

Speaker 1: Welcome and thank you for joining today's HOME-ARP 101: URA, Section 104(d) and HOME-ARP Relocation-Related Program Requirements. Before we begin, please ensure that you've opened the WebEx chat panel by using the associated icon on the bottom right corner of your screen.

Please note that all audio connections are muted at this time. You may submit written questions throughout the presentation and these will be addressed during Q&A. To submit a written question, select all panelists from the dropdown menu and the chat panel. Enter your question in the message box provided and send.

If you require technical assistance, please send a chat to the event producer. With that, I'll turn the conference over to Virginia Sardone, Director of the Office of Affordable Housing Programs.

Virginia Sardone: Thank you and welcome everybody. Good afternoon or good morning, depending on where you are. And thank you for joining us for the first in our series of HOME-ARP 101 webinars. This one is on the Uniform Relocation Act, Section 104(d) relocation requirements and also the relocation requirements that we created specific to HOME-ARP and so really happy to have you all with us today. We will be taking questions toward the end but for now, let's blaze forward. Can you flip up the slide please?

Thank you. Okay, what should you expect for the next hour and a half? Well, first of all, I'm going to be giving a very, very brief overview of the HOME-ARP program, just for folks who perhaps are finding themselves here without having listened to other webinars that we've done on the program or having read the notice.

We're going to talk a little bit about HUD's Relocation and Real Estate Division. Actually, I'm the director of the office of Affordable Housing Programs. We administer HOME, HOME-ARP and the Housing Trust Fund for HUD. But little known, we also have within our organization's portfolio, the Relocation and Real Estate Division, which oversees the Uniform Relocation Act 104 and 104(d) on behalf of all HUD programs.

We're then going to turn it over to the RRED staff who are going to walk you through Uniform Relocation Act 104(d) and HOME-ARP relocation requirements. They're going to review available resources with you and then we will be taking questions coming in from the Q&A. Let's get started. Slide please.

Once I sort of finish my very short presentation, today's presenters are Will Rudy, the Director of the Relocation and Real Estate Division within HUD. Bryan O'Neill, senior relocation specialist. Tosha Pierce, relocation specialist, and Tynan Stevens, also a relocation specialist in my office.

Slide, please. Okay, we're going to get started on an overview of HOME-ARP. Slide. As I mentioned, this is going to be a very, very high level sort of background on HOME-ARP primarily for folks who've not really been exposed to it before. It'll just take a few minutes. The American Rescue Plan Act, which was passed last March appropriated \$5 billion of financial assistance, primarily for homeless and other vulnerable populations. They appropriated those funds under the HOME investment partnerships program. The new program is known as HOME-ARP. It is a one-time funding program.

It serves different populations than regular HOME funds. Includes some regular HOME activities with sort of different spins on those rules to a certain extent and some additional activities that are not part of the regular HOME program. Funds were allocated according to the American Rescue Plan Act to the 651 state and local jurisdictions that are HOME participating jurisdictions and that qualified to receive a regular allocation of HOME funds in fiscal year 2021.

We obligated those funds to all grantees a year ago, this month, September 2021. And so everyone already has their grants. At the same time, we issued guidance, establishing the requirements for HOME-ARP in a document called CPD Notice 21-10: Requirements for the Use of Funds in the HOME-American Rescue Plan Program. We issued that on September 13th.

In addition to that notice, there are a whole variety of other guidance pieces and we're beginning to get additional technical assistance products up on the HUD exchange as well. So there is a HUD exchange page for HOME-ARP and on that page, you'll find the notice, you'll find fact sheets, policy briefs. We have over FAQs at this point in time. We have different trainings and webinars that have been done over the past year to year and a half. We're also starting to post some tools for those of you who are particularly participating jurisdictions and are still in the process of putting together what we call your HOME-ARP allocation plan.

Every PJ and PJ just means participating jurisdiction, that is the term that the regular HOME statute uses in lieu of grantee. During this webinar or other webinars, if you hear people talking about PJs, we're not talking about sleepwear, we're talking about HOME grantees. So PJs must develop and submit HOME-ARP allocation plan to HUD before it can use HOME-ARP funds for projects and activities. That is the sort of the point at which most PJs still find themselves, they're working on those plans. Slide, please.

Thank you. Just at a very, very high level, what is HOME-ARP? HOME-ARP funds can be used for the following eligible activities, acquisition, rehab or new construction of affordable rental housing. That's obviously a regular HOME-ARP activity as well. The provision of tenant based rental assistance is the second of our four eligible activities. That is also a regular HOME activity. And next to activities actually do not exist in the regular HOME program. They were authorized specifically in the American Rescue Plan Act for this particular source of funding.

One is the provision of supportive services. And the other is the acquisition and development of non-congregate shelter, what we call NCS for short. PJs are allowed to use up to 15% of their grant for their own administrative and planning costs. HUD made 5% of this money, sort of 5% of the grant available immediately to PJs to help them pay the costs of developing an allocation plan.

If you're still in the process of doing that plan, we have a lot of resources, as I mentioned up on the HUD exchange. We also have an ask a question desk where you can get additional guidance from TA providers. We have a HOME-ARP mailbox HOME-ARP@hud.gov, that is staffed by the Office of Affordable Housing Programs, my staff, and a lot of other materials for you as well.

The final thing that HOME-ARP permits for use of funds is that up to 5% of the grant can be used to provide operating assistance to nonprofit organizations that undertake HOME-ARP activities. On top of that, it permits an additional 5% of a PJ's grant to be provided to these nonprofits for capacity building. Training, augmenting staff, new technology or equipment are all things that sort would fall under that category.

HOME-ARP funds must be used to benefit qualifying populations. The last thing I want to do today is just talk a little bit about what qualifying populations are. Can we flip the slide, please? Thank you. In the regular HOME program, if that's something that you're familiar with, you'll know that people are determined to be eligible or not eligible either to occupy a HOME rental unit or to purchase a house with HOME assistance based upon their income. Their income has to be below a certain level.

