The City of York
Pennsylvania
BUREAU OF HOUSNG SERVICES
1Marketway West, Third Floor, York, PA 17401
www.yorkcity.org

Honorable John S. Brenner, Mayor

RELOCATION PLAN

Submitted by:
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COMMUNITY DEVELOPMENT
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CHAPTER ONE: SURVEY OF OCCUPANTS

A. OBTAINING OCCUPANT INFORMATION: As soon as feasible, depending on the activity, the owner of record will be asked to provide information about current occupants. (See Exhibit 2 for a format for the owner to use.) The timing of the request will be different for acquisition/ demolition projects versus rehabilitation projects.

1. ACQUISITION/DEMOLITION PROJECTS:

ii. The owner will be asked for this information after the Notice of Interest or Notice of Intent to Acquire has been sent by the City of York.

iii. If the owner has not provided the information by the time the Offer of Just Compensation and a Purchase Agreement are presented, the Purchase Agreement will contain language that authorizes the City of York to contact occupants and requires the owner to provide information about the tenants.

iv. The City of York will request the following information:

1. Names of all current occupants
2. Size of household and composition, if known
3. Special needs, if known
4. Rental subsidy provided, such as Section 8
5. Unit numbers
6. Telephone numbers
7. Unit size by bedroom
8. For non-residential occupants, the nature of the business or service provided
9. Date of move-in
10. Rent and type of utilities paid by the tenants
11. Type of lease (oral, month-to-month, etc.)
12. Vacant unit numbers and length of vacancy

2. RENTAL REHABILITATION PROJECTS:

v. Owner-applicants for federal rehabilitation funds will be required to submit the following information with their application for funds:

1. Names of all current occupants
2. Size of household and composition, if known
3. Special needs, if known
4. Rental subsidy received, such as Section 8
5. Unit numbers
6. Telephone numbers
7. Unit size by bedroom
8. For non-residential occupants, the nature of the business or service provided
9. Date of move-in
10. Rent and type of utilities paid by the tenants
11. Type of lease (oral, month-to-month, etc.)
12. Projected after-rehabilitation rents
13. Unit configuration after rehabilitation
14. Vacant units and length of vacancies
15. Occupants who would be displaced by project

B. SURVEYING OCCUPANTS: As soon as feasible, the City of York or its representatives will contact occupants to perform an on-site survey.

a. Information provided by the owner will be verified

b. Additional information will be gathered using the Site Occupant Record for residential and non-residential occupants (see Exhibits 3 and 4).

c. A self-certification will be presented for signature. The head of household will be asked to self-certify regarding their status as an economic dependent and their citizenship status. (See Exhibit 1.)

d. If the General Information Notice has not already been sent to occupants, the interviewer will present it at this time and obtain a written receipt.

e. The interviewer will explain the following:

i. The rehabilitation or acquisition process

ii. The General Information Notice and URA protections

iii. Timing for the move and other Notices the occupant will receive

iv. The process for finding a replacement site or housing

v. The process for requesting an advance payment and filing a claim

f. The interviewer will leave a contact name and telephone number with the occupant.

C. INITIATION OF NEGOTIATIONS (TENANTS)

Tenants that occupy property that may be acquired amicably with no use of eminent domain are entitled to the following:

1. Informed as to eligibility for relocation assistance if in occupancy at the initiation of negotiations
2. Follow up notification when the household becomes fully eligible, if the property is acquired
3. Should no agreement of sale be reached, a follow-up notification that they are no longer potentially eligible for relocation benefits.

Exhibit 1: (Residential self-certification)

City of York
1 Marketway West
3rd Floor
York, PA. 17401

TO BE COMPLETED BY HEAD OF HOUSEHOLD:

1. Name and Social Security Number:	2. Address of Primary Residence:
3. Are you financially independent (e.g., do you claim yourself on Income Taxes?) Yes ☐ No ☐	4. Citizenship Status - Please check one: I am: ☐ a United States Citizen ☐ Lawfully in the U.S. ☐ Neither
Signature of Head of Household: Date: Witnessed by: Date:	

Exhibit 1: Non-Residential Self-Certification:

City of York
1 Marketway West
3rd Floor
York, PA. 17401

To be completed by Owner/Manager of Business or Non-Profit Organization

1. Name and Social Security Number:	2. Home Address:
3. Contact Information ☐Telephone number (work): ☐Telephone number (home):	4. Citizenship Status – Please check one: I am: ☐ A citizen of the United States ☐ Legally in the United States ☐ Other
Signed: _____ Date: _____ Witnessed: _____ Date: _____	

EXHIBIT 2: OCCUPANT INFORMATION

RESIDENTIAL UNITS:

Head of Household	Unit #	Phone #	# in Hsehold	Rental Subsidy	Unit Rent	Utilities Provided	Date of Move-in	Type of Lease	BRS #	Special Needs

NON-RESIDENTIAL UNITS:

Business Name	Owner/ Manager	Telephone #	Type of Business	Rent Paid	Utilities Provided	Date of Move-in	Type of Lease

VACANT UNITS:

Unit Number	Date Vacant	Name of Previous Tenant	Reason for Vacancy	Comments

EXHIBIT 3:
SITE OCCUPANT RECORD - RESIDENTIAL

Address: **Unit Number:**	Project Name:	Date of Interview: Name of Interviewer:
Head of Household:	Telephone Number:	☐ Family ☐ Individual ☐ Other (explain)
Renter: Tenant-paid Utilities and monthly cost: ☐ Heat $_____ ☐ Electricity $_____ ☐ Water/sewer $_____ ☐ Garbage $___ Other: _____ $ Rental subsidy received: $_____ **Total Mo. Hsg. Cost: $_____**	**Owner:** Monthly PITI: $_____ Balance of Mtge:$_____ Acquisition Price: $_____	**Race/Ethnicity:** ☐ White, not of Hispanic origin ☐ Hispanic ☐ Black, not of Hispanic origin ☐ Asian or Pacific Islander ☐ Amer. Indian or Alaskan Native
	Date of Initial move-in: _____ Date of GIN: _____ Date of Eligibility:_____ Date of Self-Certification: _____	

No. of Rooms with Furnishings: _____ No. of Bedrooms: ____ No. of Bathrooms: ____ ☐ Furnished ☐ Unfurnished
Parking: _____ Pets: _____ Other re-housing considerations: _____

Names of Occupants	Relationship	Sex	Age	Occupation	Source of Income	Gross Mo. Income	Employer/ Telephone #

Special Characteristics of Household: (Elderly, disabled, etc.) _____

HOUSING REFERRALS						
Date	Address	Type of Unit	Size	Monthly Cost	Avail. Date	Action on Referral

REPLACEMENT DWELLING UNIT			RELOCATION PAYMENTS
Address:_____ _____ Phone:		Date Inspected: _____ 2nd Inspection: _____ Date passed: _____ Date of Move:	Moving Expenses: ☐ Fixed ☐ Actual Amt. Pd: $_____ Advanced $_____ Date of Claim:_____ Date Paid:_____
Monthly Housing Cost:		No. of Rooms: _____ No. of BRs: _____ No. of Bathrooms: _____ Parking: _____	Replacement Housing Payment: Rental ☐ Purchase ☐ Amt. Approved $_____ Date of Claim: _____ Date 1st Payment:_____ Am't 1st Payment: $_____ Final Payment: $_____ Date: _____
Rental: Rent: $_____ Est. Utilities:_____ Total: _____	Purchase: Price: $_____ PITI: $_____		
Temporary Relocation: Date: _____ Reason: _____ Address: _____ Rent: $_____ Utilities: _____ Out-of-Pocket expenses paid:		Is replacement unit in area of Low-income or minority concentration? ☐ Yes ☐ No Is unit subsidized? ☐ Yes ☐ No	Appeal filed? ☐ Yes ☐ No Type: ☐ Payments ☐ Housing ☐ Other

EXHIBIT 4: SITE OCCUPANT RECORD – NON-RESIDENTIAL

Address: **Name of Business:**	Project Name:	Date of Interview: Name of Interviewer:
Name of Principal Officer:	Telephone Number:	☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Nonprofit Corporation
Occupant Characteristics Years in Business _____ At this location _____ ☐ Owner ☐ Tenant ☐ Business ☐ Nonprofit Services provided by owner (if tenant) _____ _____ **Monthly Rental: $**_____	**Type of Business Operation:** _____ _____ _____ Is the business "location sensitive? ☐ Yes ☐ No Explain:	**Race/Ethnicity:** ☐ White, not of Hispanic origin ☐ Hispanic ☐ Black, not of Hispanic origin ☐ Asian or Pacific Islander ☐ Amer. Indian or Alaskan Native
Remarks:		

Space occupied currently:

_____

_____

_____

Services provided (if tenant)

_____

_____

Monthly rental:

_____

Relocation Preferences and Requirements:

Preferences:

☐ Will make own plans ☐ None ☐ Rent space ☐ Purchase ☐ Build ☐ Go out of business

Location Considerations: _____

Space Needs: _____ Other Needs: _____

Type/size building: _____ Maximum monthly rental: _____

Maximum sales price: _____ Discontinuing operations explanation _____

_____

REFERRALS TO REPLACMENT LOCATIONS

Date	Address	Rental	Sales	Rental or sales price	Avail. Date	Action on Referral

REPLACEMENT LOCATION			RELOCATION PAYMENTS
Address:_____ _____ Phone:_____ Description of location:		Date Premises Inspected: _____ Date City of York notified of intent to move: _____ Date Move began:_____ Date Move completed: _____	Moving Expenses: ☐ Fixed ☐ Actual Amt. Pd: $_____ Advanced $_____ Date of Claim:_____ Date Paid:_____
Tenure at Replacement Location: ☐ Owner ☐ Renter		**Relocation Payments:** **Type:** **Amount:** **Claim Date** **Date Paid** ☐ Actual Moving Expense $_____ _____ _____ ☐ Reestablishment Expenses $_____ _____ _____ ☐ Fixed Payment $_____ _____ _____	
Rent: $_____	Purchase: Price: $_____		
Temporary Relocation: Date: _____ Reason: _____ Address: _____ Date of Move to Permanent Location: _____		Remarks	Appeal filed? ☐ Yes ☐ No (If yes, include copy in case file)

CHAPTER TWO: MAKING 104(d) DETERMINATIONS

A. OVERVIEW: Section 104(d) may be triggered when a number of factors are ALL present. These factors are:

   a. HOME or CDBG funds are being used to pay hard costs to rehabilitate, acquire or demolish the unit or to pay project delivery costs;

   b. A unit is lost to the supply of "low moderate income units" (defined as units having a "market rent" within the applicable Fair Market Rent).

      i. A unit is "lost to the supply" if it is demolished or converted to a non-housing use, or

      ii. It has an after-rehabilitation rent above the FMR.

   c. The income of the tenants is irrelevant to the definition of what is or is not a "low moderate income unit." A higher-income person could live in a unit that rents within the FMR and 104(d) would still be triggered if the unit were converted or demolished.

B. ANALYSIS REQUIREMENTS: Agencies must analyze their activities prior to undertaking actions which trigger the applicability of 104(d) in addition to the Uniform Relocation Act. The following Exhibits provide tools to determine if 104(d) is triggered. If 104(d) is triggered there are two components:

   a. Tenant Assistance. 104(d) requires 60 months (as opposed to 42 months for URA coverage) of relocation assistance to low-income persons displaced from the "lost" units. 104(d) assistance uses a calculation for "total tenant payment" in determining the household's ability to pay. In addition, households are entitled to payment of their security deposit and the cost of a credit check at their replacement unit.

   b. One-for-One Unit Replacement. The City of York must replace lost units over a period of approximately four years. If "lost" units were vacant, the need to replace them depends of the length of time they had been vacant and their condition.

C. DISCLOSURE AND REPORTING REQUIREMENTS: Before the City of York executes a contract for an activity that would create the need for one-for-one unit replacement, the City must:

   a. Publish a plan for replacing the units in a newspaper of general circulation;

   b. Submit the following information to HUD:

      i. Description of the proposed activity;

      ii. Location and number of units to be converted or demolished;

iii. Schedule for the beginning and end of the activity;

iv. Location and number of replacement units;

v. Source of funding and timing for the replacement units;

vi. The basis for determining that the units will remain part of the supply of "low moderate income" units for at least ten years from the date of initial occupancy; and

vii. (If applicable) the justification for replacing larger units with smaller ones.

c. HUD will not provide a formal approval of the plan but will monitor the City of York's performance in meeting the plan's statements.

D. DEMOLITION WITH HOME OR CDBG FUNDS: If a low-income household lives in a unit demolished with HOME or CDBG funds, they are eligible for 104(d) levels of relocation assistance, regardless if the unit had a market rent within the FMR or not.

E. RECONFIGURING UNITS: If CDBG or HOME funds are used to reconfigure existing units, and the after-rehabilitation market rents are still within the FMR for that sized unit, 104(d) is not triggered. For example:

a. A twelve unit building with efficiency units and small one-bedrooms is reconfigured to meet the demand for affordable two and three bedroom units.

b. After rehabilitation, the building now has six larger units that rent with the FMR for two and three bedroom units.

c. 104(d) is not triggered.

F. UNITS THAT DO NOT HAVE TO BE REPLACED: The City of York does not have to replace units if:

a. None of the triggers for "use" of CDBG or HOME funds are met;

b. The unit had a market rent above the Fair Market Rent; or

c. It is a substandard unit, not suitable for rehabilitation, which had been vacant for over three months.

G. REPLACEMENT UNIT SIZE: Units that are to be used as replacement units must be able to house at least the number of occupants as the units that were lost. This means:

a. The number of bedrooms in the units must at least be equal to the lost units.

b. The City of York cannot "bank" bedrooms; for example, a three-bedroom unit could not be used to replace a two bedroom and a one-bedroom unit.

H. COUNTING UNITS AS REPLACEMENTS: The City of York does not need to build new units, nor have project-based subsidy in them, nor use public funds to develop them to include them in the one-for-one replacement units.

a. Replacement units must be within the same jurisdiction, preferably in the same neighborhood.

b. Rehabilitated units may count if:

i. They were vacant for at least three months before the City of York and the owner execute an agreement for rental rehabilitation funds;

ii. No one was displaced by the project;

iii. They were substandard prior to the work and are rehabilitated to a standard condition; and

iv. They rent within the applicable Fair Market Rent. (They do not have to be occupied by a Section 8-assisted household.)

c. New units count if they are likely to remain as part of the supply of "low moderate income" units for a period of ten years.

d. They do not have to have subsidy in their development nor do they have to be developed by a non-profit or public agency.

e. There is no requirement for the City of York to continue to monitor the "rents" on an on-going period.

G. TIMING OF REPLACING UNITS: The City of York may count units that were developed or rehabilitated during the previous twelve months prior to the publication of their Plan in the newspaper. They have three years from the time the activity is undertaken that results in units being lost to the supply of "low moderate income units."

104(d) PROJECT REVIEW

1. Property Address: _____ 2. Owner/Developer: _____

2. Name of Program: _____ 4. Activity to be undertaken: _____
(E.g., demolition, rehabilitation, conversion to other use)

5. Current Number of Residential Units: _____

PART A: Analysis of Units – Before Program Activity. (Complete only for projects assisted with CDBG, HOME, or UDAG.)
Provide the following information on all residential units, including owner-occupied. If building has more than one unit, include the unit number.

Unit #	# BRs	Current actual or estimated rent	Applicable Section 8 FMR	**IS UNIT "LOW/MOD"? If Yes, continue. If No, review is complete.**	*Complete for "low/mod" units only: (Yes or No.)*				IS UNIT OCCUPIED OR IF VACANT, "OCCUPI-ABLE"?
					Is unit occupied?	*For vacant units "yes" = unit is "occupiable"*		**Vacant 3+ mos., NOT suitable for rehab? ** (not "occupiable)**	
						Standard Condition?	**Substandard Suitable for rehab? ****		

Enter Total # "Low/Mod" units:					***Enter "Low/Mod" units that are occupied or "occupiable"***				
0 Br:	1 Br:	2 Br:	3 Br:	4 Br:	0 Br:	1 Br:	2 Br:	3 Br:	4 Br:

** Note: If the reviewer determines that a unit is substandard and does NOT meet the City's criteria as "suitable for rehabilitation, please provide a brief statement that describes the circumstances that led to that conclusion:

Reviewer's name: _____ Date: _____
Commissioner Concurrence: _____ Date: _____ (Required when determination is made not to replace "low/mod" units because they are vacant for 3+ months, substandard, and not suitable for rehabilitation.)

Page 2 – 104(d) Project Review; Property Address: _____

PART B: Identification of Units Needing to be Replaced –

Complete **ONLY** for each "Low/Mod" unit that was identified as Occupied or "Occupiable" in Part A of this review.

Unit #	# BRs	("yes" or "no") After completion, of the project, will this unit:			Does the unit have to be replaced? (It does if answer was "yes" to any of the preceding questions.)***
		Have a new "rent" (actual or estimated) exceeding the FMR?	Be demolished, but was suitable for rehabilitation?	Have a use other than permanent or transitional housing?	

*** Provide explanatory comments if a determination is made that a unit does not have to be replaced because the activity will cause neither demolition nor conversion. (E.g., actual or estimated rents will remain within the FMR for the rehabilitated unit size.)

Reviewer Comments:

Reviewer: _____ Date of Review: _____

Page 3 – 104(d) Project Review; Property Address: _____

PART C: Identification of Displaced Persons eligible for 104(d) Relocation Benefits.
Enter information ONLY for occupants of units that were either 1.) Demolished with CDBG, HOME, or UDAG assistance OR 2.) Occupants of units that were identified in Parts A and B as "low/mod" and needing to be replaced under One-for-One requirements.

Unit #	Head of Household Name	Family Size	Household Income	Income Limit – 80% Area Median Income	**Is Household L/M Income?**

Households Eligible for 104(d) Relocation Benefits (Only applies to those within 80% of AMI.)	Comments:
	Reviewer: _____
	Date: _____

104(d) UNIT REPLACEMENT TRACKING SUMMARY

All units lost to the supply of "Low/Mod" housing stock - through activities assisted with CDBG, HOME, or UDAG funds - must be replaced on a one-for-one basis. The required time frame for replacement can begin one year prior to the date of the Replacement Housing Plan being made public and continue until three years after the activity is completed.

UNITS TO BE REPLACED			REPLACEMENT UNITS			JUSTIFICATION **
Address, Unit #	# BRs	Date Unit Lost	Address, Unit #	# BRs	Date C of O*	Basis for determining unit will remain part of affordable housing supply for 10 years

- Date Certificate of Occupancy Issued

** Justification could be one of the following: the replacement unit is located in a Low/Mod income neighborhood and is a modest property; it has a deed restriction controlling rents for at least 10years; it a newly-built or rehabilitated homeowner unit that would have a market "rent" within the FMR; or it could be a newly-built or rehabilitated unit with project-based subsidy.

Person completing report: _____ Date: _____

CHAPTER THREE: NOTICES TO OCCUPANTS

A. OVERVIEW: As soon as feasible, the City of York must provide or require of the owner to provide all occupants – residential and non-residential owners and tenants – with the appropriate information regarding the project and the likelihood of what will happen to them. The information must occur at specific points as the project progresses, and information should be tailored for those who will and those who will not be displaced.

B. GENERAL INFORMATION NOTICES:

a. General Information Notice (GIN) for persons who will not be displaced.

i. Timing for Acquisition Projects: This notice should be sent at the time a Letter of Intent or Letter of Interest is sent to owners when acquisition if proposed.

ii. Timing for Rental Rehabilitation Projects: This notice should be sent close to the time the owner submits an application for funds.

iii. Contents of the GIN: It should explain:

1. Acquisition or rental rehabilitation has been proposed and the person should not move yet.

2. The person will not be displaced, or if there is a possibility that this could change, the information for persons who could be displaced should be included.

3. A suggested guideform is found in HUD Handbook 1378, Appendix 2.

b. General Information Notice (GIN) for persons to be displaced.

i. Timing for Acquisition Projects: This notice should be sent at the time a Letter of Intent or Letter of Interest is sent to owners when acquisition if proposed.

ii. Timing for Rental Rehabilitation Projects: This notice should be sent close to the time the owner submits an application for funds.

iii. Contents of the GIN: It should explain:

1. A project or acquisition has been proposed and the person should not move until the project is approved and the person receives a formal Notice of Eligibility for relocation assistance.

2. In general terms, the relocation payments and benefits that may be available to the person if they are displaced, including

referrals to replacement housing, help in filing claims, and advisory services.

3. The person will be given at least 90 days' advance written notice to move – and for residential occupants – this notice cannot be issued until at least one available, comparable unit has been identified and referred to by the City of York.

4. The right to appeal a determination by the City of York as to the person's eligibility for assistance, the acceptability of a comparable housing unit, or the amount of the payment.

5. A suggested guideform is found in HUD Handbook 1378, Appendix 3.

c. HUD has Information Booklets available on their website that provide a great deal of good information to residential tenants and owners and non-residential occupants. The website is available on hud.gov/cpd/. Click on "library", then "bookshelf 7", then "Cities/Communities", then scroll down to "Displacement and Relocation". Click on the information booklet that is appropriate to the situation.

C. NOTICES UPON APPROVAL OF PROJECT OR OFFER TO PURCHASE (INITIATION OF NEGOTIATIONS):

a. Notice of Non-displacement for persons who will not be displaced.

i. This Notice explains the reasonable terms and conditions under which the person may lease and occupy the property after rehabilitation or acquisition is complete. The terms and conditions should include the unit number and the rent to be charged.

a. Temporary Relocation Notice must be provided to those who will not be required to move permanently, but who will be able to relocate back to the development in an appropriately sized unit. The temporary move will not exceed 12 months and the City will identify eligible out of pocket expenses eligible for reimbursement.
b. In the event of temporary relocation, the City will assist in locating a suitable temporary unit and will inspect the unit to assure it meet appropriate codes and standards.

ii. Failure to provide either of these Notices may result in a tenant moving permanently and claiming relocation assistance.

b. Notice of Eligibility for Relocation Assistance for person who will be displaced.
i. This Notice informs the person of their eligibility for relocation assistance, describes the estimated amount of relocation assistance, and the process for obtaining relocation assistance.

ii. Guideforms for this are found in HUD Handbook 1378, Appendices 5, 6, and 7.

D. NINETY DAY NOTICE FOR PERSONS TO BE DISPLACED

a. No person who will be displaced shall be required to move without at least 90 days notice of the date that they must move.

b. This Notice cannot be issued unless the City of York has identified at least one – preferably three – comparable, available units are identified.

c. This Notice cannot be provided before the person is given a Notice of Eligibility for Relocation Assistance.

d. The Ninety-day Notice will either:

i. State a specific date at which the person must move (ninety days in the future), or

ii. State that, thirty days before the person must move, but not before ninety days have elapsed, the City of York will inform the person of the date they must move.

e. In unusual circumstances, if there is an urgent need due to an imminent health or safety risk to the occupant, neither a ninety-day notice nor a thirty-day notice will be issued and the person will be required to move.

E. DELIVERY AND METHOD OF NOTICES.

a. Each Notice will be personally delivered with a signed receipt (see the following Exhibit) or sent by Certified Mail if it is not feasible to personally deliver the Notice.

b. All Notices will be written in plain English unless the City of York is aware of special needs for translation or special needs, such as the person is illiterate or sight impaired.

i. In that case, the City of York will provide for a translator to deliver the Notices.

ii. In the event of someone with hearing impairments, the City of York will provide a TTY number for the person to access with questions.

iii. In the event of someone with sight impairments, the City of York will orally explain all the required information.

RECEIPT OF INFORMATION

I hereby acknowledge receipt of a General Information Notice, dated _____ and delivered by _____.

Name: _____ Date: _____

Witnessed: _____ Date: _____

CHAPTER FOUR: IDENTIFYING AND INSPECTING UNITS

A. GENERAL. The City of York may not issue a 90-Day Notice to Vacate until they have identified one – and preferably three – comparable, available units and referred the residential occupant to them.

B. COMPARABLES. The current URA regulations and HUD Handbook 1378 provide considerable guidance on what is a "comparable" unit. Several points should be stressed.

a. The unit must be adequate for the displaced household's needs. This means:

i. If they are currently overcrowded, the comparable unit must have sufficient living space, bedrooms and bathrooms to accommodate the family according to the City of York's occupancy standards established by the Public Housing Authority for Section 8.

ii. For example, if a family of five is currently occupying a two bedroom unit, and the City of York's occupancy standards would allow them to have a three-bedroom unit, depending on household composition, the family may not be issued a 90-day Notice to Vacate until they have been offered a three-bedroom unit.

iii. If the household is currently over-housed in a dilapidated unit, the comparable unit does not have to have the same number of rooms and bedrooms.

iv. If the unit they occupy currently is not dilapidated, the City of York must offer the household a unit that is comparable in size, even if they would be over-housed.

v. For example, if the household is a couple currently living in a three-bedroom unit, the City of York may not issue a 90-day Notice to Vacate until they offer the household another three-bedroom unit.

b. It must local codes and standards but no less than HQS and be available for occupancy. This means:

i. The owner/landlord would accept the household for tenancy.

ii. The City of York should take proactive measures to work with landlords when a displaced tenant has a questionable record. These measures could include the following:

1. Encouraging the tenant to assign a portion of their relocation benefits to the landlord to pre-pay rent for a number of months.

2. Counseling with the tenant to let them know the consequences of non-compliance with the lease terms.

3. Referring the tenant to social service agencies for counseling on matters not related to housing.

c. The person to be displaced has adequate time to see the unit and consider it for replacement housing.

i. The City of York should arrange transportation and accompany the person to see the unit if necessary.

ii. In a tight rental housing market, the City of York may consider putting a deposit on a comparable unit to hold it until the person has an opportunity to see it.

iii. "Adequate time" is defined as 24 hours from the time the person is notified of the availability of the unit unless there are compelling circumstances related to health, child care, or work schedules that prevented the person from seeing the unit.

d. It must be in a neighborhood with no adverse environmental conditions. This means:

i. It should not be located in an area with excessive noise.

ii. The amount of traffic should be considered, especially if the household has young children.

iii. The crime rate in the neighborhood is also an environmental condition, and the location of the comparable unit should be considered a safe place to live.

e. The City of York has a responsibility to provide housing choices to all persons, consistent with Fair Housing requirements.

i. Units used as comparables should not be in areas with concentrations of persons in poverty.

ii. Whenever possible, minority persons should be given the opportunity to relocate to areas that do not have concentrations of minorities.

f. The comparable cannot be a subsidized unit unless the person was living in subsidized housing. This means:

i. A comparable unit for persons displaced from privately-owned, market rate units must be another private market-rate unit.

ii. Units with income limits, such as those developed with Tax Credits or under the Moderate Rehabilitation program, may not be used as a comparable unit for persons displaced form privately-owned market rate units.

g. The City of York may refer the person to subsidized housing if it would be advantageous to the displaced person over time. However, the City of York may not issue a 90-day Notice to Vacate based on this referral alone.

C. IDENTIFYING COMPARABLE AND REFERRAL UNITS. When the City of York undertakes a project that will displace tenants, the following resources may be used to identify DSS units on the market in addition to units listed in newspapers:

a. The Internet for sites maintained by Management Agents

b. Calls to Management Agents who have units in the areas preferred by persons to be displaced

c. Word of mouth to local merchants who may hear of units not otherwise listed for rent

d. Drive-by inspections for "for rent" signs in desirable areas

e. The tenants themselves who may identify a unit on their own

f. Calls to owners of buildings in the area who would know of pending evictions or recent announcements of upcoming vacancies

D. NOTIFYING TENANTS AND INSPECTING REPLACEMENT UNITS.

a. The City of York will immediately call tenants at their residence, employment, or through their identified contact to inform them about a potential replacement unit.

b. When possible, the City of York will inspect the unit prior to making a referral.

c. Before offering a unit as a comparable for purposes of limiting the amount of a relocation payment, the City of York must inspect the unit.

i. Only units that meet local housing codes and standards will be used as comparables.

ii. If a unit fails on a minor item upon the initial inspection, but the owner is willing to correct the item prior to the tenant moving in, the City of York may consider using the unit as a comparable.

iii. If the tenant selects a unit with minor deficiencies, the City of York will perform a final inspection prior to the move-in to verify that the items were corrected.

iv. The tenant's selected unit must pass the inspection before a replacement housing payment will be released.

d. The City of York will follow up referrals with a letter and when a comparable unit is used to limit the amount of the tenant's replacement housing payment, the letter will explicitly state that fact.

   i. If the tenant disagrees with the choice of a comparable, but the City of York maintains their determination, the tenant may appeal the decision using the appeal process described in a subsequent chapter in this manual.

   ii. If the tenant makes diligent efforts to see the unit identified as the comparable, but the unit was already rented by the time he/she sees it, the City of York must identify another unit for purposes of limiting the replacement housing payment.

   iii. If the tenant sees the unit but identifies substantive shortcomings that impact on its use as the comparable, the City of York must seriously consider the arguments made by the tenant, and if warranted, select another unit as the comparable.

CHAPTER FIVE: RELOCATION CLAIMS AND PAYMENTS

A. GENERAL. The City of York will provide displaced persons with assistance in completing claims for moving expenses, in processing advance payments against their entitlement, and in assuring timely payment of benefits. The City of York will require documentation to support the claims paid and maintain the documentation in each displaced person's records on file.

B. RESIDENTIAL MOVING CLAIMS.

a. All displaced occupants are eligible for a moving expense payment, whether or not they move into a unit that meets requirements as being Decent, Safe, and Sanitary (DSS).

b. A displaced residential occupant has the option of choosing either Actual Moving Expense or a Fixed Payment. The Fixed Payment is based on the Department of Transportation's Federal Highway Administration schedule for Pennsylvania residents. The latest schedule can be found on the web site: fwha.dot.gov/realestate/relocat.htm. Click on "Relocation Moving Schedule."

i. Actual Moving Expenses.

1. If the person is interested in filing a claim for Actual Moving Expenses, the City of York will contact two professional moving companies (one if the move is not complex) and obtain a bid to pack, move, and unpack the person's belongings.

2. The low bid will set the upper limit of the Actual Moving Expense claim, regardless who performs the move.

3. The City of York may either pay the moving company directly or pay the displaced person who will be responsible for paying the invoice.

ii. Fixed Moving Payment.

1. If the displaced person chooses to file a claim for a Fixed Moving Payment instead of an Actual Moving Expense claim, the City of York representative will accompany the person filing the claim throughout the property to determine how many rooms of belongings and furniture will need to be moved.

2. If any room contains an unusual amount of furnishings and belongings, the City of York's representative may count additional rooms to the DOT schedule in determining the amount of the Fixed Payment.

3. The City of York may count basements, garages, storage rooms, walk-in closets, (but not ordinary closets), and other

storage areas that contains items to be moved in making their determination.

4. The displaced person does not need to provide additional documentation once the City of York's determination is made regarding the number of rooms to be counted.

5. However, the City of York may withhold a portion of the payment until the move is completed to the satisfaction of designated City of York representatives.

C. ADVANCE PAYMENTS. When a hardship would occur otherwise, the City of York may make an advance payment against the displaced person's entitlement if requested.

a. The amount of the advance will be determined by individual circumstances, but the following guidance will be used in making that determination:

b. The verified need for an application fee, security deposit, and other pre-paid fees customary for the area and for other properties managed by the Property Management firm.

c. The displaced person will authorize the advance payment to be made directly to the Property Management firm or owner.

d. The replacement unit must have been inspected and meet applicable codes and standards.

e. The Property Manager and the displaced person must have a provisional lease executed, pending the receipt of the advance payment.

f. The amount of the advance will be deducted from the balance of the person's entitlement once the person has moved.

D. NON-RESIDENTIAL MOVING PAYMENTS.

a. Displaced businesses, farms, and non-profit agencies are also eligible for moving expenses. All are eligible for Actual Moving costs; however, only certain of these are eligible for a Fixed Payment. City of York representatives should refer to HUD Handbook 1378, Chapter 4 for guidance on Fixed Payment eligibility.

b. In determining the amount of an Actual Move claim, the City of York representative will contact two professional moving companies to obtain a bid to pack, move, and unpack the personal property and movable items related to the business, farm, or non-profit (hereafter referred to as simply the "business").

i. If the move is uncomplicated and likely to be less than $1,000.00 only one bid is necessary.

ii. If professional movers demand to be paid for their time in preparing a bid, the reasonable cost for this service is an eligible project cost.

iii. The City of York will limit the amount of the Actual Moving claim to the lowest bid by a responsive bidder.

