RELOCATION ASSISTANCE MANUAL

Department of Right of Way
Columbia, South Carolina
October 2021

SCDOT
RELOCATION ASSISTANCE MANUAL

REVISIONS

October 2021	Entire Manual

Approved by Federal Highway Administration (FHWA):

By: Jessica Hester
(for) Division Administrator

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Date

SCDOT Rights of Way Relocation Manual

The *"Rights of Way Relocation Manual"* was developed to provide SCDOT and consultant personnel uniform practices when conducting relocation assistance for road improvement projects. In addition to the guidelines listed within these manuals, SCDOT and consultant personnel must adhere to federal rules and regulations on projects that are federally funded, in whole or in part.

The Rights of Way Relocation Manual conforms to the existing practices and contains necessary procedures to ensure compliance with Federal and State real estate law, regulation and guidelines.

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Resource Links

Note: Must be connected to the internet to open links.

1. South Carolina Office of Regulatory:
   www.regulatorystaff.sc.gov

2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended:
   www.fhwa.dot.gov/real_estate/publications/act.cfm

SECTION I – GENERAL POLICY

The policy of the South Carolina Department of Transportation shall be that all persons, families, businesses and farms who are displaced from their homes or their locations as a result of the acquisition of real property for public purposes receive fair, uniform and equitable treatment and that such persons shall not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole. It is, therefore, intended that the Department shall provide an effective relocation assistance program to the end that:

No Waiver of relocation assistance: SCDOT shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance or benefits provided by the Uniform Act, 24.207 (f).

1. No project shall be advertised for construction until each eligible displaced person has either himself obtained, or has the right of possession to, comparable, decent, safe, and sanitary replacement housing or the Department has offered the displaced person comparable, decent, safe, and sanitary replacement housing which is within his financial means and available for immediate occupancy.

2. No eligible occupant shall be required to move from their dwelling unit without first receiving at least 90 days notice in writing that the premises will be needed for construction (See Appendixes – Relocation Assistance Forms 31, 32, 33, and 34), except in those rare cases of "urgent need" as provided for by Federal Regulations.

3. Relocation payments are fairly and equitably determined and are paid to the eligible displacees in a timely manner.

4. Relocation advisory services shall be offered to all displaced persons within the right of way and when determined necessary, to those immediately adjacent thereto. It shall be furnished promptly to all eligible persons requesting assistance.

5. Proper notices and information regarding the relocation assistance program are furnished to the public on a timely basis.

SECTION II – RELOCATION ASSISTANCE ORGANIZATION

Relocation assistance within the Department is under the general supervision of the Director, Rights of Way. Day to day responsibility will be managed by the Regional Right of Way Administrator under the supervision of the Assistant Right of Way Administrator (Field). The Relocation Manager, as the Department's technical advisor, shall provide guidance, instructions, interpretations and monitoring to insure that the relocation assistance program is managed in a uniform and fiscally responsible manner. Approval of last resort housing, payment of claims and annual relocation reports shall be administered by the Relocation Manager in the Headquarters Office.

Each right of way project where displacements will occur shall have assigned to it one or more individuals whose primary responsibility is to provide relocation assistance. These individuals may have responsibility for more than one project where reasonable.

Each Right of Way Agent will provide the following information on a project basis:

1. Current and continuing lists of replacement dwellings available to persons without regard to race, color, religion, sex or national origin, suitable in price, size and condition for the displaced persons to the extent that they are available.

2. Current and continuing lists of comparable commercial and farm properties and locations for displaced businesses and farms to the extent that they are available.

3. Copies of the Department's brochure explaining its relocation program.

Each Agent will maintain personal contact and shall exchange information with other agencies providing services useful to persons who will be relocated. Such agencies may include social welfare agencies, Housing and Urban Development, Small Business Administration, etc. Personal contact will also be maintained with local sources of information on private replacement properties, which will include real estate brokers, property managers, apartment owners and operators and home building contractors.

SECTION III – TERMS and CONDITIONS

A. Definitions

Person – The term "person" means a partnership, corporation, or association as well as individual or family.

Family – The term "family" means two or more individuals living together in a single family dwelling unit who:

(1) Are related by blood, adoption, marriage or legal guardianship who live together as a family unit, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit, or

(2) Are not related by blood or legal ties, but live together by mutual consent.

