



# Federal Register

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**Wednesday,  
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**Part II**

## **Department of Transportation**

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**Office of the Secretary**

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**49 CFR Part 24**

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

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****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:** Notice of proposed rulemaking (NPRM), request for comments, and notice of public meetings.

**SUMMARY:** The FHWA is proposing to amend several sections of the regulations that set forth governmentwide requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act.) These proposed changes would 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. The proposed amendments to the Uniform Act regulation would affect the land acquisition and displacement activities of 18 Federal Agencies including the new Department of Homeland Security. This document also provides notice of public meetings on the proposed changes to the regulation.

**DATES:** The public meetings will be held on January 15, 2004, from 10 a.m. to 2 p.m., Washington, DC; January 22, 2004, from 10 a.m. to 2 p.m., Lakewood, CO; and January 28, 2004, from 10 a.m. to 2 p.m., Atlanta, GA.

Comments in response to this NPRM must be received on or before February 17, 2004.

**ADDRESSES:** The January 15, 2004 meeting will be held in Washington, DC, United States Department of Transportation, 400 7th Street, SW., Room 8236. The January 22, 2004 meeting will be held in Lakewood, CO, Zang Building, Conference Room 360, 555 Zang Street. The January 28, 2004 meeting will be held in Atlanta, GA, Atlanta Federal Center, Conference Room B, 61 Forsyth Street, SW., Atlanta, Georgia. Each meeting will be scheduled from 10 a.m. to 2 p.m.

Mail or hand deliver comments to the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets

Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. All comments received will be available for examination and copying at the above address 9 a.m. to 5 p.m., e.s.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a pre-addressed, stamped envelope or post card or you may print the acknowledgement page that appears after submitting comments electronically.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2002 (Volume 65, Number 70, Page 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ronald E. Fannin, Office of Real Estate Services, HEPR, (202) 366-2042; Reginald K. Bessmer, Office of Real Estate Services, HEPR, (202) 366-2037 or Reid Alsop, Office of the Chief Counsel, HCC-30, (202) 366-1371, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Electronic Access and Filing**

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8.) The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

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**Background***Reasons for This Proposal*

Title 49 CFR part 24 has not been comprehensively revised or updated since its initial publication in 1989. We believe there is some confusion regarding a number of existing requirements. There could be improvement in achieving the goal of national program uniformity; and there are inadequacies in meeting contemporary needs. We also believe we could improve the service to individuals and businesses affected by Federal and federally-assisted projects while reducing administrative burdens.

**History***Relevant Legislation*

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").

**Current Regulations**

As originally enacted, the Uniform Act authorized "the head of each Federal Agency" to establish regulations and procedures for implementing the Uniform Act. Inevitably, this led to significant differences in Agencies implementing regulations. In a March 8, 1978, Report to Congress (GAO Report No. GGD-78-6, "Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs, B-148044 (1978)),<sup>1</sup> the Comptroller General found that as a result of these differences the Federal government was not providing uniform treatment to people displaced from their homes and businesses by Federal or federally-assisted programs. Those differences among Federal implementing regulations also imposed significant administrative burdens on State and local governments. In 1981, for the Vice President's Presidential Task Force on Regulatory Relief, State and local governments identified the Uniform Act as a good candidate for State and local regulatory relief.

Therefore, in May 1982, the Office of Management and Budget (OMB) formed a Uniform Act Interagency Regulatory Review Working Group to develop uniform regulations to be implemented by each Agency covered by the Uniform Act. A Presidential Memorandum, dated February 27, 1985, was published in the **Federal Register** on March 5, 1985 (50

<sup>1</sup> A copy of this report, Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs, is available in the docket.

FR 8953), naming the U.S. Department of Transportation (USDOT) as the Agency with lead responsibility for the Uniform Act. The Secretary of Transportation (hereafter Secretary) delegated this responsibility to the Federal Highway Administrator.

On March 5, 1985 (50 FR 8955), the USDOT published a model Uniform Act regulation, which, in accordance with the President's Memorandum of February 27, 1985, served as the basis for a proposed Uniform Act "common rule" to be issued by the 16 other affected Agencies. The proposed common rule was issued for comment by those 16 Agencies on May 28, 1985 (50 FR 21712.) After consideration of comments, on February 27, 1986, the common rule was adopted by each of the affected Federal Agencies and the former disparate relocation regulations of those Agencies were removed. This common rulemaking effort by the Federal Agencies that administered both direct Federal programs and projects, and federally-assisted programs and projects undertaken by State or local Agencies, achieved regulatory consistency among the separate Federal Agencies subject to the Uniform Act.

This common rulemaking effort presaged several of the statutory changes to the Uniform Act that were made by the Uniform Relocation Act Amendments of 1987 (Title IV, Pub. L. 100-17, 101 Stat. 246) ("1987 Amendments"). In the administrative area, for example, to further ensure uniformity, the amendments specifically designated the USDOT as Lead Agency and required it, in coordination with other Federal Agencies, to issue a governmentwide rule, establish procedures and make interpretations to implement provisions of the Uniform Act. In the substantive area, the common rulemaking effort granted greater flexibility and discretion to State and local Agencies, a theme reiterated in the 1987 Amendments.

#### *Implementation of the 1987 Amendments to the Uniform Act*

On May 19, 1987 (52 FR 18768), the FHWA issued a notice proposing significant changes to the common rule as a result of the 1987 amendments to the Uniform Act. On December 1, 1987 (52 FR 45667), the FHWA issued a Notice of Regulatory Intent giving further notice of the specific regulatory actions that it and the other affected Federal Agencies would take to implement the 1987 Amendments.

On December 17, 1987 (52 FR 47994), the FHWA issued an interim final rule, as 49 CFR part 24, that revised the provisions of the common rule to

include those provisions of the 1987 amendments to the Uniform Act (primarily increases in the dollar amounts of specific relocation assistance) that did not allow for administrative discretion or interpretation, and for which a period of public notices and comment would have been impractical. This interim final rule was promulgated in order to allow those Federal, State and local Agencies that were willing and able to provide the increased dollar amounts for specific relocation assistance, provided by the 1987 amendments, to do so expeditiously. On the same day at 52 FR 48015, 17 Federal Departments and Agencies that administer the Uniform Act published interim final rules rescinding the common rule from each of their regulations and adopting in its place a cross-reference to the single interim final rule published by the FHWA as 49 CFR part 24. The effective date for these Agency rescissions and cross-references varied. However, all such actions took effect on or before April 2, 1989, the date the 1987 Amendments became mandatory. The Department of Housing and Urban Development (HUD), was unable to join the other Federal Agencies in publishing an interim final rescission and cross referencing action on December 17, 1987, because of its need to first satisfy certain Congressional review obligations. HUD subsequently published such an interim rule on February 19, 1988 (53 FR 4964).

The FHWA issued an NPRM on July 21, 1988, at 53 FR 27598, proposing to fully implement the statutory amendments to the Uniform Act and to replace the interim final rule. On March 2, 1989 (54 FR 8928), the FHWA issued the final rule, which implemented all of the provisions of the 1987 Amendments to the Uniform Act, and replaced the interim final rule. This was the final step in the development of a single common rule for implementing the Uniform Act.

The Uniform Act and the common rule govern the relocation and land acquisition programs of all Federal departments and Agencies. Those departments and Agencies that, for convenience, provide a cross reference to this part, and the location of those cross-references, are listed below:

Department of Agriculture  
7 CFR Part 21  
Department of Commerce  
15 CFR Part 11  
Department of Defense  
32 CFR Part 259  
Department of Education  
34 CFR Part 15

Department of Energy  
10 CFR Part 1039  
Environmental Protection Agency  
40 CFR Part 4  
Federal Emergency Management Agency  
44 CFR Part 25  
General Services Administration  
41 CFR Part 105-51  
Department of Health and Human Services  
45 CFR Part 15  
Department of Housing and Urban Development  
24 CFR Part 42  
Department of Justice  
41 CFR Part 128-18  
Department of Labor  
29 CFR Part 12  
National Aeronautics and Space Administration  
14 CFR Part 1208  
Tennessee Valley Authority  
18 CFR Part 1306  
Veterans Administration  
38 CFR Part 25

The United States Postal Service has indicated that it will comply voluntarily with the Uniform Act, although its current regulations (39 CFR part 777) differ slightly from these proposed regulations.

However, because the Uniform Act applies to all acquisitions of real property or displacements of persons resulting from Federal or federally-assisted programs or projects, the Act's application is not affected by the absence of a cross reference to 49 CFR part 24 in a department's or Agency's regulations. Further, Federal or federally-assisted activities involving land acquisition or displacement, undertaken by a newly constituted Federal department or Agency, such as, for example, the new Department of Homeland Security, would be covered by the Act.

#### *1993 Amendments to the Governmentwide Regulations*

On January 28, 1992, the President issued a Memorandum for Certain Department and Agency Heads entitled "Reducing the Burden of Government Regulation" which called upon Departments and Agencies to review their existing regulations in order to determine whether changes should be made to promote economic growth, create jobs, or eliminate unnecessary costs or other burdens on the economy.

The FHWA, as a result of its review of the Uniform Act common rule, identified several amendments that it believed would enhance the relocation assistance provided to displaced businesses, thus increasing their chances of a successful relocation. Additionally, we identified changes that

would reduce the regulatory burden imposed on such businesses as well as on State and local governments implementing the regulation. Therefore, on July 27, 1992 (57 FR 33164), we issued a notice of proposed rulemaking (NPRM) proposing these changes to the common rule and published the final rule on April 30, 1993 (58 FR 26072).

#### *1999 Amendments to the Governmentwide Regulation*

Pub. L. 105–117, 111 Stat. 2384 (November 21, 1997) amended the Uniform Act to provide that an alien not lawfully present in the United States shall not be eligible to receive relocation payments or any other assistance provided under the Uniform Act, unless such ineligibility would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, and such spouse, parent, or child is a citizen or an alien admitted for permanent residence. As a result of these changes, the FHWA proposed to amend the common rule to reflect the prohibitions on payments to aliens not lawfully present in the United States. After publishing an NPRM on June 12, 1998 (63 FR 32175), the FHWA published a final rule implementing these changes on February 12, 1999 (64 FR 7127).

#### *FHWA Actions To Update the Regulations*

Following a series of requests from other Federal Agencies, States, and local public agencies, concerning the need for updating the Uniform Act and Title 49, CFR Part 24, the FHWA initiated a comprehensive review of 49 CFR part 24 by hosting an all Federal Agency briefing and listening session at the Uniform Act 30th Anniversary Symposium in Mesa, Arizona, in November of 2001. Seventy-five individuals representing 14 Federal Agencies, provided specific comments and suggestions. We compiled the comments and in March of 2002 we formed a Federal Interagency Task Force (Task Force) to review all comments received from both the private and public sectors and to begin developing proposed changes to the common rule. All 18 Federal Agencies whose programs are affected by the Uniform Act were asked to provide a representative to be a member of the Task Force. Next, the FHWA published a notice on May 14, 2002 (67 FR 34514), announcing 5 nationwide public listening sessions in June and July 2002 to gather broader input.

