

the project is not considered a “conversion” if, upon completion of the project, the unit is owned and occupied by a person who owned and occupied the unit before the project.

Displaced person means a lower-income person who, in connection with an activity assisted under any program subject to this subpart, permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling. For purposes of this definition, a permanent move includes a move made permanently and:

(1) After notice by the grantee to move from the property following initial submission to HUD of the consolidated plan required of entitlement grantees pursuant to § 570.302; of an application for assistance pursuant to §§ 570.426, 570.430, or 570.465 that is thereafter approved; or an application for loan assistance under § 570.701 that is thereafter approved;

(2) After notice by the property owner to move from the property, following the submission of a request for financial assistance by the property owner (or other person in control of the site) that is thereafter approved; or

(3) Before the dates described in this definition, if HUD or the grantee determine that the displacement was a direct result of conversion or demolition in connection with an activity subject to this subpart for which financial assistance has been requested and is thereafter approved.

HCD Act of 1974 means the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

Lower-income dwelling unit means a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing established under 24 CFR part 888.

Lower-income person means, as appropriate, a “low and moderate income person” as that term is defined in § 570.3 of this title, or a “low-income family” as that term is defined in § 92.2 of this title.

Recipient means CDBG grantee, UDAG grantee, or the HOME participating jurisdiction.

Standard condition and substandard condition suitable for rehabilitation have the meaning the recipient has established for those terms in its HUD-approved consolidated plan pursuant to 24 CFR part 91. In the case of a unit of general local government funded by a State, either the State’s definitions for those terms or the definitions adopted by the unit of general local government for this purpose shall apply.

Vacant occupiable dwelling unit means a vacant dwelling unit that is in a standard condition; a vacant dwelling unit that is in a substandard condition, but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning 3 months before the date of execution of the agreement by the recipient covering the rehabilitation or demolition.

§ 42.325 Residential antidisplacement and relocation assistance plan.

(a) *Certification.* (1) As part of its consolidated plan under 24 CFR part 91, the recipient must certify that it has in effect and is following a residential antidisplacement and relocation assistance plan.

(2) A unit of general local government receiving funds from the State must certify to the State that it has in effect and is following a residential antidisplacement and relocation assistance plan, and that it will minimize displacement of persons as a result of assisted activities. The State may require the unit of general local government to follow the State’s plan or permit it to develop its own plan. A unit of general local government that develops its own plan must adopt the plan and make it public.

(b) *Plan contents.* (1) The plan shall indicate the steps that will be taken consistent with other goals and objectives of the program, as provided in parts 92 and 570 of this title, to minimize the displacement of families and individuals from their homes and neighborhoods as a result of any assisted activities.

(2) The plan shall provide for relocation assistance in accordance with § 42.350.

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(3) The plan shall provide one-for-one replacement units to the extent required by § 42.375.

§ 42.350 Relocation assistance for displaced persons.

A displaced person may choose to receive either assistance under the URA and implementing regulations at 49 CFR part 24 or assistance under section 104(d) of the HCD Act of 1974, including:

(a) *Advisory services.* Advisory services at the levels described in 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act (42 U.S.C. 3601-19). If the comparable replacement dwelling to be provided to a minority person is located in an area of minority concentration, as defined in the recipient's consolidated plan, if applicable, the minority person must also be given, if possible, referrals to comparable and suitable decent, safe, and sanitary replacement dwellings not located in such areas.

(b) *Moving expenses.* Payment for moving expenses at the levels described in 49 CFR part 24.

(c) *Security deposits and credit checks.* The reasonable and necessary cost of any security deposit required to rent the replacement dwelling unit, and for credit checks required to rent or purchase the replacement dwelling unit.

(d) *Interim living costs.* The recipient shall reimburse a person for actual reasonable out-of-pocket costs incurred in connection with a displacement, including moving expenses and increased housing costs, if:

(1) The person must relocate temporarily because continued occupancy of the dwelling unit constitutes a substantial danger to the health or safety of the person or the public; or

(2) The person is displaced from a "lower-income dwelling unit," none of the comparable replacement dwelling units to which the person has been referred qualifies as a lower-income dwelling unit, and a suitable lower-income dwelling unit is scheduled to become available in accordance with § 42.375.

(e) *Replacement housing assistance.* Persons are eligible to receive one of the following two forms of replacement housing assistance:

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(1) Each person must be offered rental assistance equal to 60 times the amount necessary to reduce the monthly rent and estimated average monthly cost of utilities for a replacement dwelling (comparable replacement dwelling or decent, safe, and sanitary replacement dwelling to which the person relocates, whichever costs less) to the "Total Tenant Payment," as determined under part 813 of this title. All or a portion of this assistance may be offered through a certificate or voucher for rental assistance (if available) provided under Section 8. If a Section 8 certificate or voucher is provided to a person, the recipient must provide referrals to comparable replacement dwelling units where the owner is willing to participate in the Section 8 Tenant-Based Assistance Existing Housing Program (see part 982 of this title). When provided, cash assistance will generally be in installments, in accordance with 42 U.S.C. 3537c; or

(2) If the person purchases an interest in a housing cooperative or mutual housing association and occupies a decent, safe, and sanitary dwelling in the cooperative or association, the person may elect to receive a payment equal to the capitalized value of 60 times the amount that is obtained by subtracting the "Total Tenant Payment," as determined under part 813 of this title, from the monthly rent and estimated average monthly cost of utilities at a comparable replacement dwelling unit. To compute the capitalized value, the installments shall be discounted at the rate of interest paid on passbook savings deposits by a federally insured financial institution conducting business within the recipient's jurisdiction. To the extent necessary to minimize hardship to the household, the recipient shall, subject to appropriate safeguards, issue a payment in advance of the purchase of the interest in the housing cooperative or mutual housing association.

§ 42.375 One-for-one replacement of lower-income dwelling units.

(a) *Units that must be replaced.* All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than