

# CDBG-DR SUBRECIPIENT PROCUREMENT, DISASTER TIE-BACK AND UNIFORM RELOCATION ASSISTANCE TRAINING

September 23, 2020



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# CDBG-DR SUBRECIPIENT PROCUREMENT TRAINING

September 23, 2020



# AGENDA

## ■ Introduction & Training Overview

Presenters:

- Uniform Relocation Act, Earl Randall, III, Director of Compliance and Monitoring, IEM
- Storm Tie-Back, Marilyn Callwood, Project Manager, IEM
- Procurement Calvin Knowles, IEM Consultant

## ■ Procurement Basics

## ■ Cost Principles Overview

## ■ Professional Service Costs and Considerations

## ■ Procurement Methods

## ■ Common Issues

## ■ Questions and Answers

# Procurement Training Overview

- Purpose: Provide an overview of the federal procurement requirements to subrecipients of CDBG-DR funds.
- Following 2 CFR 200
  - Reasonably ensure the allowability of eligible program expenses
  - Allow for fair and open competition
- Any funds provided by HUD are subject to 2 CFR 200 procurement requirements

# Procurement Basics

## Fundamental Basics

- Identify and clearly specify standards
- Price and cost analysis
- Seek competitive offers
- Use of funds must respond to need
- Keep good records
- Have a quality assurance system

# Procurement Basics

## Procurement Policies and Procedures

- Key Elements Include:
  - Applicable state, local, and tribal laws and regulations- 200.318 (a).
  - Written standards of conduct addressing conflicts of interest- 200.318 (c)(1).
  - Avoidance of the purchase of unnecessary or duplicative items- 200.318 (d) .
  - 200.319 (c) - Procedures must ensure all solicitations:
    - Incorporate a clear and accurate description of the technical requirements for the material, product or service that does not restrict competition;
    - Identify all requirements which the offerors must fulfill and all other factors used in evaluating the bids or proposals.

# Procurement Standards

- Prohibitive Practices

- Contract Types

- **Prohibition on Cost Plus a Percentage of Cost (CPPC) Pricing**

- 2CFR 200.323

- **Time and Material (T&M) type contracts**

- 2 CFR 200.318(j)(1)

- Federal procurement requirements do allow for T&M type contracts, but only after a defensible and properly documented determination has been made that:

- No other contract is suitable

- The contract includes a ceiling price that the contractor exceeds at its own risk.



# Procurement Standards

- Prohibitive Practices (continued)
  - Prohibition on Practices that Restrict Full and Open Competition  
2 CFR 200.319
  - Examples of situations considered restrictive of competition:
    - Placing unreasonable requirements on firms in order for them to qualify
    - Requiring unnecessary experience and excessive bonding
    - Noncompetitive contracts to consultants that are on retainer contracts
    - Organizational conflicts of interest
    - Specifying a “brand name” product
    - Any arbitrary action in the procurement process

# Debarment

- Grantees must not make any award to any contractor or organization which is debarred or suspended or is otherwise excluded from participation in Federal assistance programs.  
2 CFR Parts 180 and 2424
- Applies to CDBG-assisted contracts at any tier in the process
  - ALL contractors
  - ALL subrecipients
  - ALL units of local government



- Check the federal SAM database (<https://www.sam.gov>)



Document your findings. Website printouts should be placed in the file.

# Appropriation Requirements

- Important to review the applicable Federal Register Notice for any appropriation-specific procurement requirements.
- Examples
  - Public Website
    - Procurement policies
    - Status of procurements
    - Copy of solicitation
    - Copy of executed contract
- Posting of executed contracts for public review

# Additional Requirements

- Required Contract Provisions  
2 CFR 200.326
- Contracting with small and minority businesses, women's business enterprises  
2 CFR 200.321
- Section 3  
24 CFR Part 135
- Davis-Bacon and Related Acts

# Cost and Price Analysis

- Subrecipients must perform a price analysis AND cost analysis for every procurement action above a simplified acquisition threshold, including contract modifications.
  - Independent estimates must be completed before receiving bids or proposals
  - Negotiate profit as a separate element of the price
  - Independent analysis can be done by staff, 3<sup>rd</sup> party consultants, or examination of existing price lists and product catalogs

# Cost Analysis – When and Why

- The level of analysis is context specific, but as a starting point, subrecipients must make independent estimates BEFORE receiving proposals
- Estimating costs before publishing a bid, RFP, or RFQ provides a point of reference for review when bids are received, for budgeting and ensuring the services are allowable, necessary, reasonable and related (allocable) to completing the project
- Additional cost analyses may be required in special circumstances
- Cases where only one bid is received
- Paying costs incurred while terminating a contract
- Awarding a cost-reimbursement contract • Negotiating modifications to contracts that impact price.