Following these sessions, the Task Force once again evaluated each comment. Based on the comments

received, the FHWA determined there was a need to update the regulation. The Task Force then began to identify specific provisions of the regulation that should be updated. The Task Force drafted proposed regulatory language, and on November 7, 2002, the FHWA hosted an All-Federal Agencies' meeting to present and discuss the draft language to each of the Agencies affected by this rule. On December 5, 2002, each Agency was given the draft language and asked to provide its specific feedback to the FHWA. This feedback helped the FHWA formulate the proposed changes in this NPRM.

#### **Section-by-Section Discussion of Proposed Changes**

Descriptions of the regulatory changes proposed in this part are set forth below. All members of the public who are affected by relocation or land acquisition activities undertaken or funded by Federal departments and Agencies are encouraged to comment on this NPRM. Comments from interested State and local governments are particularly requested. We have made several minor grammar changes such as adding or deleting commas and shortening sentences for clarity that will not change the meaning or intent. These minor changes are not addressed in the Section-by-Section discussion.

#### **Subpart A—General**

##### *Section 24.2 Definitions*

We propose to add a subsection listing acronyms and to include a numbering system to better identify definitions. This would provide users a list of the most commonly used acronyms in the regulation. These acronyms have become commonplace in conversation and correspondence in the land acquisition and displacement activities of the 18 Federal Agencies. Also, currently, there are 35 complex and lengthy definitions listed in alphabetical order. Without a clear and simple way of referring to definition provisions it is difficult to communicate with affected parties, which complicates both effective Agency administration and public understanding of applicable provisions. Since this rule applies to the programs of approximately 18 Federal Agencies, it is important that they all write and talk with the same understanding. To include a numbering system for the definitions was one of the most requested proposals received during the comment period from both the private and public domain.

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

We propose to remove the phrase "style of living" from paragraph (2) of the definition of comparable replacement dwelling.

The phrase "style of living" has sometimes been misused and has proven to be confusing. Occasionally, it has been used out of context and interpreted to require identical unique features found in acquired dwellings such as, cherry cabinets, gold fixtures, and other specialized items to be in comparable replacement 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 Congress. As noted in the conference report accompanying the 1987 amendments, "The Conferees recognize that strict and absolute adherence to an exhaustive, detailed, feature-by-feature comparison can result in rigidities. These can constitute a substantial economic burden and can lead to excessive cost if the law requires, or is interpreted to require, the replacement dwelling to possess every feature of the acquired dwelling as an absolute minimum." H.R. Conf. Rep. No. 100–27, at 247 (1987).

The Congress realized the difficulty in finding comparable replacement dwellings and intended there to be some flexibility in the definition. Removing the phrase "style of living" will not erode any protections provided to the displaced person. Other criteria under the definition of comparability would adequately cover the factors covered by "style of living."

##### *Section 24.2(a)(6)(vii) Comparable Replacement Dwelling—Currently Available*

We propose to revise section 24.2(a)(6)(vii) by deleting the last sentence and moving it to a new section, 24.2(a)(6)(ix). This new section would also provide that, when a person that is displaced from government subsidized housing accepts an offer of government housing assistance at the replacement dwelling, any requirements of the government housing program relating to the number of rooms or living space of the replacement dwelling would apply.

##### *Section 24.2(a)(6)(viii) Comparable Replacement Dwelling—Within the Financial Means of the Displaced Person*

We propose to consolidate the definition of comparable replacement

dwelling into a single paragraph, proposed as § 24.2(a)(6)(viii). This consolidation would define the purchase price or amount of rent that is considered to be within the displaced person's financial means for both a homeowner and a residential tenant. The consolidation would reduce verbiage, without any change in substance.

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

We propose to add a requirement to the decent, safe, and sanitary dwelling definition to reflect the protections provided by Public Law 102-550, Residential Lead-Based Paint Hazard Reduction Act of 1992. Lead based paint hazard levels established by the U.S. Environmental Protection Agency in accordance with Public Law 102-550 are intended to protect families and children under the age of six from ingesting paint dust or chips while occupying replacement housing. HUD's Lead Safe Housing Rule (24 CFR 35, subparts B-R), which implements that law for federally-owned and assisted housing, provides the strategy for protecting occupants during temporary relocation. The replacement dwelling unit must not have deteriorated paint (or deteriorated lead-based paint if paint testing is conducted) or dust-lead hazards. A unit built on or after January 1, 1978 meets the requirement. The lead safety provision does not apply to displacement of persons who are either elderly or disabled (unless a child under 6 years will reside or be expected to reside in the unit), nor if the replacement dwelling unit is a zero-bedroom dwelling. This proposed change would include this same standard in § 24.2(a)(8)(ii).

*Section 24.2(a)(8)(v) Decent, Safe, and Sanitary Dwelling—Local Housing Codes*

We propose to amend this definition to require the Agencies to follow the local housing code provision that addresses the maximum number of persons permitted to occupy a room used for sleeping purposes. In the absence of a local housing code requirement, the written policy of the Agency would govern. Additionally, Agencies must also follow any housing code provision which addresses the minimum amount of square feet for each person occupying a dwelling unit or portion thereof. This would make it easier to determine the number of bedrooms required for a replacement dwelling unit.

Similarly, we propose that the local housing code or, if no such code

provision exists, the written policy of the Agency, would determine the minimum age of children of the opposite gender which must occupy separate rooms used for sleeping purposes. In the absence of a local housing code or a written policy by the Agency, the minimum standards established for a decent, safe and sanitary dwelling in § 24.2(a)(8) are to be applied.

*Section 24.2(a)(9)(ii)(D) Persons Not Displaced*

We proposed to amend this section in appendix A to provide that temporary relocation assistance to a person required to move from their dwelling, business, farm, or nonprofit organization are limited to a one year period. Such persons remaining in a temporary location for a period exceeding one year must be offered all permanent relocation assistance.

*Section 24.2(a)(11) Dwelling Site*

We propose to add a definition of the term "dwelling site." The dwelling site represents the area, and specifically the size of the land area, on which a dwelling is located. The "dwelling site," as defined, is a typical lot for similar dwellings in the neighborhood where the dwelling to be acquired is located. This definition would help ensure more accurate computations of replacement housing payments when a dwelling is located on a larger than normal site or when mixed-use or multi-family properties are involved, and reflects current practice.

*Section 24.2(a)(12) Eviction for Cause*

At the request of the HUD and with concurrence by the Task Force, we propose to simplify the eviction for cause provision in § 24.206 by adding a definition of eviction for cause to § 24.2(a)(12). The proposed definition includes some of the provisions that are currently included in § 24.206. Eviction is a legal process, not an administrative procedure, and therefore, the proposed definition would retain the current link to applicable State and local law.

*Section 24.2(a)(15) Household Income*

At the request of Federal, State, and local public Agencies having the responsibility of administering the Uniform Act, we propose to add, for clarity, a new definition, "household income." This definition would include examples of what does and does not constitute a person's gross monthly household income for purposes of establishing a base monthly income under proposed § 24.402(b)(2)(ii).

Household income would generally include average monthly income from all sources, but would exclude income from dependent children 18 years old or younger and full time students, and various governmental assistance described in appendix A of this part, § 24.2(a)(15).

*Section 24.2(a)(16) Initiation of Negotiations*

We propose to add a sentence to the definition of "initiation of negotiations" to provide that, in the case of acquisitions of real property, described in the initiation of negotiations, for the purposes of § 24.101(b)(1) through (5) (that must be based on an amicable agreement with the owner) establishing a qualified tenant's eligibility for relocation benefits, would occur when the Agency and the owner reach agreement to purchase the real property.

*Section 24.2(a)(18) Mobile Home*

We propose to add a definition for a mobile home to this section. The term includes both manufactured homes and recreational vehicles used as residences. We also propose to add further requirements that recreational vehicles must meet in order to be qualified for relocation assistance in appendix A. Appendix A would also explain the difference between manufactured homes and mobile homes recognized by HUD for that Agency's programs. For purposes of this regulation, however, we propose that both are to be considered as mobile homes. (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)(24) Salvage Value*

We propose to revise the definition of "salvage value" to clarify that the value of an item is to be based on the item being removed at the buyer's expense.

*Section 24.2(a)(30) Unlawful Occupant*

We propose to change the term "unlawful occupancy" to "unlawful occupant" so that the definition can be stated more clearly. We also propose to remove the word "squatter" from the definition. The word may be offensive and is not necessary to the definition. The wording changes proposed would simplify the definition without changing its meaning.

*Section 24.2(a)(34) Waiver Valuation*

We propose to use the term "waiver valuation" to identify the valuation

process and product when § 24.102(c)(2) appraisal waiver provisions are implemented.

#### *Section 24.9 Recordkeeping and Reports*

In accordance with the Presidential Memorandum dated February 27, 1985, United States Department of Transportation is required to report annually to the President's Council on Management Improvement, a part of the Office of Management and Budget, on implementation of the Uniform Act. Under the current reporting requirement, the Lead Agency has received very little statistical information, and thus has little or no knowledge of the extent and impact of other Federal funding Agencies acquisition and displacement activities. Therefore, in § 24.9(c), we propose to require Federal Agencies to submit an annual report summarizing of their real property acquisition and displacement activities to the Lead Agency. This proposed change would enable us to prepare and submit a more comprehensive and useful report, in addition to facilitating a more active monitoring role in our duty as Lead Agency.

We propose to redesign Appendix B to be less burdensome and to enable the information to be reported electronically. Appendix B is the statistical support form of which Agencies are required to submit reports of real property acquisition and displacement activities, if required by the Federal Agency funding the project. Additionally, we propose to remove the requirement that the Agency submit this report no more frequently than every three years, since this report is issued each year.

The Department of Housing and Urban Development and most other Federal funding Agencies support this proposed change.

#### **Subpart B—Real Property Acquisition**

We propose to make a minor change by replacing the term "fair market value" with "market value" throughout the subpart to better reflect current appraisal terminology.

#### *Section 24.101 Applicability of Acquisition Requirements*

We propose to restructure § 24.101(a) to clarify the application of the real property acquisition requirements set forth in this subpart, and to revise the exceptions to those requirements.

Currently, the two major exceptions to real property acquisition requirements in Subpart B are voluntary transactions and acquisitions in which the Agency

does not have the power of eminent domain.

Based on the suggestion of Federal Agencies, we propose that these exceptions no longer apply to acquisitions by Federal Agencies. We are advised that some Federal Agencies use these types of transactions to a significant extent. To best ensure that the objectives of the Uniform Act are satisfied, we propose that Federal Agencies follow the valuation processes set forth in this subpart for all of their direct acquisitions. This proposal is also 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 propose to retain the exceptions for federally-assisted projects and programs.

Essential to the exceptions is the requirement that the owner must be informed that the property would not be acquired unless an amicable agreement can be reached. Currently, the regulation requires the Agency to inform the owner what it believes to be the fair market value of the property. We propose to require the Agency to inform the property owner in writing (1) that the property will not be acquired unless an amicable agreement can be reached, and (2) of the market value of his/her property. This would more closely parallel the Uniform Act requirement that is applicable to covered transactions, and provide the property owner with documented assurance of the Agency's authority and intentions.