1. In determining who is or is not a "responsive bidder" the City of York and business will consider the complexity of the move in light of the mover's experience and track record.

2. The City of York and business will also weigh the availability of the bidders to perform the work against the needs of the business and the schedule for the project.

iv. If the business owner chooses to do the move with his/her own employees, the amount of the payment will be limited to the amount of the low bid by a professional responsive bidder.

v. If the nature of the business is such that no professional mover in the area is qualified to do the work or bid, the City of York may authorize the business to perform the work with their own managers, equipment, and employees, paying their normal salaries and pro-rating the cost of using the businesses' equipment during the move.

vi. Re-installation costs, search costs, and other actual costs allowed by the URA will be paid after being supported by documentation, invoices, or time sheets.

vii. Documentation of claims for self-moves will include bids from professional movers (where applicable) and time sheets that are consistent with normal salaries paid and equipment costs during hours of regular operation.

E. DOCUMENTING AND COMPLETING CLAIMS.

a. A completed copy of the unit inspection form and the executed lease must be maintained in the displaced person's file (for residential tenants).

b. The City of York's representative will meet with the residential or non-residential occupant who will be displaced and assist them prepare their portion of relocation claim forms as well as gather necessary documentation to support their claims.

c. The head of household or business owner who will be displaced must sign an original and one copy of the claim form. He/she should keep one of the copies.

d. The second original claim form will be reviewed to determine the amount of relocation assistance to be recommended for payment. The claim will then be reviewed for approval by an authorized representative of the City of York.

CHAPTER FIVE: RELOCATION CLAIMS AND PAYMENTS

A. GENERAL. The City of York will provide displaced persons with assistance in completing claims for moving expenses, in processing advance payments against their entitlement, and in assuring timely payment of benefits. The City of York will require documentation to support the claims paid and maintain the documentation in each displaced person's records on file.

B. RESIDENTIAL MOVING CLAIMS.

a. All displaced occupants are eligible for a moving expense payment, whether or not they move into a unit that meets requirements as being Decent, Safe, and Sanitary (DSS).

b. A displaced residential occupant has the option of choosing either Actual Moving Expense or a Fixed Payment. The Fixed Payment is based on the Department of Transportation's Federal Highway Administration schedule for Pennsylvania residents. The latest schedule can be found on the web site: fwha.dot.gov/realestate/relocat.htm. Click on "Relocation Moving Schedule."

i. Actual Moving Expenses.

1. If the person is interested in filing a claim for Actual Moving Expenses, the City of York will contact two professional moving companies (one if the move is not complex) and obtain a bid to pack, move, and unpack the person's belongings.

2. The low bid will set the upper limit of the Actual Moving Expense claim, regardless who performs the move.

3. The City of York may either pay the moving company directly or pay the displaced person who will be responsible for paying the invoice.

ii. Fixed Moving Payment.

1. If the displaced person chooses to file a claim for a Fixed Moving Payment instead of an Actual Moving Expense claim, the City of York representative will accompany the person filing the claim throughout the property to determine how many rooms of belongings and furniture will need to be moved.

2. If any room contains an unusual amount of furnishings and belongings, the City of York's representative may count additional rooms to the DOT schedule in determining the amount of the Fixed Payment.

3. The City of York may count basements, garages, storage rooms, walk-in closets, (but not ordinary closets), and other

storage areas that contains items to be moved in making their determination.

4. The displaced person does not need to provide additional documentation once the City of York's determination is made regarding the number of rooms to be counted.

5. However, the City of York may withhold a portion of the payment until the move is completed to the satisfaction of designated City of York representatives.

C. ADVANCE PAYMENTS. When a hardship would occur otherwise, the City of York may make an advance payment against the displaced person's entitlement if requested.

a. The amount of the advance will be determined by individual circumstances, but the following guidance will be used in making that determination:

b. The verified need for an application fee, security deposit, and other pre-paid fees customary for the area and for other properties managed by the Property Management firm.

c. The displaced person will authorize the advance payment to be made directly to the Property Management firm or owner.

d. The replacement unit must have been inspected and meet applicable codes and standards.

e. The Property Manager and the displaced person must have a provisional lease executed, pending the receipt of the advance payment.

f. The amount of the advance will be deducted from the balance of the person's entitlement once the person has moved.

D. NON-RESIDENTIAL MOVING PAYMENTS.

a. Displaced businesses, farms, and non-profit agencies are also eligible for moving expenses. All are eligible for Actual Moving costs; however, only certain of these are eligible for a Fixed Payment. City of York representatives should refer to HUD Handbook 1378, Chapter 4 for guidance on Fixed Payment eligibility.

b. In determining the amount of an Actual Move claim, the City of York representative will contact two professional moving companies to obtain a bid to pack, move, and unpack the personal property and movable items related to the business, farm, or non-profit (hereafter referred to as simply the "business").

i. If the move is uncomplicated and likely to be less than $1,000.00 only one bid is necessary.

ii. If professional movers demand to be paid for their time in preparing a bid, the reasonable cost for this service is an eligible project cost.

iii. The City of York will limit the amount of the Actual Moving claim to the lowest bid by a responsive bidder.

1. In determining who is or is not a "responsive bidder" the City of York and business will consider the complexity of the move in light of the mover's experience and track record.

2. The City of York and business will also weigh the availability of the bidders to perform the work against the needs of the business and the schedule for the project.

iv. If the business owner chooses to do the move with his/her own employees, the amount of the payment will be limited to the amount of the low bid by a professional responsive bidder.

v. If the nature of the business is such that no professional mover in the area is qualified to do the work or bid, the City of York may authorize the business to perform the work with their own managers, equipment, and employees, paying their normal salaries and pro-rating the cost of using the businesses' equipment during the move.

vi. Re-installation costs, search costs, and other actual costs allowed by the URA will be paid after being supported by documentation, invoices, or time sheets.

vii. Documentation of claims for self-moves will include bids from professional movers (where applicable) and time sheets that are consistent with normal salaries paid and equipment costs during hours of regular operation.

E. DOCUMENTING AND COMPLETING CLAIMS.

a. A completed copy of the unit inspection form and the executed lease must be maintained in the displaced person's file (for residential tenants).

b. The City of York's representative will meet with the residential or non-residential occupant who will be displaced and assist them prepare their portion of relocation claim forms as well as gather necessary documentation to support their claims.

c. The head of household or business owner who will be displaced must sign an original and one copy of the claim form. He/she should keep one of the copies.

d. The second original claim form will be reviewed to determine the amount of relocation assistance to be recommended for payment. The claim will then be reviewed for approval by an authorized representative of the City of York.

e. Once the claim is approved, a copy of the approved claim will be made and provided to the displaced person for their records.

f. The approved claim will be forwarded to Accounts Payable. After payment is issued, the processed claim will be kept in the displaced person's file.

g. The City of York's representative will work closely with Accounts Payable staff to assure that payment requests are processed in a timely fashion as to avoid a hardship or loss of a unit due to lack of a deposit.

h. Checks will either be personally delivered (with a receipt) or mailed by certified mail.

i. When payment is issued for a relocation benefit, the City of York will make a copy of the check for the file, and also keep a copy of the endorsed back of the check once it is cashed.

j. When a business qualifies for a Fixed Payment, the City of York will document the amount of the claim by using tax forms authorized as being submitted to the IRS, certified financial statement, or other forms of verification that is reasonable and credible.

F. REPLACEMENT HOUSING PAYMENTS.

a. The first Replacement Housing Payment will not be issued without adequate assurance that the person is moving into a DSS unit.

i. The unit must pass a physical inspection, and

ii. There must be written lease between the Manager and the displaced person. If the lease cannot be executed before the first Replacement Housing Payment is available to the person, the City of York must take safeguards to assure that the lease does become executed.

b. Whenever possible, the County will work with the staff responsible for administering the Section 8 program to obtain a Voucher for eligible displaced tenants.

i. If Section 8 is available and offered to a tenant who is protected only by the URA, the tenant has the option to accept or reject the Section 8 assistance versus a Replacement Housing Payment.

1. If they accept the Section 8 assistance, they will usually not receive a Replacement Housing Payment.
2. The exception to this would occur if the renter had been paying rent that was less than the amount established by the formula for Total Tenant Payment (usually 30% of adjusted monthly income.) In that case, the tenant would qualify for a "gap payment".

ii. If the tenant is protected by both the URA and Section 104(d), the City of York may choose to offer Section 8 rental assistance in lieu of 60 months of assistance.

iii. If the 104(d) tenant chooses to receive a Replacement Housing Payment rather than Section 8, he/she will be limited to a payment based on a 42-month period, not 60 months.

c. If Section 8 is not available, and the displaced person is protected by Section 104(d) and the URA, the City of York must offer a Replacement Housing Payment based on 60 months of assistance.

d. If the displaced person protected by Section 104(d) chooses to purchase a home, rather than rent, they are limited to purchasing a unit developed as mutual housing or as a cooperative.

e. If the displaced person does not want to purchase a home under these forms of homeownership, they are only eligible for a URA-level of Replacement Housing Payment based on 42 months of assistance.

G. PERIODIC PAYMENTS FOR RESIDENTIAL TENANTS. The City of York will issue Replacement Housing Payments in two installments over a two-year period, unless the tenant purchases a home. In that case, total amount of the RHP will be issued as a lump-sum payment.

a. The first payment for renters will be made with in 90 days of at the time the displaced moves to DSS housing. It will be one-half of the entitlement.

b. The remaining payments will be issued one year later on the first of the month marking the move-in.

H. RENTERS WHO PURCHASE UNITS.

a. In the event that a tenant purchases a unit, the full amount of the Replacement Housing Payment will be issued in a two-party check to the displaced person and to the closing company.

b. Copies of the closing statement and checks will kept on file to document the claim.

c. A copy of a completed unit inspection form for both the comparable and the replacement unit must be kept on file.

I. DISPLACED HOMEOWNERS.

a. A comparable unit for sale, or the actual purchase price of the replacement unit – whichever is less – will be used to establish the Replacement Housing Payment.

b. The difference between this cost and the acquisition price will be paid to the homeowner at closing of the replacement unit.

c. Closing costs for the replacement unit, plus an interest differential payment, if applicable, will be paid. Amounts required for pre-paid escrowed taxes and insurance are not eligible for reimbursement.

d. The displaced homeowner has the right to apply a portion or all of the Replacement Housing Payment toward the replacement unit.

e. The purchase agreement for the replacement unit, inspection report, closing statement and proof of payment must be kept in the displaced person's file.

CHAPTER SIX: ACQUISTION

A. OVERVIEW: The City of York acknowledges the critical difference between acquisition of property when the sale is voluntary or involuntary. There are protections for sellers in both circumstances, only the involuntary sale triggers the URA requirements.

B. VOLUNTARY SALE: When a voluntary sale occurs, there can be no threat of eminent domain or condemnation to acquire the unit. The sales price may be negotiated, but the seller must be informed of the following circumstances.

   a. Voluntary acquisition where the grantee has the power of eminent domain but agrees in writing not to use this power. In this case the property may not be a part of a planned or designated project area where substantially all of the properties will be purchased with in a specific time. Having a private developer act on the grantees behalf, where the grantee is prepared to intervene with condemnation should negotiations fail does not constitute voluntary acquisition.

      i. The grantee must send a letter indicating that the grantee will not use the power of eminent domain and identify the fair market value of the property. The Guideform Notice, Exhibit 5-1 of the HUD Handbook 1378 should be used

   b. Voluntary acquisition where the grantee does not have the power of eminent domain and advises the owner of such.

      i. The seller must be informed that the buyer does not have the power of eminent domain and the fair market value of the property. The Guideform Notice, Exhibit 5-1 of the HUD Handbook 1378 should be used.

   c. Voluntary acquisition where there is a purchase of property from a governmental agency where the grantee does not have the power of eminent domain.

      i. The seller must be informed that the buyer does not have the power of eminent domain and the fair market value of the property. The Guideform Notice, Exhibit 5-1 of the HUD Handbook 1378 should be used.

C. INVOLUNTARY ACQUISITION: The Uniform Relocation Act requires that grantees:

   a. Notify the seller of the City of York's intention to acquire the property
      1. There are two levels of notification.
         a. Notice of Interest or a Notice of Intent which must be sent to the owner informing them of the City of York's interest or intention to acquire the property.
            i. Express interest in the property

ii. Informs the owner that he agency must conduct an appraisal to establish the fair market value
iii. Identify the owner will be offered the fair market value and what other costs may be covered
iv. Informs the owner of the URA protections

b. Notice of Just Compensation
i. Delivery date is the "Initiations of Negotiations"
ii. Must include the full amount of just compensation
iii. Summarize the basis of the offer

b. Notify the owner and the tenants of their URA protections.

c. Offer the fair market value of the property based on the City of York's Appraisal Requirements (see attachment 6-1)

d. Notice of Eligibility for Relocation Assistance for person who will be displaced.

D. REPLACEMENT HOUSING ASSISTANCE: A Replacement Housing Payment (RHP) shall be provided to displaced homeowners. The calculation of the benefit depends on length of occupancy in the displaced unit.

a. For homeowners who resided in the displacement unit less than 180 days are entitled to RHP calculated for a renter.

b. For homeowners who reside in the displacement unit over 180 days, they are entitled to RHP in the amount by which the cost of the replacement unit exceeds the acquisition amount, additional mortgage financing costs and reasonable incidental expense in the purchase.

E. MOVING AND RELATED EXPENSE: Displaced homeowners are entitled to reimbursement of actual moving expense or receipt of a Fixed Payment based on the Federal Highway Administration

CHAPTER SEVEN: BUSINESS RELOCATION CLAIMS AND PAYMENTS

A. GENERAL. The City of York will provide nonresidential displaced persons (businesses, farms and nonprofit organizations) with assistance under the Uniform Act (URA). It will assist in completing claims for moving expenses, in processing advance payments against their entitlement, and in assuring timely payment of benefits. The City of York will require documentation to support the claims paid and maintain the documentation in each displaced person's records on file.

B. NONRESIDENTIAL MOVING CLAIMS.

a. Only nonresidential displaced occupants who have elected not to accept the fixed payment for displacement are eligible for a moving expense payment.
b. A Small Business (less than 500employees on site) is eligible for Reestablishment Expense. or

c. A displaced nonresidential occupant has the option of choosing a Fixed Payment. The Fixed Payment is based the average annual net earnings of the business. Fixed payments are not less than $1,000 but no more than $20,000. This payment is in lieu of receiving a payment for actual reasonable moving and related expenses and a payment for reestablishment.

i. Actual Moving Expenses.

1. If the person is interested in filing a claim for Actual Moving Expenses, the City of York will contact two professional moving companies (one if the move is not complex) and obtain a bid to pack, move, and unpack the person's belongings.

2. The low bid will set the upper limit of the Actual Moving Expense claim, regardless who performs the move.

3. The City of York may either pay the moving company directly or pay the displaced person who will be responsible for paying the invoice.

ii. Fixed Moving Payment.

1. If the displaced person chooses to file a claim for a Fixed Moving Payment instead of an Actual Moving Expense claim, the City of York representative will accompany the person filing the claim throughout the property to determine how many rooms of belongings and furniture will need to be moved.

2. If any room contains an unusual amount of furnishings and belongings, the City of York's representative may count additional rooms to the DOT schedule in determining the amount of the Fixed Payment.

3. The City of York may count basements, garages, storage rooms, walk-in closets, (but not ordinary closets), and other storage areas that contains items to be moved in making their determination.

4. The displaced person does not need to provide additional documentation once the City of York's determination is made regarding the number of rooms to be counted.

5. However, the City of York may withhold a portion of the payment until the move is completed to the satisfaction of designated City of York representatives.

C. ADVANCE PAYMENTS. When a hardship would occur otherwise, the City of York may make an advance payment against the displaced person's entitlement if requested.

a. The amount of the advance will be determined by individual circumstances, but the following guidance will be used in making that determination:

b. The verified need for an application fee, security deposit, and other pre-paid fees customary for the area and for other properties managed by the Property Management firm.

c. The displaced person will authorize the advance payment to be made directly to the Property Management firm or owner.

d. The replacement unit must have been inspected and meet applicable codes and standards.

e. The Property Manager and the displaced person must have a provisional lease executed, pending the receipt of the advance payment.

f. The amount of the advance will be deducted from the balance of the person's entitlement once the person has moved.

D. NON-RESIDENTIAL MOVING PAYMENTS.

a. Displaced businesses, farms, and non-profit agencies are also eligible for moving expenses. All are eligible for Actual Moving costs; however, only certain of these are eligible for a Fixed Payment. City of York representatives should refer to HUD Handbook 1378, Chapter 4 for guidance on Fixed Payment eligibility.

b. In determining the amount of an Actual Move claim, the City of York representative will contact two professional moving companies to obtain a bid to pack, move, and unpack the personal property and movable items related to the business, farm, or non-profit (hereafter referred to as simply the "business").

i. If the move is uncomplicated and likely to be less than $1,000.00 only one bid is necessary.

ii. If professional movers demand to be paid for their time in preparing a bid, the reasonable cost for this service is an eligible project cost.

iii. The City of York will limit the amount of the Actual Moving claim to the lowest bid by a responsive bidder.

1. In determining who is or is not a "responsive bidder" the City of York and business will consider the complexity of the move in light of the mover's experience and track record.

2. The City of York and business will also weigh the availability of the bidders to perform the work against the needs of the business and the schedule for the project.

iv. If the business owner chooses to do the move with his/her own employees, the amount of the payment will be limited to the amount of the low bid by a professional responsive bidder.

v. Re-installation costs, search costs, and other actual costs allowed by the URA will be paid after being supported by documentation, invoices, or time sheets.

vi. Documentation of claims for self-moves will include bids from professional movers (where applicable) and time sheets that are consistent with normal salaries paid not to exceed what the professional movers would receive and equipment costs during hours of regular operation based on what a professional mover would pay..

E. DOCUMENTING AND COMPLETING CLAIMS.

a. A non-residential occupant must be relocated to the replacement unit and all remaining items in the displaced unit removed before a relocation claim can be completed

b. The City of York will meet with non-residential occupant who will be displaced and assist them prepare their portion of relocation claim forms as well as gather necessary documentation to support their claims.

c. The business owner who will be displaced must sign an original and one copy of the claim form. He/she should keep one of the copies.

d. The second original claim form will be reviewed to determine the amount of relocation assistance to be recommended for payment. The claim will then be reviewed for approval by an authorized representative of the City of York.

e. Once the claim is approved, a copy of the approved claim will be made and provided to the displaced person for their records.

f. The approved claim will be forwarded to Accounts Payable. After payment is issued, the processed claim will be kept in the displaced business' file.

g. The City of York's representative will work closely with Accounts Payable staff to assure that payment requests are processed in a timely fashion as to avoid a hardship.

h. Checks will either be personally delivered (with a receipt) or mailed by certified mail.

i. When payment is issued for a relocation benefit, the City of York will make a copy of the check for the file, and also keep a copy of the endorsed back of the check once it is cashed.

j. When a business qualifies for a Fixed Payment, the City of York will document the amount of the claim by using tax forms authorized as being submitted to the IRS, certified financial statement, or other forms of verification that is reasonable and credible.

F. Payment of Actual Moving Expense.

a. The displaced business is entitled to payment of their actual moving and related expenses as the City of York determines to be reasonable and necessary. It may claim the actual, reasonable and necessary cost of:
   i. Transportation costs limited to 50 miles from displaced site
   ii. Packing, crating, unpacking, and uncrating property
   iii. Disconnecting, dismantling, removing, reassembling and reinstalling relocated property including machinery, equipment, substitute personal property, and connections to utilities.
   iv. Modifications to property mandated by Federal, State or local law, code or ordinance necessary at replacement structure
   v. Storage of personal property not to exceed 12 months
   vi. Insurance on replacement value
   vii. Replacement value of property lost, stolen or damaged in the process of moving where insurance was not available
   viii. License, permit, fees or certification at new location
   ix. Professional services to plan the move and installation
   x. Re-lettering signs and remaining stationary
   xi. Direct loss of property as determined by the Highway department and the HUD Handbook 1378
   xii. Reasonable costs to sell items not relocated
   xiii. Purchase of substitute property as determined by the Highway department and the HUD Handbook 1378
   xiv. Searching for replacement unit (caped at $2,500)
   xv. Low value/high bulk as per Highway department
   xvi. Impact fees
   xvii. Other moving expenses as determined by the City of York to be reasonable and necessary

b. Reestablishment Expense up to the amount of $10,000 for expenses actually incurred in relocating and reestablishing the business at the new site. These include:
   i. Repairs or improvements as required by Federal, State or local law, code or ordinance
   ii. Modifications to the replacement property to accommodate the business or make replacement structures suitable for conducting business
   iii. Construction and installation of exterior signs
   iv. Redecorating or replacement of soiled or worn surfaces (not asthethic redecorating)
   v. Advertisement of replacement location
   vi. Estimated increased cost of operation during the first two years of operation at the new location
   vii. Other items the City of York determines necessary for reestablishment

C. Supporting Documentation must accompany the claim form HUD-40055 for processing of the claim

D. Non-Profits- a non-profit organization is eligible as a displaced nonresidential tenant. The nonprofit is eligible for actual moving expense and reestablishment or fixed moving expense

CHAPTER Eight: APPEALS

1. GENERAL: A person may file an appeal in any form to City of York if the person believes they:

    a. Qualify for benefits as a displaced person, or will qualify upon moving, and the City of York has determined they do not meet the requirements as a "displaced person."

    b. Are entitled to a greater amount of relocation payments than the City of York has approved. However, the person's acceptance of the approved amount does not prohibit the appeal from going forward.

    c. Did not receive appropriate referrals to comparable replacement units or the City of York did not inspect the replacement unit in a timely manner.

    d. Are being unjustly denied a claim for relocation benefits because they failed to secure decent, safe, and sanitary housing within one year or file a claim within 18 months after being displaced.

2. TIME LIMIT: City of York will accept appeals from a claimant up to 60 days from the time they receive written notification of the City of York's determination on their claim. After 60 days, the person must document a hardship or special circumstances that would support their need for an extension.

3. FILING THE APPEAL:

    a. Right to Representation:

        i. The person filing an appeal has the right to legal or other representation at their own expense.

        ii. If the claimant is a low-income person (defined as having annual income within 80% of the Area Median Income) and is unable to file a written appeal on their own, the City of York will assist them or refer them to a qualified source, such as Legal Aide, to assist them to prepare their appeal.

    b. Review of Records and Files:

        i. The person filing an appeal has the right to review files and records in the City's offices during regular business hours.

        ii. The records available to the claimant will be limited to those having a direct bearing on the case and will be subject to privacy and confidentiality laws.

        iii. The person filing the appeal may make copies of pertinent records and documents. The City of York will provide access to their copying equipment within reasonable terms and conditions.

CITY OF YORK REVIEW OF APPEALS:

c. Hearing Official: The person hearing the appeal by a claimant will be designated by the City of York's Director and will be someone other than the person who made the original determination or was involved in the action being appealed.

d. Timing for Hearing: Once the claimant has made a written request for a hearing, the City of York will set a date and time for the appeal within ten working days.

e. Facts to be Considered: The hearing will be conducted in a manner that provides for a fair, unbiased review of the City of York's determination. In hearing the appeal, the Hearing Officer will consider all pertinent information, including any information presented by the claimant.

f. Determination After Appeal: The Hearing Officer will make a determination within ten working days after hearing the appeal. The claimant will then be provided a written response to the appeal with an explanation of the basis on which the decision was made.

4. HUD REVIEW OF APPEALS:

a. Circumstances for HUD Appeals: There are three circumstances under which the Philadelphia HUD Office will review the City of York's determination on an appeal:

i. HOME or Community Development Block Grants are being used in the project,

ii. A low-income person (defined as having income at or below 80% of the Area Median Income) is making the appeal, and

iii. The person first sought relief from City of York staff and was dissatisfied with the results of the appeal.

b. In reviewing the case, HUD will consider all relevant information including material submitted by the claimant. Upon request, the City of York will provide a complete copy of the person's case file.

c. HUD will arrange for prompt hearing by staff and make a written determination with an explanation of the basis for the determination.

d. If HUD concludes that the person is entitled to all or a portion of the relief being sought, and directs City of York to take appropriate action, city staff will comply promptly.

5. DENIAL OF APPEAL: If HUD denies the relief being sought, or if the claimant is not a low-income person and therefore ineligible to seek HUD review, the claimant may still seek review by the courts at his/her own expense.

Selection of Most Representative

Comparable Replacement Dwelling

for Computing a Replacement Housing Payment

U.S. Department of Housing and Urban Development
Office of of Community Planning and Developmemt

OMB Approval No. 2506-0016
(exp. mm/dd/yyyy)

1. Agency	2. Project	3. Household	4. Select One ☐ Owner ☐ Tenant	5.Case Number

Public reporting burden for this collection of information is estimated to average 1.0 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Privacy Act Notice: This information is needed to determine whether you are eligible to receive a payment to help you rent or buy a new home. You are not required by law to furnish this information, but if you do not provide it, you may not receive any payment for these expenses or it may take longer to pay you. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR 24. The information may be made available to a Federal agency for review.

Factors (see back of page)	Displacement Dwelling	Comparable No.1	Comparable No.2	Comparable No.3
Address				
Type of Unit				
Stories / Style				
Lot Size				
Type of Construction				
Age (in years)				
Condition				
Area of Living Space				
No.Rooms/Bedrooms /Baths	/ /	/ /	/ /	/ /
Basement				
Parking/No. of Cars				
Type of Heating /Fuel	/	/	/	/
Type of Air Conditioning				
Neighborhood				
Transportation (distance)				
Current Work (distance)				
High School/Grade School (distance)	/	/	/	/
Neighborhood Shopping (distance)				
Religious Facility (distance)				
Sale Price or Rent/Utility Costs	$	$	$	$
Other				
Date of Inspection				
Date Available				
Most Representative Comparable Replacement Dwelling (Check "Comparable no.1, 2, or 3" and complete Comments)		☐	☐	☐

Comments: Include appropriate analysis and correlation of data. For rental units, indicate utilities included in rent and provide estimates for other utility costs. Indicate availability of any housing subsidy. If condominium or cooperative, indicate required fees. (Continue on back of page)

Comments continued on back of page ☐ Yes ☐ No

Prepared By	Date (mm/dd/yyyy)	Approved by	Date (mm/dd/yyyy)

Comments Continued:

Comments continued on a separate page ☐ Yes ☐ No

Factors	Examples
Type of Unit	Detached,Row, End Row, Townhouse, Highrise Apartment, Mobile Home (Indicate whether this is subsidized housing)
Stories	1, 11/2, 2, 21/2, Split Level, Split Foyer
Style	Colonial, Cape, Ranch, Contemporary, Tudor, Mediterranean
Type of Construction	Frame, Masonry, Pre-Fab, Stone, Concrete Block, Concrete, Veneer (wood, brick, or aluminum siding)
Condition	Poor, Fair, Good, Very Good, Excellent
Basement	Full, Partial (1/2), None; Finished or Unfinished
Parking	Attached, Built-In, Detached, Carport Paved Open Area, Unpaved Open Area, None
Type of Heating	Forced Air, Hot Water, Electric, Heat Pump, Steam, Space Heater, Solar, None
Type of Fuel	Natural Gas, Propane Gas, Oil, Electric, Coal, Solar
Type of Air Conditioning	Central, Wall, Window, None
Neighborhood	Poor, Fair, Good, Very Good, Excellent. (Based on characteristics such as vacancy levels, quality and maintenance of dwellings, landscaping, Street Maintenance, Trash Pickup, and Nonconforming land uses)
Other	Swimming Pool, Fireplace, Patio, Porch, Greenhouse

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Claim for Rental Assistance or Down Payment Assistance (49 CFR 24.402 and 24.401(f))

See back of page for Public Reporting Burden and Privacy Act Statements before completing this form

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0016
(Exp. mm/dd/yyyy)

For Agency Use Only	Name of Agency	Project Name or Number	Case Number

Instructions: This claim form is for the use of families and individuals applying for rental or down payment assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and may also be used by a 180-day homeowner-occupant who chooses to rent rather than buy a replacement home. The Agency will help you complete the form. HUD also provides information on these requirements and other guidance materials on its website at www.hud.gov/relocation. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal.

Displaced persons must rent/purchase and occupy a decent, safe and sanitary replacement dwelling within one year from the date of displacement for replacement housing payment eligibility (see 24.402(a)(2)). All claims for payments must be filed no later than 18 months from the date of dispalcement (see 24.207(d)).

1a. Your Name(s) (You are the Claimant(s)) and Present Mailing Address	1b. Telephone Number(s)

2a. Have all members of the household moved to the same dwelling? ☐ Yes ☐ No (If "No", list the names of all members and the addresses to which they moved in the Remarks Section.)

2b. Do you (or will you) receive a Federal, State, or local housing program subsidy at the dwelling you moved to? ☐ Yes ☐ No

Dwelling	Address	When Did You Rent/Buy This Unit?	When Did You Move To This Unit?	When Did You Move Out of This Unit?
3. Unit That You Moved From				
4. Unit That You Moved To				

5. **Certification of Legal Residency in the United States** (Please read instructions below before completing this section.)

Instructions: To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. **Your signature on this claim form constitutes certification. See 49 CFR 24.208(g) & (h) for hardship exceptions.** (This certification may not have any standing with regard to applicable State laws providing relocation benefits.)

Please address only the category (Individual or family) that describes your occupancy status. For item 5(2), please fill in the correct number of persons.

RESIDENTIAL HOUSEHOLDS

(1) Individual.
Certify that I am: (check one)
_____ a citizen or national of the United States
_____ an alien lawfully present in the United States.

(2) Family.
I certify that there are _____ persons in my household and that _____ are citizens or nationals of the United States and _____ are aliens lawfully present in the United States.

6. **Determination of Person's Financial Means**		Household Income: Claimant (a)	Household Income: For Agency Use Only (b)
(1) Total number of persons in the household (See item 5(1) or (2))			
(2) Annual Gross Household Income. (49 CFR 24.2(a)(14)). Enter name of each household member with income (include the income of persons not lawfully present in the U.S.)		$	$
(3) Total Gross Annual Income (Sum of entries in item 6(2))		$	$
(4) URA low income limit for number of persons in item 6(1). Stop here if item 6(3) is greater than item 6(4) - Family is not low-income. See 49 CFR 24.402 (b)(2)(ii)			$
(5) Gross Monthly Income (Divide item 6(3) by 12)		$	$
(6) 30% of item 6(5) (Enter this amount in item 8(5) only if gross annual income item 6(3) is less then or equal to URA low income limit in item 6(4), otherwise enter "NA".)		$	$

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7. Determination of Rent and Average Monthly Utility Costs (See 49 CFR 24.402(b))

Instructions: To compute the payment, entries on line (8) must reflect all utility services. Therefore, identify on lines (2) through (5) each utility necessary to provide electricity, gas, other heating/cooking fuels, water and sewer. In those cases where the utility service is not covered by the monthly rent, indicate the estimated out-of-pocket monthly In those cases where the utility service is covered by the monthly rent, enter "IMR" (In Monthly Rent). Determine the estimated average monthly cost of a utility service by the reasonable estimated yearly cost by 12. If a monthly housing program subsidy (e.g., Housing Choice Voucher/Section 8, other) has been provided, enter the applicable a on line (7).