# Performing a Cost Analysis

Once a bidder has been selected, perform due diligence prior to award.

- Potential components include:
  - Determine if all cost items in the proposal are necessary
  - Determine if costs reflect the proposed technical approach and required work
  - Perform internal and external reference checks to verify that the vendor has a record of performing on budget and on schedule
  - Compare costs previously incurred by the same vendor and/or similar work performed by other contractors
  - Compare the proposal to an independent pre-bid cost estimate

# Cost vs. Price Analysis

Required Elements for Examination	Cost Analysis	Cost Analysis Examples	Price Analysis	Price Analysis Examples
Personnel Costs	Yes	Cost of laborers (direct/indirect) compared with prevailing wage rates, cost analysis, and other comparable contracts.	No	N/A
Travel Costs	Yes	Estimated amount of travel and relative costs to complete the work		
Equipment Costs	Yes	Estimated amount of equipment needed to complete the job		
Supply Costs	Yes	Estimated units of supplies needed to complete the job, accounting for market adjustments, inflation, and weather challenges		
Other Direct Costs	Yes	Other estimated direct		
Indirect Costs	Yes	Estimated allowable fringe benefit rate for personal or federally approved indirect cost rate		
Profit	Yes	Estimated profit contractor can reasonably earn on the job considering risk, complexity of work, level of required subcontracting, etc.		
Are work elements necessary and reasonable	Yes	Is it necessary/reasonable to build a fire station with four fire engine bays if the station owns one fire engine and had on bay prior to the storm?	Yes	Is it reasonable to rent a room for 5,000 people if you expect 500 attendees?
Total Cost of Service of Product	Yes	How does the total cost compare to similar past projects, giving consideration to inflation and market forces?	Yes	The cost to rent a room for 500 people for a community



# Cost Principles

- Cost principles determine the allowable costs incurred by non-federal entities under Federal awards such as CDBG-DR. (2 CFR 200 and 2 CFR Part 225).
- All costs must be:
  - Allowable
  - Reasonable
  - Allocable

# Allowable Costs

- Criteria:
  - Necessary and reasonable for proper and efficient performance and administration of the grant
  - Conform to limitations or exclusions
  - Consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity
  - Consistent allocation treatment (direct vs indirect costs)
  - Determined in accordance with generally accepted accounting principles (GAAP), except for state and local government

# Allowable Costs (continued)

- Adequately documented
- Allocable to the federal award
- Authorized or not prohibited under state or local laws or regulations



# Reasonable Costs

- A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person, under the circumstances prevailing at the time the decision was made, to incur the cost.
- Consider:
  - Whether the cost is ordinary and necessary for the operation of the entity or the proper and efficient performance of the grant.
  - Restraints and requirements (sound business practices; arm's length bargaining; laws and regulations;) and terms and conditions

# Reasonable Costs (continued)

## Consider (continued)

- Market prices for comparable goods or services for the geographic area.
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to the entity, its employees, the public at large, and the Federal government.
- Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the grant's cost.

# Allocable Costs

- A cost is allocable if:
  - The goods or services involved are chargeable or assignable to the grant or cost objective in accordance with relative benefits received.
    - Is incurred specifically for CDBG-DR
    - Benefits both the CDBG-DR program and other work and can be distributed in reasonable proportion to the benefits received
    - Is necessary to the overall operation of the entity, and is assignable in part to CDBG-DR, although a direct relationship to any particular cost objective cannot be shown.

# Allocable Costs (continued)

- All activities which benefit from the entity's indirect cost, including unallowable activities and donated services by the entity or third parties, will receive an appropriate allocation of indirect costs.
- Any costs allocable to a particular grant or cost objective (such as CDBG-DR) may not be charged to other federal awards to overcome funding deficiencies, to avoid restrictions imposed by law or the terms of the federal award, or for other reasons.

