.

3. Account for any federal assistance (like existing HAP* contract) before deciding URA does not apply.

4. Document timely delivery of all required notices – do not slip under the door or post in the hall.

*Project Based Vouchers
5
DO NOT USE URA STATUTORY MAXIMUM PAYMENT AMOUNTS OR CURRENT # OF BEDROOMS TO BUILD YOUR RELOCATION BUDGET

6
UNDERSTAND THAT AN OCCUPANT DOES NOT NEED A LEASE TO BE ELIGIBLE FOR RELOCATION BENEFITS

7
MAKE SURE TENANTS WHO WILL NOT BE DISPLACED ARE PROVIDED WITH WRITTEN NOTICES OF NON-DISPLACEMENT

8
UNDERSTAND THAT GINs MUST BE PROVIDED EARLY TO KEEP POTENTIALLY ELIGIBLE TENANTS FROM MOVING BEFORE ELIGIBILITY
9

DO NOT EXPECT A VACANT PROPERTY AT CLOSING IF NOEs HAVE NOT BEEN GIVEN AND 90 DAY NOTICES HAVE NOT EXPIRED

10

REMEMBER A TEMPORARILY DISPLACED PERSON MUST BE OFFERED PERMANENT ASSISTANCE AFTER 12 MONTHS

11

BE AWARE THAT A MOVE IN NOTICE CAN ONLY BE GIVEN TO A NEW TENANT AFTER THE APPLICATION FOR FUNDING HAS BEEN SUBMITTED

12

REMEMBER THE RULES STILL APPLY EVEN IF THE OWNER APPROACHES THE AGENCY/DEVELOPER WANTING TO SELL
| 13 | IF A TENANT IS “EVICTED FOR CAUSE,” BE SURE YOU CAN DOCUMENT EVICTION WAS NOT UNDERTAKEN BECAUSE OF THE PROJECT |
| 14 | BE SURE TO FIND OUT IF THERE ARE ANY ADDITIONAL TENANTS OR IN-HOME BUSINESSES THAT WILL ALSO REQUIRE RELOCATION |
| 15 | IF YOU ALLOW AN OWNER OCCUPANT TO “RENT-BACK” AFTER CLOSING, KNOW YOU MAY BE CREATING A TENANT ELIGIBLE FOR BENEFITS |
| 16 | ALWAYS SEND A GIN TO EVERY TENANT ASAP. OTHERWISE YOU MAY HAVE TO HUNT DOWN FORMER TENANTS AND PAY THEM BENEFITS |
17

BE CLEAR THAT THE PROJECT’S RELOCATION BUDGET DOES NOT DICTATE THE LEVEL OF ELIGIBLE RELOCATION BENEFITS. IT IS THE OTHER WAY AROUND.

18

BE READY TO EXCEED THE “STATUTORY MAXIMUM” RHP AMOUNTS UNDER 24.401 AND 24.402. COMPARABLE HOUSING IS OFTEN ONLY AVAILABLE UNDER HLR*

19

FIND OUT EARLY IF DISPLACED TENANTS CAN MEET TRANSFER/MOVE BACK REQUIREMENTS. OVER-INCOME TENANTS MAY NEED MARKET BASED RELOCATION PAYMENTS

20

UNDERSTAND THE DIFFERENCE BETWEEN TOTAL TENANT PAYMENTS UNDER 104(d) AND THE 30% RULE UNDER URA. THEY ARE NOT THE SAME.
UNDERSTAND THAT TAKING ON A MOBILE HOME PARK IS ALMOST ALWAYS VERY DIFFICULT, VERY COMPlicated AND VERY EXPENSIVE.

BE AWARE THAT THE OCCUPANT OF A “TEMPORARY” DWELLING (SUCH AS A TINY HOME FOR THE HOMELESS) CAN BE CONSIDERED A DISPLACED PERSON.

REMEMBER THE RAD PROGRAM PROHIBITS INVOLUNTARY PERMANENT RELOCATION, BUT INCENTIVES CAN BE USED TO PROMOTE VOLUNTARY RELO.

HUD WILL AUDIT YOUR PROJECT. KEEP A CLEAN, COMPLETE FILE FOR EVERY RELOCATEE.

*HINT: Use HUD CDP Monitoring Guide Exhibits 25-9 thru 25-14 to build file and perform pre-audit check
YOUR TURN!

TO
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