Some Agencies suggested that the requirement that the Agency inform the owner of what it believes to be market value in § 24.101(a)(1) and (2) be revised to also include a requirement for a supporting appraisal. We have not proposed adding such a requirement. However, we propose adding language to Appendix A noting that, while the regulation does not require an appraisal in these cases, an Agency may still decide to use some form of an appraisal, and, in any event, an agency must have some reasonable basis for the valuation required by § 24.101(a)(1) and (2).

To assist readers/users, we propose to add a cross reference to the location in the rule of relocation assistance provisions that are applicable to any tenants that must move as a result of these excepted acquisitions.

We propose to delete the introductory phrase in proposed § 24.101(c), currently § 24.101(b), to eliminate unnecessary verbiage.

#### *Section 24.102 Basic Acquisition Policies*

The Uniform Act provides that the requirement for an appraisal may be waived in cases involving the acquisition of property with a low market value. We propose to clarify § 24.102(c)(2) by separating it into paragraphs (i) and (ii). Paragraph (i) would concern donations and is essentially unchanged. Paragraph (ii) would address low value properties and would specify that when such properties are to be acquired, and the appraisal waived, the Agency must prepare a "waiver valuation," a term proposed to be defined in § 24.2(a)(34). We propose to raise the appraisal waiver threshold in § 24.102(c)(2) from \$2,500 to \$10,000. In addition, we propose to add a new provision that would allow the Federal funding Agency to raise the threshold up to a maximum of \$25,000, provided that the Agency acquiring the real property offers the property owner the option of having an appraisal performed.

These proposed changes reflect the general increase in property values since the present threshold was established. Comments we have received and our experience to date, have shown no indication of administrative abuse or property owner objection. Broad Agency support indicates a higher threshold is justified.

#### *Section 24.102(e) Summary Statement*

We propose to revise the language in (3) to be clearer and more specific.

#### *Section 24.102(i) Administrative Settlement*

We propose to revise the language to require more specific information in the written justification ("state" rather than "indicate") and delete 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*

Language currently in § 24.103(e) Criteria for appraisals, addresses conflicts of interest for appraisers and review appraisers. Proposed language would add all persons making waiver valuations under § 24.102(c)(2) to this section. This proposed change would bring equal conflict of interest standards to all individuals valuing real property, whether their work be waiver valuations, appraisal, or appraisal review, and would clarify who is covered.

We also propose adding a new provision that any person functioning as a negotiator shall not supervise or formally evaluate either the appraiser, review appraiser or person making waiver valuations. This provision would enhance appraiser independence and further support the Uniform Act concept that the appraisal is part of the acquisition process that includes not only appraisal and appraisal review, but also the Agency responsibility and authority to establish an amount, based on an approved (reviewed) appraisal, believed to be just compensation, offer that amount to the property owner, and be prepared to consider updating the offer of just compensation (§ 24.102(g)) and administrative settlement (§ 24.102(i)), as appropriate. Recognizing that some Federal assistance recipients, particularly those with limited staff resources, may find this provision unworkable, we propose that, in such cases, the Federal funding agency may waive this provision. And, since the proposed provision would apply to more individuals than just the appraiser, we propose to relocate it to be under basic acquisition policies.

#### *Section 24.103 Criteria for Appraisal*

The revisions we propose to §§ 24.103 and 24.104 are the first since the Appraisal Foundation published the Uniform Standards of Professional Appraisal Practice (USPAP).<sup>2</sup> Considerable confusion and misunderstanding as to the applicability of USPAP provisions to Uniform Act real property acquisitions have existed ever since USPAP was 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.

Appraisers who are committed to adhere to USPAP by virtue of State appraisal licensing or certification should look to the provisions of USPAP, including the scope of work, the Jurisdictional Exception Rule and the Supplemental Standards provisions, and their State Appraisers' board for guidance on how they can remain in compliance with USPAP and perform appraisals for Agencies following Uniform Act and 49 CFR part 24 requirements.

Many of the proposed 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 USPAP.

We propose to change the terminology throughout this section from "standards" to "requirements" to avoid confusion with USPAP standards rules. We also propose to add 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.

#### *Section 24.103(a) Appraisal Requirements*

We propose to add a sentence indicating that these regulations set forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. This would make it clear that other performance standards, such as USPAP and those issued by professional appraisal societies, do not govern programs covered by the Uniform Act. We propose to reorder other sentences in the paragraph for greater clarity, and to add a requirement for a scope of work statement in each appraisal. In appendix A, we propose to add a discussion on preparing the scope of work. We also propose to insert the word "simple" to help identify and differentiate the "minimum requirements" appraisal. We propose to move the requirements now in § 24.103(a)(1) to the scope of work, as discussed in appendix A, and renumber the remaining detailed appraisal requirements (1) through (5).

#### *Section 24.103(a)(3)*

To clarify the intent of this section, we propose to add language that describes the content of a detailed appraisal to conform with currently used terminology (sales comparison approach). We also propose to move the discussion of the Agency's authority to require only the market approach (sales comparison approach) to appendix A, where we propose it be included in the determination of the scope of work.

#### *Section 24.103(b)*

We propose to delete the first phrase because it is redundant.

#### *Section 24.103(d)*

We propose to specifically add "review appraisers" to clarify that they are included in this section that addresses appraiser qualifications. We also propose to add a discussion to appendix A to emphasize the need for appraisers and review appraisers to be qualified and competent, and that State

licensing or certification can help provide an indication of an appraiser's abilities.

#### *Section 24.104 Review of Appraisals*

We propose to use consistent terminology to refer to the person performing appraisal reviews, *i.e.*, review appraiser. We also propose to add language to clarify and specify the responsibilities, authorities and expectations associated with appraisal review.

#### *Section 24.104(a)*

We propose to add language that would specifically state that the review appraiser's examination of the appraisal must include examination of the presentation and analysis of market information. While this may not be a change from what Agencies, as a matter of practice, now expect of review appraisers, we believe this proposed language would avoid misunderstanding and confusion. Also, we propose to state clearly that the review appraiser is to ensure that appraisal performance complies with appraisal requirements in § 24.103 and other applicable requirements, and supports the appraiser's opinion of value. This would avoid any misunderstanding as to the criteria for the review. The level of analysis and reporting would depend on the complexity of the appraisal and appraisal review problems. We propose that the report identify the appraisal report(s) reviewed, document the findings and conclusions arrived at during the review of the appraisal(s), and identify each appraisal report as rejected, accepted (meets all requirements, but not selected as approved), or approved (as the basis for the establishment of the amount believed to be just compensation). Identification of each appraisal report is proposed as a method of avoiding confusion as to the status of each reviewed appraisal.

#### *Section 24.104(b)*

We propose to add language that would make it clear that the review appraiser may develop independent valuation information as part of the appraisal review process.

#### *Section 24.104(c)*

We propose to add language that would require the review appraiser to prepare a written report and specify what is to be in the report.

We also propose that the review appraiser prepare a signed certification, which would state the parameters of the review and the approved value and, if

<sup>2</sup> Uniform Standards of Professional Appraisal Practice (USPAP). Published by the Appraisal Foundation, a non-profit educational organization. Copies may be ordered from the Foundation at the following URL: <http://www.appraisalfoundation.org/html/USPAP2003/toc.htm>.

appropriate, the amount believed to be just compensation to be offered the property owner.

### Subpart C—General Relocation Requirements

#### Section 24.202 *Applicability*

We propose to add a sentence to § 24.202 that adds a requirement that displaced persons be fully informed of their rights and benefits. It has come to our attention that displaced persons have been asked to waive their relocation rights and benefits without being informed of the extent of those benefits. This proposal would protect and strengthen the requirement that Agencies fully inform displaced persons of any rights and benefits they may be eligible for under this part.

This proposal is also integral to new proposed § 24.207(f), Waiver of relocation benefits, which would prohibit Agencies from proposing or asking displaced persons to waive their relocation rights and benefits.

#### Section 24.203(d) *Notice of Intent To Acquire*

We propose to move the definition of “notice of intent to acquire” from § 24.2 “Definitions” to § 24.203, “Relocation notices,” with a minor revision. This proposed revision would be for continuity and clarity.

#### Section 24.205 *Relocation Planning, Advisory Services and Coordination*

In response to widespread concern about the inadequacy of Uniform Act relocation and reestablishment procedures and payments for displaced businesses, we sponsored the National Business Relocation Study<sup>3</sup> (“the study”). The study, undertaken for FHWA by an independent consultant, investigated business relocation concerns and provided recommendations to develop solutions to these problems.

The study found that relocation assistance advisory services for businesses were generally considered fair to poor. Some of the findings specifically noted that relocation agents were not adequately trained or informed to address the complexities of complicated business relocations, and were unable to provide meaningful assistance in locating replacement properties.

The changes proposed in this section are based upon the findings and recommendations of the study and are

meant to address the added burden of displacement on businesses, and provide additional assistance to increase businesses’ viability after displacement.

#### Section 24.205(a) *Relocation Planning*

We propose to change § 24.205(a) to provide additional items for Agencies to consider in planning for business relocations.

The Uniform Act and this section of the regulation require Agencies to plan federally funded programs and projects in such a manner that Agencies recognize the problems associated with displacement and develop solutions to minimize the adverse affects of displacement. An Agency must engage in such planning before proceeding with any action, which causes displacement and should scope the plan to the complexity and nature of the displacing action.

Currently, this section of the regulation provides examples of items to consider in relocation planning. The planning considerations currently include both residential and non-residential items, but residential planning requirements are more comprehensive than the non-residential planning ones. We recognize that the Uniform Act requires a more generous “make whole” approach for residential displacements. However, we also recognize that a significant number of displaced small businesses have not been able to successfully relocate. Therefore, we propose to require the Agency to engage in planning for the problems associated with non-residential displacement.

#### Section 24.205(c)(2)(i)(A)–(F) *Relocation Assistance Advisory Services*

We propose to change § 24.205(c)(2)(i)(A) through (F) to include six specific items in personal interviews for business relocations. These six paragraphs are a result of our National Relocation Business Study and will assist in determining the future needs of displaced businesses.

During the five national listening sessions, the FHWA received many comments concerning the lack of guidance and direction on what information the Agency should obtain when making personal interviews with businesses. The FHWA also received testimony from States and Local Public Agencies of actual cases where good interviewing and early planning is credited with preventing business closures.

The Uniform Act and this section of the regulation requires Agencies to ensure that relocation assistance advisory services are made available to

all persons displaced by the Agency. A critical element in any successful relocation, and also an advisory services requirement, is to determine the needs and preferences of displaced persons through a personal interview.

Currently, this section of the regulations provides no examples of items for Agencies to consider in personal interviews for either residential or non-residential displacements. Generally, we believe Agencies do not need additional guidance in conducting personal interviews for residential displacements. However, we believe that specific guidance in conducting personal interviews for non-residential displacements is necessary to help address the added burden of displacement on businesses and provide additional assistance to increase their viability after displacement. Therefore, we have proposed guidance in (c)(2)(i)(A) through (F) of this section to assist Agencies in conducting personal interviews. This proposed change is based upon the findings and recommendations of the National Business Relocation Study.

#### Section 24.205(c)(2)(ii)(C) *Relocation Assistance Advisory Service*

We propose to revise this section to permit any displacing agency that has a program objective of providing minority persons with an opportunity to relocate to areas outside of minority concentration to provide reasonable and justifiable increases in the replacement housing payment to facilitate such moves.

