

CDBG Acquisition and Relocation

Trainer Guide

[Trainer notes are in italics.]

Welcome and Introductions *Trainer briefly introduces him/herself. Participants are asked to give their names, their positions and (if there are multiple agencies present) the agency and whether they represent an Entitlement or a State CDBG grantee/subrecipient.*

The Purpose of the workshop is:

To ensure that each participant:

- Is familiar with the applicable Federal laws and regulations; and
- Understands the requirements and procedures that govern acquisition and relocation.

In this training module, we will be focusing not on routine relocation of residents, but on some of the more unusual acquisition and relocation issues, especially those involving a business.

Ground Rules: Please--

- Turn off all cell phones and pagers or set them on vibrate.
- Step outside the training room to answer calls.
- No smoking in the training room. There will be breaks when you can smoke.
- Questions are fine at any time, but please keep them to the topic being discussed.

Discussion Questions: There are discussion questions at the conclusion of the workshop. It is an open book exercise. You are permitted to use your books, any notes you take and all the exercises we use during the training.

Entitlement vs. State CDBG: Summarize the two programs, emphasizing any differences with regard to acquisition and relocation.

● Key Statutes

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA)
 - The Uniform Act provides important protections and assistance for people affected by the acquisition, rehabilitation, or demolition of real property for Federal or federally-funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a direct result of projects receiving Federal funds are treated fairly and equitably.
 - The URA is triggered by the use of Federal funding when acquisition, rehabilitation or demolition are involved (some exceptions)
 - It provides minimum requirements for the acquisition of real property for federally-funded programs and projects
 - It provides minimum requirements and relocation assistance and payments for persons displaced from their homes, businesses and farms as a direct result of acquisition, rehabilitation or demolition for federally-funded programs and projects

- Section 104(d) of the Housing and Community Development Act of 1974, as amended (section 104(d))
 - Section 104(d) is triggered by the use of CDBG and HOME funds.
 - It requires the preparation of a Residential Anti-Displacement and Relocation Assistance Plan (RARAP)
 - 104(d) relocation requirements apply when lower-income residential tenants are displaced as a direct result of the demolition of any dwelling unit or conversion of a lower-income dwelling unit in connection with an assisted activity (CDBG, Section 108, HOME).
 - 104(d) one-for-one replacement housing requirements apply when occupied or vacant occupiable lower-income dwelling units are demolished or converted to a use other than low-income dwelling units in connection with an assisted activity (CDBG, Section 108, HOME).

The relocation assistance and payments for eligible persons under Section 104(d) are similar to those required for the URA but there are a

number of differences. One significant difference is the period of time used to calculate a rental assistance payment; Section 104(d) uses 60 months vs. 42 months for the URA. Section 104(d)-eligible displaced persons may choose to receive relocation assistance under Section 104(d) or relocation assistance under the URA.

Under Section 104(d), the following are provided:

- Advisory services (same as for URA)
- Payment for moving expenses (same as for URA)
- Security deposits and credit checks
- Interim living costs, when required
- Replacement housing assistance (rental or purchase)
 - For most individuals, rental assistance under 104(d) is greater than under URA. (may be offered a Housing Choice Voucher if eligible)
 - Purchase assistance is limited to mutual or cooperative housing. If other types of housing are to be purchased, URA must be used.
- 42 U.S.C. 3537c Prohibition of Lump Sum Payments

This law prohibits lump sum relocation payments to any residential tenant displaced by a HUD funded program (including CDBG), except for moving expenses, down payment assistance for a replacement dwelling, or incidentals associated with moving expenses or down payment expenses.

● **Applicable Regulations**

- 49 CFR Part 24, Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs
 - Government-wide regulations for implementation of the URA. The regulations were developed by the U.S. Department of Transportation, Federal Highway Administration (FHWA) in cooperation with HUD and other Federal agencies. FHWA is the lead Federal agency for the URA.
 - Review key sections of 49 CFR Part 24 including: **(NOTE: PARTICIPANTS SHOULD HAVE A HARD COPY OF THIS REGULATION IN THE CLASS. THE INSTRUCTOR SHOULD NOT DESCRIBE EACH OF THESE AREAS IN DETAIL AT THIS POINT; INSTEAD, THIS DISCUSSION IS TO FAMILIARIZE THE**

PARTICIPANTS WITH THE URA AND ITS DIFFERENT SECTIONS.)