This is an area where HOME-ARP is very different than the regular HOME program, because the HOME-ARP statute basically says that HOME-ARP funds have to be used to benefit the qualifying populations that are specifically defined in that statute. Quickly, what those four qualifying populations or you'll sometimes hear us say QPs, and that's what we mean, qualifying populations.

The four populations are homeless as defined in 24 CFR 91.5. That is the definition that is used for the HUD's consolidated plan. It's also used in HUD's homeless programs. Except that our statute only picks up the first three portions of that definition and excludes paragraph four. I'll talk about that in just a second. But it's basically the first three parts of the HUD homeless definition. The second qualifying population is persons at risk of homelessness. And this is defined in exactly the same way as we define it for the homeless programs at HUD and also for the consolidated plan, if you're familiar with that definition. The third population, qualifying population are persons fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking. This is a new definition it is different than some of the definitions that are being used for domestic violence, for instance, or even in VAWA, the Violence Against Women Act.

When I said before on the homeless definition that it excludes paragraph four, paragraph four of the homeless definition relates to sort of victims of domestic violence, dating violence, et cetera. And so Congress basically cut that out of the homeless definition and has created a new definition that's defined here. Domestic violence, dating violence, sexual assault, stalking or human trafficking.

You will sometimes hear us shorthand this a little bit as a DV population, just because that's a big mouthful to repeat over and over again in a conversation much less than a webinar. What that definition really is, it is the VAWA definition. So if you're familiar at all with the Violence Against Women Act regulations at 24 CFR part 5.2003, it's that definition of domestic violence, dating violence, sexual assault and stalking.

And then it adds to that, the definition of human trafficking from the Trafficking Victims Protection Act of 2000. This is quite a bit to try and take in this quickly and just from one slide, so this is really defined in detail in the CPD Notice 2110 that established the requirements for HOME-ARP. So I recommend that you go back and look at that, but I just did really want to spend a minute talking about the very subtle differences between some of this terminology in HOME-ARP versus other HUD programs, because I know that it can be confusing, and if you're not really aware of the fact that there are differences, it would be very easy to miss them.

The fourth qualifying population are other populations that really have two parts, families requiring services or housing assistance to prevent homelessness. I'm not going to go through that entire definition with you today. You can find that in the notice, you can also find me doing exactly that on some of the other webinars that are posted on the HUD exchange. But basically this population is people who were previously homeless are receiving some time limited assistance. The termination of that assistance at the end of that timeframe puts them at risk of becoming homeless again.

It's just a different take on an at-risk of homeless definition. And then the other part or the other option under other populations are persons at greatest risk of housing instability. This is a long definition.

I'm not going to get into it. I'll just say that if you think about the way that HUD describes worst case housing needs and sort what types of families have worst case housing needs, doesn't really follow that exactly, but it sort of is within the same vein. It's really important to just understand, even if not in depth at this point in time, that we have these qualifying populations, that these are the populations that this program serves, as opposed to any other population that might be eligible under the regular HOME program. This one is focused entirely on these four populations and that there's a lot of other resources out there for you, if you need to learn more about that. Can we flip the slide?

So I keep referring to our HUD Exchange page and all the wonderful resources that we have developed and posted on that page. Just before I turn it over to

Will Rudy, I wanted to put that up on the screen for you so that you can see where you can find the notice, the other guidance, the tools and the other webinars that we've done explaining a lot of different aspects of the HOME-ARP program, including these qualifying populations. So I want to thank you all and for attending today and I'm going to turn it over to Will Rudy, Director of the Relocation and Real Estate Division. Will.

Will Rudy:

Thank you, Ginny. Next slide, Marvin. So as we get started, I thought it would be helpful for all those attending today to get a sense of what our office does to introduce ourselves and to set the context for today's session, because obviously we're going to be talking about very technical requirements related to HOME-ARP and wanting PJs to be very successful and implementing their programs, but also being in full compliance with all the regulations. Particularly the ones that we're going to be talking about today.

I thought it would be helpful. I have my HOME-ARP binder right next to me, but I wanted to point out, so within CPD Notice 21-10 that governs the HOME-ARP program that Ginny highlighted, and then there's the accompanying appendix and waiver and alternative requirements. That really sets the framework for the HOME-ARP program.

So if you have a copy of the CPD notice 21-10, within the table of contents, section seven, other federal requirements, that's where we are within the notice for today's presentation. And particularly under subsection F. It's the URA Section One for HOME-ARP Displacement, Relocation and Acquisition Program Requirements. They start on page 71 of the notice. And after the office published the notice later this past spring, early this summer, we published a companion policy brief and we have those links and resources at the end of the presentation. But I wanted folks to know that we do have the policy brief, which also is a four page companion guide that summarizes and highlights some of the requirements within the notice. And then obviously what we're going to be sharing with the group today.

What's significant, as Ginny mentioned, within the Office of Affordable Housing, having the HOME-ARP and housing trust fund, there is this requirement on relocation in real estate. Really, what does that mean? Well, in a nutshell, the office of community planning and development, where we are organizationally within HUD. We have a departmental delegation authority. We have a unique portfolio responsibility of advising program offices across the department, as Ginny mentioned. We are division works all across HUD. Why are we doing that?

While through this delegation, we are administering the Uniform Relocation Assistance and Real Property Acquisition policies Act in 1970. That's a long worded regulation. Our acronym is the URA. We'll be using the URA reference in today's session. Others may refer to it as Uniform Act or the Uniform Relocation Act. HUD is one of 17 agencies that administer this department of transportation, federal highway administration regulations.

I thought it was important to set the context that really a lot of what we're talking about today and it's been adapted for HOME-ARP, but the Genesis is coming out of a department of transportation regulation. The Uniform Relocation Act, the URA. Bryan momentarily will be talking about those requirements, but just to set the stage for you all to start thinking about this, the URA really in a nutshell, it establishes minimum federal requirements for both the acquisition of real property and for persons displaced as a direct result of acquisition, demolition or rehab of real property for a federal project. I like to think of it as a two-sided coin.

One side of the coin is when you're acquiring property using federal dollars. There's requirements that go along with that. And the other side of the coin is the relocation for persons who are displaced and for those who are required to move for federal project. Our webinar today is going to highlight these requirements in how they are applicable and how they have been adapted to the HOME-ARP program.