#### Section 24.205(c)(2)(ii)(D) *Transportation*

In order to make it clear that all displaced persons must be offered transportation to inspect replacement housing, we propose to eliminate the specific reference to the elderly and handicapped in the current regulation.

#### Section 24.206 *Eviction for Cause*

We propose to revise this section on eviction for cause by moving several of the current provisions to the new definition of eviction for cause in § 24.2(a)(12).

#### Section 24.207(f) *Waiver of Relocation Benefits*

We propose to implement a new requirement for “waiver of relocation benefits.” This requirement would offer more protection to displaced persons. It would prohibit an Agency from proposing or requesting a displaced person to give up his/her rights or entitlements to relocation assistance.

<sup>3</sup> The National Business Relocation Study (2002) is available for public inspection at the following URL: <http://www.fhwa.dot.gov/realstate/nbrs2002.htm>.



We do not believe that an otherwise eligible person may relieve a governmental body of its statutory obligation to provide Uniform Act assistance by agreeing to waive such assistance. The primary purpose of the Uniform Act is to impose requirements upon Agencies that acquire property and displace persons for Federal or federally-funded projects. The Uniform Act does not grant rights or benefits directly to individuals, rather it imposes duties and obligations upon Federal, State, and local governments.

A statement or agreement by a displaced person who does not wish to receive certain assistance does not free a government Agency from the obligations or requirements imposed by Federal law. In such a case where a displaced person indicates in writing he/she does not want assistance, the Federal or State Agencies must still fully inform the displaced person of all the assistance he/she is entitled to receive.

*Section 24.207(g) Entitlement to Payments*

We propose to add new paragraph (g) to § 24.207 to clarify that, since relocation payments are considered a form of compensation, they do not constitute Federal financial-assistance, and accordingly, the expenditure of such relocation payments by a displaced person would not trigger further application of the Uniform Act or similarly applicable Federal requirements.

*Section 24.208(f)(1) Aliens Not Lawfully Present in the United States*

We propose that the references to the Immigration and Naturalization Service (INS) in § 24.208(f)(1) be revised to reflect the fact that the INS has become part of the Department of Homeland Security, and renamed the Bureau of Citizenship and Immigration Services (BCIS).

**Subpart D—Payments for Moving and Related Expenses**

We propose to substantially reorganize Subpart D. With few exceptions, the basic content would remain the same; however, based upon the comments from our 5 national public listening sessions and comments from other Agencies, this subpart needs to be reorganized for clarity and ease of use. Accordingly, we propose to realign the different moving costs allowance provisions.

We propose to divide Subpart D into six sections. We would transfer a number of criteria from § 24.304, Reestablishment Expense, with its

\$10,000 limit, to § 24.301, Payment for actual reasonable moving and related expenses, and § 24.303, Payment for related non-residential expenses, where there are no limits and the payment is determined by actual, reasonable and necessary criteria. This would offer greater flexibility in assisting small businesses, farms, and non-profit organizations by removing several relocation costs from inclusion in the \$10,000 statutory limit placed on reestablishment expenses. We propose to incorporate existing § 24.303 into proposed § 24.301 with specific criteria clearly spelled out for each type of move.

We propose several new paragraphs that would help clarify the different types of moving costs. In § 24.303 we propose that payment would be provided for certain moving related costs that are not personal property but are essential to the continuance of operation of the business. We propose a new paragraph, § 24.301(e), that would compensate displaced persons who are not forced to move from their residence or business but have personal property that must be moved from the acquired area.

*Section 24.301(b)(3), 24.301(c)(iii) and 24.301(d)(2)(ii) Moving Cost Finding*

We are proposing to add a provision allowing moving expenses to be determined by a qualified staff person for small uncomplicated personal property moves, commonly called a “moving cost finding” or “a finding.” The proposed moving cost finding is another option available to the displaced person and the Agency. This option cannot be forced on the displaced person. The proposed moving cost finding would recognize an additional method of moving personal property that is currently being used by many Agencies. The proposed moving cost finding gives the Agency a cost effective and expeditious way to pay for small uncomplicated moves of personal property that are located outside of the primary dwelling or business structure(s). This method would allow the Agency to use qualified staff personnel to estimate the cost of such small-uncomplicated personal property moves and offer the option to the displaced person as a means of a self move. The cost would be capped at \$3,000 and not be binding on the displaced person. The displaced person may elect any of the other methods to move. This provides both the Agency and the displaced person a quick cost effective way of making a self-move.

*Section 24.301(e) Personal Property Only*

We propose a new paragraph that would describe the relocation assistance available to a displaced person for moving personal property from the acquisition area, when the acquisition does not require the relocation of a dwelling (including a mobile home), business, farms or nonprofit organizations. Personal property only moves might include moving such things as farm equipment or livestock where the related buildings are not affected.

*Section 24.301(g)(14)(i) Actual Direct Loss of Tangible Personal Property*

The Uniform Act provides that a displaced business, farm or non-profit organization is entitled to be compensated for the actual direct loss of tangible personal property. We propose to slightly change the direct loss of tangible personal property provision to eliminate much confusion over the term “fair market value for continued use.” Displacing Agencies are reluctant to discuss this benefit with displaced businesses because of the uncertainty over how to determine the payment.

Therefore, we propose to strike the phrase “fair market value of the item for continued use at the displacement site” and replace it with “market value of the item, less the proceeds of the sale” to clarify the basis for valuing such property. This is consistent with the intent of the Uniform Act, 42 U.S.C. 4622(a)(2).

*Section 24.301(g)(14)(ii) Actual Direct Loss of Tangible Personal Property*

We propose to add language to this section that would clarify what constitutes the estimated cost of moving when a business elects to discontinue the business or the business has a piece of equipment in storage or non-operational at the acquired site. Confusion comes from whether or not such an estimate, used to compute the payment for actual direct loss of tangible personal property, should include disconnecting and reconnecting costs when the business elects to discontinue operation or elects not to move the equipment to the replacement location. The proposed language would clarify those cases in which reconnecting costs would or would not be included in calculating the estimated cost of moving such equipment. We believe this would be consistent with the intent of the Uniform Act, to provide moving benefits that are actual, reasonable and necessary.

*Section 24.301(g)(17) Searching for a Replacement Location*

We propose to move this paragraph from § 24.303(a)(13) and increase “searching expenses” from \$1,000 to \$2,500. This amount has been set at \$1,000 for 16 years. This proposed change is supported by the FHWA’s National Business Relocation Study which recommended increasing the searching expenses. Searching expenses are intended to provide compensation for the actual time and effort to find a replacement site, which also should include reasonable costs to investigate the site. Such costs may include the cost of obtaining permits, attending zoning hearings or negotiating the purchase of a replacement site. We propose to provide additional insight and flexibility in appendix A on the application of searching expenses.

*Section 24.301(g)(18) Low Value/High Bulk*

We propose to add a paragraph on low value/high bulk property. The current regulation does not address cases where items of personal property owned by a displaced business are more costly to move than they are worth. The proposed change would provide a procedure available when the personal property to be moved is of low value and high bulk and, in the judgment of the displacing Agency, the cost of moving the personal property is disproportionate to its value.

*Section 24.301(h)(12) Ineligible Moving and Related Expenses.*

For clarity and uniformity, we propose to add refundable security and utility deposits to the list of ineligible moving expenses, § 24.301(h)(12). Since refundable deposits, by the name alone, indicates a return of the investment to the displaced person, we do not consider a refundable deposit a reimbursable expense under the Uniform Act.

*Section 24.301(i)(1) and (2) Notification and Inspection*

We propose to reorganize and merge this section from four paragraphs into three paragraphs. We do not propose to change the wording. These proposed changes are for clarity and readability. The phrase “The displaced person must” is merged into the introductory paragraph to eliminate redundancy and provide clarity.

*Section 24.302 Fixed Payment for Moving Expenses-Residential Moves*

This section provides that displaced residential owners and tenants may receive a moving expense payment

based on the Fixed Residential Moving Cost Schedule<sup>4</sup> approved by the FHWA. Currently, this section provides that the Fixed Residential Moving Cost Schedule payment made to a person with minimal personal possessions in occupancy of a dormitory style room or whose residential move is performed by an Agency at no cost to the individual is limited to \$50. This has been the limit since 1987. Since this payment is included in the fixed residential moving cost schedule that is updated periodically, we are proposing to remove the \$50 dollar amount from § 24.302, so that the amount and future increases to this payment would be established by the Fixed Residential Moving Cost Schedule. Therefore, each time the schedule is updated, this payment could be updated as well. Agencies must be sure they are using the most current edition of the Fixed Residential Moving Cost Schedule.

*Section 24.303 Related Non-Residential Eligible Expenses*

As a result of reorganizing Subpart D for convenience and clarity, the relocation of all items of personal property would be included in § 24.301. We are proposing to add a new section, § 24.303, that would provide reimbursement for several costs that are not considered to be personal property but are essential to the continuing operation of the business. These costs are additional expenses, other than for moving personal property, that are not covered by either § 24.301 (personal property) or § 24.304 (real property.) Reimbursement for these expenses would be allowed if they are determined by the Agency to be “actual, reasonable and necessary.”

**Subpart E—Replacement Housing Payments***Section 24.401(e)(4) Incidental Expenses*

We are proposing to add professional home inspection to the list of reimbursable incidental expenses. Professional home inspections including electrical systems, plumbing, and HVAC are commonplace and should be added to the list of reimbursable incidental expenses. Most agencies are currently allowing for this expense.

<sup>4</sup> The Fixed Residential Moving Cost Schedule is available for public inspection at the following URL: <http://www.fhwa.dot.gov/////realestate/fixsch96.htm>.

*Section 24.401(f) Rental Assistance Payment for 180 Day Homeowner-Occupant*

We propose to add language that would allow a rental assistance payment for a 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. However, the rental supplemental payment would not be allowed to exceed the amount the 180-day owner would have received as a housing (purchase) supplemental payment under proposed § 24.401(b). It was brought to our attention through the national listening sessions and through discussions with other Federal Agencies that this change would be fair and make the displaced person whole at no additional cost to the Agency.

An example of the proposed change would be where an elderly couple who own their home may want to rent rather than purchase another home. Under current procedure, the Agency would compute a replacement housing offer, which for this example is, say, \$10,000. The Agency would then compute a rental assistance payment based on the difference in market rent and an available comparable dwelling, which for this example is \$7,000. Currently, we would only pay the maximum amount of \$5,250. The proposed change would allow the Agency to pay the \$7,000 rent supplement or any rent supplement up to what they would have received as a 180-day homeowner (\$10,000 in this example) to purchase a replacement dwelling.

We feel this would be a fair and equitable approach, provided the rent supplement does not exceed the amount the 180-day homeowner could receive if he or she elected to purchase a replacement dwelling, rather than to rent one.

*Section 24.402(b)(2)(ii) Replacement Housing Payment for 90-Day Occupant*

We propose to slightly revise § 24.402(b)(2)(ii) to reflect 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).)

Section 24.402(b)(2) currently uses 30 percent of a person’s average monthly gross household income as the criteria for computing replacement housing payments for all eligible displaced tenants. This often results in large payments to existing tenants who are

not low income and who elect to pay more than 30 percent of their monthly gross household income for rental housing. This proposed change would be more reflective of the intent of the Uniform Act in that it assures consideration of income for low-income persons.