Displaced Person – Any person who moves from real property or moves his or her personal property from the real property and meets the following criteria: (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements as described in Sections XIV. B. 2 and XIV. C. 2):

1. General

(a) As a direct result of a written notice of intent to acquire, 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 the project when the displacement is permanent.

(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 Section XI and moving expenses under XIII.A, B and C.

2. Persons not displaced. (The following is a non-exclusive listing of persons who do not qualify as a displaced person under these regulations.)

(a) A person who moves before the initiation of negotiations unless it is determined that the person was displaced as a result of the program or project; or

(b) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(c) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Department in accordance with Federal Highway Administration guidelines. This can be because it is a temporary easement or because the partial acquisition does not require they relocate from the remainder.

(d) A person whom the Department determines is not displaced as a direct result of a partial acquisition; or person who occupied the property for the purpose of obtaining assistance under the Uniform Act; or

(e) A person who, after receiving a notice of relocation eligibility 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 Department 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; or

(f) A person who retains the right of use and occupancy of the real property for life; or

(g) A person who is required only to temporarily vacate the premises. The temporarily occupied housing must be DSS and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred with the temporary relocation; or

(h) A person who has occupied the property for the purpose of obtaining assistance under the Relocation Assistance Program; or

(i) 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; or, as provided for in Section 24.206, 49 CFR Part 24; however, advisory assistance may be provided to unlawful occupants at the option of the Department in order to facilitate the project.

(j) An owner-occupant who moves as a result of a voluntary acquisition 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 project is subject to these procedures); or

(k) An owner-occupant, who voluntarily sells his or her property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Department will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to these regulations.

(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 49 CFR Part 24 Section 24.208.

(m) Tenants required to move as a result of subsequent displacement resulting from the procurement of replacement housing or a replacement business site by an eligible displacee using relocation assistance funds from a federally funded project.

3. This subpart applies only if the following conditions are present:

(a) No specific site or property needs to be acquired.

(b) The property to be acquired must not be a part of an intended, planned, or designated project area where all or substantially all of the property within the area is eventually to be acquired.

(c) The Department will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed. Acquisitions meeting the foregoing criteria are classified as voluntary transactions. The essence of a voluntary transaction is the condition surrounding the transaction, not the type of transaction itself. A voluntary transaction may involve a donation, an exchange, or a market sale, if the transaction is without compulsion on the Departments part.

In those situations where the Department wishes to purchase more than one site within a geographic area on a "voluntary transaction" basis, it is intended that all owners be treated similarly with respect to eligibility for benefits under the Uniform Act and these regulations.

Initiation of Negotiations for the Parcel - The term "initiation of negotiations for the parcel" means the date the Department delivers to the owner of the real property, or his representative, a written offer of just compensation for the property to be acquired. However, if a notice of intent to acquire the real property is issued, and a person moves after that notice, but before delivery of the initial written offer, the "initiation of negotiations" means the actual move of the person from the property.

Displacee - This shall mean any person who meets the definition of the displaced person.

Dwelling - The term "dwelling" means the place of permanent or customary and usual abode. It includes a single family house, a single family unit in a multi-family building; a unit of a condominium or cooperative housing project, a non-housekeeping unit or any other residential unit, including a mobile home. The term "place of permanent or customary and usual abode is interpreted to mean "domicile". "Domicile is the place where a person has his true, fixed, permanent home and principal establishment, into which place he has, whenever he is absent, the intention of returning." A person may have but one "domicile" at any given moment and where a person has two or more houses or residences, the issue of which one is "domicile" is a question of fact. If difficulty is encountered when applying this definition to the individual cases, the Relocation Manager should be consulted for guidance.

Dwelling Site - The term dwelling site means a land area that is typical in size, for similar dwellings located in the same neighborhood or rural area.

Comparable Replacement Dwelling - The term comparable replacement dwelling means a dwelling which is:

1. Decent, safe and sanitary as described in paragraph 15 of this section.

2. 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, reasonable trade-offs for specific features may be considered when the replacement unit is "equal to or better than" the displacement dwelling (see Relocation Manager for guidance).

3. Adequate in size to accommodate the occupants.

4. 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 is reasonably accessible to the person's place of employment.

5. 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, and greenhouses. (See 49CFR Part 24 Section 24.403(a) (2).

6. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing

assistance before displacement may reflect similar government housing assistance.