- Subpart A – General

This section covers the purpose of the regulations, key definitions, acronyms and other general provisions.

- Subpart B – Real Property Acquisition

This section covers the applicability and requirements that must be followed when acquiring real property for a federally-funded program or project.

- Subpart C – General Relocation Requirements

This section provides general applicability and instructions for relocation, including the noticing requirements.

Key Notices:

- **General Information Notice** - Informs affected persons of the project and that they may be displaced by the project.
- **Notice of Relocation Eligibility**: Informs persons that they will be displaced by the project and establishes their eligibility for relocation assistance and payments.
- **90 Day Notice**: Informs displaced persons of the earliest date by which they will be required to move. This notice may not be issued unless a comparable replacement dwelling is available and the displaced person is informed of its location and has sufficient time to lease or purchase the property.

- Subpart D – Payments for Moving and Related Expenses

This section describes the different types of moving options and payments available to displaced persons. It also describes eligible payments for reestablishment of a small business at the new location.

- Subpart E – Replacement Housing Payments

This section covers different types of replacement housing payments that may be made to homeowner-occupants and

tenants, and the conditions under which payments can be made.

- Subpart F – Mobile Homes

This section provides general applicability and covers eligible replacement housing payments for persons displaced from a mobile home and/or a mobile home site.

- 24 CFR Part 42, Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs
(HUD implementing regulations for Section 104(d))
- 24 CFR 570.606, Displacement, Relocation, Acquisition, and Replacement of Housing
(CDBG program regulations for acquisition and relocation)

- **HUD Handbook**

- Handbook 1378.0, Tenant Assistance, Relocation and Real Property Acquisition Handbook. This Handbook provides HUD policy and guidance on the implementation of acquisition, relocation and related requirements for HUD funded programs and projects. HUD is updating the Handbook to reflect updated policies and guidance in addition to the URA final rule changes dated 2005. Always check www.hud.gov/relocation or www.hud.gov/offices/adm/hudclips/ to determine if changes to this Handbook have been issued. A useful tool in the Handbook is the Appendix, which contains sample letters and notices, claim forms, flowcharts and other helpful resources.

- **HUD Brochures**

HUD has assembled a group of easy to use brochures that can be used to inform individuals impacted by acquisition and relocation. These brochures are available on www.hud.gov/relocation. All of these documents are available in English and Spanish.

- When a Public Agency Acquires Your Property (HUD 1041-CPD)
Spanish language version (HUD-1041-CPD-1)
- Relocation Assistance to Persons Displaced from Their Homes (Section 104(d)) (HUD-1365-CPD)

Spanish language version (HUD-1365-CPD-1)

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

Spanish language version (HUD-1042-CPD-1)

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

Spanish language version (HUD-1043-CPD-1)

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

Spanish language version (HUD-1044-CPD-1)

● **Acquisition**

Use the **Top Eight Strategies for Successfully Acquiring Property in the CDBG Program**

Introduction: There is one overriding strategy and that is to ensure that you understand all of the steps that must be followed to acquire property under the URA. Remember that we are covering the Federal requirements; some states may have additional requirements. You should check with the state to determine if there are additional requirements before proceeding.

1. Project planning is the key to a successful project.

EMPHASIZE THE NEED TO DO PLANNING, INCLUDING EDUCATING STAFF

Applicable Federal laws and regulations require that agencies conduct a planning process for projects involving relocation and/or acquisition. While there are numerous methods of project planning, HUD looks for a process that will ensure that the project is feasible before pursuing the project. The key areas the agency should review are:

- Displacement – The project should minimize displacement and the agency should take all reasonable steps to minimize displacement as a result of the project;
- Budgetary Implications – Early, common sense planning will ensure that sufficient funds are available for the project, including meeting obligations under acquisition and relocation rules;

- Coordination – Determine what other organizations, including other government agencies, will be needed for a successful project;
- Consultation with the community – Consultation should be early in the process; and
- Determining Resource Needs – Determine what resources (including staffing, training and other capacity building activities) will be needed to support relocation and acquisition.