In addition, the second acronym you'll be hearing from us today is 104(d), the Section 104(d) program. That's really the one for one replacement requirement. It's the Barney Frank amendment, Congressman Barney Frank of the amendment to the housing and community development act of 1987. But what's significant and what you'll be paying attention to for today as part of the planning process, PJs are required to develop a Residential Anti displacement and Relocation Assistance Plan.

That is actually the third acronym I'm going to share before we move on. Marvin, if you don't mind, going back to the map, got a little bit of ahead of ourselves.

There we go. Because I'm at my last point of my comments before we move on and I just wanted to share with everyone. So our division, we have our headquarter policy division or contacts are on the right. And then we have a regional set of operations. That's managed by Sara Hernandez in our Fort Worth office, but we have a regional relocation specialist and their names are on the slide. One for each HUD region. There are SME for training and technical assistance and resources to help administer and advise PJs on HOME-ARP and for all of our other portfolio programs. So on that note, you can advance to the next slide and I'm going to turn it over to Bryan O'Neill. Thank you very much.

Bryan O'Neill:

Okay. Thanks, Will. Good afternoon everyone. Today, I'm going to be discussing briefly URA's Section 104(d) and the HOME program regulatory requirements pertaining to displacement, acquisition and relocation. But what I'm presenting is really awareness training. There's so much more to these things than what I'm presenting today.

At the tail end of the webinar, we're going to point you to resources and training where you can actually get a lot more details if you're not familiar with those. With that, let's talk about the URA. Next slide please. Okay, you heard

will mention the URA. What is the URA? It's acronym for a federal law and this is a crosscutting federal law against all of the US government agencies entitled to Uniform Relocation Assistance and Real Property Acquisition Act policies Act of 1970 as amended. It's been amended several times. Most recently, I believe it was in 2014 that we had a URA amendment. The implementing federal regulations for this are 49 CFR Part 24. As Will had mentioned, USDOT is actually the designated lead federal agency for the URA.

So if that 49 CFR looks odd to you because HUD, we work with 24 CFR, that's the reason. It is a department of transportation regulation, but we and other federal agencies work with them very closely on developing and I guess implementing this government-wide rule. This is one rule across the board government wide for the implementation of the URA. Okay. The URA, it applies to the acquisition, rehab or demolition for federally funded projects. Four is underlined. It doesn't have to be a federally funded activity for acquisition rehab or demo. It can be privately funded. But if it's for a federally funded project, the URA likely applies and it establishes the minimum federal requirements for real property acquisition and relocation of people and businesses, just to keep that broad.

The key objective, I think that this is really easy. I like to think of the key objective of the URA is uniform, fair and equitable treatment of people. That's what it's all about. Okay. Next slide.

All right. Let's talk about some acquisition requirements. The acquisition component of the URA is often overlooked. I think a lot of people look at URA and they think, "Okay, Uniform Relocation Act, it just deals with relocation." There's a lot of acquisition requirements too. We're going to go through what those may be, just really scratching the surface. For acquisition, there are different requirements for the type of acquisition, what we call voluntary or involuntary.

When we talk about voluntary acquisition, there are actually some regulatory requirements that talk about what is not specifically, what is the definition of a voluntary acquisition, but in these cases of acquisitions, we would consider this voluntary. When you think about it, voluntary, it's more than just a willing buyer or seller. It's more than just having purchasing a property that's for sale, that's on the open market. For voluntary, there are these abbreviated streamlined requirements, but they have to meet all the applicable requirements of this regulatory site. 49 CFR 24.101(b)(1)-(5).

There are the various situations that you might plug into. There are situations where there's maybe an agency with the power of eminent domain, but who won't use it to acquire the property. There's a requirement for agencies or persons without the power of eminent domain and there are various requirements. In order to meet that test of voluntary, you have to choose the applicable requirement and then meet those requirements within that part of the regulation.

In the case of a voluntary acquisition, the owner, occupant who sells their property to an agency who's displaced as a result of that acquisition, isn't eligible for relocation assistance under the URA because it's voluntary. However, if there's a tenant living in that property, the tenants would be eligible or most likely would be eligible if they're displaced. The key here is if it doesn't meet that voluntary test, then it has to meet the full subpart B requirements of the regs. Next slide.

Okay. Involuntary. This is a term. This isn't defined, this is just a term that we use very loosely at HUD. Involuntary, when we refer to it, really means an acquisition that's under threat or use of an eminent domain or an acquisition that can't meet those voluntary requirements.

When we refer to involuntary, that's what we mean. And then those acquisitions have to meet the full subpart B requirements in the regulation. So the subpart B requirements are clearly more stringent and they were built that way, I'll say, to protect people from agencies using the power of eminent domain and to ensure that fair and equitable treatment. In the case of an involuntary acquisition, in that case, owner occupants would be eligible for relocation assistance because they're not necessarily involuntarily selling their property or it's under threat of the imminent domain.

They would be eligible in those cases and tenants clearly would be eligible as well if they're displaced. There are different requirements under the subpart B requirements. And again, we are not going to get into those. Those should be addressed in training and other resources, but there are three categories that I like to talk about. It's property valuation and when we talk about property valuation, we're talking about appraisal, appraisal review and in some cases for I guess, a low monetary value and an uncomplicated acquisition, that would fall under the category of what we refer to as an appraisal waiver, where a waiver valuation would be used. Typically, if a property gets appraised under the subpart B requirements, it also is required to have an appraisal review. And this is not just anyone reviewing their appraisal for mathematical areas. This is a technical appraisal review.

In the case of a waiver valuation, that doesn't have to be an appraiser that conducts that action. So there's some cost savings there too, because why would you want to necessarily spend \$5,000 on appraisal and appraisal review for an acquisition that might be worth \$500? That's why that's built into the regulations. And also the statute.

Negotiations, no coercion, administrative settlements, there's also a standard timeframe to after you present the offer to the owner for them to consider it. It's not present the offer and go immediately into condemnation. I believe the regs encourage something like a 30-day period for an owner to consider that offer. Again, this is for involuntary and payments, payment of just compensation, incidental expenses like reimbursement of prorated share of

prepaid taxes, incidental expenses like recordation fees, transfer taxes, things of that nature.