Monthly Cost	Unit That You Moved From (For Homeowner-Occupant, rent will be determined by the agency.)		Unit That You Moved To (Do not complete if claim is for down payment assistance.)		Comparable Replacement Dwelling
	(a) Claimant	(b) For Agency Use Only	(c) Claimant	(d) For Agency Use Only	(e) To Be Provided By Agency
(1) Rent (The monthly rental amount due under the terms and conditions of occupancy. If utilities are not included in rent, list in item 7(2) to (5))	$	$	$	$	$
(2)					
(3)					
(4)					
(5)					
(6) Gross Monthly Rent and Utility Costs (add item 7(1) through (5))	$	$	$	$	$
(7) Monthly Housing Subsidy, if applicable (e.g., Housing Choice Voucher/Section 8, other)	$	$	$	$	$
(8) Net Monthly Rent and Utility Costs (subtract item 7(7) from item 7(6)) (Enter these amounts on the appropriate lines in item 8.)	$	$	$	$	$

8. Computation of Payment: If you are filing for down payment assistance, check this box ☐ and skip item 8(1).	To Be Completed By Claimant (a)	For Agency Use Only (b)
(1) Monthly Rent and Average Monthly Utility Costs for Unit That You Moved To (From item 7(8), Column (c))	$	$
(2) Monthly Rent and Average Monthly Utility Costs for Comparable Replacement Dwelling (From item 7(8), Column (e)) (To be provided by the Agency)		
(3) Lesser of item 8(1) or (2) (If claim is for down payment assistance, enter amount from item 8(2))		
(4) Monthly Rent and Average Monthly Utility Costs for Unit That You Moved From (From item 7(8), Column (a)) (For Homeowner-Occupants who choose to rent, to be determined by the agency.)		
(5) 30% of Average Gross Monthly Household Income (From item 6(6), Column (a)). If item 6(6) is "NA", enter "NA" here.		
(6) Lesser of item 8(4) or 8(5)		
(7) Monthly Need (Subtract item 8(6) from item 8(3))		
(8) Amount of Payment Claim (Amount on item 8(7) multiplied by 42) (For a Homeowner-Occupant who elects to rent, this amount cannot exceed the difference between the aquisition cost of the displacement dwelling and the cost of a comparable replacement dwelling. See form HUD-40057, item 5(5).)	$	$
(9) Amount Previously Received (if any)		
(10) Amount Requested (Subtract item 8(9) from 8(8))	$	$

9. **Certification By Claimant(s):** I certify that the information on this claim form and supporting documentation is true and complete and that I have not been paid for these expenses by any other source.

Signature(s) of Claimant(s) & Date

X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

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To be Completed by the Agency	10. Effective date (mm/dd/yyyy) of eligibility for relocation assistance	11. Date (mm/dd/yyyy) replacement dwelling inspected and found decent, safe and sanitary	12. Date(mm/dd/yyyy) person occupied replacement dwelling

13. Payment To Be Made In: ☐ Lump Sum (only for down payment assistance) ☐ Monthly Installments ☐ Other Installments (specify in the Remarks Section)

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date (mm/dd/yyyy)
14. Recommended	$			
15. Approved	$			

Remarks

Remarks continued on a separate page? ☐ Yes ☐ No

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Privacy Act Notice: This information is needed to determine whether you are eligible to receive a payment to help you rent or buy a new home. You are not required by law to furnish this information, but if you do not provide it, you may not receive this payment or it may take longer to pay you. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), and implementing regulations at 49 CFR Part 24. The information may be made available to a Federal agency for review.

Claim for Moving and Related Expenses

'amilies and Individuals

ee back of page for Public Reporting Burden and Privacy Act Statements before completing this form

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0016
(exp. 04/30/2005)

For Agency Use Only — Name of Agency	Project Name or Number	Case Number

Instructions: This claim form is for the use of families and individuals applying for payment of moving and related expenses. You may apply for either (1) a fixed allowance, or (2) an amount to cover the actual moving and related expenses incurred (as described on page 2 of this form). A claim for actual expenses must be supported by receipts or other evidence. The Agency will explain the differences between the two types of payments and will help you complete this form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal.

1. Your Name(s) (You are the Claimant(s)) and Present Mailing Address	1a. Telephone Number(s)

2. Have All Members of the Household Moved to the Same Dwelling? ☐ Yes ☐ No
(If "No," list the names of all members and the addresses to which they moved in the Remarks Section.)

Dwelling	Address (include Apartment No.)	How many rooms did you occupy? *	Was it furnished with your own furniture?	When did you move to this unit?
3. Unit That You Moved From			☐ Yes ☐ No	
4. Unit That You Moved To		* Excluding bathrooms, hallways and closets.		

5. Is This a Final Claim? ☐ Yes ☐ No

6. **Computation of Payment** (complete Item 6a or 6b)

Item	6a. Fixed Allowance	6b. Actual Moving Expenses	For Agency Use Only
(1) Moving Cost		$	$
(2) Transportation Cost—Families and Individuals			
(3) Cost of Insurance Covering Move and/or Storage			
(4) Storage Cost (Complete Item 10 on page 2)			
(5) Other (Explain in Remarks Section)			
(6) Total Amount of Claim (Consult Agency for amount of fixed allowance)	$	$	$
(7) Amount Previously Received, if any			
(8) Amount Requested (Subtract line (7) from line (6))	$	$	$

7a. **Certification of Eligibility for Relocation Payments and Services**

Instructions: To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. The certification below must be completed in order to receive any benefits. (This certification may not have any standing with regard to applicable State laws providing relocation benefits.) **Your signature(s) on this claim form constitutes certification.**

The individual(s) listed below occupy/occupies the dwelling at _____.

_____ _____ _____

_____ _____ _____

I, _____, as head of household, hereby certify that all individuals are either United States citizens or nationals, or are aliens lawfully present in the United States.

For unrelated individuals, each individual by affixing their signature below certifies that they are either a United States citizen or national, or an alien lawfully in the United States

(Signature and Date)	(Signature and Date)	(Signature and Date
(Signature and Date)	(Signature and Date)	(Signature and Date

7b. **Certification By Claimant(s):** I certify that this claim and supporting information are true and complete and that I have not been paid for these expenses by any other source. I ask that the amount on line (8) of Item 6 be paid to ☐ me ☐ the contractor(s) (as specified in the Remarks Section).

Signature(s) of Claimant(s) & Date:

X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

To Be Completed by the Agency

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date (mm/dd/yyyy)
8. Recommended	$			
9. Approved	$			

10. **Supporting Data For Storage Cost** (Describe property stored in Remarks Section or attach list.)

Is this a Final Claim for Storage? ☐ Yes ☐ No

Date moved to Storage (mm/dd/yyyy)	Date moved from Storage (mm/dd/yyyy)

Name & Address of Storage Company

Should Payment be made directly to Storage Company? ☐ Yes ☐ No

Computation of Storage Costs

Item	Amount	For Agency Use Only
Monthly Rate for Storage	$	$
Number of Months in Storage		
Total Storage Costs (enter on line (4) of Item 6b)	$	$
Amount Previously Received (Include this Amount in line (7) of Item 6b)	$	$

Remarks (Attach additional sheets, if necessary)

Additional sheets attached? ☐ Yes ☐ No

Moving and Related Expenses Which Are Paid For

1. Transportation of individuals, families and personal property from the displacement site to the replacement site. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
2. Packing, crating, uncrating and unpacking of personal property.
3. Necessary charges for the removal and hookup of appliances, equipment and other items, not acquired as real property.
4. Storage of the personal property, as determined necessary by the Agency.
5. Insurance of the personal property in connection with the move and necessary storage.
6. The replacement value of property lost, stolen or damaged in the move where insurance is not reasonably available.

Moving and Related Expenses Which Are Not Paid For

1. Cost of moving any building or other real property in which the displaced person reserved ownership.
2. Interest on a loan to cover moving expenses.
3. Personal injury.
4. Any legal fee or other cost for preparing the claim for moving and related expenses or for representing the claimant before the Agency.
5. Expenses for searching for a replacement dwelling.

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructior searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency m not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control numb

Privacy Act Notice: This information is needed to determine whether you are eligible to receive a payment for moving and related expenses. You are not required by law to furnish this information, but if you do not provide it, you may not receive any payment for these expenses or it may take longer to pay you. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The information may be made available to a Federal agency for review.

Claim for Replacement Housing Payment for 180-Day Homeowner-Occupant (49 CFR 24.401)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0016
(exp. 07/31/2008)

Agency Use Only: Name of Agency	Project Name or Number	Case Number

Instructions. This form is for the use of families and individuals applying for a replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) for a 180-day homeowner occupant who elects to buy a replacement home. A homeowner-occupant who decides to rent rather than buy should also use form HUD-40058. The Agency will help you complete this form. HUD also provides information on these requirements and other guidance materials on its website at: www.hud.gov/relocation. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal.

All claims for payment by a homeowner-occupant must be filed within 18 months after the latest of: a) the date of displacement or b) the date of final payment for the acquisition of the real property. Displaced 180-day homeowner occupants muct purchase and occupy a decent, safe and sanitary replacement dwelling within 1 year after the later of: a) the date of final payment for the displaced dwelling (for condemnation, use the date just compensation deposited in court) or b) the date a comparable replacement dwelling is made available by the agency (see 24.204).

1. Your Name(s) (You are the Claimant(s)) and present Mailing Address	1a. Your Telephone Number(s)

2. Have all members of the household moved to the same dwelling? ☐ Yes ☐ No (If "no", attach a list of the names of all members and the addresses to which they moved.)

Dwelling	Address	When did you buy this unit?	When did you move to this unit?	When did you move out of this unit?
3. Unit That You Moved From				
4. Unit That You Moved To				

5. Certification of Legal Residency in the United States (Please read instructions below before completing this section.)
Instructions: To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. **The certification w must be completed in order to receive any relocation benefits.** (This certification may not have any standing with regard to applicable State , providing relocation benefits.) **Your signature on this claim form constitutes certification.** See 49 CFR 24.208(g) & (h) for hardship exceptions.

Please address only the category (Individual or family) that describes your occupancy status. For item (2), please fill in the correct number of persons.

RESIDENTIAL HOUSEHOLDS

(1) Individual.
I certify that I am: (check one)
_____ a citizen or national of the United States
_____ an alien lawfully present in the United States.

(2) Family.
I certify that there are _____ persons in my household and that _____ are citizens or nationals of the United States and _____ are aliens lawfully present in the United States.

6. **Computation of Replacement Housing Payment** (A homeowner-occupant who elects to rent should complete only items 1, 3, 4 & 5)	To Be Completed By Claimant	**For Agency Use Only**
(1) Purchase Price of Comparable Replacement Dwelling (To be provided by the Agency)		
(2) Purchase Price of the Dwelling You Moved **To** (Not applicable for owner-occupant who elects to rent)		
(3) Lesser of line 6(1) or 6(2)		
(4) Price Paid by Agency for Dwelling That You Moved **From**		
(5) Price Differential Amount (Subtract line 6(4) from line 6(3). If amount on line 6(4) exceeds amount on line 6(3), enter 0) This is the maximum amount for a homeowner occupant who elects to rent.		
(6) Incidental Expenses (From line 7(10))		
(7) Mortgage Buydown Payment and Other Debt Service Costs (To be determined by Agency. See instructions in Item 8)		
(8) Total Amount of Replacement Housing Payment Claim (Add lines 6(5), 6(6), and 6(7))		
. Amount Previously Received, if any		
(10) Amount Requested (Subtract line 6(9) from line 6(8))		

Previous editions are obsolete

form **HUD-40057** (2/2005)

7. **Incidental Expenses in Connection With Purchase of Replacement Dwelling (24.401 (e))**

Instructions: Enter expenses incidental to the purchase of your new home. Do not include prepaid costs such as real estate taxes. Attach a copy of the closing statement and other receipts. * Not to exceed the costs for a comparable replacement dwelling.	(a) Claimant	(b) For Agency Use Only
(1) Legal, closing and related costs, including title search, preparing conveyance instruments, notary fees, prearing surveys and plats, and recording fees	$	$
(2) Lender, FHA or VA Application and Appraisal Fees	$	$
(3) Loan Origination or Assumption Fees (Not Prepaid Interest).	$	$
(4) Professional Home Inspection, Certification of Structural Soundness, and Termite Inspection	$	$
(5) Credit Report	$	$
(6) Owner's and mortgagee's evidence of title, e.g. title insurance *	$	$
(7) Escrow Agent's Fee	$	$
(8) State Revenue or Documentary Stamps, Sales or Transfer Taxes *	$	$
(9) Other Costs (specify)	$	$
(10) Total Incidental Expenses (Add lines 7(1) through 7(9). Enter this amount on line 6(6)).	$	$

8. **Mortgage Buydown Payment and Other Debt Service Costs (24.401(d))**

Instructions: You are entitled to compensation to cover the additional costs you must pay to finance the purchase of a replacement dwelling. The "buydown" payment covers those costs that result because the interest rate you must pay for a new mortgage is higher than the interest rate on your old mortgage. The maximum buydown payment for which you can qualify is the amount needed to reduce your new mortgage balance to the amount which can be amortized with the same periodic payments for principal and interest as those for your old mortgage. (The Agency is required to advise you of its estimate of the maximum buydown payment and the interest rate, term and amount on which it was computed. You will need to borrow that amount over that term to qualify for the full payment.) If you have more that one mortgage on either your old or new home, complete a separate Item 8(13) for each computation and include the total amount of all such computations on line 6(7). Note: A mortgage on your old home that was in effect for less than 180 days before the Agency's initial written offer of just compensation for the property cannot be used as a basis for payment. Also, if the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations.

Part A - Information from Mortgage Documents	(a) Old Mortgage	(b) New Mortgage	(c) Lesser of Col. (a) or (b)
(1) Outstanding principal balance	$	$	
(2) Annual interest rate of mortgage	%	%	
(3) Number of monthly payments remaining on mortgage	Mos.	Mos.	Mos.

Part B - Computation of Payment (Use mortgage amortization table with 6 decimal places.)	
(4) Monthly payment required to amortize a loan of $1,000 in _____ months (8(3)(c)) at an annual interest rate of _____ % (8(2)(b))	$
(5) Monthly payment required to amortize a loan of $1,000 in _____ months (8(3)(c)) at an annual interest rate of _____ % (8(2)(a))	$
(6) Subtract line 8(5) from line 8(4)	$
(7) Divide line 8(6) by line 8(4) (carry to 6 decimal places)	$
(8) Enter old mortgage balance (amount on line 8(1)(a))	$
(9) Multiply line 8(7) by line 8(8)	$
(10) New loan needed (subtract 8(9) from 8(8)) **Note:** If 8(10) is less than 8(1)(b), enter amount from line 8(9) onto line 8(13) and skip lines 8(11) and 8(12)	$
(11) Divide 8(1)(b) by 8(10) (carry to 6 decimal places)	$
(12) Multiply line 8(11) by line 8(9)	$
(13) Enter amount from 8(9) or 8(12), as appropriate (This is the mortgage buydown payment)	$
(14) Other debt service costs (Reimbursement of purchaser's points and loan origination fees is based on the new loan needed (8(10)), or the actual new loan balance (8(1)(b)), whichever is less. Do not include seller's points or any cost included as an incidental expense in 7(12).)	$
(15) Add lines 8(13) and 8(14). Enter this amount on 6(7).	$

9. **Certification By Claimant(s):** I certify that the information on this claim form and supporting documentation is true and complete and that I have no' been paid for these expenses by any other source. Signature(s) of Claimant(s) & Date

X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

To Be Completed by Agency

10. Effective Date of Eligibility for Relocation Assistance (mm/dd/yyyy)		11. Date of Referral to Comparable Replacement Dwelling (mm/dd/yyyy)	12. Date Replacement Dwelling Inspected and Found Decent, Safe and Sanitary (mm/dd/yyyy)	
Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date (mm/dd/y
Recommended	$			
14. Approved	$			

Remarks

Public reporting burden for this collection of information is estimated to average 1.0 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR Part 24 and will be used for determining whether you are eligible to receive a replacement housing payment for a 180-day homeowner and the amount of any payment. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control ber.

Privacy Act Notice: This information is needed to determine whether you are eligible to receive a replacement housing payment for a 180-day homeowner. You are not required by law to furnish this information, but if you do not provide it, you may not receive this payment or it may take longer to pay you. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR 24. The information may be made available to a Federal agency for review.

Claim for Fixed Payment in Lieu of Payment for Actual Nonresidential Moving and Related Expenses

CFR 24.305)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0016
(exp. 07/31/2008)

Agency Use Only: Name of Agency	Project Name or Number	Case Number

Instructions: This claim form is for the use of displaced businesses, nonprofit organizations, and farm operators that wish to claim a **Fixed Payment,** rather than claim a **Payment for Actual Reasonable Moving and Related Expenses, including Reestablishment Expenses** under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). **The minimum fixed payment is $1,000; the maximum is $20,000**. This payment is based on the average net annual earnings of an eligible business or farm operation before income taxes during the 2 tax years prior to the tax year in which it was displaced (see 49 CFR 24.305(e)); or for a nonprofit organization, based on the average of 2 years gross annual revenues less administrative expenses for the two 12 month periods prior to the acquisition (see 49 CFR 24.305(d)). The Agency will explain the difference between the two payments and will help you complete this form. HUD provides information on these requirements and other guidance materials on its website at www.hud.gov/relocation. If you are eligible for either payment, the Agency will help you to determine which is most advantageous. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal the determination. The Agency will explain how to make an appeal.
All claims for payments must be filed no later than 18 months from the date of displacement (see 24.207(d)).

Fixed Payment Eligiblity: 1. Business: (see 49 CFR 24.305(a)), **2. Nonprofit Organization:** (see 49 CFR 24.305(d)) & **3. Farm Operation:** (see 49 CFR 24.305(c))

Section A. General

1. Name of Business, Farm or Nonprofit Organization	2. Name, Title, Address & Telephone Number of Claimant or Claimant's Authorized Agent
3. Address from which Business, Farm or Nonprofit Organization Moved	
4a. Date Move Started (mm/dd/yyyy)	4b. Date Move Completed (mm/dd/yyyy)

4c. Address to which Business, Farm or Nonprofit Organization Moved
(If Business, Farm or Nonprofit Organization went out of business, check here ☐)

5. Type of Operation (check one)	6. Type of Ownership	7. Is This a Final Claim?
☐ Business ☐ Farm Operation ☐ Nonprofit Organization	☐ Sole Proprietorship ☐ Corporation ☐ Partnership ☐ Nonprofit Organization	☐ Yes ☐ No (If "No", attach explanation)

Certification of Legal Residency in the United States (Please read instructions below before completing this section.)

Instructions: To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. **The certification below must be completed in order to receive any relocation benefits.** (This certification may not have any standing with regard to applicable State laws providing relocation benefits.) Please address only the category that describes your citizenship status. For item (2), please fill in the correct number of partners. The certification for a nonresidential displaced person may be signed by an owner or other person authorized to sign on its behalf.
Your signature on this claim form constitutes certification. See 49 CFR 24.208(g) & (h) for hardship exceptions.

NONRESIDENTIAL DISPLACEMENTS

(1) Sole Proprietorship.
I certify that I am: (check one)
_____ a citizen or national of the United States
_____ an alien lawfully present in the United States.

(2) Partnership.
I certify that there are _____ partners in the partnership and that_____ are citizens or nationals of the United States and _____ are aliens lawfully present in the United States.

(3) Corporation. (Name of Corporation)
I certify that _____, is established pursuant to State law and is authorized to conduct business in the United States.

Section B. Computation of Average Net Earnings or Net Revenues for Base Period 1/ Item	Base Period Year (yyyy)	Base Period Year (yyyy)	Base Period Average	For Agency Use Only
Table I. Individual or Sole Proprietor (Relates to IRS Form 1040)				
(1) Net Profit (Or loss) Before Taxes from IRS Form 1040	$	$	$	$
(2) Adjustments (Attach statement) 2/				
(3) Compensation Paid to Owner, Owner's Spouse, and Dependents (List names and amounts to each on a separate page)				
(4) Net Earnings (Add lines (1), (2) and (3))	$	$	$	$
Table II. Corporation (Relates to IRS Form 1120 and 1120-S)				
(5) Taxable Income from IRS Form 1120 (Or ordinary income from IRS Form 1120-S)	$	$	$	$
(6) Adjustments (Attach statement) 2/				
(7) Compensation Paid to Principal Stockholders, their Spouses, and Dependents (List names and amounts to each on a separate page) 3/				
(8) Net Earnings (Add lines (5), (6) and (7))	$	$	$	$
Table III. Partnership (Relates to IRS Form 1065)				
(9) Ordinary Income (Or loss) Before Taxes (From IRS Form 1065)	$	$	$	$
(10) Adjustments (Attach statement) 2/				
(11) Compensation Paid to Principal Partners, their Spouses, and Dependents (List names and amounts to each on a separate page) 4/				
(12) Net Earnings (Add lines (9), (10), and (11))	$	$	$	$
Table IV. Nonprofit Organization				
(13) Annual Gross Revenues 5/	$	$	$	$
(14) Administrative Expenses 6/				
(15) Net Revenues (Subtract line (14) from line (13))	$	$	$	$

1/ This is usually the two tax years prior to your displacement. Please consult the Agency.

2/ To the extent that the profit/income entry in Section B, line (1), (5) or (9) has been reduced by an expense that was not incurred in the base period (e.g., a loss carry forward from a previous year, loss carry back from a later year or declared depreciation in excess of actual depreciation) such expense must be added back on line (2), (6) or (10). To the extent that the entry on line (1), (5) or (9) is inflated by an amount not actually earned in the base period (e.g., refund of State or local income taxes or income included under the tax benefit rule because a deduction taken in a previous year was disallowed), it should be entered on line (2), (6) or (10) as a subtraction.

3/ Principal stockholder is one who owns 15% or more of the corporation.

4/ A principal partner is one with a proprietary interest of 15% or more in the concern.

5/ Gross revenues may include membership fees, class fees, cash donations and other fund collections.

6/ Administrative expenses include rent, utilities, salaries and fund raising costs.

Section C. Computation of Payment Item	Amount Claimed	For Agency Use Only
(1) Amount from line (4), (8), (12) or (15) of Section B (If less than $1,000, enter $1,000. If more than $20,000, enter $20,000)	$	$
(2) Amount Previously Received (if any)		
(3) Amount Requested (Subtract line (2) from line (1))	$	$

Section D. Certification By Claimant(s): I certify that the information on this claim form and supporting documentation is true and complete and that I have not been paid for these expenses by any other source.

Signature(s) of Claimant(s) or Claimant's Authorized Agent	Title (Type or Print)	Date
X		

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

To Be Completed by Agency

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
2. Recommended	$			
3. Approved	$			

Remarks

Public reporting burden for this collection of information is estimated to average 1.0 hours per response. This includes the time for collecting, reviewing, and reporting the data. The information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR Part 24 and will be used for determining whether you are eligible to receive a fixed moving payment instead of a payment for actual moving and related expenses and the amount of any payment. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Privacy Act Notice: This form is for the use of displaced businesses, nonprofit organizations, and farm operators that wish to apply for a Fixed Payment rather than a Payment for Actual Reasonable Moving and Related Expenses, including Reestablishment Expenses. (The maximum Fixed Payment is $[illegible] 000.) The Agency will explain the difference between the two types of payments. If you are eligible to choose either payment, the Agency will help you [illegible]termine which is most advantageous. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the [illegible]on. If you are not satisfied with the Agency's determination, you may appeal the determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The information may be made available to a Federal Agency for review.

Claim for Actual Reasonable Moving and Related Expenses - Nonresidential (49 CFR 24 Subpart D)

U.S. Department of Housing and Urban Development

OMB Approval No. 2506-0016
(exp. 07/31/2008)

For Agency Use Only — Name of Agency	Project Name or Number	Case Number

Instructions: This claim form is for the use of displaced businesses, nonprofit organizations, and farms that wish to claim a payment for **Actual Reasonable Moving and Related Expenses, including Reestablishment Expenses**, rather than claim a **Fixed Payment,** under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). The Agency will explain the difference between the two payments and will help you complete this form. HUD provides information on these requirements and other guidance materials on its website at www.hud.gov/relocation. If you are eligible for either payment, the Agency will help you to determine which is most advantageous. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal the determination. The Agency will explain how to make an appeal. **All claims for payments must be filed no later than 18 months from the date of displacement (see 24.207(d)).**

Attach supplemental pages as necessary. All expenses must be thoroughly identified and be accompanied by receipts or other appropriate documentation to be eligible for payment. Professional services and other claims for time expended based on salaries, earnings or fees related to 49 CFR 24.301(g)(12), 24.301(g)(17)(iii)-(vi), and 24.303(b), must be actual, reasonable, necessary, and should be preapproved by the Agency.

(**Eligible Moving Expenses:** See 24.301(g)(1)-(7); 24.301(g)(11)-(18) & 24.303; **Ineligible Moving Expenses:** See 24.301(h))

(**Eligible Reestablishment Expenses:** See 24.304(a); **Ineligible Reestablishment Expenses:** See 24.304(b))

Section A. General

1. Name of Business, Farm or Nonprofit Organization	2. Name, Title, Address and Telephone Number of Claimant or Claimant's Authorized Agent	
3. Address from which Business, Farm or Nonprofit Organization moved		
4a. Address to which Business, Farm or Nonprofit Organization moved	4b. Date Move Started (mm/dd/yyyy)	4c. Date Move Completed (mm/dd/yyyy)

5. Type of Operation (Check One)	6. Type of Ownership (Check One)	7. Is this a Final Claim?
☐ Business ☐ Farm Operation	☐ Sole Proprietorship ☐ Corporation	☐ Yes
☐ Nonprofit Organization	☐ Partnership ☐ Nonprofit Organization	☐ No (If "No," attach an explanation)

8. Certification of Legal Residency in the United States (Please read instructions below before completing this section.)

Instructions: To qualify for relocation advisory services or relocation payments authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, a "displaced person" must be a United States citizen or national, or an alien lawfully present in the United States. **The certification below must be completed in order to receive any relocation benefits.** (This certification may not have any standing with regard to applicable State laws providing relocation benefits.) Please address only the category that describes your citizenship status. For item (2), please fill in the correct number of partners. The certification for a nonresidential displaced person may be signed by an owner or other person authorized to sign on its behalf. **Your signature on this claim form constitutes certification.** See 49 CFR 24.208(g) & (h) for hardship exceptions.

NONRESIDENTIAL DISPLACEMENTS

(1) Sole Proprietorship.
I certify that I am: (check one)
__ a citizen or national of the United States
_____ an alien lawfully present in the United States.

(2) Partnership.
I certify that there are _____ partners in the partnership and that_____ are citizens or nationals of the United States and _____ are aliens lawfully present in the United States.

(3) Corporation. (Name of Corporation)
I certify that _____, is established pursuant to State law and is authorized to conduct business in the United States.

Section B. Supporting Data for Moving Expenses (Not identified in Sections C, D, E, F or G) (49 CFR 24.301(d) & 24.301(e)) (Attach supplemental page if additional space is needed and attached receipts for costs incurred.) (Identify if move is commerical move ☐ self move ☐, or combination move ☐; if combination move, identify each expense as commerical or self move.)

Expense Identification	Amount Claimed	For Agency Use Only
(1)	$	$
(2)		
(3)		
(4)		
(5) **Total Costs** (Include this amount in line (1) of Item 9, Total)	$	$

Section C. Supporting Data for Storage Costs (49 CFR 24. 301(g)(4))

Is This a Final Claim for Storage? ☐ Yes ☐ No

Date Moved to Storage (mm/dd/yyyy)	Date Moved From Storage (mm/dd/yyyy)	Name and Address of Storage Company

Computation of Storage Costs

Item	Amount	For Agency Use Only
Monthly Rate for Storage	$	$
Number of Months in Storage		
Total Storage Costs (Include this amount in line (1) of Item 9, Total)	$	$

Description of Property Stored (List may be attached)

Section D. Supporting Data for Searching Expenses (49 CFR 24.301(g)(17))

	Amount Claimed	For Agency Use Only
(1) Searching Time Number of Hours ( ) x Hourly Rate of Earnings ( ) =	$	$
(2) Time Spent Obtaining Permits, Attending Zoning Hearings Number of Hours ( ) x Hourly Rate of Earnings ( ) =	$	$
(3) Time Spent Negotiating Purchase/Lease of Replacement Site Number of Hours ( ) x Hourly Rate of Earnings ( ) =	$	$
(4) Transportation (Consult with Agency on allowable rate per mile of personal vehicle)	$	$
(5) Lodging (Dates: Attach receipts)	$	$
(6) Fees Paid to Real Estate Broker or Agent, (Excluding fees or commissions related to site purchase) (Attach contract or other evidence)	$	$
(7) Cost of Meals	$	$
(8) Other Expenses (Specify and attach receipts)	$	$
(9) Total Searching Expenses (Add lines (1) thru (9). Include this amount, or $2,500, whichever is less, in line (1) of Item 9 Total.)	$	$

Section E. Supporting Data for Payment for Actual Direct Loss of Personal Property (List separately each item for which amount claimed in Column (f) is more than $500. Other Items may be grouped together. The Agency will advise on acceptable method for listing items. Attach additional sheets, as needed.) (49 CFR 24.301(g)(14))

(a) Identify Personal Property for Which Payment for Actual Direct Loss is Requested	(b) Fair Market Value As Is For Continued Use At Present Location (Attach appraisals or other evidence)	(c) Proceeds From Sale	(d) Value Not Recovered By Sale (Column (b) minus Column (c))	(e) Estimated Cost of Moving Old Property As Is (To be entered by Agency) (see 24.301(g)(14)(ii))	(f) Amount Claimed (Lesser of Column (d) or (e))	(g) For Agency Use Only
	$	$	$	$	$	$

Claimant's Release of Personal Property

I/We release to the Agency ownership of all personal property remaining on the real property.

Signature(s) of Claimant(s) or Agent	Date (mm/dd/yyyy)

(1) Total (Add all entries in column (f) above)	$	$
(2) Cost of Effort to Sell Property (e.g., advertising) (49 CFR 24.301(g)(15))	$	$
(3) Total Amount Claimed (Add lines (1) and (2). Include this amount in line (1) of Item 9 Total)	$	$

Section F. Supporting Data for Substitute Personal Property. List separately each item for which amount claimed in column (f) is more than $500. Other items may be grouped together. The agency will advise on acceptable method of listing items. Attach additional sheets, as needed.) (49 CFR 24.301(g)(16))

(a) Identify Substitute Personal Property for which Payment is Requested	(b) Actual Cost of Substitute Property Delivered and Installed at New Location (Attach documentation)	(c) Proceeds From Sale orTrade-in of Property That Was Replaced	(d) Net Cost of Substitute Personal Property (Column (b) minus Column (c))	(e) Estimated Cost of Moving and Reinstalling Replaced Item (To be entered by agency) (see 24.301(g)(16)(ii))	(f) Amount Claimed (Lesser of column (d) or (e))	(g) **For Agency Use Only**
	$	$	$	$	$	$

Claimant's Release Of Personal Property
release to the Agency ownership of all personal erty remaining on the real property.

Signature(s) of Claimant(s) or Agent | Date (mm/dd/yyyy)

(1) Total (Add all entries in column (f) above)	$	$
(2) Cost of Effort to Sell Property (e.g., advertising) (49 CFR 24.301(g)(15))	$	$
(3) Total Amount Claimed (Add lines (1) and (2). Include this amount in line (1) of Item 9 Total)	$	$

Section G. Supporting Data for Related Nonresidential Expenses (49 CFR 24.303)

Only if applicable and Determined Actual, Reasonable and Necessary. (Attach supplemental page, if needed)

Expense Identification	Amount Claimed	**For Agency Use Only**
(1) Utility Connections from Right-of-Way to Improvements at Replacement Site.		
(2) Professional Services for Site Suitability Determination (Based on Agency pre-approved reasonable hourly rates) Number of Hours ( ) X Hourly Rate of Earnings ($) =		
(3) Impact Fees or One Time Assessments for Utility Usage.		
Total Related Nonresidential Expenses: (Add lines (1) through (3)) (Include this amount in line (1) of Item 9 Total)		

Section H. Supporting Data for Reestablishment Expenses. (49 CFR 24.304) (Attach supplemental page if additional space is needed.)

Expense Identification	Amount Claimed	**For Agency Use Only**
(1)	$	$
(2)		
(3)		
(4)		
(5) **Total Costs** (Enter this amount, or $10,000, whichever is less, on line (2) of Item 9)	$	$

Section I. Certification By Claimant(s): I certify that the information on this claim form and supporting documentation is true and complete and that I have not been paid for these expenses by any other source.