2. **Keep all parties informed.**

Throughout the planning process and execution phases, keep parties informed of what is occurring and what the next steps will be. Remember, in many states, the sunshine laws¹ require discussion of acquisition of property in public meetings, so the individuals, families, and businesses may hear of the potential acquisition long before the agency is prepared to notify and discuss the acquisition with the affected property owners. Keeping impacted individuals, families and businesses informed through an informal process, including newsletters, invitations to meetings or neighborhood discussions may help to reduce rumors and concerns. Note that various public meetings are not a substitute for the formal URA noticing requirements, but serve as additional tools to provide information.

3. **Before beginning a project, determine if real property acquisitions are subject to the voluntary acquisition requirements of the URA [49 CFR 24.101 (b)(1)-(5)] or if they are subject to the full acquisition requirements at URA 49 CFR 24 Subpart B.**

Agencies must understand the differences between a *voluntary acquisition* and an *involuntary acquisition* of property under the URA. While there are protections for property owners in both situations, only involuntary acquisitions trigger the full acquisition requirements of Subpart B.

Voluntary acquisition requirements for agencies with power of eminent domain identified in [49 CFR 24.101(b)(1)]:

- No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. When an agency wishes to purchase more than

¹ Sunshine laws are U.S. federal and state laws requiring regulatory authorities' meetings, decisions and records to be made available to the public. The requirements under sunshine laws vary from state to state.

one site within a geographic area on this basis, all owners are to be treated similarly.

- The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within a specific period of time.
- The agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.
- The Agency will inform the owner in writing of what it believes to be the market value of the property.

(NOTE: In a voluntary acquisition, an owner is not eligible for relocation assistance)

If tenants are displaced, the tenants are provided relocation assistance in either voluntary or involuntary acquisition.

Voluntary acquisition requirements for agencies without power of eminent domain [49CFR 24.101(b)(2):

- Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and
- Inform the owner in writing of what it believes to be the market value of the property

If tenants are displaced, the tenants are provided relocation assistance.

Involuntary acquisition is subject to the full URA acquisition requirements of 49 CFR 24 Subpart B.

The remainder of this document serves as a guide to carrying out involuntary acquisition activities in accordance with the requirements in Subpart B.

4. Ensure real property is appraised in accordance with URA appraisal requirements.

All appraisals must be conducted in accordance with 49 CFR 24.103, and reviewed in accordance with 49 CFR 24.104. The appraisal requirements outlined in Part 24.103 are consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). An appraisal Scope of Work is not only required but is critical since it establishes an understanding

between the appraiser and the agency on the specific requirements of the appraisal. A sample scope of work is available as Appendix 19 of HUD Handbook 1378. The property owner must be provided the opportunity to accompany the appraiser during the property inspection.

The appraiser and review appraiser must each be qualified and competent to perform the appraisal and review appraisal assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.

5. Understand that a three-step process is used to determine the just compensation.

The agency determines the just compensation amount to be offered the property owner in a three-step process.

- First, an appraiser prepares an appraisal of the property to be acquired. The appraisal provides the appraiser's estimate of the property's fair market value.
- Second, a qualified review appraiser evaluates the appraisal which will then be the basis of the agency's estimate of just compensation.
- Third, the agency establishes the just compensation amount to be offered to the property owner. The offer may not be less than the approved fair market value of the property.

For some uncomplicated, low value acquisitions (i.e., less than \$10,000), the agency may determine an appraisal is not required and prepare a waiver valuation that will provide the basis of the Agency's offer of just compensation. (See HUD Handbook 1378 Chapter 5 for more information.)

