RELOCATION CONSIDERATIONS

DISPLACEMENT

DISPLACED RESIDENT, NON-RESIDENTIAL TENANT (BUSINESS/NONPROFIT/FARM)
An entity which moves permanently from the real property for the sake of the project. Any moves after the following dates will be considered displacement unless proven otherwise.

Specifically, a displaced entity is one which moves after the property owner (seller/leasor), person in control of the site, or Applicant issues a vacate notice to the person, refuses to renew an expiring lease to evade the responsibility to provide relocation assistance, or the appropriate notices are not provided, if the move occurs on or after:

1. Three months prior to pre-application (or application if no pre-application submitted);
2. Notice of Funding Availability publication;
3. The date the Applicant enters into any written agreement for site control. Site control is defined as the executed agreement between the buyer or leasee and the seller or leasor to purchase or option to purchase or lease the site:
    a. A warranty deed that conveys title to the subject property to the current General Partner or proposed Limited Partner;
    b. A legally binding contract to purchase the proposed project site in the name of the General Partner or proposed Limited Partner (or which provides for an executed assignment to the General Partner or proposed Limited Partner); or
    c. A binding long-term ground lease or an option for a binding long-term ground lease, that clearly provides the right for the applicant to execute a binding agreement upon closing, with a minimum term of forty-five (45) years. All Lessors must execute the required LURC;
4. The date at which the land became intended for federal funds (if applicable).

URA: (49 CFR 24.2(a)(9)(i)) The term displaced person means, except as provided in paragraph (a)(9)(ii) of this section, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at § 24.401(a) and § 24.402(a)):

1. As a direct result of a written notice of intent to acquire (see § 24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
2. As a direct result of rehabilitation or demolition for a project; or
3. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

If the Applicant is unable to establish by regulation a specific action or event that marks the date a project begins for purposes of determining eligibility as a "displaced person" (check with DCA and definition of “initiation of negotiations”).

See Eligibility for Assistance and Return Matrix for more information.

Non-Displaced Permanent Move

Residents and non-residential tenants who move offsite after the above dates will be considered displaced unless proven otherwise.

ECONOMIC DISPLACEMENT

Definition: Residents will be considered economically displaced if their return rents are unaffordable, based on the calculations described in the following regulations:

1. **HOME** (24 CFR 92.353(c)(2)(C)(1)) and **HTF** (24 CFR 92.352(c)(2)(C)(1)): The tenant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition and the move occurs before the tenant is provided written notice offering the tenant the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions must include a term of at least one year at a monthly rent and estimated average monthly utility costs that do not exceed the greater of:
    a. The tenant's monthly rent before such agreement and estimated average monthly utility costs;
    b. If the tenant is not low-income (over 80% AMI), 30 percent of gross household income; or
    c. If the tenant is low-income, the total tenant payment (24 CFR 5.628). Total Tenant payment is the highest of the following amounts, rounded to the nearest dollar:
        i. 30 percent of the family's monthly adjusted income;
        ii. 10 percent of the family's monthly income;
        iii. If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated;
            1. If family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated is the amount resulting from one application of the percentage.
        iv. The minimum rent (§ 5.630)
            1. The PHA must charge a family no less than a minimum monthly rent established by the responsibility entity, except if there is a financial hardship exemption (§ 5.630(b)).[1]
            2. For the public housing program and the section 8 moderate rehabilitation, the PHA may establish a minimum rent of up to $50.
            3. For other section 8 programs, the minimum rent is $25.
2. **CDBG** and other CPD programs (24 CFR 570.606(b)(2)(i)(D)(1)): The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon completion of the project, including a monthly rent that does not exceed the greater of
    a. the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or
    b. 30 percent of the household's average monthly gross income.

[1] § 5.630(b) Financial Hardship Exemption https://www.law.cornell.edu/cfr/text/24/5.630

Actions: Residents who cannot afford the Return Housing rents must be offered a choice between permanent displacement assistance (if they are otherwise eligible) or temporary relocation. Dependent on the resident's response, the Applicant must take the following actions:

1. If resident chooses permanent displacement assistance, provide resident with three comparable replacement housing options and pay the rent + utility difference from the date the household moves offsite. This rent differential must be covered by the Applicant for the standard timeframe associated with each program.
    a. **URA** (if **HOME**, **HTF**, or **CDBG**): 42 months
    b. **104(d)**: 60 months
2. If resident chooses to be temporarily relocated, Applicant must *choose one of the following options:*
    a. If the resident is otherwise eligible, allow resident to return to property and pay the rent + utility differential for the same length of time as if they were displaced permanently (*see 1. above*), starting from the resident's initial relocation date;
    b. Change household's unit's AMI designation to meet the lowest AMI that the household is eligible for; or
    c. Change the rent on that household's unit to not exceed the maximum rent of the lowest AMI the household is eligible for.

Economic Displacement Action Examples:

a. A resident who is considered economically displaced in a HOME funded development chooses (1) to be permanently displaced. Their housing assistance must be provided for 42 months from the date they move off-site.
b. A resident who is considered economically displaced in an HTF-funded development chooses (2) to be temporarily relocated. The Applicant chooses (a) to cover the rent + utility differential for 42 months from the date the household is relocated. These 42 months include the 8 months the household is relocated during rehabilitation.