Signature(s) of Claimant(s) or Claimant's Authorized Agent	Title (Type or Print)	Date
X		

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3

9. Computation of Payment

Item	Amount	For Agency Use Only
(1) Moving Expenses (From Section B, C, D, E, F, G)	$	$
(2) Reestablishment Expenses (From Section H)	$	$
(3) Other (Attach explanation)	$	$
(4) Total Amount Claimed (Add lines (1) thru (3))	$	$
(5) Amount Previously Received, if any	$	$
(6) Amount Requested (Subtract line (5) from line (4))	$	$

To Be Completed by Agency

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date (mm/dd/yyyy)
10. Recommended	$			
11. Approved	$			

Remarks:

Public reporting burden for this collection of information is estimated to average 1.5 hours per response. This includes the time for collecting, reviewing, and reporting the data. The information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing regulations at 49 CFR Part 24 and will be used for determining whether you are eligible to receive a payment for moving and related expenses and the amount of any payment. Response to this request for information is required in order to receive the benefits to be derived. The agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Privacy Act Notice: This form is for the use of displaced businesses, nonprofit organizations, and farm operators that wish to apply for a Payment for Actual Reasonable Moving and Related Expenses, including Reestablishment Expenses, rather than apply for a Fixed Payment. (The maximum Fixed Payment is $20,000.) The Agency will explain the difference between the two types of payments. If you are eligible to choose either payment, the Agency will help you to determine which is most advantageous. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal the determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The information may be made available to a Federal Agency for review.

Federal Register

Tuesday,
January 4, 2005

Part V

Department of Transportation

Federal Highway Administration

49 CFR Part 24

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 24

[FHWA Docket No. FHWA-2003-14747]

RIN 2125-AE97

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising the regulation that sets forth governmentwide requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). These changes will clarify present requirements, meet modern needs and improve the service to individuals and businesses affected by Federal or federally-assisted projects while at the same time reducing the burdens of government regulations. The regulation has not been fully reviewed or updated since it was issued in 1989. These amendments to the Uniform Act regulation will affect the land acquisition and displacement activities of 18 Federal Agencies including the new Department of Homeland Security.

DATES: *Effective Date:* February 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mamie L. Smith, Office of Real Estate Services, HEPR, (202) 366-2529; Reginald K. Bessmer, Office of Real Estate Services, HEPR, (202) 366-2037; or JoAnne Robinson, Office of the Chief Counsel, HCC-30, (202) 366-1346, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.gpoaccess.gov/nara/*.

Background

Title 49, CFR, part 24 implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.*, (the Uniform Act). The Uniform Act applies to all acquisitions of real property or displacements of persons resulting from Federal or federally-assisted programs or projects and affects 18 Federal Agencies. This regulation has not been comprehensively revised or updated since its initial publication in 1989.

The FHWA, as the lead Federal Agency, hosted an all-Agency meeting in 2001 to begin discussions about a comprehensive review of this regulation because of numerous requests from various Agencies to update 49 CFR Part 24. The FHWA worked with the 18 other Federal Agencies to form a Federal Interagency Task Force to explore the need to revise this regulation. The FHWA then hosted five nationwide public listening sessions to gather public input into the need for regulatory reform.

After receiving public input, working with the Interagency Task Force and incorporating recommendations from all 18 Federal Agencies, the FHWA published a notice of proposed rulemaking (NPRM) on December 17, 2003 (68 FR 70342). The NPRM proposed revisions to the Uniform Act regulation that would clarify present requirements, meet modern needs and improve the service to the individuals and businesses affected by Federal or federally-assisted projects while at the same time reducing the burdens of government regulations. An extensive history of the Uniform Act's implementation, and a comprehensive narrative outlining the efforts to update this regulation is discussed in the preamble to the NPRM in great detail.

Public Meetings

During the comment period to the NPRM, the FHWA hosted three additional public meetings (in Washington, DC; Atlanta, GA; and Lakewood, CO) to discuss the proposed changes to the regulation as outlined in the NPRM. The meetings were held to assure that every opportunity was offered to encourage additional public and stakeholder comment on the proposed changes. A total of 60 individuals and organizations attended the three public meetings. Also, during the comment period, the FHWA posted on its Web site a pre-addressed comment form for easy access and mailing to the docket.

Discussion of Comments Received to the Notice of Proposed Rulemaking (NPRM)

In response to the NPRM published on December 17, 2003, the FHWA received 775 comments to the docket. The 775 comments were received from 80 individual commenters. The commenters included a variety of groups and organizations, such as local public Agencies, State Highway Administrations, private real estate and environmental consulting firms and interested individuals.

Of the 775 docket comments, 62 were positive and supportive of the proposed changes and 58 were on subjects where no change had been proposed. Thirty comments were programmatic questions and will be answered through a follow-up question and answer memorandum, and 26 comments requested increases in statutory limits that cannot be addressed in the regulations. On March 3, 2004, all 18 Federal Agencies were invited and encouraged to send representatives to an Interagency Federal Task Force (IFTF) meeting to review and respond to the 775 comments. Of the 18 Federal Agencies, 12 responded by sending one or more representatives. Following the initial meeting, four additional IFTF meetings were held and all 775 comments were categorized into subparts discussed individually, and evaluated. The FHWA, as Lead Agency, would like to thank the Department of Housing and Urban Development (HUD) who worked closely with FHWA to organize and share in hosting the work group meetings to assure that all comments were carefully considered.

Section-by-Section Discussion Changes

Subpart A—General

Section 24.1(b)

One commenter indicated that § 24.1(b) should include an anti-discrimination purpose.

A number of Federal statutes (notably the Civil Rights Acts of 1964 and 1968) and Executive Orders apply to Agencies carrying out Federal or federally-assisted programs, and prohibit discrimination on the basis of race, color, sex, age, religion, national origin or disability. These legal authorities are self-executing and do not require specific mention in a rule implementing the Uniform Act to find effect. Any explicit listing of such provisions in this regulation runs the risk of inadvertent omission, creating the implication that any legal authority not referenced is somehow inapplicable.

Section 24.2 Definitions and Acronyms

Two commenters suggested various formatting changes. One suggested that clarity and readability would be improved by stating each defined term only once, rather than entry as a heading, followed by repeating the term

in the definition. Another suggested that we adopt simplified formatting.

We appreciate these comments, however, we will keep the same format in this final rule.

Section 24.2(a) Personal Property

One commenter requested that we add a definition of personal property.

We considered the request, however, after surveying the varying State laws that define personal property, we have determined that it would not be feasible to provide a single definition that would fit within all State laws. Therefore, whether an item is personal property or real property will continue to be left to State law.

Section 24.2(a)(5) Citizen

One commenter requested that we define or clarify the term "noncitizen national" used in the definition of "citizen" in § 24.2(a)(5).

The term "noncitizen national" was added to the definition of citizen in 1999 (64 FR 7130). The term includes persons from certain United States possessions, such as American Samoa, who are considered citizens for purpose of this part. Accordingly, no change in the final rule is necessary.

Section 24.2(a)(6)(ii) Comparable Replacement Dwelling

Ten comments were made on the proposal to remove the phrase "style of living" from the definition of comparable replacement dwelling. The majority of the comments were in favor of removing the phrase; however, two commenters were concerned that the displaced person's rights would be diminished if the phrase is deleted.

We carefully considered removing "style of living" from the definition of comparability, and we determined that the displaced person would not suffer any erosion of protections provided by existing comparability requirements. The phrase "style of living" has sometimes been misused and has proven to be confusing.

Occasionally, the phrase has been used out of context and interpreted to require identical unique features found in acquired dwellings. In such cases, the standard for replacement housing has been raised to a level above "comparable." This interpretation can make it nearly impossible to find appropriate replacement housing and could result in replacement housing payments greater than those intended by the Congress.

A more complete explanation can be found in the preamble to the NPRM (68 FR 70344). The Congress recognized that strict and absolute adherence to an exhaustive, detailed, feature-by-feature comparison can result in rigidities. We believe other criteria currently under the definition of comparability will adequately cover the factors covered by "style of living" and, therefore, have not included this phrase in the final rule.

Section 24.2(a)(6)(viii) Deductions from Rent

One commenter objected to the proposed addition of language in § 24.2(a)(6)(viii) that would have allowed rent owed to an Agency to be taken into account when determining whether a comparable replacement dwelling is within a displaced person's financial means. The comment noted that State landlord/tenant laws normally govern disputes over rent, and that § 24.2(a)(6)(viii) should not, in effect, supercede the tenant protections contained in such laws in determining a displaced person's financial means.

We agree with this comment, and accordingly have not adopted the language that would have considered any rent owed the Agency in determining financial means.

Section 24.2(a)(6)(viii) Financial Means

The Uniform Act requires that comparable replacement dwellings must be "within the financial means" of a displaced person. This term is defined further within the definition of comparable replacement dwelling. The NPRM proposed simplifying the definition of financial means by consolidating it from three paragraphs to a single paragraph. No change in meaning was intended.

We received 12 comments on this proposed change. The commenters expressed two major concerns. First, several comments indicated that consolidating the separate paragraphs relating to owners and tenants was confusing and might, in some cases, result in changes to replacement housing payments.

After further consideration, we believe these comments are correct, and, accordingly, have not adopted the proposed consolidation. (We have, however, deleted some redundant language relating to welfare assistance programs that designate amounts for shelter and utilities, since this is now addressed in § 24.402(b)(2)(iii).)

Secondly, because of other related changes in the NPRM, several commenters stated that the proposal would no longer adequately address the benefits to be provided to a person who is not eligible to receive replacement-housing payments because of a failure to meet the necessary length of occupancy requirements. Such persons are still entitled to receive comparable replacement housing within their financial means.

Besides proposing to simplify the description of financial means, the NPRM also proposed changing the way the rental replacement housing payment would be computed by revising the description of "base monthly rent" in § 24.402(b)(2), and removing the reference to 30 percent of income in § 24.404(c)(3) (which describes the eligibility of persons that fail to meet the length of occupancy requirements). The later two changes have been adopted, as discussed further in this preamble.

We agree that the proposed changes left it unclear as to the benefits that were to be provided to persons who failed to meet length of occupancy requirements. Accordingly, we have retained a paragraph (§ 24.2(a)(6)(viii)(C)), within the description of financial means, that addresses those persons, described in § 24.404(c)(3), who do not meet length of occupancy requirements. It is similar to the current provision, and provides that the payment to such persons shall be the amount, if any, by which the rent at the replacement dwelling exceeds the base monthly rent described in § 24.402(b)(2), over a period of 42 months.

Section 24.2(a)(6)(ix) Subsidized Housing

Several commenters took issue with the proposed change to apply a government housing subsidy program's unit size restrictions when providing comparable replacement housing.

It appears that several of the commenters did not understand how the government subsidy programs work. The choice of a replacement dwelling is always left to a displaced person, but a displaced tenant's eligibility for relocation assistance is premised upon the selection of a decent, safe and sanitary "comparable" dwelling. The existing regulations have long provided that a comparable dwelling, in the case of a person displaced from housing receiving certain project-based or voucher based subsidies, is another dwelling unit receiving the same or a similar subsidy.

In such cases the HUD program requirements for subsidized housing, may limit the unit size of available subsidized housing by applying a determination as to a family's current needs, even though the displacement dwelling may have been larger. This final rule acknowledges these requirements, and provides in § 24.2(a)(6)(ix) that the requirements of government housing assistance

programs, relating to the size of the dwelling unit that may be provided, apply when such housing is used as a comparable replacement dwelling.

A person displaced from a subsidized unit may elect to relocate to housing available on the private market without subsidy, but the available relocation payment will be limited by a computation using a comparable subsidized unit. In most cases, the long-term housing subsidy available to someone displaced from a subsidized unit, will be more advantageous than a relocation payment based on the selection of a dwelling available on the private market. The relocation payment for a dwelling on the private market is limited to a rental differential for a 42-month period by the Uniform Act.

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary

Twenty comments were received concerning the inclusion of standards relating to deteriorated paint or lead-based paint in the definition of "decent, safe, and sanitary dwelling" in § 24.2(a)(8). While all of these comments were favorable, there is no legal authority for mandating these standards in connection with the referral to comparable private market replacement housing under the Uniform Act. Accordingly, this language has been removed from the list of the mandatory elements of "decent, safe, and sanitary" replacement housing appearing in this regulation. Instead, we have included in appendix A a suggestion that such standards may be required by local housing and occupancy codes, and may, in any event be highly desirable in protecting the health and safety of displaced persons and their families.

Section 24.2(a)(8)(iv) Housing and Occupancy Codes

Of the seven comments received on § 24.2(a)(8)(iv) having to do with using local housing and occupancy codes to determine whether the unit is decent, safe and sanitary, most were concerned with determining the number of rooms and living space per individual. One commenter requested that the FHWA set a minimum number of square feet in a bedroom for each occupant as well as set an age standard for bedrooms occupied by siblings of opposite gender.

The protection of the public health, safety and welfare is an essential power of a sovereign government specifically reserved to the States. Accordingly, this regulation references local housing and occupancy codes as the primary source for defining "standard" housing. (In the case of certain federally subsidized replacement housing, federally-issued "housing quality standards" may be employed where such codes do not exist or are not applied to such housing.)

As was noted in the preamble to the NPRM, the existing regulatory policy on this subject would apply only in the absence of local codes. This has been clarified in § 24.2(a)(8)(iv). Questions of whether contrary or more restrictive housing and occupancy standards than those found in a local code, imposed by State law, must be deemed to override these local standards must be determined as a matter of State law by courts of competent jurisdiction or by the State's Attorney General, and cannot be addressed in these regulations.

Section 24.2(a)(8)(vi) Egress to Safe Open Space

We received three comments concerning the removal of the requirement that replacement housing units have two means of egress when replacement units are on the second story or above and have direct access to a common corridor. One was in favor of the change, a second was uncertain as to the purpose of the requirement and another was against the change for fear of the safety risks to the displaced person.

This is an area best handled through local fire and building codes and does not require Federal guidelines to assure the safety of displaced persons. There was overwhelming support for removing the requirement from our five national Public Listening Sessions that we held leading up to preparations of the NPRM. Therefore, no change was made to the language proposed in the NPRM.

Section 24.2(a)(8)(vii) Disability

Thirteen commenters requested that the definitions of Comparable Replacement Dwelling and Decent Safe and Sanitary Dwelling (and the corresponding provisions of appendix A) go into more detail regarding the needs of persons with disabilities, as well as a variety of disabilities.

Because the needs of persons who are disabled are addressed by other Federal or local statutory and regulatory requirements, which may or may not apply to any individual project which triggers the Uniform Act, we believe it is unnecessary to elaborate further in this rule except as noted in appendix A. The final rule addresses the need to accommodate the displaced person's needs in terms of unit size, location, access to services and amenities, reasonable ingress, egress or use of a replacement unit, and therefore, we do not believe additional detail is necessary.

We agree that there is a need to revise some of the language in appendix A, § 24.2(a)(8)(vii) to address the physical attributes of replacement housing for persons with physical disabilities beyond those dependent on a wheelchair. Therefore, we have broadened the language in the final rule to include persons with a physical impairment that substantially limits one or more of the major life activities of such individual. We have not addressed the needs of other nonphysical disabilities (such as mental impairment) in this rule since it is unclear what unit attributes would need to be addressed for this class of persons and any needs of such persons would be more appropriately addressed by other statutory and regulatory requirements.

Section 24.2(a)(9)(ii)(D) Temporary Relocation

In 1987, the Uniform Act was amended to cover displacement from Federal and federally-assisted programs or projects as a direct result of rehabilitation. To counter the disincentive this might create for a tenant temporarily displaced from a residence while that residence is being rehabilitated, we considered such a person not to be displaced, if, and only if, certain stringent protections are applied. These included covering moving expenses to and from the temporary location, payment of increased housing costs during the period of relocation, the guarantee of a return to the same unit, or to another suitable unit in the same building or complex, and a limitation on a rental increase at the rehabilitated replacement unit.

We believe that this interpretation of the law, to create an exception to its general applicability, must be limited and strictly applied, in order to meet the intent of Congress. Accordingly, the NPRM proposed that displacement for a period exceeding 12 months must ordinarily be considered significant enough to fall within the general rule pertaining to displacement as a direct result of rehabilitation, and not to come within the limited exception to the definition of "displaced person" which the law establishes. Therefore, the language proposed in the NPRM will not change.

We received eleven comments on the proposed language further describing temporary relocation in § 24.2(a)(9)(ii)(D) of appendix A. Two comments supported this change. However, we are seriously concerned that several of the commenters appear to believe that a person who is displaced by a project that triggers the Uniform

Act can somehow be exempted from full relocation assistance benefits as a displaced person if the Agency terms his/her relocation "temporary", regardless of the required length of time or hardship caused to the displaced person. We are further concerned that some commenters seem to consider the cost to their project more important than the protection provided by the Uniform Act. This may indicate that appropriate project and relocation planning is not taking place. It is for this reason that additional clarity concerning temporary relocation has been added to the rule.

Several commenters referenced the HUD policies on temporary relocation. HUD has indicated for years that it has always restricted "temporary relocation" to situations where the Uniform Act trigger was rehabilitation. In such cases, a tenant was guaranteed the right to return to a unit in the project prior to moving from the displacement dwelling. In recent years, HUD has permitted grantees to consider up to one year as acceptable temporary relocation duration, but again, only where the Uniform Act trigger is rehabilitation. However, HUD reports that some HUD grantees may have abused this policy and stretched it to apply in situations which are clearly beyond the scope of "temporary," where an entire building or group of buildings is being demolished and will be replaced with fewer units. In this situation, displaced persons cannot be guaranteed a unit in the new building(s) at the time they are required to move from the displacement unit for reasons including: there may be insufficient units rebuilt; former tenant may not meet newly adopted return criteria, and, return to the project may not be for years simply because of the massive demolition and rebuilding that must take place. While many of these sorts of projects purport to allow displaced tenants to return, the reality is that few can. We do not support advising tenants that they are only being temporarily relocated, and are not displaced, when their actual return to a unit in the project is in doubt, and/or may not be for an extended period of time. Further, permanently displacing a person and providing them with full relocation assistance under the Uniform Act should not automatically negate their ability to apply for or return to the site of the HUD funded project that caused their displacement. Many HUD projects give preference to former tenants who want to return.

The rule, now requires that any residential tenant who has been temporarily relocated for a period beyond one year must be contacted by the Agency and offered all permanent relocation assistance.

One commenter suggested imposing the same one-year requirement upon owner occupants and nonresidential occupants. The final rule adopts language in the proposed rule that provides that "temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location." We believe this establishes a sound policy that should be followed in most cases. We recognize, however, that in some situations, involving temporary relocations caused by disasters or public health emergencies, Agencies may not be able to provide permanent relocation benefits to such occupants within one year, if ever, because of statutory or programmatic limitations.

We also agree with the commenter who suggested that a temporary move of personal property is not intended to be covered by the one-year limitation on temporary moves.

We expanded the language in appendix A, § 24.2(a)(9)(ii)(D), to cover "rehabilitation or demolition" as suggested by one of the commenters. As noted, we are not changing the language relative to "one year" as we believe this is a reasonable time for any tenant to be in temporary housing (one year is a fairly common initial lease period across the United States). After the one-year period, the final rule requires that a residential tenant be offered permanent relocation assistance. Such tenants may be given the opportunity to choose to continue to remain temporarily relocated for an agreed to period (based on new information about when they can return to the displacement unit), choose to permanently relocate to the unit which has been their temporary unit, and/or choose to permanently relocate elsewhere with Uniform Act assistance. It is expected that temporary relocations will be rare, and, for HUD funded projects, clearly planned for in the development of the project, and used only where a tenant is guaranteed a replacement unit in the project or unit from which they were displaced.

Section 24.2(a)(9)(ii)(M) American Dream Downpayment Initiative (ADDI)

A new paragraph, § 24.2(a)(9)(ii)(M), has been added to the list of "persons not displaced" to reflect a provision, added by Section 102 of the American Dream Downpayment Act (Pub. L. 108–186; codified at 42 U.S.C. 12821) provides that the Uniform Act does not apply to the American Dream Downpayment Initiative (ADDI), a downpayment assistance program administered by the Department of Housing and Urban Development.

Section 24.2(a)(11) Dwelling Site

We received nine comments in response to the proposed definition of dwelling site. Most agreed that it was needed. Six commenters asked that additional information be provided on what constitutes a dwelling site.

We agree and are revising the definition for clarity. We have provided specific examples in appendix A as to when its use is appropriate.

Section 24.2(a)(12) Eviction For Cause

We received nine comments on the proposal to simplify the eviction for cause provisions in § 24.206 by moving some of them to a new definition in § 24.2(a)(12). Several commenters found this proposal to be confusing, and believed that it resulted in substantive changes to the eviction for cause provisions. This was not our intent, and accordingly we have not adopted the changes to § 24.206 and the new definition that were proposed in the NPRM. We have retained the current regulatory language in § 24.206.

One commenter objected to a clarifying sentence proposed in § 24.206 of appendix A, which simply stated that an eviction related to project development does not affect entitlement to relocation benefits. The commenter felt that this conflicted with the current eviction for cause provisions. However, we have retained the language in appendix A to make it clear that evictions related to scheduled project development, to gain possession of property, do not affect relocation eligibility. As noted in § 24.206, a person who is a lawful occupant on the date of initiation of negotiations is presumed to be entitled to relocation benefits, and can only be denied relocation benefits if the person had received an eviction notice prior to the initiation of negotiations, or is evicted thereafter "for serious or repeated violations of material terms of the lease or occupancy agreement." We do not consider an eviction resulting from a failure to move or relocate when asked to do so, or to cooperate in the relocation process for a federally funded project, to be based on a "serious or repeated violation of material terms" of a lease or agreement.

If an eviction is "for the project" (resulting from a failure to move or relocate when asked to do so, or to cooperate in the relocation process) such an eviction cannot be considered as "serious or repeated violation of material terms" of a lease or agreement unless, prior to executing the lease, the

tenant was notified in writing of the proposed project and its possible impact on him/her and that he/she would not be eligible for relocation payments. While public housing leases may have a clause requiring that a tenant move or cooperate in a move, these provisions are included for the purpose of adjusting unit size as necessary for changes in family composition, and do not negate the tenant's eligibility for relocation benefits caused by a federally-assisted project which triggers the Uniform Act.

Section 24.2(a)(13) Financial Assistance/Lease Payments

One commenter objected to the proposed addition of the term "lease payment" in the definition of "Federal financial assistance" in § 24.2(a)(13). The commenter noted that this term is not included in the statutory definition of "Federal financial assistance" and its addition could have major consequences that were not mentioned or considered in the NPRM. We agree and have deleted the term.

Section 24.2(a)(14) Household Income

We received 16 comments concerning the new definition of household income. Most of the comments were positive and in support of the new definition. However, four commenters requested that we go further in our definition of household income by adding additional examples. Several of the same commenters also requested that the examples given in appendix A be moved to the definition in § 24.2(a)(14).

Because the sources of household income constantly change and vary by household, we will not produce a more definitive list of income sources. Based on the experience of other Federal Agencies that use definitions of income, such definitions can never be totally comprehensive or timely, and could render the regulations outdated within a short period of time. Displacing Agencies need to determine income for each individual or family based on whatever financial resources are available (earned, unearned, benefits, etc.). When a question arises as to whether something should be considered as income, the Federal Agency administering the program should be contacted for its assessment. To further assist in the determination of income exclusions, the FHWA has provided a Web site, (*see* appendix A, § 24.2(a)(14)), of income exclusions that are federally mandated. The income exclusions change periodically based on congressional action and the FHWA will update the Web site as necessary.

We are opposed to moving the examples in appendix A to the definition. The examples are to support the definition and should not be a part of the definition. Therefore, they will remain in appendix A.

One commenter suggested that we change the language in the definition to assure that income claimed is actually received. It is our position that the responsibility for verifying income should be left to the acquiring Agency.

One commenter raised the concern that we have not made provisions for changes that may occur in the income stream throughout a 12 month period. We suggest that if the income changes before the relocation offer is made, that an adjustment be made based upon verification of the change in income. Otherwise, we suggest using the income stream in existence at the time of the relocation offer. The amount of a displaced tenant's replacement housing payment should not be adjusted if the tenant's income later changes. The Uniform Act envisions a rental assistance payment that is determined once, and which is not affected by subsequent events. Replacement Housing Payments under the Uniform Act are not to be confused with rental or homeownership subsidy programs. There is no statutory provision for adjusting relocation claims or payments based on changes in income after the eligibility determination has been made.

Section 24.2(a)(15) Initiation of Negotiations

The NPRM proposed adding paragraph (iv) to the definition of Initiation of Negotiations (ION) in § 24.2(a)(15), to address ION for acquisitions that occur amicably, without recourse to the power of eminent domain. The intent was to avoid establishing a tenant's relocation eligibility before there was any certainty that the property would actually be acquired.

We received 21 comments on this change. A major concern was that delaying tenant eligibility in these cases, until the owner accepts an offer to purchase, might have an adverse effect on such tenants by, for example, their being forced to move as part of the pre-acquisition negotiations, as well as otherwise increasing uncertainty in program management.

In response, we have revised paragraph (iv) in the final rule to provide that ION means the actions described in paragraphs (i) and (ii), for routine Agency acquisitions, except that, in the case of amicable acquisitions covered in paragraph (iv), the ION does not become effective for purposes of establishing relocation eligibility until there is a written agreement between the Agency and the owner to purchase the property. This would establish the potential relocation entitlement of tenants at the time negotiations begin, but would not provide relocation benefits in the event no agreement was reached to acquire the property. Such tenants should be fully informed of their potential eligibility.

In response to a comment we also changed the reference to "acceptance of the Agency's offer to purchase the real property" to "written agreement between the Agency and the owner to purchase the real property," for greater clarity and specificity.

At the request of the Environmental Protection Agency (EPA), the language in § 24.2(a)(15)(iii), concerning the initiation of negotiations on superfund related projects, has been updated and clarified, primarily to delete references to a "Federal or federally-coordinated health advisory." Such health advisories are general in nature and are rarely related to determinations that relocation is necessary. Rather, the action that triggers relocation is a fact-based determination by the EPA, or the Federal Agency conducting an action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96–510 or Superfund) (CERCLA), that temporary relocation or acquisition is necessary because there is a threat to an individual's health or safety. Typically, on such projects, temporary relocation occurs first, and then, if warranted by the circumstances, it may be followed by permanent relocation. Similar clarifications have also been made in appendix A, § 24.2(a)(15)(iii).

Section 24.2(a)(17) Mobile/Manufactured Homes

A new definition for the term "mobile home" has been added to this section. Six comments were received on this proposed addition. Five commenters agreed that the definition was needed, and three comments proposed changes to the definition to differentiate between mobile homes, manufactured housing and recreational vehicles. The term "mobile home" includes both manufactured homes and recreational vehicles used as residences. Appendix A explains that "mobile homes" and "manufactured homes" are recognized as synonymous by HUD for that Agency's programs, and for purposes of this regulation will be considered the same. Appendix A also includes further requirements that recreational vehicles must meet in order to qualify as replacement housing in appendix A.

(Subpart F continues to include an explanation of the different methods of computing relocation assistance when a mobile home has been determined to be personal property, and when it is determined to be real property.)

Section 24.2(a)(22) Program or Project

One commenter requested a more detailed definition of the term "project." Federal Agency experience over the years has amply demonstrated that it is not feasible to devise a common definition of "project" which could apply to all Federal and federally-assisted programs subject to the Uniform Act. Widely varying legislative and administrative histories of the various programs currently covered, as well as (in some cases) decades of practice, have led to the conclusion that the broad definition of "project" should remain unchanged. To alter the present definition might prove highly disruptive to the administration of many programs administered by Federal Agencies.

However, Federal Agencies should always interpret the term "project" in a way that will ensure that persons who are forced to move as a result of Federal or federally-assisted activities are covered by the Uniform Act.

Section 24.2(a)(30) Utility Costs

Two commenters suggested further clarifying the expenses that are included in the definition of utility costs. In response, we have replaced the reference to heat and light with a reference to electricity, gas, and other heating and cooking fuels.

Section 24.4(a)(3) Assurances

We received two comments opposing the changes proposed in the NPRM to § 24.4(a)(3) of the NPRM. One commenter was concerned that the proposed language would exempt Agencies undertaking arm's length acquisitions from required compliance with the Uniform Act. Similarly, a second commenter brought to our attention that the proposed language may nullify the conditions set forth in CFR 49 Part 24.101(b)(1). We did not intend to undermine the requirements of other sections of the regulations, therefore, after careful review, we agree that the proposed language may be perceived to conflict with the provisions in § 24.101(b)(1), and have not adopted the proposal in the final rule.

Section 24. 8 Compliance with Other Laws and Regulations

Several commenters suggested the inclusion of additional laws and regulations within § 24.8.

The existing regulatory language requires the implementation of this part to be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to the laws and regulations cited. The list is merely a representative sample of some significant laws and regulations and is by no means intended to be a comprehensive listing of all applicable laws and regulations. An applicable law or regulation is not required to be cited in this section to be applicable to this part. Therefore, no change is considered necessary. However, for clarity, we have corrected two existing laws. We have added, "as amended" after the reference to the Robert T. Stafford Disaster Relief and Emergency Assistance Act in § 24.8(n); and, we have added a reference to EO 12892, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994), § 24.8(o). EO 12892 replaced EO 12259.

Section 24.9 Records and Reports

We received twelve comments on the proposed revisions to § 24.9(c), which proposed to require each Federal Agency to submit an annual report summarizing its relocation and acquisition activities. One commenter supported this change and one sought further clarification. The remaining ten commenters opposed this change, primarily on the grounds that it would impose significant administrative burdens and would have little apparent value.

It was not our intent to increase administrative burdens. As was noted in the NPRM, our primary interest was in obtaining more accurate information, to more effectively monitor implementation of the Uniform Act. However, due to the negative comments received, we have decided not to adopt the proposed change.

Further, since no comments objected to the proposed simplification of the report form in appendix B, we have adopted the proposed form and the instructions for its use. The simplification of the form may lead to greater use by Agencies.

Outside the context of Part 24, the lead Agency will explore the possibility of obtaining such additional acquisition and displacement information from other Federal Agencies as may result from routine Agency operations and oversight.

Subpart B—Real Property Acquisition

We received a comment that the NPRM proposed change to replace the term "fair market value" with "market value" throughout Subpart B to better reflect current appraisal terminology was neither minor nor reflected universally accepted eminent domain terminology throughout the country.

Upon further examination, we determined that "fair market value" terminology is consistent with Uniform Act language and it appears that Federal courts see no difference in the terms "fair market value" and "market value." Accordingly, we have retained the terminology "fair market value" throughout the subpart, except for § 24.101(b)(1) through (5), where eminent domain is not applicable. But we have added language to appendix A noting that for Federal eminent domain purposes, the two terms may be synonymous.

Section 24.101(a) Direct Federal Program or Project

Federal Agencies advised us voluntary transaction provisions were being used to a significant extent and suggested that these exceptions should no longer apply to acquisitions by Federal Agencies. Their proposal to eliminate this provision for Federal agencies direct purchases is consistent with section 305(b)(2) (42 U.S.C. 4655(b)(2)) of the Uniform Act, which allows these exceptions for recipients of Federal financial assistance, but provides no such exceptions for Federal Agencies themselves. We included the Agencies' suggested revision in the NPRM.

Formerly, the two major exceptions to real property acquisition requirements in Subpart B were voluntary transactions and acquisitions in which the Agency does not have the power of eminent domain. We restructured this section to clarify the application of the real property acquisition requirements set forth in this subpart, and to revise the exceptions to those requirements.

We have adopted the Agencies' proposed change in the final rule, but the exceptions for federally-assisted projects and programs remains in § 24.101(b).

One commenter objected to excluding direct Federal acquisitions from voluntary transaction procedures because the commenter believed that where an Agency acquired a property that was listed for sale, it would create a windfall for that property owner by allowing the owner to receive Uniform Act benefits.

However, as noted elsewhere in this rule (*See* § 24.2(a)(9)(ii)(E) and (H) and 24.101(a)(2)), if a property owner voluntarily conveys his or her property, without recourse to the power of eminent domain, he or she would

continue to be ineligible for relocation benefits.

Based on a comment we added the word "direct" to the title of § 24.101(a) for clarity. We also added language to appendix A to further clarify the applicability of this paragraph.

We updated language in the rule and in appendix A to reflect the Rural Utilities Service, successor Agency to the Rural Electrification Administration.

We added § 24.101(a)(2) to make it clear that, despite the rule change to make all direct Federal acquisitions undertaken without recourse to the power of eminent domain subject to the provisions of Subpart B, the owners of property acquired voluntarily by direct Federal acquisition, continue to be ineligible for relocation assistance benefits.