7. Within the financial means of the displaced person.

(a) A replacement dwelling purchased by a homeowner in occupancy for at least 90 days prior to initiation of negotiations (90-day-home-owner) is considered to be within the homeowner's financial means if the homeowner is paid the full purchase differential, all increased mortgage interest cost, all incidental expenses, plus any additional amount paid under Replacement Housing of Last Resort.

(b) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this rule, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described in Section XIV.C.

(c) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Department pays that portion of the monthly housing costs of a replacement dwelling which exceeds thirty percent (30%) of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under Section XVIII, Housing of Last Resort.

Contributes Materially - The term "contributes materially" means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Department determines to be more equitable, a business or farm operation:

1) Had average annual gross receipts of at least $5,000 or;

2) Had average annual net earnings of at least $1,000 or;

3) Contributed at least 33 1/3 percent of the owner's or operators' average annual gross income from all sources.

4) If the application of the above criteria creates an inequity or hardship in any given case, other criteria as determined appropriate may be used.

Business - The term "business" means any lawful activity, excepting farm operation, conducted primarily:

1) 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.

2) For the sale of services to the public.

3) By a nonprofit organization that has established its non-profit status under applicable Federal or State law.

4) For outdoor advertising display purposes, when the display must be moved as a result of the project.

Nonprofit Organization - The term "nonprofit organization" means an organization that is incorporated under the applicable laws of the 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).

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.

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.

Owner Of A Dwelling - A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for a project:

1) 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

2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

3) A contract to purchase any of the interests or estates described in subparagraphs (a) and (b) of this paragraph; or

4) Any other interest, including a partial interest, which in the judgment of the Departments warrants consideration as ownership.

Tenant - means a person who has the temporary use and occupancy of real property owned by another.

Decent, safe, and sanitary dwelling – The term "decent, safe, and sanitary dwelling" (DSS) means a dwelling which meets applicable housing and occupancy codes. However, if any of the following standards are not met by an application code, such following standards shall apply, unless waived for good cause by the FHWA. The dwelling shall:

1) Be structurally sound, weather-tight, and in good repair.

2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

3) 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.

4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. 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.

5) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

6) For a handicapped displacee, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

Small Business - A small 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 operated solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of re-establishment expenses. (Reference 49CFR Part 24 Section 24.2 (a) (24))

Unlawful Occupancy - 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.

Utility Costs - The term "utility costs" means expenses for electricity, gas, or other heating and cooking fuels, water and sewer.

Citizen - The term "citizen", for purposes of this manual, includes both citizens of the United States and non-citizen nationals.

Alien - Not lawfully present in the United States as defined in 8 CFR 103.12 and includes:

(1) 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

(2) 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.

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 of a business. It does not include income received or earned by dependant children and full time college students under 18 years of age. (See Appendix B)

Mobile Home - The term mobile home includes manufactured homes and recreational vehicles used as residences. (See 49 CFR Part 24, Appendix C, Section 24.2 (A)(17).

On-Premise Sign - Means any sign which is designed to advertise or inform of the principal activity taking place, or the product being sold on the property where the sign is located. (South Carolina code Annotated Regulation Section 63-342 Q)

Outdoor Advertising Sign or Sign - means any sign structure or combination of sign structure and message in the form of outdoor sign, display device, figure, painting, drawing, message, plaque, poster, billboard, advertising structure, advertisement logo, symbol or other form which is designed, intended or used to advertise or inform, any part of the message or informative contents of which is visible from the main traveled way. The term does not include official traffic control signs, official markers, nor specific information panels erected, caused to be erected, or approved by the Department. (South Carolina Code Annotated Regulation Section 63-342 V)

Primary Residence is a person's domicile which is the place of a person's fixed, permanent home and principal establishment and to which place the person, when absent, has full intention of returning.

Salvage Value - means the probable sales 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 reused or recycled when there is no reasonable prospect for sale except on this basis.

Seasonal Residence - A seasonal residence is a residence which is occupied periodically by the occupants and is not the primary legal residence of the owner. Typical examples might include vacation cottages, lake cabins, or any other dwelling unit occupied on a temporary and/or part-time basis by persons who have permanent and legal residences elsewhere.

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.

Uniform Act - means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 et seq.), and amendments thereto.

B. Withholding of Relocation Payments

The Department may deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, deductions may be made from relocation payments for any rent that the displaced person owes the Department, provided that such deduction will not prevent the displaced person from obtaining comparable DSS replacement housing. No part of a relocation payment to a displaced person will be withheld to satisfy an obligation to any other creditor, unless directed to do so by a court of law.