Let me just, for property valuation, for voluntary, there isn't a specific requirement for appraisal or appraisal review in the regulations. However, we would recommend that grantees do conduct an appraisal or appraisal review when those cases warrant for more complex appraisal or acquisitions and high monetary values. Again, we have more guidance on this that we won't get into today. Okay. Next slide.

Okay. Relocation. When we talk about relocation, we generally say displaced persons. When we talk about displaced persons, categorically, what we're talking about, individuals, families, businesses, farms and nonprofit organizations. There are different relocation requirements and assistance for different categories of those displaced persons. We have the residential displaced persons, which relates to residential tenants and occupants. And then we also have non-residential displaced persons, which are the businesses farms and nonprofit organizations.

Here on this slide, you can see the key components of those are relocation advisory services, which is probably the most important aspect of the successful relocation to provide those services throughout the relocation. Maybe even helping assist to complete relocation claim forms after the person has been relocated into their replacement housing. Very critical task, very important. It's more than just providing somebody a relocation payment and then moving on with the project.

Don't forget that. That's something that we at HUD always liked to stress. Replacement housing payments. Typically, this is either a rental assistance payment or a replacement housing payment, which equates to generally the difference in the cost of a comparable replacement dwelling for a tenant or an owner occupant to purchase or to rent. It is trying to make folks whole after they've been displaced. There's a minimum 90 day written notice to vacate and you can't require somebody to move, to be displaced unless you provide available comparable replacement housing so that 90 day clock doesn't actually start ticking until you've actually provided the displaced person, a comparable available housing to move into.

There's moving expense payments. Lastly, housing of last resort. So this is a catchall that allows you to exceed the statutory monetary limits for the replacement housing payments, when comparable available housing isn't available within those monetary limits.

I'll talk about that just in a little bit, but those statutory limits are really artificial and they can be exceeded, it's not something that's set and it's like, "No, you can't exceed this payment. If you go beyond that statutory limit, then you're into housing of last resort."

So you can either pay more, if it's required or come up with more creative approaches to providing that comparable housing. For non-residential displaced persons, again, we are talking about businesses, firms and non-profits. Relocation advisory service, the same deal, minimum 90 day written notice to vacate. Same thing. However, there's not a requirement to provide a comparable business location. That's different.

You can provide that 90 day notice, although you shouldn't, we don't want to try to shut down businesses, but there's not the same protection as for residential persons. It's not that make whole, the same as residential. And they're moving expense payments, reestablishment expense payments, but reestablishment is only for small businesses, which equate to, I believe it's 500 or fewer employees on the displacement site.

They're the only businesses that are eligible for reestablishment, is a small business. Or a fixed moving payment. A business can take either a moving expense payment and reestablishment payment or in lieu of those moving expense and reestablishment payment, a fixed moving payment. This note, MAP-21, this is the recent amendment that I was alluding to earlier for 2014, October 1st, 2014, that the URA was amended. And among some of those amendments, the amounts of RHPs went up and also the amounts of the reestablishment payment and the fixed moving payment went up.

The thing I wanted to point out to you, these were statutory amendments that were enacted and implemented effective in 2014. However, they have not been implemented by a regulatory change yet. FHWA is still working on a regulatory change. I think they proposed a proposed rule of maybe two or three years ago, and we're hoping that they can come to publishing a final rule that would implement those changes in the regs among other changes shortly. Just heads up, the regs don't reflect that MAP-21 statutory changes and that HUD notices where you find out what those are, if you're not aware. Okay, next slide.

In addition to displaced persons, the URA has some regulatory requirements pertaining to temporary relocation. But essentially, the URA was really directed at displaced persons, but there are some protections for temporary. In the case of a temporary relocation, those requirements include decent safe and sanitary, temporary housing, or DSNS. Reimbursement of reasonable out of pocket expenses in connection with the temporary move, including but not limited to increased housing expenses and moving costs. And this is an important one. There's a 12 months time limit for temporary relocation. After 12 months, if that person is still temporarily relocated, the agency must offer a choice between permanent relocation assistance as a displaced person under the URA, or to remain temporarily relocated for an agreed upon time.

So that's important for agencies when you're planning your projects to ensure that if you're projecting more than 12 months, you need to fund for that or you need to budget for that cost as well. Okay. Next slide.

Okay. Section 104(d). Next slide. What's Section 104(d)? Will had mentioned this earlier. Section 104(d) refers to a section of another federal law entitled the housing and community development act of 1974 as amended. So the difference with this federal law, the URA applies government-wide Section 104(d) only applies to HUD and that it only applies to HUD's CDBG and HOME programs.

But now, when we're talking about home, we're talking about HOME-ARP here. Okay. So they're one in the same. So 104(d) does apply to HOME-ARP as well as the URA. The federal regulations for 104(d) are a HUD reg 24 CFR part 42. When does 104(d) apply? It generally applies when a lower income dwelling unit is demolished or converted in connection with a CDBG or a HOME assisted activity. The key objectives here are to minimize displacement, provide relocation assistance to displaced lower income persons and replace lower income housing demolished or converted. Next slide.

Key definitions. You saw those were highlighted on the slide before. A lower income dwelling unit for 104(d) purposes is defined by the regs and it means a dwelling unit with a market rent and utilities at or below HUDs established FMR for that area. Demolition means tearing down or raising in whole or part a residential structure. It generally doesn't mean, or it doesn't apply to the reconfiguration of interior space. So keep that in mind, tearing down or raising in whole or part of the residential structure.

Conversion has a specific meaning in the regulations. It means altering a lower income dwelling unit, so that it's either used for non-housings purposes, for housing purposes, but it rents above the established HUD FMR or it's used as an emergency shelter. Okay. Next slide.