# Professional Service Costs

- Costs of professional and consultant services provided by persons who are members of a profession or possess a special skill (who are not officers or employees of the entity) are allowable when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal government.
  - Engineers, architects, attorneys, consultants
- Consider:
  - The necessity of contracting for the service



# Professional Service Costs (continued)

- Whether the service can be performed more economically by direct employment rather than contracting
  - Can you perform the services in-house with existing or additional staff?
  - Is it more cost effective to perform services in-house with staff or with contracted services?
- The qualifications of the those rendering the service and the customary fees charged
- The nature and scope of the service being contracted in relation to the service required
- The past pattern of such costs
- The impact of Federal awards on the entity's business

# Professional Service Costs (continued)

- Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).
- Retainer fees must be supported by evidence of bona fide services available or rendered



# Procurement

- Subrecipients must follow federal (and state) procurement rules when purchasing services, supplies, materials, or equipment.
  - Grantees should adopt procurement policies.
  - All purchases are to be handled fairly and in a manner that encourages full and open competition per 2 CFR 200.319.

# Procurement Methods

## ■ 5 Methods of Procurement

- Micro purchases
- Small purchase procedures;
- Sealed bids;
- Competitive proposals; and
- Non-competitive proposals

## Special Circumstances

- Cost Reimbursements Contracts
- Architecture and Engineering Contracts
- Construction Contracts

# Procurement Methods

Procurement Type	Cost Methodology Reasonableness	Contract Type	Solicitation Method	Applications	Dollar Thresholds if applicable
Micro Purchases	<ul style="list-style-type: none"> <li>Price Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Fixed Order</li> <li>Fixed Price</li> </ul>	<ul style="list-style-type: none"> <li>No solicitation required</li> </ul>	<ul style="list-style-type: none"> <li>Supplies</li> <li>Produced items</li> <li>Single-task service</li> </ul>	<ul style="list-style-type: none"> <li>Under \$2,000 for construction</li> <li>Under \$3,500 for all other purchases</li> </ul>
Small Purchase	<ul style="list-style-type: none"> <li>Price Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Fixed Order</li> <li>Fixed Price</li> </ul>	<ul style="list-style-type: none"> <li>Quotations</li> <li>Submitted Bids</li> </ul>	<ul style="list-style-type: none"> <li>Produced Items</li> <li>Single-task Service</li> <li>Supplies</li> </ul>	<ul style="list-style-type: none"> <li>\$150,000 or less for produced items</li> <li>\$150,000 or less for non-construction services</li> </ul>
Sealed Bid Formal Advertising	<ul style="list-style-type: none"> <li>Price Analysis</li> <li>Cost Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Fixed Price</li> </ul>	<ul style="list-style-type: none"> <li>Submitted Bids</li> </ul>	<ul style="list-style-type: none"> <li>Construction Items</li> <li>Produced or Designed Items</li> </ul>	<ul style="list-style-type: none"> <li>All construction contracts-including less than \$150,000</li> <li>Produced or designed items over \$150,000</li> </ul>
Competitive Proposals	<ul style="list-style-type: none"> <li>Price Analysis</li> <li>Cost Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Cost Reimbursement</li> <li>Fixed Price</li> <li>Time &amp; Materials</li> </ul>	<ul style="list-style-type: none"> <li>Submitted Proposals</li> </ul>	<ul style="list-style-type: none"> <li>Professional Services</li> <li>Multi-Task Services</li> <li>Designed Items</li> </ul>	<ul style="list-style-type: none"> <li>Professional Services and/or; Multi-task Services over \$150,000</li> <li>Designed Items over \$150,000 when Sealed Bid is not appropriate</li> </ul>
Non-competitive Proposals	<ul style="list-style-type: none"> <li>Cost Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Cost Reimbursement</li> <li>Fixed Price</li> <li>Time &amp; Materials</li> </ul>	<ul style="list-style-type: none"> <li>Submitted Proposals</li> </ul>	<ul style="list-style-type: none"> <li>Produced Items</li> <li>Single-task Service</li> <li>Professional Services</li> <li>Multi-task Services</li> <li>Designed Item</li> </ul>	<ul style="list-style-type: none"> <li>No particular threshold, but may only be used when other methods are not feasible</li> </ul>

# Small Purchase

- Allow recipients to acquire goods and services totaling no more than \$150,000, without publishing a formal request for proposals or invitation for bids
  - Typically used to purchase commodities such as equipment or other materials
  - Can also be used to acquire eligible types of services, such as professional consulting, environmental review, or planning
  - Cannot be used if purchasing materials or services that will exceed \$150,000
  - In general, should not be used to acquire construction contractors

