

HOME-ARP Policy Brief

URA, Section 104(d), and Programmatic Displacement, Relocation and Acquisition Requirements

Overview:

The HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) acquisition and relocation requirements are outlined in *Notice CPD-21-10: Requirements for the Use of Funds in the HOME-American Rescue Plan Program* and its Appendix entitled *Waivers and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program* (collectively referred to as the “Notice”). HOME-ARP funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), section 104(d) of the Housing and Community Development Act of 1974, as amended (section 104(d)), the HOME program’s Displacement, Relocation and Acquisition regulatory requirements of 24 CFR 92.353, and the requirements described in Section VII.F. of the Notice. Participating Jurisdictions (PJs) also may take advantage of HUD’s limited waiver and alternative requirement to the section 104(d) one-for-one replacement requirements, as described in Section VII.F.2. of the Notice and section III.H.5. of the Appendix.

URA:

The URA and its implementing regulations at 49 CFR part 24 establish minimum requirements for the acquisition of real property and the displacement of persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition for federally assisted programs and projects. These requirements include:

- Provision of replacement housing assistance, advisory services, and moving costs to persons displaced as a result of a program or project that receives federal financial assistance;
- The payment of just compensation pursuant to 49 CFR part 24, subpart B, and provisions for voluntary acquisitions set forth in § 24.101; and
- Temporary relocation of persons, businesses, or farms in accordance with 49 CFR part 24, Appendix A, Section 24.2(a)(9)(ii)(D).

Section 104(d):

HOME-ARP funds are subject to the requirements of section 104(d) and its implementing regulations at 24 CFR part 42, subpart C, unless waived, as described in section VII.F. of the Notice and section III.H.5. of the Appendix. Section 104(d) applies to the demolition or conversion of lower-income dwelling units in connection with HOME Investment Partnerships Program (HOME) or Community Development Block Grant (CDBG) assisted activities. It requires the PJ to:

- Have a Residential Anti-Displacement and Relocation Assistance Plan (RARAP) in accordance with § 42.325;
- Provide relocation assistance to displaced lower-income persons as provided at § 42.350; and

- Perform one-for-one replacement as required at § 42.375 for lower-income dwellings demolished or converted to a use other than as lower-income dwellings, as defined in § 42.305.

HOME-ARP Section 104(d) Waiver / One-for-One Replacement Housing:

For purposes of the one-for-one replacement housing requirements of section 104(d)(2)(A)(i) and (ii) and (d)(3) (42 U.S.C. 5304(d)(2)(A)(i) and (ii) and 42 U.S.C. 5304(d)(3)) and 24 CFR 42.375, lower-income dwelling units shall not include single-room occupancy (SRO) units or residential hotel or motel units in jurisdictions where those units are considered dwelling units under state or local law. All other section 104(d) requirements, including but not limited to the requirement that PJs maintain and follow a RARAP, remain in effect (see 24 CFR 92.353(e) and 24 CFR part 42, subpart C).

HOME Program Displacement, Relocation and Acquisition Regulations:

In addition to the URA and section 104(d) requirements described above, PJs must follow the HOME program's Displacement, Relocation and Acquisition regulations at 24 CFR 92.353, as these also apply to HOME-ARP-assisted projects. Some of these requirements differ from those of the URA and section 104(d), including but not limited to:

- The expanded temporary relocation protections at 24 CFR 92.353(b) and (c);
- Optional relocation assistance policies at 24 CFR 92.353(d); and
- The right to return to a building or complex, if feasible, upon completion of a HOME project, in accordance with 24 CFR 92.353(a).

PJs are encouraged to develop optional relocation policies to address individuals who may not be eligible for URA or section 104(d) assistance due to their length of occupancy in a unit, ineligibility of their dwelling unit, or other factors beyond their control. Such policies must be in writing, applied consistently, and not violate any other federal laws or regulations.

Additional HOME-ARP Program Relocation Related Requirements:

The following additional relocation requirements apply to the HOME-ARP Program:

- a. Acquisition and/or rehabilitation of hotels, motels, and other non-residential properties:
In states and/or localities where hotels and/or motels are not considered dwelling units or residential property, the acquisition of non-residential property such as hotels and/or motels for the production of HOME-ARP NCS units or HOME-ARP rental housing will not make a person occupying those properties eligible for relocation assistance under the URA, section 104(d) or 24 CFR 92.353.