C. Delivery of Payment Check

Where possible, all payment checks will be mailed to the displacee. In emergency or hardship cases the check may be delivered in person to the displacee by any Department employee, including the person who computed the payment, provided that the payment was approved by a superior of that employee. (See Section XIII.A.4 and XIV.A.3)

D. Surveillance

The Department shall monitor relocation assistance activities conducted by any other State agencies, individual, firm, association or corporation to the extent necessary to ascertain compliance with the provisions of this manual.

E. Eviction for Cause

Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this rule unless it is determined that:

1. The person received an eviction notice prior to the initiation of negotiations and as a result of that notice, is later evicted; or

2. The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement.

F. Applicability

1. The provisions of this manual are applicable to any person who is displaced by any project on which State or Federal highway funds are or will be utilized.

2. Property acquired as required by contribution. All right of way acquired by any State Department, county, town or any other local governmental agency and to be furnished as a required contribution incidental to a State assisted highway project shall not be accepted unless all payments have been made and all the assistances and assurances have been provided as required by this manual.

SECTION IV – PUBLIC HEARING PROCEDURES

A. Public Information

GENERAL REQUIREMENTS – In order to assure that the public has adequate knowledge of the relocation program, the Department shall prepare a relocation brochure and give full and adequate public notice of the relocation assistance program. In areas where a language other than English is predominant, public information must be published in the predominant language as well as in English unless:

1. The Director, Rights of Way determines that publication in the language other than English is unnecessary, and

2. An alternative program is established for the displaced person unable to communicate in English.

BROCHURE – Distribution of the brochure shall be made without cost at all public hearings displacees and other appropriate individuals and organizations. The brochure will state where copies of the State regulations implementing the relocation assistance program can be obtained.

B. Public Hearing Presentation

1. Relocation information shall include, but not necessarily be limited to the following:

   a. The eligibility requirements and payment procedures for moving costs, housing and rent supplement payments, increased interest payments, closing cost payments and appeal procedures.

   b. A discussion of the services available under the Department's Relocation Assistance Advisory Program, and the address and telephone number of the local Regional office;

      (1) The estimated number of individual and families to be relocated. This may be omitted if the estimate is in the Design Statement;

   c. A discussion of the ability to provide replacement housing for those displaced from their homes.

d. An estimate of the time necessary for relocation of those to be displaced. This may be omitted if the Design Statement includes an estimate of when Right of Way activities may start and when the project will be let for construction bids.

e. If a particular item is not applicable to the project, it will not be necessary to discuss the item beyond the mere mention that the law makes provisions for such items.

2. As the brochure covers most items in sufficient detail, it will be satisfactory to highlight what the brochure contains without going into detail. This short narrative presentation should be used when the number of displacements is expected to be small. A more detailed presentation will be used on larger projects. The decision on which type of format to use will be made by the Regional Right of Way Administrator.

3. Most public hearings now involve an informal open town-hall style format with individuals being able to observe proposed plans on an individual basis. Several areas are normally established to accommodate the various numbers of people who may attend. Right of Way personnel are always in attendance to discuss the acquisition and relocation procedures. Right of Way brochures are always available and explained on an individual basis.

SECTION V – DUPLICATION OF PAYMENT

No person will receive any payment for Relocation benefits under these regulations if that person receives a payment under Federal, state, or local law which is determined to have the same purpose and effect as such payment under these regulations. The Department is not required to conduct an exhaustive search for such other payments, only to avoid creating a duplication based on the Department's knowledge at the time the payment is computed.

SECTION VI - RECORDS

A. General

The Department will maintain adequate records of the displacement activities to demonstrate compliance with all applicable rules and regulations. These records will be retained for at least three years after each displaced person receives his final relocation payment or three (3) years after final voucher (49CFR 18.42 (b)(c)), whichever is later.

All claims must be signed by the agent and initialed by the Team Leader or the Regional Right of Way Administrator.

B. Claims

1. Claim Preparation

   All applications for relocation payments will be made to the Department on standardized claim forms with required information and documentation. Claim forms will normally be prepared when the replacement property has been selected and the amount of payment can be determined. Claim forms ordinarily will be typed and assistance will be given to claimants in preparing and documenting claim forms.