The proposal would rely on the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits.<sup>5</sup> The proposed procedures in § 24.402(b)(2)(ii) would continue to use the 30 percent of monthly gross household income, but only for displaced persons who qualify as low income. The base monthly rental would continue to be established solely on the criteria in § 24.402(b)(2).

#### *Section 24.402(c) Downpayment Assistance Payment*

For uniformity, we propose to clarify that the replacement housing payment received under § 24.402(b) may be used for a downpayment assistance payment. There is a disparity among Agencies as to the amount that can be used as the downpayment. Most State and Federal Agencies currently allow the full amount of the rent supplement to be applied to the downpayment. Some, on the other hand, follow the guidance in appendix A of this regulation which limits the amount of the downpayment to what would ordinarily be required to obtain conventional loan financing for a decent, safe and sanitary dwelling. No such limits are included in the Uniform Act.

Therefore, we propose to add language that would allow the displaced person to apply the full amount of the rent supplement to the downpayment on a decent, safe and sanitary dwelling. We also propose to slightly modify appendix A to conform to the proposed change.

#### *Section 24.403(a) Determining Cost of Comparable Replacement Dwelling*

At the request of several Federal Agencies, we are proposing that Agencies pay, as a part of the reasonable cost of a comparable replacement dwelling, the increased real estate taxes, if any, for displaced 180-day owner occupants displaced as a result of a Federal or federally-funded project. This payment would be based on the difference between the monthly real estate tax on the acquired dwelling, and the monthly real estate tax on the replacement dwelling at the time of purchase but not to exceed the monthly

real estate tax on a comparable replacement dwelling.

The benefit would be calculated over a 24-month period. If the displaced person elects to purchase a replacement dwelling where the real estate tax at the time of purchase exceeds that of the comparable replacement dwelling, the increased tax payment, if any, would be limited to the increased monthly tax cost of the comparable replacement dwelling at the time of purchase for 24 months. Should the displaced person elect to purchase a replacement dwelling for less than the cost of a comparable replacement dwelling, the increased tax calculation would be based on the 24 month increase, if any, in the real estate tax of the acquired dwelling and that of the replacement dwelling at the time of purchase.

The rationale for this proposal is that increased real estate taxes represent a real part of the cost of a replacement dwelling and are often a financial burden, particularly for displaced persons with fixed incomes, such as social security. Other situations could arise where a displaced person that purchases a new home may lose his/her grand-fathered real estate tax rate privileges and be subject to a higher real estate tax rate. The proposal would comport with the spirit and purpose of the Uniform Act, which is to treat displaced persons fairly by ensuring that they are able to relocate to a replacement dwelling that is comparable to the dwelling from which they were displaced.

#### *Section 24.403(a)(1) Adjustment of Comparables*

We propose to remove the requirement that Agencies adjust the asking price of the comparable replacement dwelling in computing replacement housing payments. Currently, this section bases a displaced person's replacement housing payment on the adjusted difference between the asking price and the selling price of a comparable replacement dwelling as determined by an Agency survey of the area. This requirement, because it can provide a replacement housing payment that is different than the price of a comparable dwelling, is burdensome and forces the displaced person to become a negotiator. This imposes an unnecessary obligation on the displaced person for which he/she probably is not qualified. Removing this requirement also would relieve the Agency of the administrative burden of conducting a market survey to determine the adjusted sales value. The procedure for determining a comparable dwelling would not change, only the current

requirement to adjust the price of the selected comparable dwelling would be eliminated. The replacement housing payment would be based on the list price of the comparable dwelling not the adjusted price. Additionally, the reference to the adjustment of comparable replacement dwellings in Appendix A would be removed.

#### **Subpart F—Mobile Homes**

Based upon the comments from our five national public listening sessions and comments from the other Agencies, we are proposing to reorganize Subpart F for clarity and ease of use. The basic content would remain unchanged.

We propose to move the required determinations to distinguish a mobile home displacement as either an acquisition of real property or as a move of personal property, to the eligibility paragraph in § 24.502.

Subpart E provides replacement housing payments for an owner occupant or tenant occupant displaced from a conventional dwelling. Subpart F provides similar payments for an owner occupant or tenant that is displaced from an acquired mobile home. However, mobile homes may instead be considered personal property and relocated, not purchased, which in turn may lead to the determination that the occupant is not displaced from his/her dwelling. The proposed reorganization merely consolidates the necessary displacement determination, locating each with the applicable payment eligibility provisions.

We propose to eliminate § 24.505 (Additional rules governing relocation payments to mobile home occupants), and consolidate its provisions into the following paragraphs in which they are more closely affiliated: § 24.501 (Applicability); § 24.502 (currently § 24.503—Replacement housing payment for 180-day mobile homeowner-occupants); and § 24.503 (currently § 24.504 —Replacement housing payment for 90-day mobile home occupants.) Also, as previously discussed in the preamble to Subpart D, we propose to consolidate the moving provisions in § 24.301(g)(8) through (g)(10).

#### *Section 24.502(b) Replacement Housing Payment Computation for a 180-Day Owner Displaced From a Mobile Home*

We propose to modify and consolidate § 24.502(b) that provides for payment of actual moving expenses with the criteria for replacement housing payments in those cases where the displacing Agency determines the homeowner is displaced from the

<sup>5</sup>The Annual Survey of Income Limits can be found at the following URL: <http://www.huduser.org/datasets/il.html>.

mobile home for the reasons described in § 24.502(a)(3).

*Section 24.502(c) Rental Assistance Payment for a 180-Day Owner-Occupant Displaced From Acquired Leased or Rented Site*

We propose to allow the displaced person to claim the computed rental assistance payment if it is applied towards the purchase of a replacement site or added to the eligible purchase price of a conventional dwelling or mobile home. This would eliminate the

confusion over combining the two payments (mobile home and mobile home site) in the purchase of a conventional dwelling. The justification being that when buying a conventional dwelling, the land and dwelling are one; whereas, in many instances with mobile homes, the displaced person owns the mobile home but rents the land. Therefore, in the case where the mobile home owner buys a conventional dwelling we would allow the rental supplement on the land (site) to be

added to the housing supplement, not to exceed the statutory limit of \$22,500 (unless the housing supplement is in Housing of Last Resort). The total payment must be used toward the purchase of replacement decent, safe and sanitary housing.

**Distribution Tables**

For ease of reference, distribution and derivation tables are provided for the current sections and the proposed sections, as follows:

DISTRIBUTION TABLE

Old section	New section
<b>Subpart A</b>	
24.1 .....	24.1 Text unchanged.
24.1(b) .....	24.1(b) Revised.
24.2 Heading .....	24.2 Heading revised.
None .....	24.2(a) Introductory para. added.
Agency .....	24.2(a)(1) Paras. revised.
Alien not lawfully present in the United States .....	24.2(a)(2) Paras. redesignated.
Appraisal .....	24.2(a)(3) Redesignated.
Business .....	24.2(a)(4) Redesignated.
Citizen .....	24.2(a)(5) Redesignated.
Comparable replacement dwelling .....	24.2(a)(6) Redesignated.
(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.
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) .....	24.2(a)(8) Redesignated and text unchanged.
None .....	24.2(a)(8) Added.
(2) and (3) .....	24.2(a)(8)(iii) and (iv) Redesignated and text unchanged.
(4) .....	24.2(a)(8)(v) and (vi) Redesignated and revised.
(5) and (6) .....	24.2(a)(8)(vii) and (viii) Redesignated and revised.
Displaced person .....	24.2(a)(9) All paras. redesignated.
Displaced person (1)(i) .....	24.2 (a)(9)(i)(A) Revised.
Displaced person (1)(iii) .....	24.2 (a)(9)(i)(C) Revised.
Displaced person (2)(v) .....	24.2(a)(9)(ii)(E) Revised.
Displaced person (2)(vii) .....	24.2(a)(9)(ii)(G) Revised.
Displaced person (2)(xi) .....	24.2(a)(9)(ii)(K) Revised.
Dwelling .....	24.2(a)(10) Redesignated.
None .....	24.2(a)(11) Added.
None .....	24.2(a)(12) Added.
Farm operation .....	24.2(a)(13) Redesignated.
Federal financial assistance .....	24.2(a)(14) Revised.
None .....	24.2(a)(15) Added.
Initiation of negotiations—Intro. Para .....	24.2(a)(16)Intro. para. Redesignated and text unchanged.
(1) through(3) .....	24.2(a)(16)(i) through (iii) Redesignated and text unchanged.
None .....	24.2(a)(16)(iv) Added.
Lead agency .....	24.2(a)(17) Redesignated.
None .....	24.2(a)(18) Added.
Mortgage .....	24.2(a)(19) Redesignated.
Nonprofit organization .....	24.2(a)(20) Redesignated.
Notice of intent to acquire or notice of eligibility for relocation assistance.	24.203(d) Revised.
Owner of a dwelling .....	24.2(a)(21) Revised.
Person .....	24.2(a)(22) Redesignated.
Program or project .....	24.2(a)(23) Redesignated.
Salvage value .....	24.2(a)(24) Revised.
Small business .....	24.2(a)(25) Redesignated.
State .....	24.2(a)(26) Redesignated.
Tenant .....	24.2(a)(27) Redesignated.
Uneconomic remnant .....	24.2(a)(28) Redesignated.
Uniform Act .....	24.2(a)(29) Revised.
Unlawful occupancy .....	24.2(a)(30) Revised.
Utility costs .....	24.2(a)(31) Redesignated.
Utility facility .....	24.2(a)(32) Redesignated.

## DISTRIBUTION TABLE—Continued

Old section	New section
Utility relocation .....	24.2(a)(33) Redesignated.
None .....	24.2(a)(34) Added.
None .....	24.2(b) Added.
24.3 .....	24.3 Revised.
24.4(a)(1) and (2) .....	24.4(a)(1) and (2) Text unchanged.
None .....	24.4(a)(3) Added.
24.4(a)(3) .....	24.4(a)(4) Revised.
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
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) and (h) .....	24.10(g) and (h) Revised.

## Subpart B

24.101 Heading .....	24.101 Heading Text unchanged.
24.101(a) .....	24.101(a) Revised.
24.101(a) Second para. ....	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.
24.101(a)(1)(iv) .....	24.101(b)(1)(iv) Redesignated and revised.
24.101(a)(2) .....	24.101(b)(2) Redesignated.
24.101(a)(2)(i) .....	24.101(b)(2)(i) Redesignated.
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.
24.101(a)(5) .....	24.101(b)(5) Redesignated and revised.
24.101(b) .....	24.101(c) Redesignated and revised.
24.101(c) .....	24.101(d) Redesignated and revised.
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) through (e) Intro. para. ....	24.102(c)(1) through (e) Intro para. Revised.
24.102(e)(1) and (2) .....	24.102(e)(1) and (2) Text unchanged.
24.102(e)(3) .....	24.102(e)(3) Revised.
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 .....	24.102(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) .....	24.101(a)(1) Redesignated and text unchanged.
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) Text unchanged.
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 24.105(e) .....	24.105(d)(1) through 24.105(e) Text unchanged.
24.106(a) .....	24.106(a) Text unchanged.
24.106(b) .....	24.106(b) Revised.
24.107 through 24.108 .....	24.107 through 24.108 Text unchanged.