# Sealed Bids

- Sealed bids should be used for all construction contracts or for goods costing more than \$150,000.
- Sealed bidding requires publicly solicited sealed bids and a firm-fixed-price lump sum or unit price contract is awarded to the responsible bidder
- Minimum conditions:
  - Complete, adequate, and realistic specification
  - Two or more responsible bidders/suppliers are willing and able to compete effectively
  - Procurement lends itself to a firm fixed-price contract

# Competitive Proposals

- Competitive proposals are to be used to purchase professional service where the total cost will exceed \$150,000.
  - Must publish a written request for submission and review based on established selection criteria
  - Solicit proposals from an adequate number of qualified sources
  - Solicitation methods
    - Request for Proposals (RFP): submit both qualifications and cost information
    - Request for Qualifications (RFQ): for architecture and engineering services, submit expertise/experience information and not costs, subject to negotiation of fair and reasonable compensations



# Non-competitive Proposals

- Non-competitive procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:
  - Where the item is available only from a single source
  - Where a public emergency or urgent situation is such that the urgency will not permit a delay beyond the time needed to employ one or the other procurement methods; or
  - Where after solicitation of a number of sources, competition is determined inadequate.

# Common Procurement Issues

- Lack of procurement policies and procedures that incorporate 2 CFR 200 requirements.
- Ensuring that cost or price analyses are performed and documented (Applies also to amendments/change orders)
- Ensuring contracts include all applicable contract provisions.
- 2 CFR 200.321 (b)- Ensuring steps are taken to contract with small and minority, women-owned businesses.
- Inadequate debarment check – <https://www.sam.gov> – To be performed before awarding a contract

# Common Findings or Concerns

- Prohibited use of cost plus percentage of cost contracting
- Failure to prepare independent cost estimates prior to receiving bids or proposals
- Failure to perform cost and price analysis on contract modifications or change orders
- Inclusion of non-competitive practices/requirements in procurement documents
- Failure to have an adequate contract administration system in place to track the history of each procurement action

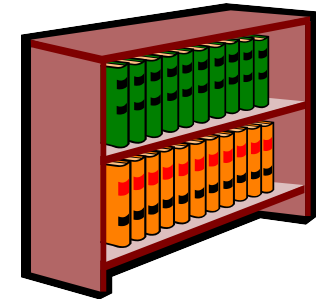
# Questions



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# HUD Resources and Materials

- [Buying Right CDBG-DR and Procurement: A Guide to Recovery](#) (PDF)
- [Example Document: Competitive Bids Procurement of Design Services by RFQ](#) (DOCX)
- [Example Document for Procurement Using Competitive Bids: RFP for Professional Services](#) (DOCX)
- [Sample Document: Contract Reporting Template](#) (XLSX)
- [Sample Document: Cost Analysis](#) (DOCX)
- [Sample Document: Procurement Checklist](#) (DOCX)
- [Example Document: Procurement Using a Sealed Bid Solicitation for Construction Services](#) (DOCX)



# DISASTER TIE-BACK TRAINING



# AGENDA

- Introductions
- What is a Disaster Tie-Back?
- Disaster Tie-Back Documentation
- Alternative Tie-Back Documentation
- Tie-Back Documentation Resources
- Questions and Answers

# What is Disaster Tie-Back?

- Tie-Back is the process of documenting a project so that there is a clear link between the covered event and the project.
- For example:
  - A house flooded in the storm event and was elevated with CDBG DR, so the file has evidence of the house being flooded, such as insurance claims, photographs, and local government inspections.
  - A local street flooded and damaged adjacent homes and businesses. The storm drains were repaired with CDBG DR funds. The project is eligible because the local government has FEMA worksheets identifying that area as storm damaged (in addition to other qualifying criteria).



# Disaster Tie-Back

- Disaster Tie-Back must
  - Document:
    - How the activity addresses a disaster-related impact and
    - How it serves to restore housing, infrastructure, or the economy
  - Demonstrate:
    - A logical connection to the disaster; and
    - How it contributes to long-term recovery as well (elevations in flood zones, new roofs, etc.)