6. Ensure that the written purchase offer is complete and contains all required supporting documentation.

The written purchase offer must include the just compensation amount along with a summary statement that explains the basis for the offer. The summary statement must include:

- A statement of the full amount offered as just compensation;
- An accurate description and location identification of the property to be acquired;

- The interest the agency wishes to acquire must also be included (fee simple, easement); and
- A list of the buildings and other improvements covered by the offer.

The list of the property to be acquired must be accurate to avoid situations where an item is included in the appraised value and written offer but subsequently relocated at the agency's expense.

7. Successful negotiations are based on clear and precise information.

Negotiations may not begin until the written purchase offer is made. During negotiations, it is critical that both the agency and the owner begin by clarifying the written purchase offer to ensure that no misunderstandings exist regarding the offer or its terms. The owner must be provided a reasonable opportunity to consider the offer. He may also provide additional information that may not have been considered in the appraisal or the offer of just compensation and may request a modification to the terms of the offer as a result.

Under limited conditions, an agency is authorized to approve a purchase price exceeding the agency's estimate of just compensation. These are called administrative settlements, which are made when reasonable efforts to negotiate an agreement at the Agency's purchase price have failed. Administrative settlements can only be approved if they are:

- Reasonable;
- Prudent; and
- In the public interest.

All administrative settlements must be supportable and documented. The agency must also fully document any changes made to the written purchase offer. All documentation must be included in the official files.

8. Ensure that all of the components of the offer are well coordinated.

While many of the components of the offer are obvious (such as the value of the property) remember that there are other parts of the offer, such as payment of reasonable expenses related to the transfer of title, including recording fees, transfer taxes, penalty costs related to mortgage prepayment, etc.

It is also important to remember that while the acquisition offer must be able to stand on its own merits, under an involuntary acquisition the owner

may be considering the acquisition offer in addition to related relocation payments.² To the owner, the two pieces must work together, so it is in the agency's best interest to ensure that the acquisition and relocation packages are well coordinated.

● Case Study – “The Case of the Unwanted Land”

Now, let's walk through a scenario of a CDBG grantee acquiring some property in conjunction with a project. But this one has a twist: The grantee doesn't need all of the land, but the grantee has determined the remainder has little or no value to the owner. That piece of land is called an “uneconomic remnant.”

Pass out “The Case of the Unwanted Land” (page 1 only). Give each table or group about 15 minutes to discuss the case and to devise a plan. After about 15 minutes, let each table present its plan and then pass out the solution to the case. Review the solution for any items that were not addressed by the various groups.

● Relocation

So far, we have discussed acquiring real property under the URA. Now let's turn to relocation. The URA, Section 104(d) and CDBG regulations are very clear regarding relocation requirements in conjunction with CDBG projects. When conducting your project planning, do not leave out any of the required steps or time for relocation noticing. Remember, just because a project has not been planned well, one cannot short change the minimum period of time, assistance and payments required for relocation.

Key Notices:

1. General Information Notice (GIN) – should be provided as early as possible in the process; if an agency has applied for HUD project funding, the GIN should be issued at the time of application. A GIN informs the person that they may be displaced by the project and also cautions them not to move prior to receiving a notice of relocation eligibility or they may risk potential eligibility for relocation assistance and payments. The GIN should generally describe the types of relocation payments the person may be eligible for, the availability of relocation advisory services and rights of appeal. The GIN should also state that a 90-day notice must be

² In an involuntary acquisition the URA requires that the owner's moving costs be covered (see 49 CFR 24.301 and .302) and he/she may be entitled to replacement housing payments under 49 CFR 24.401 or .402.

provided in advance of the move. The appropriate HUD Brochure should be included with the GIN.