Section 24.101(c) Less-Than-Full-Fee Interest in Real Property

There was a comment suggesting we move the language from appendix A, discussing Agencies applying these regulations to any less-than-full-fee acquisition, into the body of the rule itself for greater clarity.

We agree, and the final rule reflects this change.

Section 24.102 Basic Acquisition Policies

We received a comment stating that § 24.102 relates only to acquisitions under the threat of eminent domain, and should be retitled to reflect that.

We respectfully disagree with this comment and note the exceptions to the applicability of Subpart B, Real Property Acquisition, are in 49 CFR 24.101.

Section 24.102(c)(2) Appraisal, Waiver thereof, and Invitation to Owner

We received 28 comments on the NPRM appraisal waiver provisions. Twelve support the changes proposed in the NPRM.

Five commenters disagree with the proposed "two-tier" waiver threshold, especially the provision that the property owner be given the option to have an appraisal if the Agency wishes to use a waiver threshold between $10,000 and $25,000. These comments expressed the position that this procedure would be confusing and not really accomplish much.

In response to the language proposed in the NPRM, we received comments requesting waiver thresholds far in excess of $10,000. However, the Agencies are not comfortable with a waiver threshold over the proposed $10,000 limit without additional safeguards for the property owner. Part of this caution is based on the regulatory history of the present policy, which links the appraisal waiver threshold to the cost of appraisal, i.e., a concern that appraisal costs were exceeding acquisition costs. The final rule does not change the NPRM proposal. We point out that use of the appraisal waiver provision is optional for an Agency, so if appraisal waiver provisions become burdensome or ineffective, the Agency need not implement them.

Two commenters expressed concern that appraisal waiver provisions risked property owner protection and were inconsistent with OMB Circular 92–06, which states, "Agencies should prepare real estate appraisal and appraisal review reports in accordance with written and approved agency standards consistent with the Uniform Standards of Professional Appraisal Practice (USPAP), sections (sic) I–III, as developed by the Appraisal Standards Board of the Appraisal Foundation."

We point out that appraisal waivers for low value acquisitions are specifically authorized by the Uniform Act, Section 301(2). We share the concern that property owners retain protections intended by the Uniform Act. That is one reason why we did not raise the waiver threshold to any higher level. As for the issue of consistency with USPAP, appraisal waiver is not an appraisal performance issue, but an issue about when an appraisal is needed under Federal law.

A question was also raised as to whether the threshold applies to the value of the larger parcel (before value) or the value of the proposed acquisition.

The regulation states that it applies to the "anticipated value of the proposed acquisition."

One commenter suggested removing the "on a case-by-case basis" language from proposed § 24.102(c)(ii) because it created confusion.

We did remove the "on a case-by-case-basis" language from the final rule as it was unclear.

There was one comment expressing concern about situations where a high percentage of an Agency's acquisitions may be through appraisal waiver procedures.

The FHWA shares that concern and is considering initiating research to examine this issue as it applies to our partner State DOTs; however, it is beyond the scope of this rulemaking action.

Two commenters pointed out (and support) that the NPRM proposed adding language that the determination to use an appraisal waiver must be made by a qualified person.

We are pleased to see not only support for this provision, but that it was significant enough to comment on it.

Because of the number of comments indicating confusion in general as to the appraisal waiver provisions, we have added further explanation in appendix A.

Section 24.102(f) Basic Negotiation Procedures

Two commenters suggested that "reasonable opportunity" provided to an owner to consider and respond to an offer should be defined with a specific time frame (such as 30 days).

We did not include a required time frame, but appendix A does discuss the issue, stating that, depending on the circumstances, 30 days would seem to be a minimum time frame. We are reluctant to specify a time frame because we believe that circumstances can dramatically impact what is an appropriate reasonable opportunity to consider an offer and present information.

One commenter stated that giving property owners "a reasonable opportunity to consider the offer" has the potential to slow down project times.

We recognize this potential, however, we believe this statement reflects the primary purpose of the Uniform Act and this regulation, which is to assist and protect property owners and occupants.

One commenter suggested that Agencies should provide the owner and/or his/her appraiser a copy of the Agency's appraisal requirements and inform them that their appraisal should be based on those requirements.

This is an excellent idea, and we have included language to encourage Agencies to do this in appendix A.

One commenter suggested adding the word "all" to "reasonable efforts to contact the owner."

We agree and added the word "all" to the final rule for greater clarity.

Section 24.102(i) Administrative Settlement

Comments indicated support for this section, but noted that not much was changed. We agree. The revised language focuses more on clearly stating the supporting justification for settlements.

One commenter suggested that § 24.107, certain legal expenses, should be cross-referenced in this section.

Since the topics and issues are different, we did not make that change.

We have revised the language to require more specific information in the written justification ("state" rather than "indicate") and deleted specific suggestions ("appraisals, recent court

awards, estimated trial costs, or valuation problems") in favor of requesting "what available information, including trial risks, supports the settlement."

Section 24.102(n) Conflict of Interest

The NPRM proposed expansion of this section to include all persons making waiver valuations under § 24.102(c)(2). This change would bring equal conflict of interest standards to all individuals valuing real property, whether their work is waiver valuations, appraisal, or appraisal review, and would clarify who is covered.

We received 24 comments on the proposed revision to this section. The majority of comments referenced the proposal that any person functioning as a negotiator shall not supervise or formally evaluate the appraiser, review appraiser or person making waiver valuations.

Comments received focused on the impacts on Agency operations. A major concern was how an Agency could comply with the requirement that an appraiser, review appraiser or anyone making a waiver valuation not be supervised or evaluated by anyone negotiating for the property since currently most, if not all, managers frequently become involved in negotiations.

This is a difficult issue, but we, as well as the other affected Federal Agencies, continue to support the provision providing independence for appraisers from officials negotiating to acquire the property.

One commenter recommended that no Agencies be exempted from appraiser independence provisions and suggested that streamlined appraisals and reports could be used to meet budgetary needs.

The exemption is not based on financial considerations, but rather on recognition that some small Agencies, especially Federal-assistance recipients such as local public Agencies, do not have the staffing levels that are needed to support the separation of functions.

One commenter wondered about the impact on consultants of providing independence for appraisers from officials negotiating to acquire the property, and suggested the ethical controls in the Uniform Standards of Professional Appraisal Practice (USPAP)[1] are sufficient.

We note that USPAP controls apply to the appraiser, whose only recourse to inappropriate pressure from a manager or supervisor is refusal to do the assigned task. We believe that this does not adequately address conflict of interest concerns. Policing conflict of interest should not be the appraiser's responsibility. The impact on a consultant will ultimately be up to the funding Agency, which may waive this provision if it believes it appropriate to do so. Again, the responsibility to prevent undue pressure on an appraiser is on the Agency.

One commenter suggested the same (Agency) person should be able to procure contract appraisal services and serve as a negotiator.

This comment was from a local public Agency, which, as such, would be eligible for a waiver if granted by the Federal funding Agency, therefore we did not incorporate such a change.

One commenter expressed a concern that a Federal Agency could give itself a waiver from the requirement that negotiators may not supervise appraisers.

We believe the regulation is clear that the waiver is only for "a program or project receiving Federal financial assistance." This precludes the Federal Agency from granting itself a waiver.

One commenter supported the exception in the last paragraph, which allows the appraiser, the review appraiser and preparer of a waiver valuation to also act as negotiator when the offer to acquire is $10,000 or less. However, another commenter objected to this exception, stating the issue was too important to allow a waiver.

Another commenter suggested the $10,000 threshold be raised to match the appraisal waiver threshold.

One commenter objected to allowing appraisers to act as negotiators in acquisitions under $10,000.

We did not change the threshold amount because the participating Federal Agencies continue to believe that the $10,000 limit provides a reasonable and appropriate exception for low value transactions. The rule adopts the conflict of interest language proposed in the NPRM.

Section 24.103 Criteria for Appraisals

One commenter asked if there is some way we could require that all appraisals prepared for use under the Uniform Act meet appraisal requirements in this rule. The commenter was referring to appraisals made other than for the Agency, such as for property owners.

Many jurisdictions grant broad authority to property owners to express their opinions about their property, and some even compensate them for the costs of an independent appraisal. We see no way we can require appraisal requirements in this rule for property owners' appraisals or other valuation opinions. We suggest Agencies make available their appraisal requirements to property owners so at the least they will know what the requirements are for the Agency's appraisal(s).

The revisions relating to appraisals in §§ 24.103 and 24.104 are the first since The Appraisal Foundation published the USPAP in 1989. Considerable confusion and misunderstanding as to the applicability of the USPAP provisions to Uniform Act real property acquisitions have existed ever since USPAP was first published. The Uniform Act and 49 CFR part 24 set the requirements for appraisal and appraisal review in support of Federal and federally-assisted acquisition of real property for government projects. Many of the revised provisions of §§ 24.103 and 24.104 are intended to assist the appraiser, the Agency and others in understanding the requirements of these subparts in light of the USPAP.

We changed the terminology throughout this section from "standards" to "requirements" to avoid confusion with USPAP standards rules. We also added the phrase "Federal and federally-assisted program" to more accurately identify the type of appraisal practices that are to be referenced, and to differentiate them from private sector, especially mortgage lending, appraisal practice.

One commenter suggested we use USPAP Standards 1, 2 and 3 for several reasons. Certified and licensed appraisers in most States are required to comply with USPAP, and although the Jurisdictional Exception may be used where the USPAP is contrary to law or public policy, that complicates matters unnecessarily. Also, USPAP standards are already in place, and this would assure the Federal government, taxpayers and property owners that appraisals and appraisal reports comply with certain minimum standards.

Uniform Act appraisal requirements have been in place for some time and actually predate USPAP. They were put in place to do what the commenter suggests: provide assurance that when an Agency needs real property, all the parties involved are treated fairly. That is the primary purpose of the Uniform Act. As for the USPAP Jurisdictional Exception, we believe any "complication" is mostly based in misunderstanding of how it works. In any case, USPAP Jurisdictional Exceptions are by definition based in law or public policy and the Agency has

[1] Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: *http://www.appraisalfoundation.org/html/USPAP2004/toc.htm.*

very little, if any, flexibility for optional compliance with the Uniform Act.

Section 24.103(a) Appraisal Requirements

In the NPRM we proposed stating that these regulations set forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs to make it clear that other performance standards, such as USPAP and those issued by professional appraisal societies, do not directly govern programs covered by the Uniform Act. Based on the comments we received, this proposed language clarified the relationship between the appraisal requirements in this rule and USPAP and we have included that language in the final rule. Additionally, we have added further explanatory language in appendix A.

The NPRM proposed adding a requirement for a scope of work statement in each appraisal. The scope of work replaces the former appraisal problem statement. It also renders obsolete the former "minimum standards" and "detailed" appraisals, replacing them with an infinitely variable standard driven by the circumstances of each acquisition. We have included in appendix A a discussion on preparing the scope of work.

We received several comments supporting the adoption of the scope of work. One commenter suggested that the scope of work for Uniform Act purposes needs to be clearly differentiated from the scope of work required by USPAP.

As of the publication of this regulation, the Appraisal Standards Board has not finalized the scope of work in USPAP, so it would be premature to attempt to differentiate. It is our hope that the two concepts will be consistent and that a scope of work written in compliance with this rule will be compatible with any future scope of work requirement in USPAP.

One commenter said that the appraiser should not be able to unilaterally determine the scope of the assignment or what the appraiser will provide the Agency. However, another commenter suggested that the appraiser should decide the scope of work, perhaps in consultation with the client (Agency). This comment was made as part of a discussion about the Agency instructing the appraiser that in certain circumstances, the sales comparison approach would be the only approach to value to be used.

We point out that Agencies have had input to the appraisal process under the old rule. First, the "sales comparison approach only" option has been available to Agencies for many years and has, to our knowledge, caused no problems. Second, these requirements are written on the basis that the Agency is a "knowledgeable user" of appraisal services. That is, the Agency is familiar with both the appraisal process and its own needs, and is capable of participating in a legitimate statement of work to solve the appraisal problem. Accordingly, we believe that appraisers should not be given final authority over the appraisal process for an Agency. We believe it is appropriate that this option continue to be retained by the Agency.

One commenter said it believes the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions should be stated separately, and not be in the scope of work.

We believe the scope of work, as a vehicle of agreement between the appraiser and the Agency, is the appropriate place to include these items. They should also be included in the appraisal report, as part of the scope of work statement.

One commenter questioned the meaning of "the extent appropriate" for application of the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).[2]

The UASFLA is a publication that summarizes Federal eminent domain appraisal case and statute law. So, to the extent that an Agency either follows Federal eminent domain practices, or voluntarily adopts UASFLA as its appraisal guidelines, it may be applicable.

Another commenter recommended that the appraisal clearly define and list which items are considered as real property and which are considered as personal property.

We agree and the regulation and appendix A have been revised to reflect this suggestion.

Still another commenter suggested the five-year sales history be changed to ten years since the property may not have changed hands in the last five years.

Although we did not change the requirement in the regulation, we point out that its requirements are minimums. If the appraiser or the Agency believes higher levels of performance are necessary, then the appraisal scope of work should reflect that.

Section 24.103(a)(2)(ii) Appraisal Requirements

A commenter suggested that USPAP compliance would require appraisers to invoke the USPAP Departure Provision to use only the sales comparison approach.

We disagree with this evaluation. At the present time, a State certified or licensed appraiser who is requested by an Agency to provide only the sales comparison approach would, in our opinion, be doing so under the USPAP Jurisdictional Exception Rule, since the Agency's request would be pursuant to the authority granted it under its law and public policy, which is the basis for a USPAP Jurisdictional Exception.

Section 24.103(d) Qualifications of Appraisers and Review Appraisers

One commenter suggested the rule should recognize that appraisal professional organizations' designations provide an indication of an appraiser's abilities.

We have added language to § 24.103(d)(1) and corresponding text to appendix A to emphasize the need for appraisers and review appraisers to be qualified and competent, and that State licensing or certification, and professional designations can help provide an indication of an appraiser's abilities.

Section 24.103(d)(1)

While the majority of the comments on the proposed changes to this section were positive, we did receive several comments that recommended that appraisers and review appraisers be required to be State certified.

Although we have not adopted that suggestion, we recognize the need for appraisers and review appraisers to be qualified and competent, and that State licensing or certification, and professional designations can help provide an indication of an appraiser's abilities. Therefore, we have added certification and licensing to the list of items to be considered by an Agency in determining the qualification of an appraiser (or review appraiser). We also note that some States have specifically excluded certain State Agency appraisers from State licensing/certification requirements.

Section 24.104 Review of Appraisals

For consistency, the term review appraiser is used throughout this rule to refer to the person performing appraisal reviews. We also added language that

[2] The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at *http://www.usdoj.gov/enrd/land-ack/toc.htm* or in soft cover format from the Appraisal Institute at *http://www.appraisalinstitute.org/ecom/publications/default.asp* and select "Legal/Regulatory" or call 888–570–4545.

will clarify and specify the responsibilities, authorities and expectations associated with appraisal review.

One commenter stated that the NPRM significantly expands appraisal review responsibilities and requirements.

We believe the final rule more accurately elucidates what was commonly assumed to be appraisal review responsibilities and requirements.

A commenter suggested that the final rule should allow administrative reviews performed by appraisers or non-appraisers where the values are less than $50,000.

We disagree because only a technical review can provide the basis for approving an appraisal for valuation purposes.

There was an objection to the discussion in the first two paragraphs of appendix A as being promotional and self-serving.

This discussion provides information on the concept of appraisal review as it is used by public Agencies and we believe it is necessary.

One commenter said the proposed change to allow the review appraiser to support and approve a different value without any oversight or review is not a good policy. This could result in the review appraiser being pressured to increase or reduce appraised values without oversight.

First, the policy allowing the review appraiser to support and approve a value different from that of the appraisal being reviewed has been part of the preceding rule and is not new. Second, at the Agency's option, the Agency official who establishes the amount believed to be just compensation to be offered to the property owner may be someone other than the review appraiser.

Section 24.104(a) Review Appraisers

Several commenters responded to the three options available for the appraisal review.

One commenter expressed concern for using the term "rejected."

We agree and replaced the term "rejected" proposed in the NPRM with "not accepted." This more clearly reflects that such appraisals, while they may meet others' standards or requirements, do not meet the requirements of this rule and the Agency.

One commenter suggested that the type and level of review should be left to the discretion of the acquiring client Agency.

We agree that the Agency should have some discretion as to the review, and we believe that is included in the appraisal review provisions. However, we also believe the amount of appraisal review discipline specified in this rule is necessary to assure compliance with the Uniform Act requirement that the offer believed to be just compensation be based on an approved appraisal.

The same commenter also suggested that the rule delete the requirement that all appraisals must be reviewed.

We do not believe we have flexibility under the Uniform Act to make appraisal review optional. The Uniform Act calls for an approved appraisal, which this rule interprets and implements as requiring a technically reviewed appraisal. We note that while the Uniform Act specifically grants authority for waiver of the appraisal, it does not do so for approving an appraisal.

There were two comments saying the appraisal review provisions should be consistent with USPAP. One specifically cited that having the review appraiser approve the appraisal was not consistent with USPAP, and should be changed unless there is a compelling reason to be different.

We believe, first of all, that it is not inconsistent with USPAP for the review appraiser to be requested to approve the appraisal. We believe the requirement for approving the appraisal is within the bounds of USPAP's Standard Rule 3-1(c) where identification of the scope of the (review appraisal) work to be performed is discussed. Second, if there is any question as to consistency, we point out that the requirement for an "approved appraisal" is in the Uniform Act and would appear to qualify as a USPAP Jurisdictional Exception, based on being "law or public policy."

One commenter suggested that the phrase "accepted (but not used)" could raise questions in condemnation litigation as to why a report met "government standards" was not used, perhaps implying the Agency shopped for the value it wanted to get.

The appraisal review report should discuss why one of two or more reports was selected as approved for best supporting an offer believed to be just compensation.

Another commenter stated that references to the review appraiser setting just compensation is inaccurate and should be deleted.

The language in § 24.104 was carefully written to follow the Uniform Act. A staff review appraiser may be authorized to "develop and report the amount believed to be just compensation," not "set" just compensation, which we acknowledge is the purview of the courts.

One commenter raised a concern that the review appraiser should be required to develop an opinion on whether or not the report complies with Standards 1, 2 and 3 of USPAP as well as an opinion of market value.

As we have noted, while this regulation is intended to be consistent with USPAP, it implements the Uniform Act and its requirements only; it is not a vehicle for implementing USPAP.

A commenter suggested that the owner be offered the opportunity to accompany the review appraiser on the inspection of the property.

An on-site inspection by the review appraiser is not a specific requirement of these regulations, so inviting the property owner would be inappropriate. The necessity of an onsite inspection by the review appraiser depends on the appraisal problem, the appraisal(s), and Agency policy.

One commenter asked what was the background of accepted, approved and rejected.

The three appraisal review results options specified reflect the results that were always needed, but never specifically cited. They are directly related to the needs of the acquisition process specified in the Uniform Act. Additional language has been added to appendix A to further clarify that process.

Section 24.104(b) Review of Appraisals

One commenter expressed the position that it is not good policy to allow the review appraiser, as part of the appraisal review process, to develop independent valuation information if he/she could not approve any submitted appraisal. Concern was expressed that there was potential for undue coercion to be exerted on the review appraiser without oversight.

We believe that newly introduced provisions to enhance appraiser and review appraiser independence will mitigate this risk. We point out that the provisions allowing the review appraiser to develop an independent valuation are carried over from the previous rule.

Section 24.104(c) Written Report

One commenter requested clarification that only a duly authorized Agency staff person can make the approved appraisal decision, because Agencies sometimes mistakenly believe they have no choice but to accept the review appraiser's conclusion.

This is clarified in the final rule.

Another commenter asked if an appraisal report which has had its value conclusion modified in some fashion

during review, maintains its status as approved.

This would come into play primarily when, subsequent to submission by a fee appraiser, the reviewer modifies the recommended (or approved) amount due to a plan revision or other similar reason. For the purposes of the Uniform Act and this regulation, the review appraiser could adjust the recommended or approved amount to reflect changes without voiding the acceptance of the reviewed appraisal report, if those changes are not so substantial as to change the appraisal problem.

Still another commenter asked whether the requirement that any damages or benefits to any remaining property be identified in the review appraiser's report is to be just a simple allocation between damages and benefits or whether discussion is implied.

The requirement is to "identify" any damages or benefits. Therefore, if some discussion may be needed to explain an allocation, such discussion should be included, too, but is not explicitly required.

Two commenters objected to authorizing the review appraiser to determine the amount believed to be just compensation, opining that is a management determination.

We agree it is a management determination, but it is also appropriate to give management the option of delegating this responsibility to a staff review appraiser.

Section 24.105 Acquisition of Tenant-Owned Improvements.

One commenter stated that some tenant-owned improvements or modifications made to accommodate a tenant's disability or the disability of a household member, such as ramps, may have no market value or salvage value because they are of limited use to anyone but the tenant who installed them. In such situations, the regulations should require that the household be compensated for the replacement value of the improvements.

We did not change the provision in § 24.105 for such a situation because the residential occupant would be "made whole" through relocation assistance provisions of this regulation.

Section 24.106 Expenses Incidental to Transfer of Title to the Agency

One commenter stated that we should add a new paragraph describing "other related costs incurred", solely as a result of transfer of real property to the Agency. The regulation can allow only those expenses specified by the Uniform Act, section 303, therefore, this change was not made.

Subpart C—General Relocation Requirements

Section 24.202 Applicability

One commenter suggested we change the word "benefits" to "entitlements." We feel that since the word "assistance" is used throughout the Uniform Act that we will change the word "benefits", when feasible, to "assistance" to be more in line with the language used in the Uniform Act. The Uniform Act program is not an entitlement program but rather a reimbursement program to assist in relocating to a new site.

Section 24.203(b) Notice of Relocation Eligibility

One commenter requested that we further define "promptly" in § 24.203(b), suggesting that it refers to the prompt notification of all occupants/tenants after the initiations of negotiations and, therefore, should be defined to not exceed 7 calendar days or perhaps up to 10 calendar days at most. We consider promptly meaning "as soon as practicable" and do not believe that further elaboration is necessary. Displacing Agencies may wish to further define the term in their operational procedures. (The FHWA has issued guidance in the past to the State Highway Agencies suggesting that, as used in this section, "promptly" means 7 to 10 days).

Section 24.203(d) Notice of Intent to Acquire

The NPRM proposed moving the definition of notice of intent to acquire from the "Definitions" section to the "Notices" section of the regulations. The intent was to group all relocation notices in one place for consistency. A minor revision in wording for clarity was also proposed. No change in the meaning of the term was intended.

We received four comments on this proposed change. One commenter proposed alternative wording for the term that has not been adopted. Three commenters expressed confusion over the intent of this term, therefore, further explanation is warranted here.

The notice of intent to acquire is one of three actions (the other two being initiation of negotiations for acquisition, and actual acquisition) that can establish a person's eligibility for relocation assistance (see § 24.2(a)(9)(i)(A)). Unlike the other notices described in § 24.203, a notice of intent to acquire is not mandatory. As was noted when the 1989 final rule was issued (54 FR 8916), its purpose "is to clearly establish a displaced person's eligibility for relocation benefits. However, it should be understood that the absence of such a notice does not deprive the person of eligibility for relocation benefits."

A notice of intent to acquire may be used to establish a person's eligibility for relocation assistance prior to the initiations of negotiations and sometimes prior to commitment of Federal-financial assistance. A notice of intent to acquire is a means by which displacing Agencies may establish a person's relocation eligibility in advance of the typical acquisition and relocation process in order to conduct orderly relocation, minimize adverse impacts on displaced persons and to expedite project advancement and completion.

One commenter suggested that the notice of intent to acquire could be confused with the "notice to owner" found in § 24.102(b). A notice to owner is merely an Agency's notice informing the owner of the Agency's interest in acquiring the property; it is not a commitment and does not establish relocation eligibility. Whereas a notice of intent to acquire is an Agency's written notice provided to a person to be displaced; it is a commitment and clearly establishes relocation eligibility in advance of the normal acquisition and relocation process.

One commenter was uncertain as to the relationship between the notice of intent to acquire, and the notice of relocation eligibility, described in § 24.203(b). While the notice of intent to acquire is one of three possible actions that establish eligibility for relocation assistance, the notice of relocation eligibility is a mandatory notice that notifies persons when they become eligible for relocation assistance. For greater clarity and consistency we have added references to the notice of intent to acquire and actual acquisition in § 24.203(b) to make it clear that the notice of relocation eligibility must be provided after whichever Agency action first triggers a person's eligibility for relocation assistance.

Section 24.204(b)(1) Disaster Relief Act and Section 24.204(c) Basic Conditions of Emergency Move

For clarity, we have updated the citation to the Robert Stafford Disaster and Emergency Assistance Relief Act, as amended, (42 U.S.C. 5122) in § 24.204(b)(1). We have also added a reference to "displacement dwelling" in § 24.204(c) to emphasize that we are referring to relocations from such dwellings.

Section 24.205 Relocation Planning, Advisory Services, and Coordination

One commenter asked whether changes in § 24.205 were intended to preclude so-called "global settlements." Another comment, focusing primarily on § 24.207(f) (which prohibits Agencies from requesting that displaced persons waive relocation benefits), recommended that the regulation would preclude the use of such settlements. The comment described "global settlements" as "the packaging of relocation entitlements (in some cases moving, mortgage interest, price differential, etc.) with the fair market value to reach an administrative settlement of the acquisition."

The changes to § 24.205 are not intended to reflect "global settlements." We do not believe that such settlements are consistent with the requirements of the Uniform Act or this part.

The Uniform Act and this part require that relocation payments be determined in accordance with specific fact based criteria. For example, a homeowner's replacement housing payment shall be based on the "amount, if any" that must be added to "the acquisition cost of the dwelling acquired" to equal the reasonable cost of a comparable dwelling. It is therefore impossible to accurately determine the amount of a displaced homeowner's replacement housing payment until the actual acquisition cost of the acquired dwelling is established. Furthermore, a replacement housing payment can only be made to a displaced homeowner if the homeowner purchases and occupies a decent safe and sanitary replacement dwelling within one year after he or she receives final payment for the acquired dwelling. Accordingly, under the Uniform Act and this part, a homeowner's replacement housing payment cannot be determined until the actual acquisition cost is known.

In addition, actual reasonable moving expenses often cannot be determined until after the move has been completed. Relocation benefits provided under the Uniform Act and this part must be determined in accordance with the applicable requirements contained therein, and any "settlement", related to relocation benefits, that does not do so would not be consistent with statutory and regulatory requirements.

Both §§ 24.205 and 24.207(f) are drafted to ensure that displaced persons are fully advised of all relocation assistance benefits that are available to them, and that a displaced person is offered all the assistance and benefits for which he or she is eligible. This applies to both residential and nonresidential displacements.

Section 24.205(c)(2)(i)(A–F) General Planning

We received eleven comments on the proposed requirement for obtaining information from the displaced business owners concerning a business's needs during the relocation process to enable the acquiring Agency to assist the business in successfully relocating to a replacement site. Most were in favor of the new informational requirements. Three commenters expressed concerns, stating that their planning process was undertaken early, during the early environmental studies, and that the information would be obsolete prior to the actual relocation process.

We included this requirement so that the interviews, where the six informational items are to be obtained, are conducted during the advisory assistance process. This process is to be undertaken when relocation can be expected to begin within a short interval of time.

One commenter was concerned that some business owners employed legal counsel that advised the businesses not to provide any information to the displacing Agency. In such cases, acquiring Agencies should explain to business owners that the intent of the interview questions is to obtain data that will enable the Agency to better assist the displaced business, and that the Agency is required to seek such information by a Federal regulation implementing the Uniform Act.

Section 24.205(c)(2)(i)(C)

We received two comments recommending we change the wording in § 24.205(c)(2)(i)(C) concerning the resolution of personalty/realty issues, in order that the provision apply to all businesses not just tenant businesses. We agree with the recommendation and have removed "tenant" from § 24.205(c)(2)(i)(C).

We received six comments to the proposed change to § 24.205(c)(2)(i)(C), concerning identification and resolution of realty/personalty items prior to an appraisal of the property.

All commenters agreed that this is a problem area and that a change is needed. However, all commenters shared a common concern, that requiring resolution prior to the appraisal of the property is sometimes not possible.

One commenter suggested "should" be used in place of "must." Several commenters reminded us that most Agencies are aware of the problem and make every effort to identify and resolve these issues as early as possible, but that sometimes it is not possible given the reluctance of tenants and owners to cooperate.

We received many comments from the public prior to the NPRM requesting a stronger position be taken on resolving realty/personalty issues early in the process. However, we recognize the valid concerns reflected in the comments and, therefore, have changed § 24.205(c)(2)(i)(C) to provide that "every effort must be made" to identify and resolve realty/personalty issues prior to "or at the time of" the appraisal.

Section 24.205(c)(2)(i)(E)

We received three comments on § 24.205(c)(2)(i)(E) which proposed that interviews with displaced business owners include an estimate of a business searching expense payment based on the estimated difficulty in locating a replacement site. The comments questioned the purpose of obtaining an estimate of searching expenses and asked whether the acquiring Agency or the business owner should prepare it.

There are two general purposes for this provision. The first is to generate a discussion of the anticipated problems faced by the business to enable the acquiring Agency to determine the time required for the move; and, second, to factor in the time and costs of investigating a replacement site. These costs include those necessary to obtain permits, attend zoning hearings and negotiate the purchase of a replacement site. Our primary intent was to identify problems in locating a replacement site. For clarity, and in response to the comments, we have deleted the requirement that an estimate of the searching expense payment be provided.

Section 24.205(c)(2)(ii)

Several commenters noted the incorrect placement of a sentence concerning business interviews within the residential portion of this section of the regulations, at the end of § 24.205(c)(2)(ii). This sentence was erroneously repeated from the preceding business interview discussion, and has been deleted from the final rule.

One commenter recommended that the regulations provide that reasonable accommodations be made for disabled displaced persons in the interview process and with regard to transportation. The NPRM did not propose any changes in this area and we believe none are necessary. Agencies must make every effort to provide reasonable accommodations for all displaced persons, including the

disabled, in order to minimize any adverse impacts. This is not a new requirement; it is a fundamental principle of relocation advisory services. As such, no additional changes were adopted.

Section 24.205(c)(2)(ii)(D)

We received 12 comments regarding the proposal that an Agency, which has a program objective of providing minority persons with an opportunity to relocate outside of areas of minority concentration, may determine to provide a reasonable and justifiable increase in the payment to facilitate such a move. Every comment disagreed with the addition of this flexibility for various reasons, many because it was perceived as a mandate to provide additional payments rather than an option based on an Agency's program goals. Based on further consideration, and in response to the comments, we removed this language from the final rule.

Section 24.205(c)(2)(ii)(E)

We received six comments on § 24.205(c)(2)(ii)(E), which concerns transportation to inspect replacement housing. One commenter suggested that such transportation should be "need based" for only certain individuals, such as those with health limitations or disabilities. Another commenter wanted to add the wording "as appropriate." Still another commenter wanted the decision to provide this transportation to be at the discretion of the Agency.

The requirement to offer transportation to all displaced persons is not new. A minor clarification was proposed to emphasize that all displaced persons are entitled to such transportation. It has been our experience that most people will provide their own transportation, but in fairness to all, transportation shall be offered to all displaced persons equally.

One commenter voiced concern about government liability in transporting non-government persons, and suggested designating other forms of transportation. We purposely did not designate a mode of transportation. It is the responsibility of the Agency to decide how they will transport a displaced person. If liability is a concern, there are other means of transportation available such as a taxicab or rental car.

Section 24.206 Eviction for Cause

See the explanation under Subpart A, definitions, § 24.2(a)(12), in this preamble.

Section 24.207(f) Waiver of Benefits

We received 17 comments on § 24.207(f), which provides that displacing Agencies shall not propose or request that a displaced person waive his or her relocation benefits. This section complements §§ 24.205(c) and 24.203(a), (b) and (c) which describe the information and notices that must be provided to persons prior to displacement.

The comments were virtually unanimous in support of § 24.207(f). However, it appears that a few commenters did not fully understand this provision. As we noted in the preamble to the NPRM (68 FR 70348–70349), because the Uniform Act imposes requirements on displacing Agencies to provide relocation assistance, a person to be displaced cannot relieve an Agency from the Uniform Act's requirements by agreeing to waive his or her relocation assistance and benefits.