However, HOME PJs may provide HOME-ARP assistance, as defined by the Notice through HOME-ARP supportive services, HOME-ARP TBRA, the ability to stay in HOME-ARP NCS, or HOME-ARP rental housing, if the individuals or families can demonstrate that –

- i. they have been in continuous residence at the property for 30 or more calendar days; and
- ii. they are a qualifying household, as defined by the Notice.

Such assistance may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to the Notice. For purposes of HOME-ARP, costs associated with activities may be charged as either project delivery costs or relocation costs eligible under 24 CFR 92.206(f).

- b. Conversion of HOME-ARP NCS: If HOME-ARP NCS units are occupied and converted to either permanent housing under the CoC or permanent affordable housing as described in Section VI.E.11. of the Notice, persons occupying the shelter at the point of conversion would not normally be eligible for relocation assistance under the URA, section 104(d), or 24 CFR 92.353 because they are not displaced from a dwelling unit.

However, because the individuals or families occupying these shelter units are qualifying households under HOME-ARP, HOME PJs may immediately provide them with HOME-ARP assistance, as defined by the Notice, including HOME-ARP supportive services, HOME-ARP TBRA, HOME-ARP NCS, or HOME-ARP rental housing.

Additionally, the PJ may provide the occupants with moving cost assistance and/or advisory services, as appropriate, as HOME-ARP administrative costs or under the HOME-ARP supportive services activity at Section VI.D. of the Notice.

Any assistance provided pursuant to this section of the Notice may be provided without regard to any preferences, project-specific waiting lists, or any other form of prioritization the PJ has developed pursuant to the Notice, as the persons occupying the NCS units were already determined to be qualifying households under HOME-ARP.

Persons Ineligible for HOME-ARP Assistance and Ineligible for URA, Section 104(d), or assistance pursuant to 24 CFR 92.353:

If an individual or family is required to move as a direct result of a HOME-ARP project and is determined to be ineligible for HOME-ARP assistance described above and at Section VII.F.4. of the Notice or is determined to not be a displaced person under the URA, section 104(d), and HOME program rules, the PJ may provide them advisory services as an eligible HOME-ARP administrative cost as the PJ determines to be reasonable and necessary.

Recordkeeping and Confidentiality Requirements:

The PJs written policies and procedures, project files and individual case records, for purposes of relocation and acquisition, must comply with the recordkeeping requirements of HOME at 24 CFR 92.353, the URA at 49 CFR 24.9(a), and also includes but is not limited to the requirements of the Notice at Section VIII.F.5.d.i-iv. (outlined below) and confidentiality requirements at Section VIII.H.

- i. Project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR 92.353(c)(2)(i)(A), moving into the property on or after the date described in 24 CFR 92.353(c)(2)(i)(A), and occupying the property upon completion of the project;
- ii. Lists of all individuals or families occupying hotels and motels and other nonresidential properties acquired, rehabilitated, and/or demolished and newly constructed to become HOME-ARP NCS or HOME-ARP rental housing that qualify for assistance under this Notice as members of a qualifying population, as well as records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the closure of the nonresidential properties because of HOME-ARP activities; and
- iii. Lists of all individuals or families occupying HOME-ARP NCS that were converted during the required use period that qualify for assistance under this Notice, as well as records indicating whether moving costs or advisory services were provided as part of HOME-ARP administrative costs or under the HOME-ARP supportive services activity in Section VI.D of this Notice, and records indicating whether such persons were assisted by the HOME-ARP program by the PJ following the conversion of the HOME-ARP NCS units.
- iv. Documentation that the PJ has and followed a RARAP in accordance with 24 CFR 92.353 and 24 CFR 42.325.

For Additional Assistance:

Additional URA and section 104(d) policy and guidance are available in [HUD Handbook 1378](#) and on the [Real Estate Acquisition and Relocation website](#) on HUD.gov. Additional resources and training can be found on the [HUD Exchange](#). PJs and funding recipients are encouraged to complete the [URA the HUD Way](#) web-based training course which provides information and resources on URA and section 104(d) requirements.

PJs are encouraged to consult with their CPD Regional Relocation Specialist for technical assistance requests and questions regarding the provisions of this section of the HOME-ARP Notice. The contact information of the Regional Relocation Specialist in your state or jurisdiction can be found on the Real Estate Acquisition and Relocation website above.