2. Notice of Eligibility for Relocation Assistance – is provided at the time of the “Initiation of Negotiations” (ION) and informs the person that they will be displaced and are eligible for relocation assistance and payments. Relocation eligibility is effective on the date of ION. ION is generally the date the written offer to purchase the property is presented to the owner, but it can be defined differently depending on the displacing activity (acquisition, rehabilitation, demolition) and project specifics. A variety of ION definitions may be found in the URA regulations, but agencies must also check applicable program regulations in order to determine the appropriate definition of ION to be used for the project. Procedures for obtaining assistance and the person’s estimated relocation payment amounts should be stated in this notice.
3. Ninety Day Notice – provided at least 90 days in advance of the earliest date by which the person is required to move. The notice must either state the specific date by which the property must be vacated, or specify the earliest date by which the occupant will be required to move and state that the occupant will receive a vacate notice at least 30 days in advance of the move. For residential displacements a comparable replacement dwelling must be available before a 90-day notice to vacate may be issued.

● **Eleven Facts about Relocating a Business**

Some agencies avoid projects that may require relocation of a business. Understanding the key issues and steps will help an agency take on such a project and be successful.

1. There are Federal regulations governing the relocation of a business, nonprofit organization or farm operation.

The regulations governing relocation of a business, nonprofit organization or farm operation can be found in 49 CFR Part 24, and those issues specifically related to moving and related expenses can be found at 49 CFR 24.301-306.

2. Timing is everything!

Early coordination and communication with businesses, nonprofit organizations or farms which will be displaced is essential. The URA regulations also require a personal interview with each business, farm or nonprofit organization to be displaced. The minimum interview requirements

are described in 49 CFR 24.205(c)(2)(i). While there are statutory and regulatory requirements for officially notifying owners and occupants, the more time, information and notice provided to the occupants the more successful the relocation will be. Remember, in some states with sunshine laws³, discussion of the project may find its way into the newspaper quickly, even before the agency is prepared to issue formal notices. The business operator should hear about it from the agency first, if possible, through informal meetings or other contact. The formal noticing requirements are:

a. General Information Notice (GIN)

This advisory notice should be provided as early as possible in the process; if an agency has applied for HUD project funding, the GIN should be issued at the time of application. A GIN informs the person that they may be displaced by the project and also cautions them not to move prior to receiving a notice of relocation eligibility or they may risk potential eligibility for relocation assistance and payments. The GIN should generally describe the types of relocation payments the person may be eligible for, the availability of relocation advisory services and rights of appeal. The GIN should also state that a 90-day notice must be provided in advance of the move. The HUD Booklet “Relocation Assistance to Displaced Businesses, Nonprofit Organization and Farms” should be provided with the GIN.

b. Notice of Eligibility for Relocation Assistance

This notice is provided at the time of the “Initiation of Negotiations” (ION) and informs the person that they will be displaced and are eligible for relocation assistance and payments. Relocation eligibility is effective on the date of ION. ION is generally the date the written offer to purchase the property is presented, to the owner, but it can be defined differently depending on the displacing activity (acquisition, rehabilitation, demolition) and project specifics. A variety of ION definitions may be found in the URA regulations, but agencies must also check applicable program regulations in order to determine the appropriate definition of ION to be used for the project. Procedures for obtaining assistance and the person’s estimated relocation payment amounts should be stated in this notice.

³ Sunshine laws are U.S. federal and state laws requiring regulatory authorities' meetings, decisions and records to be made available to the public. The requirements under sunshine laws vary from state to state.

c. **Ninety-Day Notice**

This notice provides at least 90 days in advance of the earliest date by which the person is required to move. The notice must either state the specific date by which the property must be vacated, or specify the earliest date by which the occupant will be required to move and state that the occupant will receive a vacate notice at least 30 days in advance of the move.

3. Specific Procedures for Delivering Notices (49 CFR 24.5)

To ensure that the business, nonprofit or farm receives each notice, the agency is required to personally serve or send each notice by certified or registered first-class mail, with return receipt requested. Each notice should be written in plain English and persons unable to read and/or understand the notice must be provided with appropriate translation/communication, such as sign language, interpreter or reader.