Appendix A, § 24.207(f), provides that a person, after they have been fully advised of all relocation payments and assistance to which they are entitled, may, in a written statement, choose not to accept some or all of such benefits. In the unlikely event that a person simply refuses to accept some or all payments and assistance, and refuses to provide any written statement to that affect, the Agency should document such refusal in writing.

We have made two minor changes to § 24.207(f) in response to comments. We have inserted "No" as the first word of the section's title, to emphasize that this provision is not intended to encourage any waiver of benefits. We have also changed the phrase "relocation assistance and payments provided by the Uniform Act," to "relocation assistance and benefits provided by the Uniform Act," to avoid any implication that this section would apply to payments for the acquisition of real property, which are addressed in detail in subpart B.

Section 24.207(g) Expenditure of Payments

We received five comments on proposed § 24.207(g). These generally requested minor editorial changes or further clarification. This section expresses longstanding practice and understanding by stating that relocation payments provided to a displaced person are not "Federal financial assistance" for purposes of this part, and therefore, their expenditure is not subject to the Uniform Act. In response to the comments received minor changes have been made to improve clarity.

Subpart D—Payments for Moving and Related Expenses

Section 24.301(b) Moves From a Dwelling

We received 13 comments on § 24.301(b), moving from a dwelling. Most of the commenters were unclear on what is meant by the phrase "but not by the lower of two bids or estimates" in § 24.301(b). It has long been our position that a residential displaced person cannot be paid for a self-move based on the lower of two bids or estimates. This has always been a moving option reserved for businesses. There are only three types of moving options available for residential moves, that are described in §§ 24.301(b)(1) and (2)(i) and (ii). After careful consideration of the comments we agree that the proposed language in § 24.301(b) could be misunderstood and have made changes to better clarify that a residential self-move cannot be based on the lower of two bids or estimates.

Two commenters questioned why we allow an actual cost move, supported by receipted bills, to equal the hourly rate that a commercial mover would receive. In response to that, the rate a commercial mover would pay is only there as a comparison, to ensure that the rate charged is not excessive. The rate may be less than the prevailing commercial rate.

One commenter suggested that we make it clear that the hourly rate for equipment rental be based on the actual cost of the equipment rental, but not exceed the cost a commercial mover would charge. We agree and have added language to §§ 24.301(b)(2)(ii) and 24.301(d)(2)(ii) to reflect this clarification.

Section 24.301(b)(2)(iii) and (c)(2)(iii) Moving Cost Finding

We received 20 comments on the proposed new method of moving personal property that would allow a qualified Agency staff person to estimate and determine the cost of a small uncomplicated personal property move up to $3,000, with the informed consent of the displaced person (NPRM § 24.301(b)(2)(iii).)

The comments varied from those who supported the proposal to those who opposed it. Others found it confusing and questioned the legality of our actions. Six commenters requested we increase the amount anywhere from $5,000 to $10,000 with one commenter suggesting the amount be set individually by each State. Four

commenters requested additional explanation as to what determines a "qualified" staff person and two commenters questioned the legality of such a move indicating that there is no statutory support for creating a different type of move.

One commenter suggested we tie the amount to a meaningful index to be evaluated periodically similar to the Fixed Residential Moving Costs Schedule and one commenter requested an explanation of how we arrived at $3,000.

This proposed change was intended to provide greater flexibility. However, because of the apparent misunderstanding of the purpose of the proposal, and the range of confusion and concern expressed, we have decided not to adopt this proposal.

Section 24.301(d) Moves From a Business, Farm or Nonprofit organization

One commenter brought to our attention that we had inadvertently left out actual cost moves as one of the options for business moves. We agree and thank the commenter for bringing it to our attention. We have added it back in the regulations as part of § 24.301(d)(2)(ii).

Two commenters requested additional information on hourly rates. We feel hourly rates are adequately explained in Actual Cost Self-Move.

Section 24.301(d)(2) Self-Move

One commenter objected to the elimination of "qualified staff" to estimate actual, reasonable moving expenses, especially in low-cost uncomplicated moves. While we recognize that it is sometimes difficult to receive an accurate estimate from a professional mover, the use of such an estimate, wherever possible, is valuable in establishing accuracy. We understand that occasionally it is necessary to consult trade associations representing specialty movers on a case-by-case basis. As a result, we did not make any changes to the rule.

Section 24.301(e) Personal Property Only

We received seven comments concerning the new paragraph on personal property, § 24.301(e). All were positive comments, however, four commenters requested additional explanation of what is covered by the new paragraph. The four commenters were concerned that, as proposed, § 24.301(e), personal property, would be limited to eligible expenses as described in § 24.301(g)(1) through (g)(7) and not be eligible for expenses in § 24.301(g)(8) through (g)(18). Thus, in effect eliminating the use of actual direct loss of tangible personal property, substitute personal property, searching expense, and other normally eligible business expenses.

As explained in the preamble to the NPRM, this provision was only intended to be used for moving personal property from property acquired for a Federal or federally-assisted project, where there was no need for a full relocation of a residence, business, farm or nonprofit organization. It was not intended to cover the eligible moving items in § 24.301(g)(8) through (g)(18). However, upon further consideration, eligibility for payment based on § 24.301(g)(18) Low Value/High Bulk is determined to be appropriate for inclusion in a personal property only move. As such, we have revised this section of the regulations to include § 24.301(g)(18) as an eligible actual moving expense as part of a nonresidential personal property only move.

It should also be noted that personal property only moves do not trigger eligibility for reestablishment expense payments, nor are they eligible for actual moving expense payments under § 24.301(g)(8) through (g)(17).

For moving options and examples of the types of personal property only relocations, see appendix A, § 24.301(e).

Section 24.301(g)(3) Eligible Moving Expenses

We received 19 comments regarding compliance with code requirements at the replacement site of a small business, farm or nonprofit organization. The commenters requested that we consider moving more criteria from § 24.304 to either §§ 24.301 or 24.303.

Nine of the commenters urged moving the provision providing payments for "repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance" from the reestablishment expense § 24.304, which provides a reestablishment payment not to exceed $10,000, to § 24.303, where the reimbursement provision is not limited. Four commenters suggested that we should move additional criteria from § 24.304 to other sections that provide payment for actual, reasonable and necessary expenses.

We do not believe these suggestions are appropriate since we believe actual moving cost expenses for businesses should be limited to personal property items, while expenses for improving business real property should be reimbursed under reestablishment provisions of § 24.304. However, we note that three provisions which were formerly under reestablishment limitations, and which do not fall within the category of realty or personalty, have been moved to revised § 24.303, and can be considered for reimbursement without a defined dollar limitation.

Four commenters requested further clarification of the reference to modifications of personal property in § 24.301(g)(3). To clarify, the provision for displaced businesses, permitting modifications to the personal property within the replacement structure, provides payment for costs necessary to adapt personal property to the replacement site, and includes modifications mandated by Federal, State or local law, code, or ordinance. This includes circumstances when such property and equipment was "grandfathered" in the displacement structure, but changes or upgrading of the personalty is required by the Americans with Disabilities Act (ADA), the Occupational Safety and Health Administration (OSHA), other Federal laws, State or local law, code or ordinances at the replacement site. The modifications authorized for reimbursement must be clearly and directly associated with the reinstallation of the personal property and cannot be for general repairs or upgrading of equipment because of the personal choice of the business owner. Finally, the expenditures for authorized modifications must be reasonable and necessary.

Two commenters were concerned that we may have gone too far in moving some items from §§ 24.304 to 24.303, instead suggesting that more attention should be given to the level of service provided to businesses as proposed in § 24.205. Their concern is that it is questionable whether having no cost limits will always improve the percentage of successful business relocations. We considered their concern but have elected to make the proposed changes.

To further clarify § 24.301(g)(3) we have restructured the existing wording to distinguish residential and nonresidential items and added a reference to Federal, State or local law, code or ordinance.

Section 24.301(g)(12)

We received one comment recommending that § 24.301(g)(12) further define the limits of eligible fees for professional services. The commenter recommended that such eligible fees be limited to fees related to actually moving the personal property, and not include fees related to

conceptual building or site layouts intended for construction/reconstruction at the replacement property.

No changes have been made to this section. The professional services described in this section only include those that are directly related to moving personal property. Conceptual building or site layouts intended for construction/reconstruction at the replacement property are not considered eligible expenses under this section. Professional services related to these types of expenses may be considered eligible expenses under § 24.303(b), related nonresidential eligible expenses, if the Agency determines them to be actual, reasonable and necessary.

Section 24.301(g)(14) and (g)(14)(i)

We received 13 comments recommending that we clarify § 24.301(g)(14) relating to the actual direct loss of tangible personal property. In particular commenters expressed confusion about the meaning of the phrase "value in place as is for continued use," with two comments suggesting that the regulation include a definition of an appraisal method to estimate this in-place value. Two comments requested clarification as to whether reconnect charges should be included with the estimated moving cost.

The term "value in place as is for continued use" means the depreciated value of the item as it is installed at the displacement site as of the date of the acquisition. We have modified Appendix A, § 24.301(g)(14) to clarify the correct value considerations to estimate in-place value. Generally, an item will be valued based on the current cost of the item as installed on the displacement site, and depreciated to reflect the current condition and estimated remaining useful life. Standard professional personal property appraisal methods would be acceptable. The in-place value at its "as is" condition may not include costs that reflect code or other requirements that were not actually in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

The estimated moving cost for an item is also to be limited to the "as is" condition of the item at the displacement site. Therefore, estimated reconnect costs may not include costs to meet code or other requirements that would only be necessary to relocate the item to a replacement site. Since the item is claimed as a loss and is not to be relocated, allowable reconnect costs may only reflect an estimate of the cost that would be incurred to install the item as it currently exists at the displacement site. Also the moving cost estimate may not include reconnect costs for an item that is not operable or installed at the displacement site.

We believe that the provision proposed in the NPRM, as further explained in appendix A, is correct and consistent with this intent of the Uniform Act, to provide moving benefits that are actual, reasonable and necessary. Therefore, we have included this provision in the final rule.

Section 24.301(g)(17)

We received twelve comments concerning § 24.301(g)(17), which proposed raising the searching expense limit from $1,000 to $2,500. One commenter was not in favor of the increase. Other commenters wanted a greater increase on the allowable limit, no limitation, or urged that it be indexed. The remaining commenters expressed agreement with the increase and/or sought clarifications.

Two commenters asked whether the actual fees assessed for permits are payable under § 24.301(g)(17)(v). This provision includes the actual time and effort required to obtain permits and to attend zoning hearings, not the assessed fees for the permits.

Section 24.301(g)(17) also includes the time spent in negotiating the purchase of a replacement business site based on a reasonable salary or earnings rate. We have added paragraph (g)(17)(vi) to provide for these expenses. In addition, fees necessary in obtaining such permits are eligible costs but should be based on a pre-approved hourly rate that is reasonable and necessary.

Section 24.301(g)(18)

We received ten comments on § 24.301(g)(18) concerning low value/high bulk personal property. Most comments concerned basing the moving payments on the lesser of the amount received if sold, and the replacement cost at the new location of the business. Two commenters stated that a determination as to whether items should be moved should be a joint decision between business operator and the displacing Agency.

We have adopted the proposed language providing for payment of the lesser of the described amounts. We believe that the business owner should be permitted to make the decision on whether the material is to be moved to the new business location. However, the amount of the reimbursement in the move cost should be limited to that set forth in the final rule. Also, there was concern that the items listed in the last sentence of § 24.301(g)(18) are the only items that can be moved under this provision. However, that was not the intent. The items listed are only examples and there certainly can be other items that qualify under this provision. We have made a minor clarification to address this concern.

Section 24.301(h)(12)

We received six comments on § 24.301(h)(12). Two commenters objected to listing refundable security and utility deposits as ineligible moving expenses. While a good argument might be made for providing reimbursement for these expenses, the Uniform Act provides no authority for their reimbursement and we therefore cannot include them in the regulatory description of "actual, reasonable moving expenses," without a legislative change. The fact that they are refundable would remove them from eligibility.

Section 24.302 Fixed Payment For Moving Expenses—Residential Moves

We received one comment on the proposed changes to § 24.302, Fixed Residential Moving Cost Schedule (FRMCS). The commenter requested that the amounts be updated annually or biannually. The same commenter requested that the amount be increased to be more in line with what a professional commercial mover would receive.

The purpose of the FRMCS is not to be in competition with professional commercial movers, but rather to offer an option to the commercial move. There are currently three methods to move personal property from a dwelling; a professional commercial mover, the fixed residential moving cost schedule, or an actual cost move based on receipted bills (*See* § 24.301(b).) The Fixed Residential Moving Cost Schedule is updated every three years. The language in the final rule will remain as proposed in the NPRM.

Section 24.303(b) Related Nonresidential Eligible Expenses

We received 7 comments requesting further clarification of eligible professional services mentioned in § 24.303(b). There was confusion as to whether professional services included attorneys' fees and other professional services relating to costs of negotiating to acquire property, closing costs, etc.

Generally, professional services performed prior to the purchase or lease of a replacement site, to determine it's suitability for the displaced person's

business operation, would be eligible for reimbursement; provided the Agency determines that they are actual, reasonable and necessary. Such professional services include, but are not limited to, soil testing, feasibility and marketing studies, and may be based on a pre-approved hourly rate. Fees and commissions directly related to the purchase or lease of the site, such as realtor commissions or finder's fees are ineligible for reimbursement.

Moving expenses for businesses sometimes include the cost of obtaining outside professional services made necessary only by the relocation. For example, attorneys' fees for representation before zoning authorities, or the cost of obtaining a soil analysis necessary in the preparation of a replacement site are directly related to relocation, and may be considered eligible expenses. By contrast, if these services are provided by regular employees of the displaced business, (such as staff engineers,) or professional contractors ordinarily used by the business for its everyday operations (such as legal counsel on retainer), these services are considered ordinary costs of doing business, and cannot be recognized among eligible moving expenses.

One commenter suggested we revise the wording in this section for clarity. We concur and have made some minor modifications.

Section 24.304 Reestablishment Expenses—Nonresidential Moves

Three comments suggested that § 24.303 be expanded to include costs necessary to satisfy requirements of Federal, State or local law, code or ordinance, including the Americans with Disabilities Act (ADA). In the NPRM we considered such costs to be among those listed as reestablishment expenses in § 24.304(a). As mentioned above, reestablishment expenses are, by statute, available to displaced farms, nonprofits, and small businesses, and are limited to $10,000.

In the NPRM we proposed increasing assistance to businesses and farms by changing some of the costs that had been considered to be reestablishment expenses, to actual reasonable moving expenses, which are not subject to the $10,000 cap. However, the proposed changes only included those costs that were unrelated to improvements to the replacement site. Costs related to improving the replacement real property were more clearly considered to be "reestablishment expenses," and accordingly, were retained in § 24.304.

We continue to believe that this approach provides the most reasonable interpretation of the Uniform Act's requirements and, therefore, in the final rule we have left costs of repairs or improvements to the replacement real property, required by Federal, State or local law or codes, in § 24.304, as reestablishment expenses.

Section 24.304(a)(2)

We received one comment pointing out that § 24.304(a)(2), which concerns necessary modifications to the replacement property, seems to apply to existing buildings which are purchased or leased and must be renovated to some extent, and asked if this section applied to new construction.

The cost of constructing a new business building on the vacant replacement property is considered a capital expenditure and, as provided in § 24.304(b)(1), is generally ineligible for reimbursement as a reestablishment expense. In those rare instances when a business cannot relocate without construction of a replacement structure, a displacing Agency may request a waiver from the funding Agency of § 24.304(b)(1) under the provisions of 49 CFR part 24.7.

Subpart E—Replacement Housing Payments

Section 24.401(a) Eligibility

One commenter assumed that appendix A is not regulatory. This is not accurate. Appendix A is an integral part of the regulation, and, while it does not impose mandatory requirements, it does provide important additional guidance and information concerning the purpose and intent of a number of the provisions in part 24.

Section 24.401(e) Incidental Expenses

One commenter suggested that the payment of actual reasonable expenses incidental to the purchase of a replacement dwelling, described in § 24.401(e), would be simplified by providing a single payment for a displaced homeowner's actual closing costs up to a fixed amount, such as $3,000. While this suggestion might simplify the computation of this component of the replacement housing payment, it was not proposed for public comment in the NPRM and, therefore, it is outside the scope of this rulemaking. However, this suggestion could be addressed in a future rulemaking effort to update 49 CFR part 24.

Section 24.401(f) Rental Assistance for 180-day Homeowner

We received nine comments on the change in proposed in § 24.401(f) that would allow a rental assistance payment for a displaced 180-day homeowner (who elects to rent instead of purchase a replacement dwelling) to exceed $5,250 if the difference in the estimated market rent of the acquired dwelling and the rent for a comparable replacement dwelling support a higher figure. The NPRM also proposed that the rental supplemental payment not be allowed to exceed the amount the 180-day homeowner would have received as a housing (purchase) supplemental payment under § 24.401(b).

Three of the nine commenters suggested clarification as to the maximum amount of assistance to which the displaced 180-day homeowner is entitled. In response, we have made several minor changes to this section. The rental assistance payment cannot exceed the amount the 180-day homeowner would have received under § 24.401(b)(1) (see also § 24.401(c)) which describes how that amount is determined. The payment cannot include costs for expenses under §§ 24.401(b)(2) and (3) (also see §§ 24.401(d) and (e)) as it is not possible to calculate what the 180-day homeowner who rents would have received for increased mortgage interest costs and incidental costs if the person does not actually purchase a replacement dwelling.

Section 24.402(b)(2) Base Monthly Rental for Replacement Dwelling

We received 23 comments on the proposed change in § 24.402(b)(2) that reflects more closely the statutory requirement that only a low-income displaced person's income shall be taken into consideration when calculating rental assistance payments for a comparable replacement dwelling (42 U.S.C. 4624(a)). We have adopted this change in the final rule and it is more in line with the intent of the Uniform Act in that it assures consideration of income for low-income persons. The procedures in § 24.402(b)(2)(ii) will continue to use 30 percent of monthly gross household income, but only for displaced persons who qualify as low income under the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits.[3]

Of the 23 comments, thirteen strongly favored the change; five expressed concern about increased administrative burden; three commenters requested that we drop the 30 percent altogether; one expressed concern that the change would deny replacement housing

[3] A link to the applicable URA Low Income Limit is available on FHWA's Web site at the following URL: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

assistance to tenants; and one commenter pointed out that there would be variations of income by county and State.

We have carefully considered each comment and for the following reasons, we have adopted the proposed change in the final rule. Regarding the increased administrative burden, we have requested several of our field offices to use the HUD Annual Survey of Income Limits and find it relatively user friendly. The initial attempt, as in any new procedure, was awkward, but additional tests became increasingly easier. The request to drop the 30 percent requirement completely would not be in compliance with the Uniform Act, as noted above. The concern by one commenter that the change would eliminate those who are most in need of the assistance is incorrect. We believe that we would be reaching out specifically to those who are truly in need of additional assistance. Those tenants that do not fall into the low-income category will be offered a comparable dwelling based on a rent-to-rent comparison.

Section 24.402(c) Downpayment Assistance Payment

We received eight comments on the proposed change in the criteria to receive a downpayment. Four commenters expressed support for the proposed change to the discussion of § 24.402(c) in appendix A. The proposal would remove language that indicated that an Agency should limit the amount of downpayment assistance to an amount ordinarily required for conventional loan financing. The proposed change allows a displaced person to apply the full amount of the rental replacement housing payment as a downpayment towards the purchase price of the replacement dwelling and related incidental expenses, regardless of any limitation on what is ordinarily required for conventional loan financing. No negative responses were received and the change has been adopted.

Two commenters stated that § 24.404(c)(1)(viii), (concerning possible differences between a rental assistance payment and a downpayment when providing housing of last resort) was inconsistent with the proposed change to appendix A, § 24.402(c), described above. We agree and, accordingly, have deleted § 24.404(c)(1)(viii).

Section 24.403(a) Determining Cost of Comparable Replacement Dwelling

The NPRM proposed that the homeowner's replacement housing payment be broadened to include any increase in real property taxes at the replacement dwelling during the first two years of ownership. We received 31 widely varying comments on this proposal. Nine comments opposed the proposed change. Six comments supported the proposal. Eleven comments supported the concept, but either disagreed with the details of the proposal, or also wanted to include any increases in such costs as insurance, utilities and homeowner's association fees. The remaining comments asked for clarification or expressed no opinion.

Comments that opposed the proposal mentioned such factors as; the addition of substantial administrative burdens, with relatively little benefit; the difficulty in factoring in various State or local provisions that grant property tax relief based on age, income, disability or other factors; and the view that an increase in real property taxes is not really part of the "cost" of the replacement dwelling for purposes of the Uniform Act.

We have carefully considered the comments and have decided not to adopt this proposed change. Our decision is based primarily on the general administrative burdens mentioned in the comments, as well as on the difficulty, suggested in the comments, of trying to develop a reasonably equitable and manageable system for providing short term compensation for property tax increases. We believe that it would be difficult for such a system to easily take into account the variable and inconsistent nature of such taxes resulting from provisions of State and local law that often provide reduced taxes in certain circumstances or to certain groups. Our decision was also influenced by the lack of any clear indication in the Uniform Act that real property taxes were intended to be included as part of the cost of a comparable dwelling.

Not including this proposal in the final rule does not affect the ability of any displacing Agency to compensate displaced homeowners for increased property taxes and similar costs if otherwise authorized to do so.

Section 24.403(a)(1)

The NPRM proposed removing the requirement that Agencies adjust the asking price of comparable replacement dwellings in computing a homeowner's replacement housing payment. That adjustment was considered burdensome for displacing Agencies, as well as for displaced homeowners by, in effect, forcing the homeowner to negotiate for a price lower than the asking price when purchasing a replacement dwelling.

We received 14 comments on this proposal. Ten supported it, and three asked for some further clarification. One commenter requested the right to continue adjusting the comparable. We have adopted the proposal without change. Accordingly, since the requirement to adjust asking prices has been deleted from the rule, there is no longer any authority or basis for Agencies operating under the Uniform Act to make such adjustments (which would reduce the amount of the homeowner's replacement housing payment). Displacing Agencies must now use the asking price of a comparable dwelling in computing the replacement housing payment.

Section 24.403(a)(6)

In the NPRM, we proposed to include language in § 24.2(a)(6)(viii) that would have allowed rent owed to an Agency to be taken into account when determining whether a comparable replacement dwelling is within a displaced person's financial means. Because we received a comment objecting to similar language in § 24.2(a)(6)(viii), we have decided to remove this language from both 24.403(a)(6) and § 24.2(a)(6)(viii).

Subpart F—Mobile Homes

Sections 24.501 through 24.502

We received seven comments on Subpart F, Mobile Homes, concerning clarifications of §§ 24.501 and 24.502. Four commenters identified incorrect wording in §§ 24.502(a)(1)(iii) and 24.502(b)(2). The error concerned the replacement housing payment eligibility computation for an eligible homeowner that is displaced from his/her mobile home. We agree that the wording did not accurately transpose in formatting the NPRM and the error has been corrected in §§ 24.502(a)(1)(iii) and 24.502(b)(2).

Two commenters suggested a simplification of the terms describing a displaced homeowners application of a rental assistance payment and concerning a homeowner who is not displaced from their mobile home. After reviewing these provisions we have determined that they are clear as proposed in the NPRM; however, to further clarify the comparable replacement home site we have moved the existing §§ 24.502(d) to 24.502(b)(3).

Distributions Tables

For ease of reference, distribution and derivation tables are provided for the current sections and the proposed sections as follows:

DERIVATION TABLE

New section	Old section
24.1	24.1.
24.2(a)(1)	24.2 Agency.
24.2(a)(2)	24.2 Alien not lawfully present in the United States.
24.2(a)(3)	24.2 Appraisal.
24.2(a)(4)	24.2 Business.
24.2(a)(5)	24.2 Citizen.
24.2(a)(6)	24.2 Comparable replacement dwelling.
24.2(a)(6)(i) through (vii).	24.2 Comparable replacement dwelling (1) through (7).
24.2(a)(6)(viii)(A) through (C).	24.2 Comparable replacement dwelling (8)(i) through (iii).
24.2(a)(6)(ix)	None.
24.2(a)(7)	24.2 Contribute materially.
24.2(a)(8)	24.2 Decent, safe, and sanitary dwelling.
24.2(a)(9)	24.2 Displaced person.
24.2(a)(9)(ii)(M)	None.
24.2(a)(10)	24.2 Dwelling.
24.2(a)(11)	None.
24.2(a)(12)	24.2 Farm operation.
24.2(a)(13)	24.2 Federal financial assistance.
24.2(a)(14)	None.
24.2(a)(15)	24.2 Initiation of negotiations.
24.2(a)(15)(iv)	None.
24.2(a)(16)	24.2 Lead Agency.
24.2(a)(17)	None.
24.2(a)(18)	24.2 Mortgage.
24.2(a)(19)	24.2 Nonprofit organization.
24.2(a)(20)	24.2 Owner of a dwelling.
24.2(a)(21)	24.2 Person.
24.2(a)(22)	24.2 Program or project.
24.2(a)(23)	24.2 Salvage value.
24.2(a)(24)	24.2 Small business.
24.2(a)(25)	24.2 State.
24.2(a)(26)	24.2 Tenant.
24.2(a)(27)	24.2 Uneconomical remnant.
24.2(a)(28)	24.2 Uniform Act.
24.2(a)(29)	24.2 Unlawful occupancy.
24.2(a)(30)	24.2 Utility costs.
24.2(a)(31)	24.2 Utility facility.
24.2(a)(32)	24.2 Utility relocation.
24.2(a)(33)	None.
24.2(b)	None.
24.8(m)	None.
24.8(n)	None.
24.8(o)	None.
24.101(a) and (b)	24.101(a).
24.101(b)(1)	24.101(a)(1).
24.101(b)(1)(i)	24.101(a)(1)(i).
24.101(b)(1)(ii)	24.101(a)(1)(ii).
24.101(b)(1)(iii)	24.101(a)(1)(iii).
24.101(b)(1)(iv)	24.101(a)(1)(iv).
24.101(b)(2)	24.101(a)(2).
24.101(b)(2)(i)	24.101(a)(2)(i).
24.101(b)(2)(ii)	24.101(a)(2)(ii).
24.101(b)(3)	24.101(a)(3).
24.101(b)(4)	24.101(a)(4).

DERIVATION TABLE—Continued

New section	Old section
24.101(b)(5)	24.101(a)(5).
24.101(c)	24.101(b).
24.101(d)	24.101(c).
24.102(c)(1)	24.102(c).
24.102(n)	24.103(e).
24.103(a)(1)	24.103(a)(2).
24.103(a)(2)	24.103(a)(3).
24.103(a)(3)	24.103(a)(4).
24.103(a)(4)	24.103(a)(5).
24.103(a)(5)	24.103(a)(6).
24.203(a)(2) through (5).	24.203(a)(4).
24.203(d)	24.2 Notice of intent to acquire.
24.205(a)(4)	None.
24.205(a)(5)	24.205(a)(4).
24.205(c)(2)(i)(A) through (F).	None.
24.205(c)(2)(ii)(A)	24.205(c)(2)(ii).
24.205(c)(2)(ii)(B)	24.205(c)(2)(ii)(A).
24.205(c)(2)(ii)(C)	24.205(c)(2)(ii)(B).
24.205(c)(2)(ii)(D)	24.205(c)(2)(ii)(C).
24.205(c)(2)(ii)(E)	24.205(c)(2)(ii)(D).
24.205(c)(2)(ii)(F)	None.
None	24.205(c)(2)(vi).
24.205(e)	24.205(c)(2)(iv).
24.207(e)	24.207(g).
24.207(f) and (g)	None.
24.301(a)	24.303(a) and 24.502(b).
24.301(a)(1) and (2)	24.502(a).
24.301(b)(1) and (2)	24.301 Intro. para.
24.301(b)(1)	24.303(a).
24.301(b)(2)(i)	24.302 First sentence.
24.301(b)(3)	None.
24.301(c)	None.
24.301(d)	24.303(a).
24.301(d)(1) and (2)	24.303 (c).
24.301(f)	24.303(e).
24.301(g)(1)	24.303(a)(1) and 24.301(a).
24.301(g)(2)	24.301(b) and 24.303(a)(2).
24.301(g)(3)	24.303(a)(3).
24.301(g)(4)	24.303(a)(4) and 24.301(d).
24.301(g)(5)	24.303(a)(5) and 24.301(e).
24.301(g)(6)	24.303(a)(7) and 24.301(f).
24.301(g)(7)	24.303(a)(14) and 24.301(g).
24.301(g)(8)	24.502(b)(1).
24.301(g)(9)	24.502(b)(2).
24.301(g)(10)	24.502(b)(3).
24.301(g)(11)	24.303(a)(6).
24.301(g)(12)	24.303(a)(8).
24.301(g)(12)(i) through (iii).	24.303(a)(8)(i) through (iii).
24.301(g)(13) through (17).	24.303(a)(9) through (13)(iv).
24.301(g)(17)(v) and (vi).	None.
24.301(g)(18)	None.
24.301(h)(1) through (11).	24.305(a) through (k).
24.301(i)	24.303(b).
24.301(j)	24.303(d).
24.303 Intro. para.	23.303 Intro. para.
24.303(a)	24.304(a)(4).

DERIVATION TABLE—Continued

New section	Old section
24.303(b)	24.304(a)(7) and (a)(9).
24.303(c)	24.304(a)(11).
24.304(a)(4)	24.304(a)(5).
24.304(a)(5)	24.304(a)(8).
24.304(a)(6)	24.304(a)(10).
24.304(a)(7)	24.304(a)(12).
24.305	24.306.
24.305(b)(1) through (4).	24.306 (b)(1) through (4).
24.305(c) through (e)	24.306 (c) through (e).
24.306	24.307.
24.401(c)(2)	24.401(c)(4).
24.403(a)(5)	24.207(e).
24.403(a)(6)	24.207(f).
24.403(a)(7)	24.401(c)(2).
24.403(g)	24.401(c)(3).
None	24.404(c)(1)(viii).
24.501(a)	24.501 Intro. para.
24.501(b)	24.505(e).
24.502 Heading	24.503.
24.502(a)	24.503(a)(1) and 505(c).
24.502(a)(1)	24.503(a)(1) and 505(c).
24.502(a)(2) and (3)	24.503(a)(2) and (3).
24.502(b)	24.503(b).
24.502(b)(1)	None.
24.502(b)(2)	24.503(a)(3) and 503(b).
24.502(c)	24.505(a).
24.502(d)	24.503(a)(3)(iii) and 24.505(b)(1).
24.502(e)	24.505(b)(2).
24.503	24.504.

DISTRIBUTION TABLE

Old section	New section
Subpart A	Subpart A
24.1	24.1 Text unchanged.
24.2 Heading	24.2 Heading revised.
None	24.2(a) Introductory para. added.
Agency	24.2(a)(1) Revised.
(1) Acquiring agency	24.2(a)(1)(i) Redesignated and revised.
(2) Displacing agency	24.2(a)(1)(ii) Redesignated and text unchanged.
(3) Federal agency	24.2(a)(1)(iii) Redesignated and text unchanged.
(4) State agency	24.2(a)(1)(iv) Redesignated and text unchanged.
Alien not lawfully present in the US.	24.2(a)(2) Redesignated.
Appraisal	24.2(a)(2)(i) Redesignated and revised.
	24.2(a)(2)(ii) Redesignated and text unchanged.
	24.2(a)(3) Redesignated and text unchanged.
Business	24.2(a)(4) Redesignated.