# Disaster Tie-Back (continued)

- Disaster tie-Back documentation must be maintained
  - For **each** activity (housing rehabilitation, infrastructure, public facility, etc.)
  - For **each** project
  - In **every** file
- Disaster-Related impact is demonstrated
  - By the disaster's overall effect on the quality, quantity, and affordability of the housing stock and
  - By the resulting inability of that stock to meet post-disaster needs and population demands.

# What Documentation is Sufficient?

- The State of Florida DEO, as Grantee, and HUD have discretion to determine what documentation is sufficient.
- There is not a definitive list of items needed to establish tie-back to the storm event.
- Tie-back documentation should provide a clear path from the storm to the project.
- In-sufficient Tie-Back Documentation
  - Being located in a declared disaster area
  - Duplication of Benefits documentation

# Housing Rehabilitation Tie-Back

- Housing Damaged by A Disaster
  - Single Family Housing is eligible for disaster-related assistance, but the local government must document that the house was damaged in the disaster event.
  - Typical support documentation to demonstrate tie-back to the covered disaster event include:
    - Insurance claims,
    - FEMA documentation, or
    - local government inspection reports, clearly indicating that the property was impacted by the covered event

# Housing Rehabilitation Tie-Back (continued)

- Other sources of documentation may include:
  - News report photographs.
  - Visible evidence of the disaster, such as high-water marks.
- The file may need a combination of documentation if no one source is definitive.

# Housing Rehabilitation Tie-Back (continued)

- Housing Not Damage by A Disaster
  - New construction, rehabilitation, and new home purchase assistance are permitted even when units are **not** damaged by the disaster
    - If the activity clearly addresses a disaster-related impact and is located in a disaster-affected area and
    - The disaster-related impact results in the inability of the existing stock to meet post-disaster needs and population demands
  - When determining disaster-related impact, the grantee should consider how the event caused displacement and put households at risk of homelessness, as well as the economic impacts on rents, housing prices, etc.

# Infrastructure Tie-Back

- Infrastructure projects are a common use of CDBG-DR funds.
  - Repairing, replacing, or relocating damaged public facilities
    - Must be public or non-profit owned
    - Community centers, water facilities, sewer/drainage improvements
  - Infrastructure projects tied to economic revitalization of areas with damage related-impacts
- Just like housing, infrastructure projects need tie back documentation.

# Infrastructure Tie-Back (continued)

- Documentation may include:
  - FEMA Reports
  - Damage assessments from the local government
  - Reports from the local government that include evidence such as photographs or unusual events (high water flows into sewer plants linked to geographic areas and storm events)
  - Discharge events for water and sewer systems
  - Engineering reports after the fact



# Non-Physical Losses Tie-Back

- Economic, housing market, and other non-physical losses
- Need to demonstrate a relationship between the loss and the disaster
  - Post-disaster analysis
  - Post disaster assessment

# Alternative Tie-Back Documentation

- Cost estimates from vendors in the aftermath of storm events are often a good source of tie back.
  - For example, roofing estimates for homeowners.
- Receipts for repairs
- Neighborhood-level Media reports
- Disaster Relief/Emergency Housing providers (case-by-case basis for review and approval)

# Tie Back Documentation Resources

- The Subgrantee will need to coordinate with other departments, such as:
  - Building
  - Permitting
  - Code Enforcement
  - GIS
  - Emergency Management
  - Utilities/Water/Sewer
  - Public Safety

# Questions



# UNIFORM RELOCATION ACT (URA)

Acquisition · Demolition · Displacement



# Agenda

## Introduction & Training Overview

Presenters:

- Uniform Relocation Act, Earl Randall, III, Director of Compliance and Monitoring, IEM
- Storm Tie-Back, Marilyn Callwood, Project Manager, IEM
- Procurement Calvin Knowles, IEM Consultant

- What is the Uniform Relocation Act?
- URA Requirements and Triggers
- Buy-Out Programs
- Voluntary/Involuntary Acquisition
- Key Resources
- Questions and Answers

# Uniform Act Foundations

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
  - Establishes uniform policies among federal agencies and funding recipients when acquiring real property and relocating persons for federally funded projects
  - Created to ensure fair and consistent treatment
  - A person is eligible for assistance if their home or business is displaced by land acquisition programs, code enforcement activities, or housing rehabilitation programs
  - The act requires the displacing agency to provide notices, advisory assistance and financial benefits to those effected



# Uniform Act Requirements

- Applicable to all Federally funded projects (in whole or in part) with acquisition, rehabilitation or demolition in any phase.
- Uniform standards for administering acquisition and relocation projects.
- Notice requirements to all owners/occupants at specified milestones in the activity/project lifecycle.