## Subpart C

24.201 .....	24.201 Text unchanged.
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## DISTRIBUTION TABLE—Continued

Old section	New section
24.202 .....	24.202 Revised.
24.203 (a) and (a)(1) .....	24.203(a) and (a)(1) Text unchanged
24.203(a)(2) through (5) .....	24.203(a)(2)–(5) Revised.
24.203(b) and (c) .....	24.203(b) and (c) Text unchanged.
None .....	24.203(d) Added.
24.204(a) .....	24.204(a) Revised.
24.204(a)(1) through (c) .....	24.204(a)(1) through (c) 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.
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) and (c)(2)(ii)(A) .....	24.205(c)(2)(ii) and (c)(2)(ii)(A) Text unchanged.
24.205(c)(2)(ii)(B) through (E) .....	24.205(c)(2)(ii)(B) through (E) Revised.
None .....	24.205(c)(2)(ii)(F) Added.
24.205(c)(2)(iii) through (v) .....	24.205(c)(2)(iii) through (v) Text unchanged.
24.205(c)(2)(vi) .....	24.205(e) Redesignated and text unchanged.
None .....	24.205(c)(2)(vi) Added.
24.205(d) .....	24.205(d) Text unchanged.
24.206 Introductory paragraph .....	24.206 Revised.
24.206(a) and (b) .....	24.2(a)(12)(i) and (ii) Redesignated and revised.
24.206(c) .....	24.206 Redesignated and revised.
24.207(a) through (d)(1) .....	24.207(a) through (d)(1) Text unchanged.
24.207(d)(2) .....	24.207(d)(2) Revised.
24.207(e) .....	24.403(a)(5) Redesignated.
24.207(f) .....	24.403(a)(6) Redesignated
24.207(g) .....	24.207(e) Redesignated.
None .....	24.207(f) and (g) Added.
24.208 Intro. para. ....	24.208 Intro. para. 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

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.
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.

## DISTRIBUTION TABLE—Continued

Old section	New section
24.305(a) through (k) .....	24.301(h) 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

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 revised.
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.
24.401(d) through 24.401(e)(3) .....	24.401(d) 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) .....	24.404(b) through 404(c)(1) Text unchanged.
24.404(b) through 404(c)(1)(i) .....	24.404(b) through 404(c)(1)(i) Revised.
24.404(c)(ii) through 404(c)(1)(vi) .....	24.404(c)(ii) through 404(c)(1)(vi) text unchanged.
24.404(c)(1)(vii) .....	24.404(c)(1)(vii) Revised.
24.404(c)(1)(viii) .....	24.404(c)(1)(viii) Text unchanged.
24.404(c)(2) .....	24.404(c)(2) Revised.
24.404(c)(3) .....	24.404(c)(3) Text unchanged.

## Subpart F

24.501 Heading .....	24.501 Heading Text unchanged.
24.501 Intro. para. ....	24.501(a) Revised.
None .....	24.501(b) Added.
24.502(b) through (b)(3) .....	24.301(f)(8) through (f)(10) Redesignated and revised.
24.503 section heading .....	24.502 Redesignated and revised.
24.503(a) .....	24.502(a) Redesignated and revised.
24.503(a)(1) .....	24.502(a)(1) Revised.
None .....	24.502(a)(1)(i) through (iii) Added.
24.503(a)(2) through (3) .....	24.502(a)(2) through (3) Redesignated and text unchanged.
24.503(a)(3) .....	24.502(a)(3) 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) Revised.
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.

## DISTRIBUTION TABLE—Continued

Old section	New section
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.

## DERIVATION TABLE

New section	Old section
24.1 .....	24.1.
24.2(a) .....	None.
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)(ix) .....	None.
24.2(a)(7) .....	24.2 Contribute materially.
24.2(a)(8) .....	24.2 Decent, safe, and sanitary dwelling.
24.2(a)(8)(i) .....	24.2 Decent, safe, and sanitary dwelling, Para. (1).
24.2(a)(8)(ii) .....	None.
24.2(a)(8)(iii) .....	24.2 Decent, safe, and sanitary dwelling, Para. (2).
24.2(a)(8)(iv) .....	24.2 Decent, safe, and sanitary dwelling, Para. (3).
24.2(a)(8)(v) .....	24.2 Decent, safe, and sanitary dwelling, Para. (4), First sentence.
24.2(a)(8)(vi) .....	24.2 Decent, safe, and sanitary dwelling, Para. (4), All text after first sentence.
24.2(a)(8)(vii) and (viii) .....	24.2 Decent, safe, and sanitary dwelling, Paras. (5) and (6).
24.2(a)(9) .....	24.2 Displaced person.
24.2(a)(10) .....	24.2 Dwelling.
24.2(a)(11) .....	None.
24.2(a)(12) .....	24.206 Intro. para.
24.2(a)(12)(i) and (ii) .....	24.206(a) and (b).
24.2(a)(13) .....	24.2 Farm operation.
24.2(a)(14) .....	24.2 Federal financial assistance.
24.2(a)(15) .....	None.
24.2(a)(16) .....	24.2 Initiation of negotiations.
24.2(a)(17) .....	24.2 Lead Agency.
24.2(a)(18) .....	None.
24.2(a)(19) .....	24.2 Mortgage.
24.2(a)(20) .....	24.2 Nonprofit organization.
24.2(a)(21) .....	24.2 Owner of a dwelling.
24.2(a)(22) .....	24.2 Person.
24.2(a)(23) .....	24.2 Program or project.
24.2(a)(24) .....	24.2 Salvage value.
24.2(a)(25) .....	24.2 Small business.
24.2(a)(26) .....	24.2 State.
24.2(a)(27) .....	24.2 Tenant.
24.2(a)(28) .....	24.2 Uneconomical remnant.
24.2(a)(29) .....	24.2 Uniform Act.
24.2(a)(30) .....	24.2 Unlawful occupancy.
24.2(a)(31) .....	24.2 Utility costs.
24.2(a)(32) .....	24.2 Utility facility.
24.2(a)(33) .....	24.2 Utility relocation.
24.2(a)(34) .....	None.
24.2(b) .....	None.
24.8(m) .....	24.8(n).
24.8(n) .....	None.
24.101(b) .....	24.101(a) 2nd para.
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).



## DERIVATION TABLE—Continued

New section	Old section
24.101(b)(4)	24.101(a)(4).
24.101(b)(5)	24.101(a)(5).
24.101(c)	24.101(b).
24.101(d)	24.101(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(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)(F)	None.
24.205(c)(2)(vi)	Added.
24.205(e)	24.205(c)(2)(vi) Redesignated and text unchanged.
24.206	24.206 Intro. para. and 24.206(c).
24.207(e)	24.207(g)
24.207(f) and (g)	Added.
24.301(a)	24.303(a) and 24.502(b).
24.301(a)(1)	24.502(a).
24.301(b)	None.
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) and (c).
24.301(d)(1) and (2)	24.303(c).
24.301(f)	24.303(e).
24.301(f)(8) through (10)	24.502(b) through (b)(3)
24.301(g)(1)	24.301(a) and 24.303(a)(1).
24.301(g)(2)	24.301(b) and 24.303(a)(2).
24.301(g)(3)	24.301(a) and 24.303(a)(3).
24.301(g)(4)	24.301(d) and 24.303(a)(4).
24.301(g)(5)	24.301(e) and 24.303(a)(5).
24.301(g)(6)	24.301(f) and 24.303(a)(7).
24.301(g)(7)	24.301(g) and 24.303(a)(14).
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).
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).
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).
24.304(b)	24.305(b).
24.305 and 24.305(a) and (b)	24.306 and 24.306(a) and (b).
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).
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).

## DERIVATION TABLE—Continued

New section	Old section
24.502(a)(1) .....	24.503(a)(1).
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).
24.502(e) .....	24.505(b)(2).
24.503 .....	24.504.

**Public Meetings**

Public meetings will be held on January 15, 22, and 28, 2004. The January 15, 2004 meeting will be held in Washington, DC, United States Department of Transportation, 400 7th Street SW., Room 8236; the January 22, 2004 meeting will be held in Lakewood, CO, Zang Building, Conference Room 360, 555 Zang Street. The January 28, 2004 meeting will be held in Atlanta, GA, Atlanta Federal Center, Conference Room B, 61 Forsyth Street, SW., Atlanta, Georgia. Each meeting will be held from 10 am to 2 pm.

**Rulemaking Analyses and Notices**

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866, nor would it be significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal.

This action proposes to update and streamline the Uniform Act regulation and does not propose any new initiatives. We have proposed only nominal adjustments to enhance services and payments to persons

displaced by Federal and federally-assisted real property acquisitions. The costs of the increased benefits will continue to be funded through Federal and federally-assisted project funds. These proposed changes would assist the 18 Federal Agencies that acquire real property and several of these Agencies provided input in developing these proposals.

These proposed changes would not adversely affect, in a material way, any sector of the economy. These changes would assist Agencies in developing their programs that acquire real property by providing increased assistance, especially for businesses, farms and non-profit organizations. None of the proposed changes would 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 proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities.

This action proposes to update the governmentwide regulation that provides assistance for persons, including small businesses, displaced by government acquisition of real property. One of the reasons for proposing the update is to increase assistance for displaced small businesses. We anticipate this proposal would have a positive impact on those relatively few small businesses that are affected by government acquisition of real property. Financial impacts on local governments are mitigated by the fact that any increased costs would accrue only on federally-assisted programs, which would include participation of Federal funds. For these reasons, the FHWA certifies that this action would not have a significant economic impact

on a substantial number of small entities.

*Unfunded Mandates Reform Act of 1995*

This proposed rule would 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 proposed updates are applicable only on Federal and federally-assisted programs. This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532).

*Executive Order 13132 (Federalism)*

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this proposed action would not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. The FHWA has also determined that this proposed action would 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*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations.

Most of the data FHWA proposes to collect is currently required under the

existing regulation. All information the FHWA proposes to collect for reporting purposes is statistical data from the 18 Federal Agencies engaged in land acquisition and displacement activities. The PRA was enacted to minimize paperwork burdens and recordkeeping requirements that the Federal government imposes on non-Federal entities. All the information this proposed rule proposes to collect comes from the 18 Federal Agencies that acquire real property for Federal and federally-assisted projects, and the information is generally already collected by those Agencies for their own internal purposes. Therefore, the FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

#### *National Environmental Policy Act*

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this proposed action would not have any effect on the quality of the environment.

#### *Executive Order 12630 (Taking of Private Property)*

This proposed action would 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 proposed action 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 proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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 proposal under Executive Order 13175, dated November 6, 2000, and believes that the proposed 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 proposed 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 5, 2003.

**Mary E. Peters,**

*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA proposes to revise 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**

#### **Subpart A—General**

- Sec.
- 24.1 Purpose.
  - 24.2 Definitions and acronyms.
  - 24.3 No duplication of payments.
  - 24.4 Assurances, monitoring and corrective action.
  - 24.5 Manner of notices.
  - 24.6 Administration of jointly-funded projects.
  - 24.7 Federal Agency waiver of regulations.
  - 24.8 Compliance with other laws and regulations.
  - 24.9 Recordkeeping and reports.
  - 24.10 Appeals.