2. Claim Submission

   Claims normally are submitted after all conditions for payment have been met. However, executed forms may be submitted in anticipation of full qualification. This may be necessary where a replacement escrow has been opened and relocation assistance funds are required.

   It is the responsibility of the assigned agent to insure that processing is promptly commenced when all necessary requirements are met.

   The time period for filing claims may be waived for good cause by the Relocation Manager or the Director of Rights of Way .

3. Claim Processing

   All claims for a relocation payment shall be filed within 18 months after:

(a) For tenants, the date of displacement;

(b) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

Decent, Safe and Sanitary inspections of dwellings (See Appendix A – Relocation Assistance Forms - Form 4), will normally be made within 5 days following the first knowledge of the relocation or receipt of request for advanced inspection. This form shall accompany all claims for housing payments. All payable claims shall normally be processed by the Relocation Section within 5 working days of receipt or completion of all qualifying conditions. Claim forms received from claimants which must be sent back for correction shall be within the same time period.

4. Signatures and Executions

Where the claim shows more than one eligible claimant to be paid, all of the claimants need to sign to make it a valid claim.

No one, except as provided by law (i.e., attorney-in-fact), may sign a claim form in the place of the displaced person.

Where benefits are split, as in the case of separation, divorce, or joint occupants going to separate replacement dwellings, individual claim forms may be used with a reference in the margin to the other claim.

5. Verification and Documentation Guidelines

Verification of qualifying activities such as moving, occupancy of replacement housing, etc., may be accomplished by personal inspection and documentation in the tract file.

Expenditures must be documented by inclusion in the file of the original or copy of bills, statements, cancelled checks, etc.

Documentation requirements for specific situations such as income for in lieu payments, incidental expenses, searching costs, etc., are described elsewhere in this manual.

6. Notice of Denial of Claim

If all or part of a payment claimed is denied or the Department refuses to consider the claim on its merits because of untimely filing or other grounds, the claimant will be promptly notified in writing of the determination, the basis for the determination and the procedures for appealing that determination.

C. Case Records

Case records on each displacee shall contain the following information:

1. State and Federal project and parcel identification.

2. Names of displaced persons and their complete original and new addresses and telephone numbers (if available).

3. Certification of legal residency in the United States (Form 1).

4. Personal contacts made with each relocated person or family including:
   Date of notification of availability of relocation payment and services.

   a. Dates and substance of subsequent follow-up contacts.

   b. Date on which the relocated person was required to move from the property acquired for the project.

   c. Date on which actual relocation occurred.

   d. Type of tenure before and after relocation.

5. For displacement from dwelling:

   a. Number of male and female adults in family; number of children by age and sex.

   b. Type of property (single detached, multi-family, etc.).

   c. Value or monthly rent.

   d. Number of rooms occupied.

   e. Verification of date of occupancy and residency.

6. For relocated businesses:

   a. Type of business.

   b. Whether continued or terminated.

   c. If applicable, a certified inventory of items to be actually moved and an inventory of the items actually moved.

   d. For relocated farms, whether continued or terminated.

e. If applicable, a certified inventory of items to be actually moved and an inventory of the items actually moved.

All of the information outlined above shall be shown in the tract file; through the use of the appropriate forms and supporting documents.

D. Moving Expense Records

Records shall contain the following information regarding moving expense payments:

1. The date the removal of personal property was accomplished.

2. The location from which and to which the personal property was moved.

3. If the personal property was stored temporarily, the location where the property was stored, the duration of such storage, and justification for the storage and the storage charges.

4. Itemized statement of the cost incurred supported by receipted bills or other evidence of expense: (if applicable, the two acceptable bids or estimates based on the certified inventory list).

5. Amount of reimbursement claimed, amount allowed and an explanation of any difference.

6. Data supporting any determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having at least three other establishments not being acquired.

7. When an in-lieu-of payment is made to a business or farm operation, data showing how the payment was computed.

8. When moving expense payments are made in accordance with a schedule, the data called for in Items 3 and 4 above need not be maintained. Instead, records showing the basis on which payment was made shall be included.

9. For all moves, the file will contain pre- and post- inventories of the items that are to be moved and relocated. These inventories should be certified to accuracy by the displacee.

E. Replacement Housing Payment Records

The Relocation Section shall also maintain records for each displacee containing the following information regarding replacement housing payments:

1. The date of the displacees' claim for payments.

2. The date on which each payment was made or the application rejected.

3. Supporting data explaining how the amount of the supplemental payment to which the applicant is entitled was calculated.