These are the three key requirements for Section 104(d) and they're reflected in the 104(d) objectives. The first we have here is what we call Residential Ant displacement and Relocation Assistance Plan, a RARAP, as we refer to it. It's all about minimizing displacement here. This is how agencies do that. You minimize it through that Residential Anti displacement and Relocation Assistance Plan, or RARAP. Relocation assistance to displace lower income persons, and then one for one replacement of lower income dwelling units.

Next slide. The RARAP, here's what we're talking about for a RARAP. As a condition of receiving CDBG or HOME funds or HOME-ARP, remember we're talking about HOME-ARP too, grant recipients must certify that they have an effect and a falling or RARAP and all RARAPs must indicate the steps to take and to minimize displacement a persons from their homes and neighborhood, as a result of any activity to provide for relocation assistance at section 104(d) levels, which some are the same as the URA, some are different and provide one for one replacement of demolished and converted lower income dwelling units.

Here's a link on the slide, that you can see a guide form. We call it like a sample of what a RARAP could look like. Okay, next slide. Section 104(d) relocation

assistance. See here, a lot of these appear to be the same as the URA. Advisory services is in effect the same as the URA. Replacement housing assistance is different. It's calculated differently. It's for a calculated on a different term as well. For the URA, replacement housing assistance for a tenant, for instance, is calculated based on 42 months for 104(d). It's calculated on 60 months.

But again, it's a different factor and a different calculation that's used as well. Moving expense payments are the same as the URA, security deposits and credit checks, security deposits... Refundable security deposits and non-refundable security deposits are reimbursable under Section 104(d). However, under the URA, only non-refundable security deposits are. And interim living costs, this is different than temporary relocations.

I want to make clear that temporary relocation does not apply to Section 104(d) when we talk about interim living costs, it's only in a couple of situations in the reg that this applies. For instance, the 12 month limitation on URA temporary relocation doesn't apply to section 104(d) at all. Take that away. No temporary relocation for 104(d) besides this interim living costs that's described under the regs and appeals. URA has appeals as well. For 104(d) relocation assistance, HUD policy limits the eligibility to only displace lower income residential tenants.

That's important because we talked about lower income persons, but not every lower income person is eligible, only displaced lower income residential tenants. This is also important. That expands the relocation eligibility for lower income residential tenants displaced by the demolition of any dwelling unit.

Any dwelling unit or the conversion of lower income dwelling units in connection with the CDBG or HOME assisted activity. Again, we're talking about HOME-ARP here when we talk about HOME. That's key. It doesn't have to be the demolition of a lower income dwelling unit. It can be any dwelling unit.

For 104(d) relocation assistance, a displaced person can choose to either receive 104(d) relocation assistance or U a relocation assistance. There's some benefits to either. This is one of them for replacement housing assistance, 104(d), it's rental assistance or purchase assistance. But the kicker here for purchase assistance, purchase assistance is limited to housing co-ops and mutual housing. It's very specific if you want to purchase a property under 104(d) these are the only two types of housing that you can purchase, co-ops and mutual housing. If you're in the market to purchase a property, if you're able to, it might be more beneficial to take URA assistance where the URA assistance isn't limited to those specific properties. Okay, next slide.

Okay. One for one replacement. When we talk about... We're talking about one for one replacement of lower income dwelling units that have demolished or converted, but only occupied and vacant occupiable lower income dwelling units, demolished or converted must be replaced on the one for one basis.

Those replacement units are subject to location, size, condition, availability and affordability requirements. So for instance, location, if one for one applies and you have to replace it, the location has to... For those replacement dwellings, needs to be in the recipient's jurisdiction and preferably within... Oops, sorry. My dog's trying to get into my office. Within the recipient's jurisdiction and preferably within the same neighborhood, as the units that are demolished or converted.

Neighborhood under HOME regs use the definition of neighborhood under the HOME regs to determine what neighborhood means. Size generally loosely, we're talking about say if you demolish or convert a two bedroom, it should be replaced with a two bedroom. There's some exceptions to that, but those are the things that we're talking about. Condition, it has to be replaced with standard units or substandard units that have been raised to standard condition.

Availability, those replacement units need to be available from one year from the date of the public information. You'll see the public information that I'm talking about is the last bullet. One year before that, the information is made public to three years after the demolition or rehab for conversion. Affordability, it has to remain affordable for 10 years from the date of availability. Here's the location, again. It has to be located in the recipient's jurisdiction and if possible in the same neighborhood. And then before committing funds for the demo of conversion, a one for one replacement plan must be made public and submitted to HUD in writing. That's the public information that we're talking about. Okay, next slide.

When we talked about occupied and vacant occupiable as requiring replacement, we talk about vacant occupiable, It's a unit that's in standard condition or a substandard unit that's suitable for rehab or in any condition that is occupied by an unlawful occupant at any time within the period, beginning three months before execution of the rehab or the demo agreement. Standard and substandard condition suitable for rehab needs to meet the definition as defined in the HUD-approved con plan of the PJ. Next slide.

Here's where we get specifically into HOME-ARP. Ginny talked about the HOME-ARP notice that was issued last year. As part of that notice, there were also certain waivers and alternative requirements that were provided. This is one of those waivers that pertains to what we do here. What we're talking about, URA and 104(d). This one, there's a HOME-ARP limited waiver for section 104(d) one for one replacement.

What that one for one replacement waiver applies to, it applies to lower income dwelling unit that does not... I'm sorry. A lower income dwelling unit that's demolished or converted that does not include an SRO or residential hotel or motel. I'm sorry. I said that wrong. The waiver applies to SROs or hotels and motels where those units are considered dwellings under state or local law.

If an SRO or a hotel motel unit is considered a dwelling in that state or that locality under law, then you can apply that waiver. It does not need to be replaced. That's the only case where the one for one waiver applies and all other requirements of Section 104(d) apply, including the RARAP and the relocation. I hope that's clear. If there are any questions later, we can take that.

Okay. Next slide. Okay. So switching gears. So we talked about URA and Section 104(d). Now, we have this other layer of requirements. These are the actual HOME program regulatory requirements that pertain to displacement, relocation and acquisition. You can see here, that's the reg site, 24 CFR 92.353. Many HUD programs actually have these requirements. I just want to highlight and again, for awareness, don't forget that those requirements need to be satisfied for HOME-ARP as well. They apply to HOME, but they also apply to HOME-ARP. Okay. Next slide.