#### **Subpart B—Real Property Acquisition**

- 24.101 Applicability of acquisition requirements.

- 24.102 Basic acquisition policies.
- 24.103 Criteria for appraisals.
- 24.104 Review of appraisals.
- 24.105 Acquisition of tenant-owned improvements.
- 24.106 Expenses incidental to transfer of title to the Agency.
- 24.107 Certain litigation expenses.
- 24.108 Donations.

#### **Subpart C—General Relocation Requirements**

- 24.201 Purpose.
- 24.202 Applicability.
- 24.203 Relocation notices.
- 24.204 Availability of comparable replacement dwelling before displacement.
- 24.205 Relocation planning, advisory services, and coordination.
- 24.206 Eviction for cause.
- 24.207 General requirements—claims for relocation payments.
- 24.208 Aliens not lawfully present in the United States.
- 24.209 Relocation payments not considered as income.

#### **Subpart D—Payments for Moving and Related Expenses**

- 24.301 Payment for actual reasonable moving and related expenses.
- 24.302 Fixed payment for moving expenses—residential moves.
- 24.303 Related non-residential eligible expenses.
- 24.304 Reestablishment expenses—non-residential moves.
- 24.305 Fixed payment for moving expenses—non-residential moves.
- 24.306 Discretionary utility relocation payments.

#### **Subpart E—Replacement Housing Payments**

- 24.401 Replacement housing payment for 180-day homeowner-occupants.
- 24.402 Replacement housing payment for 90-day occupants.
- 24.403 Additional rules governing replacement housing payments.
- 24.404 Replacement housing of last resort.

#### **Subpart F—Mobile Homes**

- 24.501 Applicability.
- 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.
- 24.503 Replacement housing payment for 90-day mobile home occupants.

#### **Subpart G—Certification**

- 24.601 Purpose.
  - 24.602 Certification application.
  - 24.603 Monitoring and corrective action.
- Appendix A to Part 24—Additional Information
- 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.*), 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 (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 to this part);

(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, section 24.2(a)(6)); and

(viii) Within the financial means of the displaced person eligible for a replacement housing payment. This means that after receipt of all acquisition and relocation payments under this regulation (including any amount deducted because of rent owed the Agency), the price or rent (including utilities), as appropriate, of the replacement dwelling offered as a comparable does not exceed the price or rent (including utilities) of the dwelling from which displaced.

(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, section 24.2(a)(6)).

(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 33 1/3 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, weathertight, and in good repair;

(ii) Have no deteriorated paint (or no deteriorated lead-based paint if paint testing is conducted) and have no dust-lead hazards, as these terms are defined at 24 CFR 35.110, unless the displaced person is either elderly or disabled and no child under 6 years of age will reside or be expected to reside in the unit, or the replacement dwelling unit is a zero-bedroom dwelling. A unit built on or after January 1, 1978, shall meet this requirement;

(iii) Contain a safe electrical wiring system adequate for lighting and other devices;

(iv) 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;

(v) 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 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 the policies of such Agencies;

(vi) 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;

(vii) Contains unobstructed egress to safe, open space at ground level; and

(viii) 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, section 24.2(a)(8).)

(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 section 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 section 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, section 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(b)(1) through (5), 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 notice 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(b)(1) through (5), 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; or

(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 Public Law 93-477, Appropriations for National Park System, or Public Law 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; or

(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.

(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 typical site upon which a dwelling is located.

(12) *Eviction for cause*. The term *eviction for cause* means an eviction in conformance with applicable State and local requirements, provided:

(i) The eviction notice was received before or after the initiations of negotiations and as a result of that notice is later evicted; or

(ii) Eviction was for serious or repeated violations of material terms of the lease or occupancy agreement.

(13) *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.

(14) *Federal financial assistance*. The term *Federal financial assistance* means a grant, loan, lease payments 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.

(15) *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, section 24.2(a)(15) for examples of exclusions to income.)

(16) *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 (Public Law 96-510, or Superfund) 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 acceptance of the Agency's offer to purchase the real property.

(17) *Lead Agency*. The term *Lead Agency* means the Department of Transportation acting through the Federal Highway Administration.

(18) *Mobile home*. The term *mobile home* includes manufactured homes and recreational vehicles. (See appendix A, section 24.2(a)(18).)

(19) *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.

(20) *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).

(21) *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.

(22) *Person*. The term *person* means any individual, family, partnership, corporation, or association.

(23) *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.

(24) *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.

(25) *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.

(26) *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.

(27) *Tenant*. The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

(28) *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.

(29) *Uniform Act*. The term *Uniform Act* means the Uniform Relocation Assistance and Real Property

Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

(30) *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.

(31) *Utility costs*. The term *utility costs* means expenses for heat, lights, water and sewer.

(32) *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.

(33) *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.

(34) *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 part:

(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, section 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 sections 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) Any Agency or person solely acquiring property pursuant to the provisions of § 24.101(b)(1) through (5)

need not provide the assurances required by § 24.4(a)(1) or (2).

(4) 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 1966 (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 (Public Law 93-234).

(g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*).

(h) Executive Order 11063—Equal Opportunity and Housing, revised 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 (42 U.S.C. 5121 *et seq.*)

#### § 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.* (1) 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. The report shall be prepared in the format contained in appendix B of this part.

(2) Federal Agencies shall submit an annual report summarizing their real property acquisition and displacement activities under this part to the Lead Agency. The report may 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) *Federal program or project.* 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 which is undertaken by the Tennessee Valley Authority or the Rural Electrification Administration. (See appendix A, section 24.101(a).)

(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) Acquisitions that meet all of the conditions in paragraphs (b)(1)(i) through (iv) of this section.

(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, section 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 in the event negotiations fail to result in an 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, section 24.101(b)(1)(iv) & (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, advise the owner in writing that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

(ii) Inform the owner in writing of what it believes to be market value of the property. (See appendix A, section 24.101(b)(1)(iv) & (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 which receives Federal financial assistance from the Tennessee Valley Authority or the Rural Electrification Administration.

(c) *Less-than-full-fee interest in real property.* 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 easements. (See appendix A, section 24.101(c).)

(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 section 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 also § 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 appraiser shall provide the owner, or the owner's designated representative, 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 market value is estimated at \$10,000 or less, based on a review of available data. When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation. The Federal Agency funding the project may, on a case-by-case basis, 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, section 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. The amount believed to be just compensation must be established by an Agency official. (See also § 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, section 24.102(d).)

(e) *Summary statement.* Along with the initial written purchase offer, the Agency shall provide the owner 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 stated separately.

(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 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, section 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, section 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, section 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 section 24.2(a)(28).)

(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, section 24.102(m).)

(n) *Conflict of interest.* No appraiser, review appraiser or other person making an appraisal or a waiver valuation under § 24.102(c)(2) shall have any interest, direct or indirect, in the real property being valued for the Agency that would in any way conflict with the preparation of the appraisal, the waiver valuation or the review of the appraisal.

Compensation for making an appraisal or a waiver valuation shall not be based on the amount of the valuation estimate. No person functioning as a negotiator for a project or program shall supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program, 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. No appraiser or other person making an appraisal or a waiver valuation shall act as a negotiator for real property for which that person has made an appraisal or a waiver valuation, except that the Agency may permit such person to negotiate an acquisition where the offer to acquire the property is \$10,000, or less. (See appendix A, section 24.102(n).)

#### § 24.103 Criteria for appraisals.

(a) *Appraisal requirements.* These regulations set forth the requirements for real property acquisition appraisals on Federal and federally-assisted programs. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. An appraisal must contain a scope of work statement and sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. The Agency shall develop minimum requirements for simple appraisals consistent with established and commonly accepted Federal and federally-assisted program appraisal practice for those acquisitions, which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect established and commonly accepted Federal and federally-assisted program appraisal practices, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.<sup>1</sup> At a minimum, a detailed appraisal shall contain the following items: (See appendix A, sections 24.103 and 24.103(a).)

(1) 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), 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.

(2) 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, section 24.103(a).)

(3) 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.

(4) 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.

(5) 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, section 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 of appraisers and review appraisers. Qualifications shall be consistent with the level of difficulty of the assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers and review appraisers and use only those determined to be qualified. (See appendix A, section 24.103(d)(1).)

(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to § 24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and

<sup>1</sup> 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/Items.asp?ID=3> or call 888-570-4545.

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)(2) and appendix A, section 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 Uniform Appraisal Standards for Federal Land Acquisition, and support the appraiser's opinion of value. The level of review analysis and reporting 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 approved (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as approved), or rejected. If authorized by the Agency to do so, the review appraiser shall also develop and report the amount believed to be just compensation. (*See* appendix A, section 24.104(a).)

(b) If the review appraiser is unable to 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 develop appraisal documentation in accordance with § 24.103 to support an approved or recommended value. (*See* appendix A, section 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, section 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 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 tenant-owned improvements.* 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)(24).)

(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; and

(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 so that the owner will not have to pay such costs and then seek reimbursement from the Agency. (*See* appendix A, section 24.106(b).)

#### § 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; or

(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 assuring 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 benefits to relocation assistance and payments provided by the Uniform Act and this regulation. (*See* appendix A, section 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).

(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 initiation of negotiations (defined in § 24.2(a)(16)) for the occupied property. 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 negotiation 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. Where 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(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(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 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 develops 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 non-residential (businesses, farms and non-profit

organizations) displacements, the relocation needs and preferences of each business (farms and non-profit organizations) 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 tenant businesses, an identification and resolution of personalty/realty issues. This determination must be made prior to the appraisal of the property.

(D) An estimate of the time required for the business to vacate the site.

(E) An estimate of the searching expense payments required based on 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. At a minimum, interviews with displaced business owners and operators should include the following items:

(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. While this policy 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, if a displacing Agency has a program objective of providing minority persons with an opportunity to relocate to areas outside of minority concentration, the Agency may determine to provide a reasonable and justifiable increase in the payment to facilitate a move to a comparable replacement dwelling in such areas.

(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 non-residential 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 also § 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.

An eviction may not be undertaken to deny assistance or evade the provisions of the Uniform Act or this part. Any person who occupies the real property 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 such person vacated the real property as the result of an eviction for cause. (See § 24.2(a)(12) and appendix A section 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) *Advance payments.* If a person demonstrates the need for an advance 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) *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 payments provided by the Uniform Act and this part.

(g) *Entitlement to payments.* Relocation payments, provided pursuant to this part, provide compensation for relocation costs and impacts, and shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to purchases of real property resulting from 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.bcis.gov/graphics/fieldoffices/alpha.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 at 202-366-0142 or Office of Chief Counsel, 202-366-0740, 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.C.), 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.C. 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 non-profit 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 owner 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, but not by the lower of two bids or estimates. Eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (g)(7) 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 and equipment rental fees should not exceed the cost paid by a commercial mover.

(iii) *Moving cost finding.* A qualified Agency staff person may estimate and determine the cost of a small uncomplicated personal property move of \$3,000 or less, with the informed consent of the displaced person. This estimate may include only the cost of moving personal property located outside of the dwelling, that is not included in the Fixed Residential Moving Cost Schedule, such as personal property in garages, storage sheds or other loose items outside of structures that are personal property.