4. Eligible moving costs for displaced businesses, nonprofit organizations or farms [49 CFR 24.301(g)(1)-(7), (g) (11)-(18), and 24.303]. Some of these costs include, but are not limited to the following:

- a. Transportation of personal property
- b. Packing, crating, uncrating and unpacking of personal property
- c. Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property and installing substitute personal property, including connection to utilities
- d. Storage of personal property for up to one year (or longer if necessary)
- e. Insurance for the replacement value of personal property
- f. Replacement value of property lost, stolen or damaged in the process of moving, where insurance covering the loss is not reasonably available
- g. Licenses, permits or certifications for the replacement location
- h. Professional services, to include planning, moving and reinstalling the personal property
- i. Re-lettering signs and replacing stationery

- j. Actual direct loss of tangible personal property as a result of moving or discontinuing the business, nonprofit organization or farm
- k. Reasonable costs for selling items not being relocated
- l. Purchase of substitute personal property
- m. Searching for a replacement location not to exceed \$2,500, including:
 - 1. Transportation
 - 2. Meals and lodging away from home
 - 3. Time spent searching
 - 4. Fees paid to a real estate agent or broker
 - 5. Time spent obtaining permits
 - 6. Time spent negotiating the purchase of a replacement site

5. Some costs for moving and reestablishing a business, nonprofit organization or farm are not eligible for reimbursement (49 CFR 24.301(h)). Some of these costs include, but are not limited to the following:

- a. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership
- b. Interest on a loan to cover any costs of moving or reestablishment expenses
- c. Loss of goodwill
- d. Loss of profits
- e. Loss of trained employees
- f. Additional operating expenses incurred because of operating in a new location (except as described in 7. below)
- g. Personal injury
- h. Legal or other fees for preparing a relocation claim
- i. Expenses associated with finding a replacement dwelling
- j. Physical changes to the replacement property (except as described in 7. below)
- k. Costs for storage of personal property on real property owned or leased by the displaced person

I. Refundable security and utility deposits

6. Other related moving expenses may be available to a business, farm, or nonprofit organization that has to relocate (49 CFR 24.303):

- a. Connection to nearby utilities from the right-of-way to improvements at the new site
- b. Professional services performed prior to the lease or purchase of the replacement property to determine its suitability for the business (including soil tests and marketing studies)
- c. Impact fees or other one time assessments for anticipated heavy utility usage

7. There are relocation payments for reestablishing a small business, farm, or nonprofit (49 CFR 24.304):

Although a business is eligible for reimbursement of actual eligible costs of relocating the business, there is a maximum payment of up to \$10,000 for reestablishing a small business, non-profit organization or farm at another location. Eligible expenses include, but are not limited to:

- Repairs or improvements to the replacement property as required by code or ordinance;
- Modifications to the property to accommodate the business operation or to make replacement structures suitable for conducting the business;
- Construction and installation costs for exterior signs;
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting;
- Advertisement of the replacement location;
- Estimated increased costs of operation during the first 2 years at the replacement site for items such as:
 - i. Lease or rental charges;
 - ii. Personal or real property taxes;
 - iii. Insurance premiums; and
 - iv. Utility charges, excluding impact fees.
- Other items that the agency determines are essential to the reestablishment of the business.

The following is a nonexclusive list of ineligible reestablishment expenses: [49 CFR 24.304(b)]

- i. Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures;
- ii. Purchase of manufacturing materials, production supplies, product inventory or other items used in course of normal business operations;
- iii. Interest on money borrowed to make the move or purchase the replacement property;
- iv. Payment to a part-time business in the home, which does not contribute materially to the household income.

8. Fixed Payment Option Available for a Business or Farm (49 CFR 24.305)

In limited circumstances, a displaced business or a displaced farm operation can opt for a fixed payment, in lieu of, receiving actual moving and reestablishment payments. The displaced business is eligible for the payment if the agency determines that:

- The business owns or rents personal property which must be moved in connection with the displacement and for which an expense would be incurred if the business vacates or relocates from its original site;
- The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings);
- The business is not part of a commercial enterprise having more than 3 other entities which are not being acquired and which are under the same ownership and engage in the same or similar business activities;
- The business is not operated at the displacement site or dwelling solely for the purpose of renting the site or dwelling to others; and
- The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement.