# URA Triggers

- Site identification + planned or intended use of federal funds = compliance actions begin
- “As soon as feasible” = General Info Notice (GIN) sent to all occupants at such time there exists:
    - Documented legal intent of a project (pre-application/applications, Con/Action Plan or Amendments, site specific City Council resolutions), AND
    - Site identification
  - Notice of Relocation Eligibility sent within 7-10 days of the “Initiation of Negotiations” for the project (based on the applicable milestone in CDBG/URA regs).

# Flood Buyout Programs

## *Costs/requirements/outcome impacted by use of optional or mandatory buyouts.*

### Mandatory buyouts – Involuntary Acquisition process

- Eliminate future claims, no requirement to move to any specific new location.
- Most costly & time-consuming (full acquisition requirements of Subpart B).
- Owner-occupants are entitled to relocation payments.

### Voluntary buyouts – Voluntary Acquisition process

- Inefficiencies in providing public services, impacts to neighborhood for remaining residents (gap-toothed communities, lack of demand for services/retail).
- Owner-occupants are not entitled to relocation payments under the URA.

# Drainage Easements/Retention Basins

**Typically are site specific (involuntary)** due to design requirements – consider all potential locations that could accomplish an activity to minimize acquisition & relocation costs.

- Notice to owners & occupants required as soon as feasible once a site is identified for a federally-assisted project.
- May require one-for-one replacement if units in habitable condition are acquisition/demolition (in addition to relocation payments).

# Joint Federally-Assisted Projects

Where a project may be carried out with multiple federal sources, (FEMA + HUD, VA + HUD, etc.) contact HUD.

- Cognizant agency agreement – Allow time to identify & resolve differences in URA policies or programmatic conflicts.
- FEMA's Hazard Grant Mitigation Program may have different compensation rules for owner-occupants than the URA.
- Consultants may be more familiar with other regs, different federal program regulations may have inconsistent milestones for action (ION, notices, etc.).

# What is an Acquisition?

***Conveyance of fee simple or partial interests in real estate from one legal entity to another.***

- Donations occur when the seller forgoes all or part of just compensation – this is still an acquisition.
- Permanent easements & other less-than-full fee interests (temporary easements/servitudes).
- Long-term leases of 15 years or greater are considered acquisitions for URA purposes under CDBG-DR.
- May occur between two affiliated entities (mixed finance).

## 2 Paths to Acquisition

***Acquiring agency must determine which approach applies to the project BEFORE starting any acquisition activity.***

- Once an agency starts down the “voluntary” acquisition path the use of eminent domain is off the table as a potential tool.
- If an agency conducts its acquisition using the “involuntary” approach it is NOT committed to using eminent domain but may retain that option as last resort.
- Acquisitions by one govt. agency from another probably exempt if acquiring agency cannot condemn from the other.
- Who is taking title to the property matters.

# “Voluntary” Acquisitions

*Agencies with eminent domain authority,  
**ALL** of the following apply:*

- No specific site is needed and any of several properties could be acquired for project purposes; and
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits; and
- The agency informs the owner in writing of the property's market value prior to making an offer; and
- The agency also informs the owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement.
  - **Agency requirements not based on if the seller is/is not agreeable to the sale.**



# “Voluntary” Acquisitions

## *For agencies without eminent domain authority:*

- The agency notifies the owner in writing of the property's market value; and
- The agency notifies the owner prior to making an offer, that it will not acquire property if an amicable settlement cannot be reached.
  - If tenants will be displaced, the tenants are **ALWAYS** provided relocation assistance (unless eviction is documented).
  - Under “voluntary” acquisitions, an owner is **NOT** eligible for relocation payments whereas they **ARE REQUIRED** for “involuntary” acquisitions.

# Valuation

Appraisals may be based on pre-flood or post-flood values.

- Grantee must uniformly apply whichever valuation method it chooses (per program rules).
- Written appraiser minimum qualifications & procedures are required for involuntary acquisition projects.
- Determine the applicable valuation/acquisition process
- PRIOR to commencing site-specific acquisition tasks (written procedures & policies).
- Acquisition type impacts costs & timeframe.