DISTRIBUTION TABLE—Continued

Old section	New section
(1) and (2)	24.2(a)(4)(i) and (ii) Redesignated and revised.
(2) and (3)	24.2(a)(4)(iii) and (iv) Redesignated and text unchanged.
Citizen	24.2(a)(5) Redesignated and text unchanged.
Comparable replacement dwelling.	24.2(a)(6) Redesignated and text unchanged.
(1) and (2)	24.2(a)(6)(i) and (ii) Redesignated and revised.
(3) through (6)	24.2(a)(6)(iii) through (vi) Redesignated and text unchanged.
(7) and (8)	24.2(a)(6)(vii) and (viii) Redesignated and revised.
(8)(i) through (iii)	24.2(a)(6)(viii) (A) through (C) Redesignated and text unchanged.
None	24.2(a)(6)(ix) Added.
Contribute materially	24.2(a)(7) Redesignated and text unchanged.
Decent, safe, and sanitary dwelling.	24.2(a)(8) Redesignated and revised.
(1) through (3)	24.2(a)(8)(i) through (iii) Redesignated and text unchanged.
(4) Sentence one	24.2(a)(8)(iv) Redesignated and revised.
(4) Remaining sentences.	24.2(a)(8)(iv) Redesignated and text unchanged.
(5)	24.2(a)(8)(vi) Redesignated and revised.
(6)	24.2(a)(8)(vii) Redesignated and revised.
Displaced Person	24.2(a)(9) Redesignated.
Displaced person (1)	24.2(a)(9)(i) Redesignated and revised.
Displaced person (1)(i).	24.2 (a)(9)(i)(A) Redesignated and revised.
Displaced person (1)(ii).	4.2 (a)(9)(i)(B) Redesignated and text unchanged.
Displaced person (1)(iii).	24.2 (a)(9)(i)(C) Redesignated and text unchanged.
Persons not displaced (2).	24.2 (a)(9)(ii) Redesignated and text unchanged.
Persons not displaced (2)(i) through (iii).	24.2 (a)(9)(ii) (A) through (C) Redesignated and text unchanged.

DISTRIBUTION TABLE—Continued

Old section	New section
Persons not displaced (2)(iv) through (viii).	24.2 (a)(9)(ii)(D) through (H) Redesignated and revised.
Displaced person (2)(ix).	24.2(a)(9)(ii)(I) Redesignated and text unchanged.
Displaced person (2)(x) and (xi).	24.2(a)(9)(ii)(J) and (K) Redesignated and revised.
Displaced person (2)(xii).	24.2(a)(9)(ii)(L) Redesignated and revised.
None	24.2(a)(9)(ii)(M) Added.
Dwelling	24.2(a)(10) Redesignated and text unchanged.
None	24.2(a)(11) Added.
Farm operation	24.2(a)(12) Redesignated and text unchanged.
Federal financial assistance.	24.2(a)(13) Redesignated and text unchanged.
None	24.2(a)(14) Added.
Initiation of negotiations Intro. para..	24.2(a)(15) Intro. para. Redesignated and text unchanged.
(1) and (2)	24.2(a)(15)(i) and (ii) Redesignated and text unchanged.
(3)	24.2(a)(15)(iii) Redesignated and revised.
None	24.2(a)(15)(iv) Added.
Lead agency	24.2(a)(16) Redesignated and text unchanged.
None	24.2(a)(17) Added.
Mortgage	24.2(a)(18) Redesignated and text unchanged.
Nonprofit organization	24.2(a)(19) Redesignated and text unchanged.
Notice of intent to acquire or notice. of eligibility for relocation assistance.	24.203(d) Revised.
Owner of a dwelling	24.2(a)(20) Redesignated and revised.
(1), (2) and (4)	24.2(a)(20)(i), (ii) and (iv) Redesignated and text unchanged.
(3)	24.2(a)(20)(iii) Redesignated and revised.
Person	24.2(a)(21) Redesignated.
Program or project	24.2(a)(22) Redesignated.
Salvage value	24.2(a)(23) Revised.
Small business	24.2(a)(24) Redesignated.
State	24.2(a)(25) Redesignated.
Tenant	24.2(a)(26) Redesignated.

DISTRIBUTION TABLE—Continued

Old section	New section
Uneconomic remnant	24.2(a)(27) Redesignated.
Uniform Act	24.2(a)(28) Revised.
Unlawful occupancy	24.2(a)(29) Revised.
Utility costs	24.2(a)(30) Redesignated and revised.
Utility facility	24.2(a)(31) Redesignated.
Utility relocation	24.2(a)(32) Redesignated.
None	24.2(a)(33) Added.
None	24.2(b) Added.
24.3	24.3 Text unchanged.
24.4(a)(1) through (3)	24.4(a)(1) through (3) Text unchanged.
24.4(b) and (c)	24.4(b) and (c) Text unchanged.
24.5 through 24.7	24.5 through 24.7 Text unchanged.
24.8(a) through (g)	24.8(a) through (g) Text unchanged.
24.8(h)	24.8(h) Revised.
24.8(i)	24.8(i) Revised.
24.8(j) through (l)	24.8(j) through (l) Text unchanged.
24.8(m)	24.8(m) Removed.
24.8(n)	24.8(m) Redesignated.
None	24.8(n) Added.
None	24.8(o) Added
24.9(a) and (b)	24.9(a) and (b) Text unchanged.
24.9(c)	24.9(c) Revised.
24.10(a) through (f)	24.10(a) through (f) Text unchanged.
24.10(g)	24.10(g) Revised.
24.10(h)	24.10(h) Text unchanged.
Subpart B	**Subpart B**
24.101 Heading.	24.101 Heading Text unchanged.
24.101(a)	24.101(a) Revised.
24.101(a) Second phrase..	24.101(b) Redesignated and revised.
24.101(a)(1)	24.101(b)(1) Redesignated and revised.
24.101(a)(1)(i)	24.101(b)(1)(i) Redesignated and revised.
24.101(a)(1)(ii) and (iii).	24.101(b)(1)(ii) and (iii) Redesignated and revised.
24.101(a)(1)(iv)	24.101(b)(1)(iv) Redesignated and revised.
24.101(a)(2)	24.101(b)(2) Redesignated and text unchanged.
24.101(a)(2)(i)	24.101(b)(2)(i) Redesignated and revised.
24.101(a)(2)(ii)	24.101(b)(2)(ii) Redesignated and revised.
24.101(a)(3) and (4)	24.101(b)(3) and (4) Redesignated and text unchanged.
24.101(a)(5)	24.101(b)(5) Redesignated and revised.

DISTRIBUTION TABLE—Continued

Old section	New section
24.101(b)	24.101(c) Redesignated and revised.
24.101(c)	24.101(d) Redesignated and text unchanged.
24.102(a)	24.102(a) Text unchanged.
24.102(b)	24.102(b) Revised.
24.102(c) Intro. para.	24.102(c) Intro. para. Text unchanged.
24.102(c)(1)	24.102(c)(1) Revised.
24.102(c)(2)	24.102(c)(2)(i) and (ii) redesignated and revised.
None	24.102(c)(2)(ii)(A)
24.102(d)	24.102(d) Revised.
24.102(e)	24.102(e) Text unchanged.
24.102(f)	24.102(f) Revised.
24.102(g) and (h)	24.102(g) and (h) Text unchanged.
24.102(i) through (k)	24.102(i) through (k) Revised.
24.102 (l)	24.102 (l) Text unchanged.
24.102(m)	24.102(m) Revised.
None	4.102(n) Added.
24.103 Heading	24.103 Heading. Text unchanged.
24.103(a)	24.103(a) Revised.
24.103(a)(1)	Appendix 24.103(a).
24.103(a)(2)	24.103(a)(1) Redesignated and revised.
24.103(a)(3)	24.103(a)(2) Redesignated and revised.
24.103(a)(4) through (6).	24.103(a)(3) through (5) Redesignated. and text unchanged.
24.103(b) and (c)	24.103(b) and (c) Revised.
24.103(d) Heading and (d)(1).	24.103(d) Heading and (d)(1)Revised.
24.103(d)(2)	24.103(d)(2) Revised.
24.103(e)	24.102(n) Redesignated and revised.
24.104 Introductory para..	24.104 Introductory para. Text unchanged.
24.104(a), (b) and (c)	24.104(a), (b) and (c) Revised.
24.105(a) and (b)	24.105(a) and (b) Text unchanged.
24.105(c)	24.105(c) Revised.
24.105(d) Introductory para..	24.105(d) Introductory para. Revised.
24.105(d)(1) through D24.105(e).	24.105(d)(1) through 24.105(e) Text unchanged.
24.106(a) and (b)	24.106(a) and (b) Text unchanged.
24.107 through 24.108.	24.107 through 24.108 Text unchanged.
Subpart C	**Subpart C**
24.201	24.201 Text unchanged.
24.202	24.202 Revised.
24.203 (a) and (a)(1) and (2).	24.203(a)(1) and (2) Text unchanged.

DISTRIBUTION TABLE—Continued

Old section	New section
24.203(a)(3)	24.203(a)(3) Text unchanged.
24.203(a)(4)	24.203(a)(5) Redesignated and revised
24.203(b)	24.203(b) Revised.
24.203(c) and (c)(1)	24.203(c) and (c)(1) Text unchanged.
24.203(c)(2)	24.203(c)(2) Revised.
24.203(c)(3)	24.203(c)(3) Text unchanged.
24.203(c)(4)	Removed.
24.203(c)(5)	24.203(c)(4) Redesignated and text unchanged.
None	24.203(d) Added.
24.204(a)	24.204(a) Revised.
24.204(a)(1) through (b) Intro. para..	24.204(a)(1) through (b) Intro. para. Text unchanged.
24.204(b)(1)	24.204(b)(1) Revised.
24.204(b)(2) and (3)	24.204(b)(2) and (3) Text unchanged.
24.204(c) Intro. para.	24.204(c) Intro. para. Revised.
24.204(c)(1) through (3).	24.204(c)(1) through (3) Text unchanged.
24.205(a)	24.205(a) Revised.
24.205(a)(1) and (2)	24.205(a)(1) and (2) Revised.
24.205(a)(3)	24.205(a)(3) Text unchanged.
None	24.205(a)(4) Added.
24.205(a)(4)	24.205(a)(5) Redesignated and text unchanged.
24.205(b) through 24.205(c)(2).	24.205(b) through 24.205(c)(2) Text unchanged.
24.205(c)(2)(i)	24.205(c)(2)(i) Revised.
None	24.205(c)(2)(i)(A) through (F) Added.
	24.205(c)(2)(ii) Added
24.205(c)(2)(ii)	24.205(c)(2)(ii)(A) Redesignated and text unchanged.
24.205(c)(2)(ii)(A) and (B).	24.205(c)(2)(ii)(B) and (C) Redesignated and text unchanged.
24.205(c)(2)(ii)(C) and (D).	24.205(c)(2)(ii)(D) and (E) Redesignated and revised.
None	24.205(c)(2)(ii)(F) Added.
24.205(c)(2)(iii)	24.205(c)(2)(iii) Revised.
24.205(c)(2)(iv) and (v).	24.205(c)(2)(iv) and (v) Text unchanged.
24.205(c)(2)(vi)	24.205(e) Redesignated and text unchanged.
24.205(d)	24.205(d) Text unchanged.
24.206	24.206 Text unchanged.
24.207(a) through (d)(1).	24.207(a) through (d)(1) Text unchanged.
24.207(d)(2)	24.207(d)(2) Revised.

DISTRIBUTION TABLE—Continued

Old section	New section
24.207(e)	24.403(a)(5) Redesignated.
24.207(f)	24.403(a)(6) Redesignated
24.207(g)	24.207(e) Redesignated and text unchanged.
None	24.207(f) and (g) Added.
24.208 Heading.	24.208 Heading Text unchanged.
24.208(a) through (f) Intro. para..	24.208(a) through (f) Intro. para. Text unchanged.
24.208(f)(1)	24.208(f)(1) Revised.
24.208(f)(2) through 24.209.	24.208(f)(2) through 24.209 Text unchanged.
Subpart D	**Subpart D**
24.301 Heading	24.301 Heading Revised.
24.301 Introductory paragraph.	24.301(a) Redesignated and revised.
None	24.301(a) Added.
24.301(a) and (b)	24.301(g)(1) and (g)(2) Redesignated and text unchanged.
None	24.301(b) Added.
24.301(c)	24.301(g)(3) Redesignated.
None	24.301(c) Added.
24.301(d) through (f)	24.301(g)(4) through (g)(6) Redesignated.
None	24.301(d) through (f) Added.
24.301(g)	24.301(g)(7) Revised.
None	24.301(g)(18) Added.
None	24.301(h) through (j) Added.
24.302	24.302 Revised.
24.303	24.303 Revised.
24.303(a) through (a)(14).	24.301(g)(1) through (g)(17) Redesignated and revised.
24.303(b) through (b)(3).	24.301(i)(1) and (2) Redesignated and revised.
24.303(c)	24.301(d) Redesignated and revised.
24.303(d)	24.301(j) Redesignated and text unchanged.
24.303(e) through (e)(2).	24.301(f) through (f)(2) Redesignated and text unchanged.
24.304 Heading	24.304 Heading Text unchanged.
24.304 Introductory para..	24.304 Introductory para. Revised.
24.304(a) through (a)(3).	24.304(a) through (a)(3) Text unchanged.
24.304(a)(4)	24.303(a) Redesignated.
24.304(a)(5)	24.304(a)(4) Redesignated.

DISTRIBUTION TABLE—Continued

Old section	New section
24.304(a)(6)	24.301(g)(11) Redesignated.
24.304(a)(7)	24.303(b) Redesignated and revised.
24.304(a)(8)	24.304(a)(5) Redesignated.
24.304(a)(9)	24.303(b) Redesignated and revised.
24.304(a)(10)	24.304(a)(6) Redesignated.
24.304(a)(11)	24.303(c) Redesignated and revised.
24.304(a)(12)	24.304(a)(7) Redesignated.
24.304(b)(1) through (3).	24.304(b)(1) through (3) Text unchanged.
24.304(b)(4)	24.304(b)(4) Revised.
24.305 section heading.	24.305 Removed.
24.305(a) through (k)	24.301(h)(1) through (h)(11) Redesignated and revised.
None	24.305(h)(12) Added.
24.306 section heading.	24.305 Redesignated.
24.306(a)	24.305(a) Redesignated and revised.
24.306(a)(1) through (a)(5).	24.305(a)(1) through (a)(5) Redesignated and text unchanged.
24.306(a)(6)	24.305(a)(6) Revised.
24.306(b)	24.305(b) Revised.
24.306(c)	24.305(c) Revised.
24.306(c)(1) through (d).	24.305(c)(1) through (d) Redesignated.
24.306(e)	24.305(e) Revised.
24.307 section heading.	24.306 Redesignated.
24.307(a) through (b)	24.306(a) through (b) Redesignated.
24.307(c)	24.306(c) Revised.
Subpart E	**Subpart E**
24.401 through 24.401(b).	24.401 through 24.401(b) Text unchanged.
24.401(c)	24.401(c) Text unchanged.
24.401(c)(1)	24.401(c)(1) Revised.
24.401(c)(1)(i) and (ii)	24.401(c)(1)(i) and (ii) Text unchanged.
24.401(c)(2)	24.403(a)(7) Redesignated and revised.
24.401(c)(3)	24.403(g) Redesignated and text unchanged.
24.401(c)(4)	24.401(c)(2) Redesignated and text unchanged.
24.401(c)(4)(i)	24.401(c)(2)(i) Redesignated and text unchanged.
24.401(c)(4)(ii) and (iii).	24.401(c)(2)(ii) and (iii) Redesignated and revised.
24.401(c)(4)(iv)	24.401(c)(2)(iv) Redesignated and text unchanged.

DISTRIBUTION TABLE—Continued

Old section	New section
24.401(d)	24.401(d) Text unchanged.
24.401(d)(1)	24.401(d) Revised.
24.401(d)(2) through 24.401(e)(3).	24.401(d)(2) through 24.401(e)(3) Text unchanged.
24.401(e)(4)	24.401(e)(4) Revised.
24.401(e)(5) through (e)(9).	24.401(e)(5) through (e)(9) Text unchanged.
24.401(f)	24.401(f) Revised.
24.402(a) through (b)(2)(i).	24.402(a) through (b)(2)(i) Text unchanged.
24.402(b)(2)(ii)	24.402(b)(2)(ii) Revised.
24.402(b)(2)(iii) and (b)(3).	24.402(b)(2)(iii) and (b)(3) Text unchanged.
24.402(c)(1)	24.402(c)(1) Revised.
24.402(c)(2)	24.402(c)(2) Text unchanged.
24.403 Heading	24.403 Text unchanged.
24.403(a) and (a)(1)	24.403(a) and (a)(1) Revised.
24.403(a)(2) through (4).	24.403(a)(2) through (4) Text unchanged.
None	24.403(a)(5) through (7) Added.
24.403(b)	24.403(b) Revised.
24.403(c) through (f(1).	24.403(c) through (f)(1) Text unchanged.
24.403(f)(2)	24.403(f)(2) Revised.
24.403(f)(3)	24.403(f)(3) Text unchanged.
None	24.403(g) Added.
24.404(a) through 404(a)(2)(ii).	24.404(a) through 404(a)(2)(ii) Text unchanged.
24.404(a)(2)(iii)	24.404(a)(2)(iii) Revised.
24.404(b) through 404(c)(1)(vi).	24.404(b) through 404(c)(1)(vi) Text unchanged.
24.404(b) through 404(c)(1)(i).	24.404(b) through 404(c)(1)(i) Revised.
24.404(c)(1)(ii) through (vi).	24.404(c)(1)(ii) through (vi) text unchanged.
24.404(c)(1)(vii)	24.404(c)(1)(vii) Revised.
24.404(c)(1)(viii).	Removed.
24.404(c)(2) and (3)	24.404(c)(2) and (3) Revised.
Subpart F	**Subpart F**
24.501 Heading	24.501 Heading Text unchanged.
24.501 Intro. para.	24.501(a) Redesignated and revised.
None	24.501(b) Added.
24.502(a)	24.301 (a)(1) and (2)
24.502(b) through (b)(3).	24.301(g)(8) through (g)(10) Redesignated and revised.
24.503 section heading.	24.502 Redesignated and revised.

DISTRIBUTION TABLE—Continued

Old section	New section
24.503(a)	24.502(a) Redesignated and revised.
24.503(a)(1)	24.502(a)(1) Redesignated and revised.
None	24.502(a)(1)(i) through (iii) Added.
24.503(a)(2)	24.502(a)(2) Redesignated and text unchanged.
24.503(a)(3)	24.502(a)(3) Redesignated and revised.
24.503(a)(3)(i) through (iv).	24.502(a)(3)(i) through (iv) Redesignated and text unchanged.
None	24.502(b)(1) Added.
24.503(b)	24.502(b)(2) Redesignated and revised.
None	24.502(b)(3) Added.
None	24.502 (c) through (e) Added.
24.504 Heading	24.503 Heading Redesignated and text unchanged.
24.504 Intro. para.	24.503 Intro. para. Redesignated.
24.504(a) and (b)	24.503(a) and (b) Redesignated and text unchanged.
24.504(c)	24.503(c) Redesignated and revised.
24.505(a) through (e)	24.505(a) through (e) Removed.
24.505(e)	24.501(b) Redesignated.
24.601	24.601 Text unchanged.
24.602	24.602 Revised.
24.603	24.603 Text unchanged.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, nor is it significant within the meaning of Department of Transportation regulatory policies and procedures.

This action updates and streamlines the Uniform Act regulation and does not include any new initiatives. We have made only nominal adjustments to enhance services and payments to persons displaced by Federal and federally-assisted programs and projects. The costs of the increased benefits will continue to be funded through Federal and federally-assisted project funds. These changes will assist the 18 Federal Agencies that acquire real property or displace persons, and several of these Agencies provided input in developing this final rule.

This final rule will not adversely affect, in a material way, any sector of the economy. This action will assist Agencies in developing their programs that acquire real property or displace persons by providing increased assistance, especially for businesses, farms and nonprofit organizations. None of the changes will materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this action on small entities and has determined that the final rule will not have a significant economic impact on a substantial number of small entities.

This action updates the government-wide regulation that provides assistance for persons, including small businesses, displaced by Federal and federally-assisted programs or projects. One of the reasons for the update is to increase assistance for displaced small businesses. We anticipate this final rule will have a positive impact on those relatively few small businesses that are affected by such programs or projects. Financial impacts on local governments are mitigated by the fact that any increased costs will accrue only on federally-assisted programs, which will include participation of Federal funds. For these reasons, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). The updates are applicable only on Federal and federally-assisted programs. This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120.7 million or more in any one year (2 U.S.C. 1532).

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action will not have a substantial direct effect or sufficient federalism implications on States that will limit the policymaking discretion of the States. The FHWA has also determined that this action will not preempt any State law, or State regulation, or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this final rule will not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

This action will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interface with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This final rule meets applicable standards in §§ 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This action does not involve an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this final rule under Executive Order 13175, dated November 6, 2000, and believes that this action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements and Transportation.

Issued on: December 27, 2004.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 49, Code of Federal Regulations, Part 24, as set forth below:

PART 24—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

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Appendix B to Part 24—Statistical Report Form

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

Subpart A—General

§ 24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) (Uniform Act), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;

(b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

(c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

§ 24.2 Definitions and acronyms.

(a) *Definitions.* Unless otherwise noted, the following terms used in this part shall be understood as defined in this section:

(1) *Agency.* The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

(i) *Acquiring Agency.* The term *acquiring Agency* means a State Agency, as defined in paragraph (a)(1)(iv) of this section, which has the authority to acquire property by eminent domain under State law, and a State Agency or person which does not have such authority.

(ii) *Displacing Agency.* The term *displacing Agency* means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(iii) *Federal Agency.* The term *Federal Agency* means any department, Agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(iv) *State Agency.* The term *State Agency* means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(2) *Alien not lawfully present in the United States.* The phrase "alien not lawfully present in the United States" means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and,

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) *Appraisal.* The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) *Business.* The term *business* means any lawful activity, except a farm operation, that is conducted:

(i) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

(ii) Primarily for the sale of services to the public;

(iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(5) *Citizen.* The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) *Comparable replacement dwelling.* The term *comparable replacement dwelling* means a dwelling which is:

(i) Decent, safe and sanitary as described in paragraph 24.2(a)(8) of this section;

(ii) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal

features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (*See* appendix A, § 24.2(a)(6));

(iii) Adequate in size to accommodate the occupants;

(iv) In an area not subject to unreasonable adverse environmental conditions;

(v) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(vi) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also § 24.403(a)(2));

(vii) Currently available to the displaced person on the private market except as provided in paragraph (a)(6)(ix) of this section (See appendix A, § 24.2(a)(6)(vii)); and

(viii) Within the financial means of the displaced person:

(A) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in § 24.401(c), all increased mortgage interest costs as described at § 24.401(d) and all incidental expenses as described at § 24.401(e), plus any additional amount required to be paid under § 24.404, Replacement housing of last resort.

(B) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at § 24.402(b)(2).

(C) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in § 24.402(b)(2). Such rental assistance must be paid under § 24.404, Replacement housing of last resort.

(ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (*See* appendix A, § 24.2(a)(6)(ix).)

(7) *Contribute materially.* The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(i) Had average annual gross receipts of at least $5,000; or

(ii) Had average annual net earnings of at least $1,000; or

(iii) Contributed at least 33⅓ percent of the owner's or operator's average annual gross income from all sources.

(iv) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(8) *Decent, safe, and sanitary dwelling.* The term *decent, safe, and sanitary dwelling* means a dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

(i) Be structurally sound, weather tight, and in good repair;

(ii) Contain a safe electrical wiring system adequate for lighting and other devices;

(iii) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;

(iv) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies;

(v) There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

(vi) Contains unobstructed egress to safe, open space at ground level; and

(vii) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, § 24.2(a)(8)(vii).)

(9) *Displaced person.* (i) *General.* 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)):

(A) 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;

(B) As a direct result of rehabilitation or demolition for a project; or

(C) 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.

(ii) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations (see § 24.403(d)), unless the Agency determines that the person was

displaced as a direct result of the program or project;

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(D) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project (See appendix A, § 24.2(a)(9)(ii)(D));

(E) An owner-occupant who moves as a result of an acquisition of real property as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(F) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

(G) A person who, after receiving a notice of relocation eligibility (described at § 24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

(H) An owner-occupant who conveys his or her property, as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(I) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(J) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93–477, Appropriations for National Park System, or Pub. L. 93–303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

(K) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in § 24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with § 24.208; or

(M) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act (Pub. L. 108–186; codified at 42 U.S.C. 12821).

(10) *Dwelling.* The term *dwelling* means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(11) *Dwelling site.* The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, § 24.2(a)(11).)

(12) *Farm operation.* The term *farm operation* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(13) *Federal financial assistance.* The term *Federal financial assistance* means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(14) *Household income.* The term *household income* means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (*See* appendix A, § 24.2(a)(14) for examples of exclusions to income.)

(15) *Initiation of negotiations.* Unless a different action is specified in applicable Federal program regulations, the term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the *initiation of negotiations* means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(iii) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96–510, or Superfund) (CERCLA) the *initiation of negotiations* means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(iv) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, § 24.2(a)(15)(iv)).

(16) *Lead Agency.* The term *Lead Agency* means the Department of Transportation acting through the Federal Highway Administration.

(17) *Mobile home.* The term *mobile home* includes manufactured homes and recreational vehicles used as residences. (*See* appendix A, § 24.2(a)(17)).

(18) *Mortgage.* The term *mortgage* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real

property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(19) *Nonprofit organization.* The term *nonprofit organization* means an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(20) *Owner of a dwelling.* The term *owner of a dwelling* means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

(i) Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

(ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(iii) A contract to purchase any of the interests or estates described in § 24.2(a)(1)(i) or (ii) of this section; or

(iv) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(21) *Person.* The term *person* means any individual, family, partnership, corporation, or association.

(22) *Program or project.* The phrase *program or project* means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

(23) *Salvage value.* The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

(24) *Small business.* A *small business* is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of § 24.304.

(25) *State.* Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

(26) *Tenant.* The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

(27) *Uneconomic remnant.* The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Agency has determined has little or no value or utility to the owner.

(28) *Uniform Act.* The term *Uniform Act* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

(29) *Unlawful occupant.* A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

(30) *Utility costs.* The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) *Utility facility.* The term *utility facility* means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) *Utility relocation.* The term *utility relocation* means the adjustment of a utility facility required by the program or project undertaken by the displacing Agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) *Waiver valuation.* The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions.

(b) *Acronyms.* The following acronyms are commonly used in the implementation of programs subject to this regulation:

(1) BCIS. Bureau of Citizenship and Immigration Service.

(2) FEMA. Federal Emergency Management Agency.

(3) FHA. Federal Housing Administration.

(4) FHWA. Federal Highway Administration.

(5) FIRREA. Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(6) HLR. Housing of last resort.

(7) HUD. U.S. Department of Housing and Urban Development.

(8) MIDP. Mortgage interest differential payment.

(9) RHP. Replacement housing payment.

(10) STURAA. Surface Transportation and Uniform Relocation Act Amendments of 1987.

(11) URA. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) USDOT. U.S. Department of Transportation.

(13) USPAP. Uniform Standards of Professional Appraisal Practice.

§ 24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by the Agency to have the same purpose and effect as such payment under this part. (See appendix A, § 24.3).

§ 24.4 Assurances, monitoring and corrective action.

(a) *Assurances.* (1) Before a Federal Agency may approve any grant to, or contract, or agreement with, a State Agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State Agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing Agency's assurances shall be in accordance with section 210 of the Uniform Act. An acquiring Agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to §§ 301 or 302 of the Uniform Act. If, in the judgment of the Federal Agency, Uniform Act compliance will be served, a State Agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency, which both acquires real

property and displaces persons, may combine its section 210 and section 305 assurances in one document.

(2) If a Federal Agency or State Agency provides Federal financial assistance to a "person" causing displacement, such Federal or State Agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal Agency may provide Federal financial assistance to a State Agency after it has accepted a certification by such State Agency in accordance with the requirements in subpart G of this part.

(b) *Monitoring and corrective action.* The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see § 24.603, of this part).

(c) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

§ 24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 24.6 Administration of jointly-funded projects.

Whenever two or more Federal Agencies provide financial assistance to an Agency or Agencies, other than a Federal Agency, to carry out functionally or geographically related activities, which will result in the acquisition of property or the displacement of a person, the Federal Agencies may by agreement designate one such Agency as the cognizant Federal Agency. In the unlikely event that agreement among the Agencies cannot be reached as to which Agency shall be the cognizant Federal Agency, then the Lead Agency shall designate one of such Agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal Agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federally-assisted activities under the agreement shall be deemed a project for the purposes of this part.

§ 24.7 Federal Agency waiver of regulations.

The Federal Agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ 24.8 Compliance with other laws and regulations.

The implementation of this part must be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to, the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 *et seq.*).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*).

(f) The Flood Disaster Protection Act of 1973 (Pub. L. 93–234).

(g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*).

(h) Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12892.

(i) Executive Order 11246—Equal Employment Opportunity, as amended.

(j) Executive Order 11625—Minority Business Enterprise.

(k) Executive Orders 11988—Floodplain Management, and 11990—Protection of Wetlands.

(l) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(m) Executive Order 12630—Governmental Actions and Interference with Constitutionally Protected Property Rights.

(n) Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*).

(o) Executive Order 12892—Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994).

§ 24.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. The report shall be prepared and submitted using the format contained in appendix B of this part.

§ 24.10 Appeals.

(a) *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal

counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B—Real Property Acquisition

§ 24.101 Applicability of acquisition requirements.

(a) *Direct Federal program or project.*

(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (*See* appendix A, § 24.101(a).)

(2) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property shall be so informed in writing. Owners of such properties are not displaced persons, (*see* §§ 24.2(a)(9)(ii)(E) or (H)), and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (*See* § 24.2(a)(9)).

(b) *Programs and projects receiving Federal financial assistance.* The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (*See* § 24.2(a)(9).)

(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (*See* appendix A, § 24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and

(ii) Inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.

(c) *Less-than-full-fee interest in real property.*

(1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent and/or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered.

(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.

(d) *Federally-assisted projects.* For projects receiving Federal financial assistance, the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (*See* § 24.4(a).)

§ 24.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (*See* § 24.203.)

(c) *Appraisal, waiver thereof, and invitation to owner.*

(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if:

(i) The owner is donating the property and releases the Agency from its obligation to appraise the property; or

(ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $10,000 or less, based on a review of available data.

(A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.

(B) The person performing the waiver valuation must have sufficient

understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the $10,000 threshold, up to a maximum of $25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, § 24.102(c)(2).)

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation. (*See* § 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (*See* appendix A, § 24.102(d).)

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, *e.g.*, a tenant-owned improvement, and indicate that such interest is not covered by this offer.

(f) *Basic negotiation procedures.* The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with § 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation. (*See* appendix A, § 24.102(f).)

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (*See* appendix A, § 24.102(i).)

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (*See* appendix A, § 24.102(j).)

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (*See* § 24.2(a)(27).)

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (*See* appendix A, § 24.102(m).)

(n) *Conflict of interest.*

(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is $10,000, or less. (*See* appendix A, § 24.102(n).)

§ 24.103 Criteria for appraisals.

(a) *Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional

Appraisal Practice (USPAP).[1] (*See* appendix A, § 24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).[2]

(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in § 24.2(a)(3) and the five following requirements: (*See* appendix A, §§ 24.103 and 24.103(a).)

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (*See* appendix A, § 24.103(a)(1).)

(ii) All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (*See* appendix A, § 24.103(a).)

(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (*See* appendix A, § 24.103(b).)

(c) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.

(d) *Qualifications of appraisers and review appraisers.*

(1) The Agency shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Agency shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. (*See* appendix A, § 24.103(d)(1).)

(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*).

§ 24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser (*see* § 24.103(d)(1) and appendix A, § 24.104) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the Agency to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (*See* appendix A, § 24.104(a).)

(b) If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring Agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with § 24.103 to support a recommended (or approved) value. (*See* appendix A, § 24.104(b).)

(c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (*See* appendix A, § 24.104(c).)

§ 24.105 Acquisition of tenant-owned improvements.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the

[1] Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: *http://www.appraisalfoundation.org/htm/USPAP2004/toc.htm.*

[2] The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at *http://www.usdoj.gov/enrd/land-ack/toc.htm* or in soft cover format from the Appraisal Institute at *http://www.appraisalinstitute.org/econom/publications/Default.asp* and select "Legal/Regulatory" or call 888–570–4545.

improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.

(c) *Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a)(23).)

(d) *Special conditions for tenant-owned improvements.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative compensation.* Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§ 24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).

Subpart C—General Relocation Requirements

§ 24.201 Purpose.

This subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

§ 24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § 24.2(a)(9). Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and this regulation. (*See* appendix A, § 24.202.)