The criteria for fixed payments for a farm being relocated can be found at 49 CFR 305(c).

The fixed payment will be equal to the average annual net earnings (described in 10. below) of the business or the average annual net

earnings of the farm operation not to exceed \$20,000 and not less than \$1,000.

9. Fixed Payment Option Available for a Nonprofit Organization: (49 CFR 25.305(d))

A displaced nonprofit organization is eligible to choose a fixed payment as an alternative to a payment for actual moving and related expenses and actual reasonable reestablishment expenses, if the agency determines that it cannot be relocated without a substantial loss of existing membership or clientele. To calculate the fixed payment, subtract the administrative costs from the average gross revenue over the last two years. The payment shall not exceed \$20,000 nor be less than \$1,000.

10. Determining the Average Annual Net Earnings of a Business or Farm: (49 CFR 24.305(e))

The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, state and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. (If the business or farm operation was not in operation for the two full taxable years, project the annual net earnings based on the actual period of operation.) Adjustments are made to account for prior year losses or receipts not earned during the base period.

11. Temporary Relocation for a Business [49 CFR 24.2(a)(9)(ii)(D) and appendix A]

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 businesses may shut down for the duration of the project. Agencies may have to temporarily relocate the business for the period of time that it is unable to operate due to the project. During the project planning process, agencies must attempt to minimize displacement. For example, the agency may choose to redesign the project so that only half of the street is closed at one time so that access to the businesses is not denied and there is no need for the business to shut down. While this approach may extend the length time for the project and increase the direct project costs, it may be less disruptive to the public and the impacted businesses. It may also actually cost less, since there would be no need to reimburse the businesses for temporary or permanent relocation costs.

● Case Study – “What To Do When You Can’t Agree”

Unfortunately, in the real world, everything doesn't go as smoothly as we would like. It is not unusual for an owner to reject the agency's purchase offer. Despite the agency's best efforts to keep a project on track, occasionally there will be instances where the project is thrown off schedule because the agency and the owner cannot agree on the amount of just compensation. As we discussed earlier, an administrative settlement may be considered and if agreement still cannot be reached the agency may choose to acquire the property by condemnation and the court will determine the amount of just compensation. This case study focuses on an owner and an agency that cannot agree.

Pass out “What To Do When You Can’t Agree” (page 1 only). Give each table or group about 15 minutes to discuss the case and to devise a plan. After about 15 minutes, let each table present its plan and then pass out the solution to the case. Review the solution for any items that were not addressed by the various groups.

● Discussion Questions

1. **Under what circumstances do the relocation and one-for-one replacement housing provisions of Section 104(d) apply?**
 1. 104(d) relocation requirements apply when lower-income residential tenants are displaced as a direct result of the demolition of any dwelling unit or conversion of a lower-income dwelling unit in connection with an assisted activity (CDBG, Section 108, HOME).
 2. 104(d) one-for-one replacement housing requirements apply when occupied or vacant occupiable lower-income dwelling units are demolished or converted to a use other than low-income dwelling units in connection with an assisted activity (CDBG, Section 108, HOME).
2. **Planning is a key component to the acquisition and relocation processes. What elements should be reviewed during the planning stage?**

Displacement, budgetary implications, coordination, consultation with property owners, determining resource needs
3. **Place the required relocation notices in the correct order**
 - A. **Notice of Eligibility for Relocation Assistance**

B. 90 Day Notice

C. General Information Notice

 C A B

4. What document(s) describes the requirements for a voluntary acquisition under the URA?

A. 49 CFR 24.101(b)(1)-(5)

B. “When a Public Agency Acquires Your Property”

C. Chapter 5 HUD Handbook 1378

D. TV Guide

A and C address URA voluntary acquisition requirements.

4. What website provides grantees with the most up-to-date information on acquisition and relocation requirements and changes for HUD programs and projects?

www.hud.gov/relocation