# Voluntary Acquisition Disclosures

*The requirements at 49 CFR 24.101(b)(2)(i)–(ii)  
may be waived to the extent that:*

- An arm's length voluntary purchase carried out by a person who does not have the power of eminent domain.
- In connection with the purchase & occupancy of a principal residence by that person.
  - May be granted when failure to suspend this provision would impede recovery by delaying or preventing homebuyer acquisitions by persons who receive federal disaster recovery assistance.
  - Limited to individuals & families who use federal assistance to purchase rather than to rehabilitate or reconstruct their damaged dwellings.

# 30% of Household Income

URA provisions requiring financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30% of household income may be waived, provided tenants have been paying rents in excess of 30% of household income without hardship.

- Rental assistance payments to reduce tenant costs to 30% would not be required.
- Before using this waiver, the state must establish a definition of “demonstrable hardship.”

# 30% of Household Income

HUD would consider the state's definition of "demonstrable hardship" & application for this waiver on a consistent basis across programs or projects.

Potential cost savings in utilizing this alternative should be weighed against the ability to complete project's in a timely manner & potential perception of disparity resulting in relocation appeals.

# “Comparable” Dwelling

“Comparability” requirements can be waived to allow all or a portion of replacement housing payments to a displaced tenant by offering a tenant-based rental assistance (TBRA) housing subsidy (e.g., Section 8 voucher), provided the tenant is also given referrals to suitable, available rentals where the owner will participate in the TBRA program & the period of authorized assistance is at least 42 months.

- Consider for use where TBRA program subsidies may be available but funds for cash relocation assistance is limited.

# Residential Moving Payments

Suspension of the requirement to offer a person the option to receive a “moving expense & dislocation allowance” based on the FHWA fixed schedule **provided** that the grantee establishes & offers moving expenses under a schedule that is reasonable & takes into account the number of rooms in the dwelling (if the person owns & must move the furniture) & expenses described in 49 CFR 24.301.

# One-For-One Replacement

One-for-one replacement requirements may be waived for low- and moderate-income dwelling units:

- (1) damaged by the disaster,
- (2) for which CDBG funds are used for demolition, and
- (3) **not suitable for rehabilitation.**
  - Occupied properties are never exempt, if otherwise subject to one-for-one replacement.



# 104(d) Relocation

Section 104(d) relocation requirements may be waived to the extent they differ from the URA & its regulations related to disaster recovery housing activities assisted by the funds covered in an approved Action Plan.

- Eliminates disparity between persons displaced by projects funded by other federal agencies not subject to 104(d).
- Simplifies project administration since only one replacement housing calculation is required.

# Section 414 Waiver

Section 414 of the Stafford Act provides:

- “Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act].”

Households may be forced to move as a result of a presidentially declared disaster before a HUD-assisted program or project reaches “Initiation of Negotiations” to otherwise displace the person.

# Section 414 Waiver

There is no statute of limitations or other timeframe applicable to Section 414 of the Stafford Act.

HUD may allow a re-housing plan for a covered program or project, as determined on a program or project-wide basis, if the Alternative One (payment of assistance at URA required levels) substantially conflicts with recovery purposes.

# Disaster CDBG & Other Federal Funds

All other federal sources of funding used in projects where acquisition, rehabilitation or demolition will occur are subject to standard URA regulations.

Use of regular CDBG & HOME funds in a mixed finance project will mitigate any waivers or alternative requirements attributed to supplemental CDBG-DR.

# URA & 104(d) Resources

[www.hud.gov/relocation](http://www.hud.gov/relocation)

- <https://www.hudexchange.info/resource/5754/ura-statute/>
- <https://www.hudexchange.info/resource/310/hud-handbook-1378-tenant-assistance-relocation-and-real-property-acquisition/>
- <https://www.hudexchange.info/resource/804/ura-and-real-property-acquisition-policies-act-49-cfr-part-24/>
- <https://www.hudexchange.info/programs/relocation/>
- <https://www.hudexchange.info/resource/204/federal-register-notice-ura-fixed-residential-moving-cost-schedule/>
- <https://www.hudexchange.info/resource/3853/notice-cpd-14-09-effective-date-for-map-21-changes-to-ura/>

Your HUD Regional Relocation Specialist

- <https://www.hudexchange.info/programs/relocation/contacts/>

# Questions