Under these regulations, key highlights, minimizing displacement, providing residential tenants, a reasonable opportunity to return to a building or a complex, the feasible upon completion of the project. You have expanded temporary relocation requirements, much expanded beyond the URA, the URA doesn't have very detailed requirements but the HOME and many other HUD programs regs do have those requirements. We also have something that we refer to as economic displacement protections, and we have a slide on that and also something called optional relocation assistance. Okay. Next slide.

For economic displacement protections, and I think typically this would apply in cases of temporary relocation, but it could also apply in cases where you have occupants that don't have to move as well. They should be protected by this provision of the regulation. But economic displacement, that requirement is really... It's buried in the regulation. It's not really clear.

It doesn't stand out to you, but it's a requirement for written notice offering the tenant the opportunity to lease and occupy a suitable DSS unit in the same building and complex upon after project completion. The reasonable terms and conditions must include at least a one year lease at a monthly rent and estimated average utilities that doesn't exceed the tenant's prior monthly rent utilities. So just real quick, pause here. To not worry about economic displacement, don't raise the rent. So if there's no rent increase, if there's nothing that increases to the tenant's prior monthly rent and utilities, you're good.

But if there is, the one year lease, it has to either be at that so it can't exceed the tenant's prior rent or for low income tenants, TTP, which is defined under 24 CFR 5.628, where for non-low income tenants, 30% of gross household income. When we talk about low income persons for HOME purposes and also for Section 104(d) purposes, use the definition of a lower income family for the HOME program. It's in the regs. Just heads up on economic displacement protections. That's sometimes overlooked in projects. Okay. Next slide.

Here's another nuance, something that's only within HUD. Some people might get it mixed up with the URA, but CDBG and HOME and many other CPD programs have those. Optional relocation assistance, it's actually pretty cool because a PJ can provide optional relocation assistance, develop a policy for persons that are displaced a HOME project that aren't eligible for the URA.

Under that optional policy, you can provide relocation payments and assistance. And I guess relocation assistance to persons that are eligible under the URA, which those payments actually exceed the URA requirements. In some localities, maybe a state for instance, has a higher, let's say a business reestablishment payment than the URA, which is quite common. This is a way under an optional relocation policy that you can pay for that state required payment that exceeds the URA limit with HOME funds under this optional policy.

But to use it, you have to adopt this publicly available written optional policy. It has to provide for equal relocation assistance within each class of displaced person. Okay. I think that's it. Next slide. Yes, that is it. With that, I'm going to turn it over to Tosha. Tosha, you got it.

Tosha Pierce:

Yeah. Thank you, Bryan. The following HOME-ARP program relocation related requirements I'll cover apply to these three project activities displayed. These requirements are more thoroughly explained in Section VIII.F of HOME-ARP notice CPD 21-10. Next slide please. Next slide. Thank you.

For activities described in Section VII.F.4.a involving acquisition or rehabilitation of hotels, motels and other non residential properties to produce HOME-ARP NCS or HOME-ARP rental housing. The fact based determination may conclude that the state and local law in which the projects located does not consider the non residential property acquired or rehabilitated for the project to be dwelling or residential property.

Persons residing in those properties are not generally eligible for relocation assistance under the URA 104(d) or the HOME programs displacement, relocation and acquisition requirements that Bryan just summarized. Individuals or families occupying that non-residential property may however be eligible for the HOME-ARP assistance if they can demonstrate these two conditions.

First that they have been in continuous residence at the property for 30 or more calendar days. Secondly, that they are a qualifying household as defined by the notice. The HOME-ARP assistance that PJs may provide to these persons include HOME-ARP supportive services, HOME-ARP tenant-based rental assistance or the ability to stay in a HOME-ARP NCS unit or HOME-ARP rental housing.

As it pertains to the second condition of this fact-based determination, whether or not a person is a qualifying household, if the person is living in a non residential property that is not living in a dwelling unit, a defined term, then the

person most likely qualifies as homeless or at risk of homelessness. Two of those QPs defined in the notice.

Again, PJs are encouraged to make that determination by following the definitions for each of the qualifying populations defined in the notice. We want to place emphasis on the needs for PJs and grantees to modify relocation-related notices provided to persons affected by the project specifically for notices provided to persons who likely qualify as homeless or at risk of homelessness because that person was not living in a dwelling unit. Notices in advisory services should take into account that the person is not living in a dwelling unit, but has certain rights under the HOME-ARP program.

PJs should closely review the HOME-ARP notice requirements pertaining to a minimum occupancy limits for eligibility of HOME-ARP assistance and modify any relevant guide forms utilized from HUD handbook 1378.

Emphasis is also placed on the importance to request access to occupancy records, which may include hotel or motels managements occupancies logs, and registries early on into project to adequately screen screen in survey occupants to determine who may be eligible to return to the completed project as a qualifying household and to determine eligibility for any relocation assistance, those persons may be eligible to receive under the URA Section 104(d) in home or if ineligible, the HOME-ARP relocation related assistance that may be provided as described in the notice.

For purposes of the HOME-ARP program, just as HOME, costs encourage to comply with this provision of the notice are eligible costs under HOME at 92.206.F. Next slide, please. Thank you.

For activities described as Section VII.F.4.b involving conversion of HOME-ARP non congregate shelter, when those NCS units are occupied and converted to either permanent housing under the contain of care program or as permanent affordable housing, these people occupying those units or those NCS units at the point of conversion would not normally be eligible for relocation assistance under the URA 104(d) or HOME assistance, which is described at 92.353, because they are not displaced from a dwelling unit.

Occupants of these shelter units are already qualifying households under HOME-ARP so PJs may immediately provide them assistance under any HOME-ARP supportive services, tenant-based rental assistance or non congregate shelter programs or rental housing programs they've elected to administer in their allocation plan. They may also provide moving costs and advisory services as HOME-ARP administrative costs or under the HOME-ARP supportive services activity, described in Section.VI.D of the notice.