§ 24.203 Relocation notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

(2) Informs the displaced person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced person successfully relocate;

(3) Informs the displaced person that he or she will not be required to move without at least 90 days advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;

(4) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in § 24.208(h); and

(5) Describes the displaced person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in § 24.203(d)), the initiation of negotiations (defined in § 24.2(a)(15)), or actual acquisition, whichever occurs first. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) *Ninety-day notice.* (1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing Agency may issue the notice 90 days or earlier before it expects the person to be displaced.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (*See* § 24.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be

required to vacate the property on less than 90 days advance written notice if the displacing Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

(d) *Notice of intent to acquire.* A notice of intent to acquire is a displacing Agency's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, which clearly sets forth that the Agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance. (*See* § 24.2(a)(9)(i)(A).)

§ 24.204 Availability of comparable replacement dwelling before displacement.

(a) *General.* No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 24.2 (a)(6)) has been made available to the person. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location;

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal Agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5122);

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person to be displaced is required to relocate from the displacement dwelling for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

§ 24.205 Relocation planning, advisory services, and coordination.

(a) *Relocation planning.* During the early stages of development, an Agency shall plan Federal and federally-assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, the Agency should consider housing of last resort actions.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

(5) Consideration of any special relocation advisory services that may be necessary from the displacing Agency and other cooperating Agencies.

(b) *Loans for planning and preliminary expenses.* In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the Lead Agency will establish criteria and procedures for such use upon the request of the Federal Agency funding the program or project.

(c) *Relocation assistance advisory services.* (1) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offer the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for

obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

(A) The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.

(B) Determination of the need for outside specialists in accordance with § 24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(C) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

(D) An estimate of the time required for the business to vacate the site.

(E) An estimate of the anticipated difficulty in locating a replacement property.

(F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.

(ii) Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each residential displaced person.

(A) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 24.204(a).

(B) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (*see* § 24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(C) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (*See* § 24.2(a)(8).) If such an inspection is not made, the Agency shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(D) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (*See* appendix A, § 24.205(c)(2)(ii)(D).)

(E) The Agency shall offer all persons transportation to inspect housing to which they are referred.

(F) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (*see* § 24.2(a)(6)(ix)), as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

(iii) Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(d) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (*See* § 24.6.)

(e) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

§ 24.206 Eviction for cause.

(a) Eviction for cause must conform to applicable State and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the Agency determines that:

(1) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

(2) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(3) In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

(b) For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project. (*See* appendix A, § 24.206.)

§ 24.207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advanced payments.* If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* (1) All claims for a relocation payment shall be filed with the Agency no later than 18 months after:

(i) For tenants, the date of displacement.

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) The Agency shall waive this time period for good cause.

(e) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

(f) *No waiver of relocation assistance.* A displacing Agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the Uniform Act and this regulation.

(g) *Expenditure of payments.* Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.

§ 24.208 Aliens not lawfully present in the United States.

(a) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding Agency and, within those parameters, that of the displacing Agency.

(c) In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(d) The displacing Agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing Agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the Agency considers reliable and appropriate.

(e) Any review by the displacing Agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing Agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing Agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination:

(1) If the Agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing Agency shall obtain verification of the alien's status from the local Bureau of Citizenship and Immigration Service (BCIS) Office. A list of local BCIS offices is available at *http://www.uscis.gov/graphics/fieldoffices/alphaa.htm.* Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If an Agency is unable to contact the BCIS, it may contact the FHWA in Washington, DC, Office of Real Estate Services or Office of Chief Counsel for a referral to the BCIS.)

(2) If the Agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing Agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing Agency's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing Agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in § 24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105–0508.)

§ 24.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose

of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, U.S. Code), or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 U.S. Code 301 *et seq.*) or any other Federal law, except for any Federal law providing low-income housing assistance.

Subpart D—Payments for Moving and Related Expenses

§ 24.301 Payment for actual reasonable moving and related expenses.

(a) *General.* (1) Any owner-occupant or tenant who qualifies as a displaced person (defined at § 24.2(a)(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary.

(2) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under § 24.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at § 24.502(a)(3), the home-owner occupant is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) *Moves from a dwelling.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (g)(7) of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in § 24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(c) *Moves from a mobile home.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (g)(7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (g)(10) of this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in § 24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(d) *Moves from a business, farm or nonprofit organization.* Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) of this section and paragraphs (g)(11) through (g)(18) of this section and § 24.303.)

(1) *Commercial move.* Based on the lower of two bids or estimates prepared by a commercial mover. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(2) *Self-move.* A self-move payment may be based on one or a combination of the following:

(i) The lower of two bids or estimates prepared by a commercial mover or qualified Agency staff person. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

(e) *Personal property only.* Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) and (g)(18) of this section. (See appendix A, § 24.301(e).)

(f) *Advertising signs.* The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

(g) *Eligible actual moving expenses.*

(1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the property in connection with the move and necessary storage.

(6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(7) Other moving-related expenses that are not listed as ineligible under

§ 24.301(h), as the Agency determines to be reasonable and necessary.

(8) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.

(9) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

(10) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

(11) Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

(12) Professional services as the Agency determines to be actual, reasonable and necessary for:

(i) Planning the move of the personal property;

(ii) Moving the personal property; and

(iii) Installing the relocated personal property at the replacement location.

(13) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(14) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling prices.); or

(ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, § 24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

(15) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(16) *Purchase of substitute personal property.* If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed $2,500, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation;

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

(18) *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the displacing Agency, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency.

(h) *Ineligible moving and related expenses.* A displaced person is not entitled to payment for:

(1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this part does not preclude the computation under § 24.401(c)(2)(iii));

(2) Interest on a loan to cover moving expenses;

(3) Loss of goodwill;

(4) Loss of profits;

(5) Loss of trained employees;

(6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in § 24.304(a)(6);

(7) Personal injury;

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency;

(9) Expenses for searching for a replacement dwelling;

(10) Physical changes to the real property at the replacement location of a business or farm operation except as provided in §§ 24.301(g)(3) and 24.304(a);

(11) Costs for storage of personal property on real property already owned or leased by the displaced person, and

(12) Refundable security and utility deposits.

(i) *Notification and inspection (nonresidential).* The Agency shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person as set forth in § 24.203. To be eligible for payments under this section the displaced person must:

(1) Provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(2) Permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(j) *Transfer of ownership (nonresidential).* Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

§ 24.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under § 24.301. This payment shall be determined according

to the Fixed Residential Moving Cost Schedule[3] approved by the Federal Highway Administration and published in the **Federal Register** on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by an Agency at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

§ 24.303 Related nonresidential eligible expenses.

The following expenses, in addition to those provided by § 24.301 for moving personal property, shall be provided if the Agency determines that they are actual, reasonable and necessary:

(a) Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

(b) Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Agency a reasonable pre-approved hourly rate may be established. (See appendix A, § 24.303(b).)

(c) Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency.

§ 24.304 Reestablishment expenses—nonresidential moves.

In addition to the payments available under §§ 24.301 and 24.303 of this subpart, a small business, as defined in § 24.2(a)(24), farm or nonprofit organization is entitled to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

(1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

(2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(3) Construction and installation costs for exterior signing to advertise the business.

(4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

(5) Advertisement of replacement location.

(6) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

(i) Lease or rental charges;

(ii) Personal or real property taxes;

(iii) Insurance premiums; and

(iv) Utility charges, excluding impact fees.

(7) Other items that the Agency considers essential to the reestablishment of the business.

(b) *Ineligible expenses.* The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(3) Interest on money borrowed to make the move or purchase the replacement property.

(4) Payment to a part-time business in the home which does not contribute materially (defined at § 24.2(a)(7)) to the household income.

§ 24.305 Fixed payment for moving expenses—nonresidential moves.

(a) *Business.* A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§ 24.301, 24.303 and 24.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the Agency determines that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site;

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage;

(3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(6) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See § 24.2(a)(7).)

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* A displaced farm operation (defined at § 24.2(a)(12)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* A displaced nonprofit organization may

[3] The Fixed Residential Moving Cost Schedule is available at the following URL: *http://www.fhwa.dot.gov/////realestate/fixsch96.htm.* Agencies are cautioned to ensure they are using the most recent edition.

choose a fixed payment of $1,000 to $20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. (See appendix A, § 24.305(d).)

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the Agency determines is satisfactory. (See appendix A, § 24.305(e).)

§ 24.306 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing Agency causes the relocation of a utility facility (see § 24.2(a)(31)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing Agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way;

(2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement;

(3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing Agency;

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing Agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing Agency is in accordance with State law.

(b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing Agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally-assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing Agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (*See* appendix A, § 24.306.)

Subpart E—Replacement Housing Payments

§ 24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the displaced person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or

(ii) The date the displacing Agency's obligation under § 24.204 is met.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed $22,500. (See also § 24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section;

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential.* (1) *Basic computation.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling and site (*see* § 24.2(a)(11)) to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at § 24.2(a)(8)); and

(iii) The current market value for residential use of the replacement

dwelling site (*see* appendix A, § 24.401(c)(2)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) *Increased mortgage interest costs.* The displacing Agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d)(1) through (d)(5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the displaced person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. (See appendix A, § 24.401(d).) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

(5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

(4) Professional home inspection, certification of structural soundness, and termite inspection.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, *e.g.*, title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determine to be incidental to the purchase.

(f) Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with § 24.402(b)(1), except that the limit of $5,250 does not apply, and disbursed in accordance with § 24.402(b)(3). Under no circumstances would the rental assistance payment exceed the amount that could have been received under § 24.401(b)(1) had the 180-day homeowner elected to purchase and occupy a comparable replacement dwelling.

§ 24.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling; or

(ii) For an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment.* (1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance. (See § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Base monthly rental for displacement dwelling.* The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement

dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances);

(ii) Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs [4]. The base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

(iii) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(3) *Manner of disbursement.* A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by § 24.403(f), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) *Downpayment assistance payment*—(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the Agency's discretion, a downpayment assistance payment that is less than $5,250 may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under § 24.401(b) if he or she met the 180-day occupancy requirement. If the Agency elects to provide the maximum payment of $5,250 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under § 24.401(a) is not eligible for this payment. (See appendix A, § 24.402(c).)

(2) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 24.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at § 24.2(a)(6)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (*e.g.*, the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(4) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(5) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(6) Deductions from relocation payments. An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Mixed-use and multifamily properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered the acquisition cost when computing the replacement housing payment.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing the initial payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 24.2(a)(8).

(c) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling;

(2) Purchases and rehabilitates a substandard dwelling;

(3) Relocates a dwelling which he or she owns or purchases;

(4) Constructs a dwelling on a site he or she owns or purchases;

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current market value.

(d) *Occupancy requirements for displacement or replacement dwelling.* No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

(1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal Agency funding the project, or the displacing Agency; or

(2) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by the Agency.

(e) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under

[4] The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on FHWA's Web site at *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

§ 24.402(b) is eligible to receive a payment under § 24.401 or § 24.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § 24.401 or § 24.402(c).

(f) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(2) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

(g) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (*See* § 24.3.)

§ 24.404 Replacement housing of last resort.

(a) *Determination to provide replacement housing of last resort.* Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in § 24.401 or § 24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area;

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person, or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

(b) *Basic rights of persons to be displaced.* Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) *Methods of providing comparable replacement housing.* Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in § 24.401 or § 24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation and, if necessary, rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing Agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers for persons with disabilities.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (*see* appendix A, § 24.404(c)), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with § 24.2(a)(6)(ii) of this part.

(3) The Agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§ 24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. (*See* § 24.2(a)(6)(viii)(C).) Such assistance shall cover a period of 42 months.

Subpart F—Mobile Homes

§ 24.501 Applicability.

(a) *General.* This subpart describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with subpart D of this part and a replacement housing payment in accordance with subpart E of this part to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in § 24.301(g)(1) through (g)(10).

(b) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person

who is entitled to relocation payments and other assistance under this part.

§ 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.

(a) *Eligibility.* An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed $22,500, under § 24.401 if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at § 24.401(a)(2); and

(3) The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not, and cannot economically be made decent, safe, and sanitary;

(ii) Cannot be relocated without substantial damage or unreasonable cost;

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) *Replacement housing payment computation for a 180-day owner that is displaced from a mobile home.* The replacement housing payment for an eligible displaced 180-day owner is computed as described at § 24.401(b) incorporating the following, as applicable:

(1) If the Agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.

(2) If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (*i.e.*, purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the Agency's selected comparable mobile home less the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(c) *Rental assistance payment for a 180-day owner-occupant that is displaced from a leased or rented mobile home site.* If the displacement mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in § 24.402(b). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

(d) *Owner-occupant not displaced from the mobile home.* If the Agency determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at § 24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or § 24.503 as applicable.

§ 24.503 Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed $5,250, under § 24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described at § 24.502(a)(3).

Subpart G—Certification

§ 24.601 Purpose.

This subpart permits a State Agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by § 24.4 of this part.

§ 24.602 Certification application.

An Agency wishing to proceed on the basis of a certification may request an application for certification from the Lead Agency Director, Office of Real Estate Services, HEPR–1, Federal Highway Administration, 400 Seventh St, SW., Washington, DC 20590. The completed application for certification must be approved by the governor of the State, or the governor's designee, and must be coordinated with the Federal funding Agency, in accordance with application procedures.

§ 24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from

the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

Appendix A to Part 24—Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

Subpart A—General

Section 24.2 Definitions and Acronyms

Section 24.2(a)(6) Definition of comparable replacement dwelling. The requirement in § 24.2(a)(6)(ii) that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, and provide the same utility. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling. Another example is when a displaced person accepts an offer of government housing assistance and the applicable requirements of such housing assistance program require that the displaced person occupy a dwelling that has fewer rooms or less living space than the displacement dwelling.

Section 24.2(a)(6)(vii). The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

Section 24.2(a)(6)(ix). A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing.

A housing program subsidy that is paid to a person (not tied to the building), such as a HUD Section 8 Housing Voucher Program, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing assistance program, the rules of that program governing the size of the dwelling apply, and the rental assistance payment under § 24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary. Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Section 24.2(a)(8)(vii) Persons with a disability. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

Section 24.2(a)(9)(ii)(D) Persons not displaced. Paragraph (a)(9)(ii)(D) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. The Agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses or must be determined to be displaced at the Agency's option.

Any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with 49 CFR part 24.10 of this regulation.

Section 24.2(a)(11) Dwelling Site. This definition ensures that the computation of replacement housing payments are accurate and realistic (a) when the dwelling is located on a larger than normal site, (b) when mixed-use properties are acquired, (c) when more than one dwelling is located on the acquired property, or (d) when the replacement dwelling is retained by an owner and moved to another site.

Section 24.2(a)(14) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by Federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see Federal Highway Administration, Office of Real Estate Services Web site: *http://www.fhwa.dot.gov/realestate/.* (FR 4644–N–16 page 20319 Updated.) If there is a question on whether or not to include income from a specific program contact the Federal Agency administering the program.

Section 24(a)(15) Initiation of negotiations. This section provides a special definition for acquisition and displacements under Pub. L. 96–510 or Superfund. The order of activities under Superfund may differ slightly in that temporary relocation may precede acquisition. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert individual owners and tenants to potential health or safety threats and to offer to temporarily relocate them while additional information is gathered. If a decision is later made to permanently relocate such persons, those who had been temporarily relocated under Superfund authority would no longer be on site when a formal, written offer to acquire the property was made, and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition of initiation of negotiation, which is based on the date the Federal Government offers to temporarily relocate an owner or tenant from the subject property.

Section 24.2(a)(15)(iv) Initiation of negotiations (Tenants.) Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

Section 24.2(a)(17) Mobile home. The following examples provide additional guidance on the types of mobile homes and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the "primary" place of residence; it is located on a purchased or leased site and connected to or have available all necessary utilities for functioning as a housing unit on the date of the displacing Agency's inspection; and, the dwelling, as sited, meets all local, State, and Federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

For HUD programs, mobile home is defined as "a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act." In 1979 the term "mobile home" was changed to "manufactured home." For purposes of this regulation, the terms mobile home and manufactured home are synonymous.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

The 1976 HUD standards distinguish manufactured homes from factory-built "modular homes" as well as conventional or "stick-built" homes. Both of these types of housing are required to meet State and local construction codes.

Section 24.3 No Duplication of Payments. This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment is computed.

Subpart B—Real Property Acquisition

Federal Agencies may find that, for Federal eminent domain purposes, the terms "fair market value" (as used throughout this subpart) and "market value," which may be the more typical term in private transactions, may be synonymous.

Section 24.101(a) Direct Federal program or project. All 49 CFR Part 24 Subpart B (real property acquisition) requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. There are no exceptions for "voluntary transactions."

Section 24.101(b)(1)(i). The term "general geographic area" is used to clarify that the "geographic area" is not to be construed to be a small, limited area.

Sections 24.101(b)(1)(iv) and (2)(ii). These sections provide that, for programs and projects receiving Federal financial assistance described in §§ 24.101(b)(1) and (2), Agencies are to inform the owner(s) in writing of the Agency's estimate of the market value for the property to be acquired.

While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited "public interest value" valuation concepts.

After an Agency has established an amount it believes to be the market value of the property and has notified the owner of this amount in writing, an Agency may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the regulations, it would be entirely appropriate for Agencies to apply the administrative settlement concept and procedures in § 24.102(i) to negotiate amounts that exceed the original estimate of market value. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.

Section 24.101(c) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases.

Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner. The purpose of the appraisal waiver provision is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated work.

The Agency employee making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated.

Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. However, the Agency must have a reasonable basis for the waiver valuation and an Agency official must still establish an amount believed to be just compensation to offer the property owner(s).

The definition of "appraisal" in the Uniform Act and appraisal waiver provisions of the Uniform Act and these regulations are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.

Section 24.102(d) Establishment of offer of just compensation. The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures. An offer should be adequately presented to an owner, and the owner should be properly informed. Personal, face-to-face contact should take place, if feasible, but this section does not require such contact in all cases.

This section also provides that the property owner be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency. In order to satisfy this requirement, Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real

property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the Agencies adhere to the Uniform Act ban on coercive action (section 301(7) of the Uniform Act).

If the owner expresses intent to provide an appraisal report, Agencies are encouraged to provide the owner and/or his/her appraiser a copy of Agency appraisal requirements and inform them that their appraisal should be based on those requirements.

Section 24.102(i) Administrative settlement. This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental. Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed "the fair rental value of the property to a short-term occupier." Generally, the Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.102(n) Conflict of interest. The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. There are three parts to this provision.

The first provision is the prohibition against having any interest in the real property being valued by the appraiser (for an appraisal), the valuer (for a waiver estimate) or the review appraiser (for an appraisal review.)

The second provision is that no person functioning as a negotiator for a project or program can supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent Agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it would create a hardship for the Agency. The intent is to accommodate Federal-aid recipients that have a small staff where this provision would be unworkable.

The third provision is to minimize situations where administrative costs exceed acquisition costs. Section 24.102(n) also provides that the same person may prepare a valuation estimate (including an appraisal) and negotiate that acquisition, if the valuation estimate amount is $10,000 or less. However, it should be noted that this exception for properties valued at $10,000 or less is not mandatory, *e.g.*, Agencies are not required to use those who prepare a waiver valuation or appraisal of $10,000 or less to negotiate the acquisition, and, all appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at $10,000 or less.

Section 24.103 Criteria for Appraisals. The term "requirements" is used throughout this section to avoid confusion with The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) "standards." Although this section discusses appraisal requirements, the definition of "appraisal" itself at § 24.2(a)(3) includes appraisal performance requirements that are an inherent part of this section.

The term "Federal and federally-assisted program or project" is used to better identify the type of appraisal practices that are to be referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.

Section 24.103(a) Appraisal requirements. The first sentence instructs readers that requirements for appraisals for Federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs or projects. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other Federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the USPAP. Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This "consistent" relationship was more formally recognized in OMB Bulletin 92–06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for Federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of this regulation. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term "scope of work" defines the general parameters of the appraisal. It reflects the needs of the Agency and the requirements of Federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency official who is competent to both represent the Agency's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a)(1) through (5) and address them as appropriate.

Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where an Agency determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term "project" means an undertaking which is planned, designed, and intended to operate as a unit.

When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(d)(1). The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.

Section 24.104 Review of appraisals. The term "review appraiser" is used rather than "reviewing appraiser," to emphasize that "review appraiser" is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal Agencies have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should possess both appraisal technical abilities and the ability to be the two-way bridge between the Agency's real property valuation needs and the appraiser.

Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may be involved in devising the scope of work statements and participate in making

appraisal assignments to fee and/or staff appraisers. They are also mentors and technical advisors, especially on Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.

Section 24.104(a). This paragraph states that the review appraiser is to review the appraiser's presentation and analysis of market information and that it is to be reviewed against § 24.103 and other applicable requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal review is to be a technical review by an appropriately qualified review appraiser. The qualifications of the review appraiser and the level of explanation of the basis for the review appraiser's recommended (or approved) value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is not acceptable, the review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development of an acceptable appraisal.

In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.

If the Agency intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount the Agency believes is just compensation, she/he must be specifically authorized by the Agency to do so. If the review appraiser is not specifically authorized to approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount believed to be just compensation, that authority remains with another Agency official.

Section 24.104(b). In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act Section 301(3) purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.

Section 24.104(c). Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this part, an acceptable appraisal is any appraisal that, on its own, meets the requirements of § 24.103. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact science, there may be more than one acceptable appraisal of a property, but for the purposes of this part, there can be only one approved appraisal.

At the Agency's discretion, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

Section 24.106(b). Expenses incidental to transfer of title to the agency. Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. Such expenses must be reasonable and necessary.

Subpart C—General Relocation Requirements

Section 24.202 Applicability and Section 205(c) Services to be provided. In extraordinary circumstances, when a displaced person is not readily accessible, the Agency must make a good faith effort to comply with these sections and document its efforts in writing.

Section 24.204 Availability of comparable replacement dwelling before displacement.

Section 24.204(a) General. This provision requires that no one may be required to move from a dwelling without a comparable replacement dwelling having been made available. In addition, § 24.204(a) requires that, "where possible, three or more comparable replacement dwellings shall be made available." Thus, the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (*e.g.*, when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation assistance advisory services. Section 24.205(c)(2)(ii)(D) emphasizes that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.206 Eviction for cause. An eviction related to non-compliance with a requirement related to carrying out a project (*e.g.*, failure to move or relocate when instructed, or to cooperate in the relocation process) shall not negate a person's entitlement to relocation payments and other assistance set forth in this part.

Section 24.207 General Requirements–Claims for relocation payments. Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated nonresidential moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in § 24.301(d)(1).

While § 24.207(f) prohibits an Agency from proposing or requesting that a displaced person waive his or her rights or entitlements to relocation assistance and payments, an Agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the Agency.

Subpart D—Payment for Moving and Related Expenses

Section 24.301. Payment for Actual Reasonable Moving and Related Expenses.

Section 24.301(e) Personal property only. Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be taken and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the acquiring Agency may obtain estimates from qualified movers to use as the standard in determining the payment.

Section 24.301 (g)(14)(i) and (ii). If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. As prescribed in the regulation, the allowable in-place value estimate (§ 24.301(g)(14)(i)) and moving cost estimate (§ 24.301(g)(14)(ii)) must reflect only the "as is" condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

Section 24.301(g)(17) Searching expenses. In special cases where the displacing Agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on salary or earnings, required to apply for licenses or permits, zoning changes, and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to

investigate and acquire the site exceed $2,500, the displacing Agency may consider waiver of the cost limitation under the § 24.7, waiver provision. Such a waiver should be subject to the approval of the Federal-funding Agency in accordance with existing delegation authority.

Section 24.303(b) Professional Services. If a question should arise as to what is a "reasonable hourly rate," the Agency should compare the rates of other similar professional providers in that area.

Section 24.305 Fixed Payment for Moving Expenses—Nonresidential Moves.

Section 24.305(d) Nonprofit organization. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising, and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public Agencies.

Section 24.305(e) Average annual net earnings of a business or farm operation. If the average annual net earnings of the displaced business, farm, or nonprofit organization are determined to be less than $1,000, even $0 or a negative amount, the minimum payment of $1,000 shall be provided.

Section 24.306 Discretionary Utility Relocation Payments. Section 24.306(c) describes the issues that the Agency and the utility facility owner must agree to in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

Subpart E—Replacement Housing Payments

Section 24.401 Replacement Housing Payment for 180-day Homeowner-Occupants.

Section 24.401(a)(2). An extension of eligibility may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction, or physical modifications required for reasonable accommodation of a replacement dwelling, or other like circumstances causes a delay in occupying a decent, safe, and sanitary replacement dwelling.

Section 24.401(c)(2)(iii) Price differential. The provision in § 24.401(c)(2)(iii) to use the current market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the market value may be used.

Section 24.401(d) Increased mortgage interest costs. The provision in § 24.401(d) sets forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

The Agency must know the remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

SAMPLE COMPUTATION

Old Mortgage:	
Remaining Principal Balance	$50,000
Monthly Payment (principal and interest)	$458.22
Interest rate (percent)	7
New Mortgage:	
Interest rate (percent)	10
Points	3
Term (years)	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee. However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of $458.22 at 10% = $42,010.18.

Calculation:	
Remaining Principal Balance	$50,000.00
Minus Monthly Payment (principal and interest)	−42,010.18
Increased mortgage interest costs	7,989.82
3 points on $42,010.18	1,260.31
Total buydown necessary to maintain payments at $458.22/month	9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage ($42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were $35,000, the buydown payment would be $7,706.57 ($35,000 divided by $42,010.18 = .8331; $9,250.13 multiplied by .83 = $7,706.57).

The Agency is obligated to inform the displaced person of the approximate amount of this payment and that the displaced person must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of this payment. The Agency must advise the displaced person of the interest rate and points used to calculate the payment.

Section 24.402 Replacement Housing Payment for 90-day Occupants

Section 24.402(b)(2) Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with § 24.402(b). One factor in this calculation is to determine if a displaced person is "low income," as defined by the U.S. Department of Housing and Urban Development's annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the Agency must: (1) Determine the total number of members in the household (including all adults and children); (2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm*); (3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA)*, or Primary Metropolitan Statistical Area (PMSA)* in which the displacement property is located; and (4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (§ 24.2(a)(15)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18. If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered "low income." For example:

Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the Agency is as follows:

Tom Smith, employed, earns $21,000/yr.

Mary Smith, receives disability payments of $6,000/yr.

Tom Smith Jr., 21, employed, earns $10,000/yr.

Mary Jane Smith, 17, student, has a paper route, earns $3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18)

Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is: $21,000 + $6,000 + $10,000 = $37,000

The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: $47,450. (2004 Income Limits)

This household is considered "low income."

* A complete list of counties and towns included in the identified MSAs and PMSAs can be found under the bulleted item "Income Limit Area Definition" posted on the FHWA's Web site at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

Section 24.402(c) Downpayment assistance. The downpayment assistance provisions in § 24.402(c) limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance that exceeds the computed rental assistance payment, up to the $5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy that affords equal treatment for displaced persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For the purpose of this section, should the amount of the rental assistance payment exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

Section 24.404 Replacement Housing of Last Resort.

Section 24.404(b) Basic rights of persons to be displaced. This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under § 24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at § 24.2(a)(20). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing comparable replacement housing. This Section emphasizes the use of cost effective means of providing comparable replacement housing. The term "reasonable cost" is used to highlight the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller, decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

Appendix B to Part 24—Statistical Report Form

This Appendix sets forth the statistical information collected from Agencies in accordance with § 24.9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally-assisted project or program subject to the provisions of the Uniform Act. If the exact numbers are not easily available, an Agency may provide what it believes to be a reasonable estimate.

2. *Report period.* Activities shall be reported on a Federal fiscal year basis, *i.e.*, October 1 through September 30.

3. *Where and when to submit report.* Submit a copy of this report to the lead Agency as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15. Lead Agency address: Federal Highway Administration, Office of Real Estate Services (HEPR), Room 3221, 400 7th Street SW., Washington, DC 20590.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts of this section A, B and C to the nearest dollar.

6. *Regulatory references.* The references in Parts A, B, C and D of this section indicate the subpart of the regulations pertaining to the requested information.

Part A. Real property acquisition under The Uniform Act

Line 1. Report all parcels acquired during the report year where title or possession was vested in the Agency during the reporting period. The parcel count reported should relate to ownerships and not to the number of parcels of different property interests (such as fee, perpetual easement, temporary easement, etc.) that may have been part of an acquisition from one owner. For example, an acquisition from a property that includes a fee simple parcel, a perpetual easement parcel, and a temporary easement parcel should be reported as 1 parcel not 3 parcels. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.)

Line 2. Report the number of parcels reported on Line 1 that were acquired by condemnation. Include those parcels where compensation for the property was paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency through condemnation authority.

Line 3. Report the number of parcels in Line 1 acquired through administrative settlement where the purchase price for the property exceeded the amount offered as just compensation and efforts to negotiate an agreement at that amount have failed.

Line 4. Report the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency in Line 1.

Part B. Residential Relocation Under the Uniform Act

Line 5. Report the number of households who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling. The term "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit.

Line 6. Report the total amount paid for residential moving expenses (actual expense and fixed payment).

Line 7. Report the total amount paid for residential replacement housing payments including payments for replacement housing of last resort provided pursuant to § 24.404 of this part.

Line 8. Report the number of households in Line 5 who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling as part of last resort housing assistance.

Line 9. Report the number of tenant households in Line 5 who were permanently displaced during the fiscal year by project or program activities, and who purchased and moved to their replacement dwelling using a downpayment assistance payment under this part.

Line 10. Report the total sum costs of residential relocation expenses and payments (excluding Agency administrative expenses) in Lines 6 and 7.

Part C. Nonresidential Relocation Under the Uniform Act

Line 11. Report the number of businesses, nonprofit organizations, and farms who were permanently displaced during the fiscal year by project or program activities and moved to their replacement location. This includes businesses, nonprofit organizations, and farms, that upon displacement, discontinued operations.

Line 12. Report the total amount paid for nonresidential moving expenses (actual expense and fixed payment.)

Line 13. Report the total amount paid for nonresidential reestablishment expenses.

Line 14. Report the total sum costs of nonresidential relocation expenses and payments (excluding Agency administrative expenses) in Lines 12 and 13.

Part D. Relocation Appeals

Line 15. Report the total number of relocation appeals filed during the fiscal year by aggrieved persons (residential and nonresidential).

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FEDERAL FISCAL YEAR ENDING SEPT. 30, 20____
REPORTING AGENCY: _____
STATE: _____
CITY/COUNTY (For Local Government Agencies): _____
FEDERAL FUNDING AGENCY: _____

PART A. REAL PROPERTY ACQUISITION UNDER THE UNIFORM ACT	
1) Total Number of Parcels Acquired (Ownerships)	
2) Number of Parcels in Line 1 Acquired by Condemnation	
3) Number of Parcels in Line 1 Acquired by Administrative Settlement (Above initial offer –see 24.102(i))	
4) Compensation – Total Costs (Including 24.106; Excluding appraisal costs, negotiator fees and other administrative expenses)	
PART B. RESIDENTIAL RELOCATION UNDER THE UNIFORM ACT	
5) Total Number of Residential Displacements (Households)	
6) Residential Moving Payments – Total Costs	
7) Replacement Housing Payments – Total Costs	
8) Number of Last Resort Housing Displacements in Line 5 (Households)	
9) Number of Tenants converted to Homeowners in Line 5 (Households using 24.402(c))	
10) Total Costs for Residential Relocation Expenses and Payments (Sum of lines 6 and 7; excluding Agency Administrative Costs)	
PART C. NONRESIDENTIAL RELOCATION UNDER THE UNIFORM ACT	
11) Total Number of NonResidential Displacements	
12) NonResidential Moving Payments – Total Costs (Including 24.305)	
13) NonResidential Reestablishment Payments – Total Costs	
14) Total Costs for Nonresidential Relocation Expenses and Payments (Sum of lines 12 and 13; excluding Agency Administrative Costs)	
PART D. RELOCATION APPEALS UNDER THE UNIFORM ACT	
15) Total Number of Relocation Appeals (Residential & NonResidential)	

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