PROGRAM ANOMALIES

RAD RIGHT TO RETURN

All households have the right to return. Households that would be precluded from returning due to the proposed plans must be given the opportunity to comment on and object to such plans. If these households object to such plans, the project plans must be altered to accommodate households' right to return. If these households prefer to voluntarily permanently relocate rather than object, Applicants must obtain written consent.

OVER-INCOME HOUSEHOLD

A household with income exceeding the income limit designated for the unit.

1. Existing Households: Income certification guarantees safe harbor during construction period. (*See Temporary Relocation>Existing Households>Safe Harbor*).
2. Resyndication: Tenants are grandfathered in. (*See Temporary Relocation)*.

LOW-INCOME HOUSEHOLD

For purposes of determining Relocation Assistance, a Low-Income Household's annual gross income is under 80% AMI. Data available at ric.novoco.com/tenant/rent income/calculator/z1.jsp.

STUDENT HOUSEHOLD

1. LIHTC: See 8823 Guide Chapter 17.
2. **HOME**: Uses Section 8 regulation 24 CFR 5.612.
3. Households must meet both to move into LIHTC / HUD or HOME units. Households that become student households under LIHTC regulations will not be tax credit eligible and it will affect the applicable fraction.

HOUSING SIZE

UNDERHOUSED

Currently Underhoused

A household whose Displacement Dwelling:

1. Has fewer bedrooms than the household needs.

Proposed Underhoused

A household whose Return Housing is:

1. Does not meet local ordinance or property management standards; or
2. Has fewer bedrooms than the household needs.

Georgia does not regulate the number of persons who can reside in rental housing; however, local ordinances may establish occupancy limits. In addition, the landlord may choose to limit the number of persons who can live in the unit as described in the Tenant Selection Plan.

Generally, restricting two persons for each bedroom plus one is reasonable.[2]

RIGHT-SIZED

Proposed unit size matches household's needs based on household size, rather than their current unit size based on choice.

> Right-Sized Example: A one-person household currently lives in a three-bedroom home. Upon completion of the development the household may be offered a right-sized home which would be a one-bedroom or Single Resident Occupancy (SRO).

OVER-HOUSED

Currently Over-Housed

A household whose Displacement Dwelling:

1. Has more bedrooms than the household needs.

Proposed Over-Housed

A household whose Return Housing is:

1. Has more bedrooms than their Displacement Home; or

[2] Landlords should make sure occupancy limits are reasonable and not used intentionally to exclude or limit families with children, or that they burden families more than other individuals, which may violate fair housing laws. (Georgia Landlord Tenant Handbook, Georgia Department of Community Affairs, p.7. https://www.dca.ga.gov/sites/default/files/georgia_landlord-tenant_handbook.pdf)

2. Has more bedrooms than the household needs.

A household whose Return Housing has more bedrooms than their Displacement Home.

1. **RAD:** If there is not an appropriately sized bedroom for the family to transfer into, the family can remain in the unit and unit will continue to be funded based on the actual bedroom size and the contract rent. But if an appropriately sized unit becomes available; the family will be required to move at that time.

HOUSING STATUS, 90 OCCUPANTS, AND INITIATION OF NEGOTIATION

HOUSING STATUS

1. Comparable Replacement Dwelling. The dwelling to which a household is Permanently Displaced. (For URA, see 49 CFR 24.2(6)).
2. Decent, safe, and sanitary dwellings (DSS). All Comparable Replacement Dwelling, Temporary Housing, and Return Housing must be "decent, safe and sanitary," by meeting 49 CFR 24.2(a)(8), as well as any other applicable housing occupancy codes.
3. Displacement Dwelling. The unit occupied by an existing resident prior to displacement or relocation. (49 CFR 24.2(6)).
4. Temporary Housing. The dwelling to which a household is Temporarily Relocated.

90-DAY OCCUPANTS

Residents and non-residential tenants whose occupancy is less than ninety (90) days prior to or after the initiation of negotiations do not qualify for housing assistance benefits (but do for moving assistance). Low-Income Households and households that did not receive Move-In Notice do qualify for housing assistance benefits.

INITIATION OF NEGOTIATIONS (ION)

The ION date is the trigger for issuance of the Notice of Eligibility for Relocation Assistance or Notice of Non-Displacement to existing occupants and Move-in Notices to all persons seeking to rent in the project.

1. LIHTC-only developments: the ION is the date the Applicant executes the Limited Partnership Agreement.
2. **URA:** When there is no program-specific ION or related acquisition by a Federal of State Agency, ION means the notice to the person that they will be displaced by the project or, if there is no notice, the actual move of the person from the property.

3. Program Specific: Many HUD regulations establish program-specific definitions of ION. Refer to the following regulations for program-specific definitions listed in HUD Handbook 1378, Chapter 1, Exhibit A. (https://www.hud.gov/sites/documents/1378EXHIBITACPDH.PDF) and their regulations:
    a. **HOME:** 24 CFR 92.353(c)(3).
    b. **HTF:** 24 CFR 93.352(c)(3).
    c. **CDBG:** 24 CFR 570.606(b)(3).
    d. **RAD:** Notice H 2016-17 Section 8 PBRA: 24 CFR 983.7(d).