(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, but not by the lower of two bids or estimates. 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 and equipment rental fees should not exceed the cost paid by a commercial mover.

(iii) *Moving cost finding.* A qualified Agency staff person may estimate and determine the cost of a small uncomplicated personal property move of \$3,000 or less, with the informed consent of the displaced person. This estimate may include only the cost of moving personal property located outside of the mobile home, that is not included in the Fixed Residential Moving Cost Schedule, such as personal property in garages, storage sheds or other loose items outside of structures that are personal property.

(d) *Moves from a business, farm or nonprofit organization.* Personal property as determined by an inventory from a business, farm or non-profit 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) *Moving cost finding.* A qualified Agency staff person may estimate and determine the cost of a small uncomplicated personal property move of \$3,000 or less, with the informed consent of the displaced person. This method may be used to estimate the cost of small uncomplicated moves of equipment or other personal property.

(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) of this section.

(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, machinery, equipment, and other personal property, including substitute personal property. For businesses, this includes connection to utilities available within the building. It also includes modifications to the personal property 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 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, section 24.301(g)(14)(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; and

(v) The costs of obtaining permits and attending zoning hearings.

(18) Low value/high bulk. When the personal property which is used in connection with any business or farm operation is of low value and high bulk, and the cost of moving the property would be disproportionate in relation to its value in the judgment of the displacing Agency, the allowable moving cost reimbursement shall not exceed the difference between the



amount which would have been received if such property was sold, and the cost of replacing the material at the replacement site with a comparable quantity available on the market. This provision applies to items such as stockpiled sand, gravel, minerals, and other similar items of personal property.

(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); and

(11) Costs for storage of personal property on real property already owned or leased by the displaced person.

(12) Refundable security and utility deposits.

(i) *Notification and inspection.* 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.* 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<sup>2</sup> 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 non-residential 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 in connection with the purchase or lease of a replacement site including feasibility surveys, soil testing, and marketing studies (exclusive of any fees or commissions related to such site).

(c) Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency.

**§ 24.304 Reestablishment expenses—non-residential 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)(25), 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.

<sup>2</sup> 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.

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—non-residential 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 and 24.303. 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 not 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)(13)) 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 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)(32)) 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 to this part, section 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 site (See appendix A of this part, section 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 interests 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, section 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 when required.

(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 determines 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 and disbursed in accordance with § 24.402(b), however, the calculation under § 24.402(b)(2)(ii) is not applicable. Under no circumstance would the rental assistance payment exceed the amount that could have been received had the 180-day homeowner elected to receive a replacement housing payment under paragraph (a) of this section.

**§ 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 also § 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.<sup>3</sup> 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, section 24.402.)

(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)), and the amount, if any, that will compensate a displaced homeowner for the estimated amount of any increase real estate taxes for 24 months determined in accordance with appendix A. (See appendix A, section 24.403(a).)

(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

<sup>3</sup>The U.S. Department of Housing and Urban Development's Home Program Income Limits are updated annually and are available annually on HUD's Web site at <http://www.huduser.org/datasets/il.html>.

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. Similarly, a Federal Agency shall, and a State Agency may, deduct from relocation payments any rent that the displaced person owes the Agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by § 24.204. 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 non-residential 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 § 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 also* § 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.

(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.

(viii) The change in status of the displaced person with his or her concurrence from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

(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), 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(6)(viii)). 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 to this part and a replacement housing payment in accordance with subpart E to 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 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 displaced 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 the person is notified that he or she is a displaced person if the person owns neither the mobile home or the site, if the Agency makes one of the determinations in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at § 24.401(a); 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(c) incorporating the following, as applicable:

(1) If the Agency acquires the mobile home as real estate, the acquisition cost used to compute the payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and site, if owned by the displaced mobile homeowner.

(2) If the owner is determined to be eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, but the Agency does not purchase the mobile home as real estate, the cost of a replacement mobile home used to compute the payment, 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.

(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) *Comparable mobile home site not available.* If a comparable replacement mobile homesite is not available, the replacement housing payment shall be

computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(e) *Owner 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 paragraph (c) of this section.

#### **§ 24.503 Replacement housing payment for 90-day mobile home occupants.**

A displaced tenant or owner-occupant of a mobile home 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)(viii) Persons with a disability.* Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address situations involving persons dependent on the use of a wheelchair for mobility. 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 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. Any residential tenant who has been temporarily relocated for a period beyond one year must be contacted by the Agency and be offered 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.

It is also noted that 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 24.10.

**Section 24.2(a)(15) 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/realstate>. (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)(16) Initiation of negotiations.** This section provides a special definition for acquisitions and displacements under Public Law 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. 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 the public to the danger and to the advisability of moving immediately. If a decision were made later to permanently relocate such persons, those

who had moved earlier 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 that is based on the public health advisory or announcement of permanent relocation.

**Section 24.2(a)(18) Mobile home.** 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 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 DSS dwelling. (It should be noted that the regulations of some local jurisdictions will not permit the consideration of these vehicles as DSS dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

There are several types of factory-built housing, but the most common is "HUD-Code" or manufactured homes. HUD-Code homes are so named because since June 15, 1976, these homes must be designed and constructed according to the Federal "Manufactured Home Construction and Safety Standards" <sup>1</sup> administered by HUD.

Our definition of a mobile home would also include mobile homes, defined as being transportable in one or more sections not less than eight feet wide and forty feet long.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They are built on and remain on a permanent chassis, and may or may not be installed on a permanent foundation when connected to utilities. Manufactured homes 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.

**Section 24.9 Recordkeeping and Reports.**

**Section 24.9(c) Reports.** This paragraph requires that Federal Agencies submit an

annual report of their real property acquisition and displacement activities under this part to the lead Agency. The report covers activities during the Federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on Agencies implementing this part, a basic report form (See appendix B of this part) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

**Subpart B—Real Property Acquisition**

**Section 24.101 Applicability of Acquisition Requirements.**

**Section 24.101(a) Direct Federal program or project.** All 49 CFR Part 24 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 Electrification Administration. 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.

**Section 24.101(b)(1)(iv) and (2)(ii).** These sections provide that for programs and projects receiving Federal financial assistance, 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.

**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. However, the Agency may apply the regulations to any less-than-full-fee acquisition which is less than 50 years in duration, but which in its judgment should be covered.

**Section 24.102 Basic Acquisition Policies.**

**Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner.** The threshold for an appraisal waiver is based on minimizing appraisal costs for low value, non-complex acquisitions.

The determination to use the appraisal waiver process, *i.e.*, that the acquisition will be uncomplicated and the market value is estimated at \$10,000 or less must be made by a person who has enough understanding of appraisal principles to be qualified to make such a determination.

The intent of the appraisal waiver provision is that waiver valuations be made by non-appraisers, freeing appraisers to do more sophisticated work. Since waiver

<sup>1</sup> The U.S. Department of Housing & Urban Development's "Manufactured Home Construction and Safety Standards" is available at the following URL: <http://www.cfda.gov/public/viewprog.asp?progid=316>.



valuations are not appraisals, there is no 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).

All parties, including State certified and licensed appraisers who may be engaged to perform waiver valuations, should keep in mind that waiver valuations are not appraisals under the applicable definitions of "appraisal" in § 24.2(a)(3) and "waiver valuation" in § 24.2(a)(34). Waiver valuations may be used on Federal and federally-assisted programs and projects without regard to whether or not appraisal requirements from any non-governmental source, such as the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) or professional appraiser societies, account for such waiver valuations. Waiver valuations are intended to avoid the costs and time delays associated with appraisal requirements for low value, non-complex acquisitions.

*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 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 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 an 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 and 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. However, 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, § 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" 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 are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

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 for a detailed appraisal should consider the specific requirements in 49 CFR 24.103(a)(1) through (5) and address them as appropriate.

Paragraph (a)(2) of this section, explains that 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 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 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 appraisal problem 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 what the review appraiser is to review (the appraiser's presentation and analysis of market information) and what 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 reviewer's approved value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is unacceptable, the review appraiser is expected 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 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 establish the amount believed to be just compensation, that authority is with another Agency official.

*Section 24.104(b).* If the review appraiser develops an independent opinion of value, he/she may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal, to support his/her independent approved value. If no submitted appraisal is approved, and the review appraiser determines an independent review amount, while remaining the appraisal review, that review also becomes the appraisal of record for Uniform Act 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 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)(C)* 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 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 section 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.

#### **Subpart D—Payment for Moving and Related Expenses**

*Section 24.301 Payment for actual reasonable moving and related expenses.*

*Section 24.301(g)(14)(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.

*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 permit, license and attorney fees are also reimbursable. 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 24.305 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 non-profit 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 non-profit 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.* If the average annual net earnings of the displaced business, farm, or non-profit 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**

<b>Old Mortgage:</b>	
Remaining Principal Balance	\$50,000
Monthly Payment (principal and interest) .....	458.22
Interest rate (percent) .....	7
<b>New Mortgage:</b>	
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

<b>Calculation:</b>	
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
<b>Total buydown necessary to maintain payments at \$458.22/month .....</b>	<b>9,250.13</b>

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 / by \$42,010.18 = .8331; \$9,250.13 × .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.*

The down payment 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 down payment 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 rent supplement exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

*Section 24.403 Additional Rules Governing Replacement Housing.*

*Section 24.403(a) Determining Cost of Comparable Replacement Dwelling.* The payment for increased real estate taxes, if any, for displaced 180-day owner occupants displaced as a result of a Federal or federally-funded project, would be based on the difference between the monthly real estate tax on the acquired dwelling, and the monthly real estate tax on the replacement dwelling at the time of purchase, but not to exceed the real estate tax on a comparable replacement dwelling.

The increase dollar amount, if any, would be provided for a 24 month period. If the displaced person elects to purchase a replacement dwelling whose real estate tax exceeds that of the comparable dwelling, the increased tax payment would be limited to the increased monthly tax on the comparable replacement dwelling at the time of purchase for 24 months. Should the displaced person elect to purchase a replacement dwelling for less than the cost of a comparable replacement dwelling, the increased tax calculation would be based on the 24 month increase, if any, in the tax cost of the acquired dwelling and that of the replacement dwelling at the time of purchase.

*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)(21). 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 Subpart 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 Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. 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 (e.g., 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 down payment 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: \_\_\_\_\_

<b>PART A. REAL PROPERTY ACQUISITION UNDER THE UNIFORM ACT</b>	
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)	
<b>PART B. RESIDENTIAL RELOCATION UNDER THE UNIFORM ACT</b>	
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)	
<b>PART C. NONRESIDENTIAL RELOCATION UNDER THE UNIFORM ACT</b>	
11) Total Number of Non-Residential Displacements	
12) Non-Residential Moving Payments – Total Costs (Including 24.305)	
13) Non-Residential Reestablishment Payments – Total Costs	
14) Total Costs for Nonresidential Relocation Expenses and Payments (Sum of lines 12 and 13; excluding Agency Administrative Costs)	
<b>PART D. RELOCATION APPEALS UNDER THE UNIFORM ACT</b>	
15) Total Number of Relocation Appeals (Residential & Non-Residential)	