To once again emphasize this, because of the complexity of these types of projects, PJs are highly encouraged to work closely with their CPD

representative for HOME-ARP projects involving converging of existing HOME-ARP NCS to another use. Next slide please.

Finally, the last HOME-ARP relocation related requirement pertains to ineligible persons. If a person is required to move as a direct result of a HOME-ARP project and is determined to be ineligible for HOME-ARP housing assistance described in Section VII.F.4 of the notice previously displayed on those slides and are also ineligible as a displaced person under the URA Section 104(d) or HOME, the PJ may provide advisory services that are reasonable and necessary, which may be charged as HOME-ARP administrative costs.

These advisory services should be described in the PJ's written policies and procedures covering relocation related activities. PJ's are encouraged to structure the types and provision of these advisory services to meet the needs and circumstances of these ineligible persons who must move as a result of the HOME-ARP project.

Again, PJs are encouraged to work closely with their CPD representative and their regional relocation specialists, if assistance and guidance is needed in making these fact based determinations for specific HOME-ARP project activities and when developing or modifying their policies and procedures, especially in relocation related policies and procedures to meet the requirements of the URA Section 104(d) and the HOME-ARP relocation related requirements. With that, that concludes my portion of today's presentation. I'll hand it over to Tynan who will describe resources that may be made available to you. Thank you.

Tynan Stevenson:

Awesome. Thank you, Tosha. Can we get the next slide? All right. Resources. This is the fun part. This is when you all get to remember that you don't have to memorize all of this stuff. First to preemptively answer a few questions that have been coming in, this PowerPoint will be made available as well as the recording of the event. It's going to be distributed through the list serves that this event was originally advertised through. You should all get that, just to put that out there.

Next slide, please. When you think about... This was an awareness training. It's the intersection between crosscutting federal relocation requirements and then the HOME-ARP program and of how to comply with our requirements while spending HOME-ARP dollars. So there's two buckets of resources that you should really be aware of. The first is the general HOME-ARP resources.

There are two core websites if you're unfamiliar, that HUD goes through, hud.gov, and then also the HUD exchange on the right. HOME-ARP has sites on both. The reason we have both is in the weeds, but you should definitely be aware of both. Once you receive this PowerPoint, those will be links that you can easily access. I recommend that you bookmark both of those.

On the left, hud.gov is how we publish a lot of our official documents. And then the HUD Exchange is where we conduct our list serves, our marketing, how we advertise a lot of our events, that sort of thing. Definitely be aware of both.

On the left, you can see hud.gov. That arrow points at the specific policy brief, the location on the website, where we can find the specific memo that talks about our requirements, the URA, 104(d) that kind of thing in the context of the HOME-ARP program. So definitely be aware of that, check that out. We sent it out on our list serves a while back, but you should definitely give a look at that. Give a read through that. Next slide, please.

This is RRED, our division Relocation Real Estate. These are our websites. Please be aware of both of these as well. I also recommend that you bookmark both of these. On the right through the HUD exchange, we have our sort of core training curriculum, URA, the HUD way. If you're going to be really helping administer these dollars. If you're going to be working really on any HUD programs that implicate relocation in any way, we highly recommend that you take that training. It's not too long, it's totally free, it's really high quality. You'll get a little certificate at the end.

Also, please go through the HUD exchange to sign up for our list serves, if you haven't. So we distributed this event through three different list serves, through the HOME list serve, the HOME-ARP list serve and then our divisions, relocation and acquisition list serve. If you're not signed up for all three of those, please do go onto the HUD exchange and sign up for whichever ones are not already signed up for. We highly recommend. Next slide, please. Thank you.

Yeah. So like I just said, you URA the HUD Way, really high quality training. That link that you're going to receive will take you straight to there. If you manage staff, maybe consider making this a professional development requirement or option. Once again, totally free. Really, really cheap way to get some high quality training. Those two videos right there are really great overviews introductions to the Uniform Act and Section 104(d). We have it in Spanish as well. We're trying to make things more accessible.

We don't have a hard timeline, but we're gradually trying to translate your actual modules in Spanish as well. That's an ongoing effort, but highly recommend our free web-based training course. Next slide please.

Other resources. This is a list of once again, important links that pertain to all of this that you'll be able to click through once you receive the PowerPoint at the top. I already discussed our policy brief. We highlighted that because that's sort of the core guidance around this topic that we have published right now. But other resources, the MAP-21 notice that Bryan spoke to, our handbook. So HUD handbook 1378, that's the core policy handbook for our division and our requirements in URA and 104(d).

Highly recommend you take a look through that. Monitoring hand handbook and several other general resources that are really important to URA. The URA frequently asked questions on FHWA's page. Remember FHWA, Federal Highways is their lead agency. They've got a lot of great resources on their websites as well. And at the bottom is our mailing list links so you can go straight to that and sign up for our mailing list. If you haven't already. Next slide, please. With that, I'm going to hand it back to Will to close us out. Thank you.

Will Rudy: Thank you, Tynan. As we conclude, as we come to our conclusion of today's webinar and I know we have a few minutes available here, we'd like to have folks direct follow up questions and inquiries to the mailbox, the HOMEARP@hud.gov. I've been trying to monitor the chat through today's presentation. I know there has been a number of general HOME-ARP program specific questions that were posted in the chat. If you wouldn't mind, I would ask that you put those questions on... If you can post those questions in the mailbox.

I think just for today's emphasis on the acquisition and relocation requirements for HOME-ARP, we wanted to make sure that we had time to address any questions. I'm just quickly looking at what we have and I think what's important, Bryan, if you wouldn't mind. So we had a question about the waiver you were talking about. So if you wouldn't mind taking this question. The question is, "Can you rephrase the waiver again?" And then the question is, "Do not need to replace hotel or SRO if recognized as housing by a state or is it waived if not recognized?"

Bryan O'Neill: Yeah. I know I was trying to read off the slide and it screwed me up unintentionally. The key here is if an SRO, single room occupancy, or a hotel or motel unit is considered a dwelling for purposes under state or local law, the waiver applies to those units and they do not have to be replaced.

SROs, hotel motel units, where they are actually recognized by state or local law as dwelling units, that those are not subject to the replacement requirement of Section 104(d). But all other requirements of Section 104(d) apply. Hopefully, that makes better sense. I thought maybe I tried to clear that up. If not, let me know.

Will Rudy: Okay. Bryan. Thank you for that. Thank you. I know there was a question earlier on about Section VIII vouchers. Section VIII vouchers is federal financial assistance. There's the possibility if there is acquisition on demolition or rehabilitation and people have to move that there would be applicability to that. There was another question.

Bryan O'Neill: Will, because I was wanting to address that as well.

Will Rudy: Please.

Bryan O'Neill: Will's correct. Section VIII assistance, it is considered federal financial assistance for purposes of the URA. So if there's an acquisition of a property to get that Section VIII assistance, that would typically be covered. A lot of this stuff is fact specific, but if you have a specific instance, if you want to send that to us in the chat or through the mailbox, we can better help you out. Okay.

Will Rudy: Thank you for providing that explanatory framework on that, Bryan. Maybe you can help me out on this one. There was a question that was placed. Does the URA have any right of first refusal for housing units built as a result of displacement? Relocated tenants moving into new build affordable apartments on land, on which units were demolished?

Bryan O'Neill: Yeah, the URA doesn't include any right of first refusal. I think previously, there was something built in that maybe agencies could bump displaced persons to the top of the list for a Section VIII voucher, for instance. But that's not even built into the URA. That's just something that would have to be implemented locally. But yeah, no right of first refusal.

Will Rudy: Thank you, Bryan. A question came up on housing of last resort. The question is, "When you exceed the statutory limit, could you explain what a PJ must do and say in their plan for HUDs so they don't get a finding and a HUD audit for paying more than the suggested limit. This has come up when doing what is necessary?"

Bryan, if you could help me out on this, but I think what is helpful is for grantees PJs to really look at their policies and procedures, that those things, knowing the market, knowing what replacement units and what other affordable housing units are available and people have to move and having a justification and having that within your policies and procedures really provides a framework, that there is some logic of what you're doing. That it's not just a willy-nilly knee jerk response to moving somebody, but you have a policy in place.

Bryan O'Neill: Just to go a little bit further on that. Again, I'm glad. Remember the statutory limits for replacement housing payment, I think right now it's like 7,200 per tenant and 31,000 for a homeowner occupant.

Those are just artificial. There are statutory limits, but they can be exceeded when required to if comparable available housing isn't available within those monetary limits. The way that it's succeeded is through the regulations, it's 24 or 49 CFR 24.404, I think. But yeah, it can be exceeded, but it has to be justified. The regs, if you look at that provision of the regulations, you have to provide adequate justification and documentation.

However, if something goes over, it's like, what kind of documentation is necessary? You need to document it somehow. Just to give you a heads up, our division is actually working on maybe creating some policy document on that for grantees that would better explain what we would recommend the grantees to.

So provide some documentation, but it really depends on what you're talking about. Are you talking about exceeding it by \$50,000 or are you talking about exceeding it by 2000? The documentation requirement also slides based on the scale of what you're doing. I think personally. Not necessarily from the agency's perspective. So hopefully that helps.

Will Rudy:

Thank you, Bryan. Just for the audience's benefit, this has been a growing concern. We all know about the challenges with our housing market and the availability. We actually had a question here. It was really more of a comment, but we have through the rule-making that Bryan mentioned that's underway with Federal Highway right now, we have mentioned the challenges to that. So we're waiting to see how they're going to respond to that. But one of the comments in the chat was relocation has gotten so challenging with the extremely low vacancy rate on the West Coast. Affordability is a concern, but availability is a huge concern, especially if you're aiming for the same neighborhood in area.

We all recognize the challenges, particularly when you have projects where there's been conversions and people leaving, where you have larger unit apartment complexes, because most... Today we have one in two bedrooms and it's hard to find a three and four bedroom apartment.

I think we time for one more question and I think this is important. The question is, "If you project for more than 12 months, but tenants agreed to remain." So someone's asking a question that if you have a project and your plans, if you know upfront that folks have to be temporarily relocated for more than 12 months, but based on their choice to be temporarily relocated beyond 12 months and then their return to the rehab unit, is that okay? Or do you have to pay them permanent relocation and then give them the right of first refusal, but they keep the permanent relocation payment?

I know this is a little confusing, but the requirements on HUD programs is that tenants can be temporarily relocated for up to 12 months. At the end of the 12th month, they have to be offered permanent relocation or they can be offered a continuation of temporary relocation with a specified timeframe.

What we found out during the pandemic with delays with construction, materials, resources, and things like that, appliances, projects are really exceeding the 12 month. In many instances, people want to go back to a brand new rehab unit. And if they know at the 12th month that it's going to be an additional 2, 3, 4 months, the tenant can make that decision if they'd like to remain temporarily relocated or accept permanent. It's at that time, if they accept permanent, then the PJ then has the responsibility of providing. They would be considered displaced.

As we, Bryan mentioned under the URA requirements that provision advisory services, replacing housing payments and things like that, to make sure that that

person who's going to move and be relocated permanently would have a good housing outcome.

I hope that's helpful on that because we do get a lot of questions. We've had a lot of projects where projects were staged. If you're moving people from one unit on the site to another, that was very, very... We saw a lot of that. But I think during the pandemic and now post pandemic, developers, what we're hearing and seeing people would like to...

They're looking to move everybody offsite and do one large construction, which it has benefits but on the other hand, it requires people to be away from the property. And then what happens when you hit the 12 months and then people, they have to be offered that choice. And it's a difficult nuance as part of the program requirements. I hope our webinar today was beneficial. We are looking forward to follow up questions in the HOME-ARP mailbox.

I think that's going to help us in supporting Ginny and the rest of our office in providing the additional support and resources to help each of you and your agencies have good results. And so those questions you have would help us develop any forthcoming FAQs and things like that and other guidance materials that would be beneficial. We look forward to that follow up. I know we're at the time and I think I need to turn this over to Marvin. So thank you very much.

Speaker 1:

That concludes our conference. Thank you for using event services. You may now disconnect.