4. A copy of the closing statement to support the purchase or down payment, and incidental expenses/closing cost when replacement housing is purchased; or rent receipts or rental documentation (e.g. canceled checks) when replacement housing is rented.

5. A copy of the Truth in Lending Statement or other data including computations to support the increased interest payment.

6. The individual responsible for determining the amount of replacement housing or rent supplement payment shall place in the file a signed and dated statement setting forth: (See Appendix A – Relocation Assistance Forms - Forms 8 and 8A, and 5).

   The amount of replacement housing or rent supplement payment,

   a. His understanding that the determined amount is to be used in connection with a Federal-Aid highway project, and

   b. That he has no direct or indirect present or contemplated personal interest in this transaction nor will he derive any benefit from the replacement housing payment.

7. The date on which the Relocation Coordinator or Relocation Manager approves the computed amount for last resort housing or approval by the Region for other replacement housing payments.

8. The individual responsible for determining the actual replacement housing payment at the time of relocation shall place in the file a signed and dated statement setting forth:

   a. The calculated amount of the replacement housing payment to be paid.

   b. His understanding that the determined amount is to be used in connection with a Federal-Aid highway project.

   c. That he has no direct or indirect present or contemplated personal interest in this transaction nor will derive any benefit from the replacement housing payment.

9. The Decent, Safe and Sanitary Inspection Form for the replacement housing unit (See Appendix A – Relocation Assistance Forms - Form 4).

SECTION VII - REPORTS

A. Annual Federal Highway Administration (FHWA) Report:

The Department will submit an annual report of relocation activities under these regulations to the Federal Highway Administration. The report will be submitted within 30 days following the end of each Federal fiscal year and will be compiled on the appropriate form provided by the FHWA. The report will cover the state's fiscal year, July 1 thru June 30.

B. Quarterly and Annual Title VI Reports:

The Relocation Manager and the Relocation Coordinator are the designated Title VI representatives for the Rights of Way Section. Information regarding contract awards for appraisals and consultants as well as displacements is accumulated by race, color, national origin, etc. This information is provided to the Department's Title VI Coordinator

SECTION VIII – CONCEPTUAL STAGE STUDY – CORRIDOR STAGE

The conceptual stage study is made for alternate route locations at the conceptual stage of the route planning. A project will be considered to be in the conceptual stage until such time as the final location is approved. The conceptual stage study is submitted by the Regional Right of Way Administrator upon request by the Pre-Construction Division. The relocation information should be summarized in sufficient detail to adequately explain the relocation situation including anticipated problems and proposed solutions. Secondary sources of information such as census, economic reports and contact with community leaders, supplemented by visual inspections (and, as appropriate contact with local officials) may be used to obtain the data for this analysis.

This study shall develop and report the following information:

1. The estimated number of individuals, families, businesses, farms and nonprofit organizations that are to be relocated by each of the alternatives under consideration.

2. The probable availability of decent, safe and sanitary replacement housing within the financial means of the individuals and families affect by each of the alternatives under consideration.

3. An estimate of the availability of replacement business sites. When adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed.

4. The basis upon which the above findings were made or a statement relative to the relocation problems involved in each location along with possible solutions.

SECTION IX – CONCEPTUAL STAGE STUDY (IMPACT STUDY) – DESIGN STAGE

The conceptual stage study at the design stage is primarily the information in the conceptual stage study used at the corridor stage with the addition of more precise data relating to specific design alternates for the adopted route location. This study compares the design alternates for the specific routes selected.

The Pre-Construction Division will request the Right of Way Section to provide the following information:

1. An estimate of the number of households to be displaced, including the family characteristics (e.g., minority, ethnic, handicapped, elderly, large family, income level, and owner/tenant status). However, where there are very few displacees, information on race, ethnicity and income levels should not be included to protect the privacy of those affected.

2. A discussion comparing available decent, safe, and sanitary housing in the area with the housing needs of the displacees. The comparison should include (1) price ranges, (2) sizes (number of bedrooms), and (3) occupancy status (owner/tenant) and type of housing single-family, multi-family, mobile home etc..

3. A discussion of any affected neighborhoods, public facilities, nonprofit organizations, and families having special composition (e.g., ethnic, minority, elderly, handicapped, or other factors) which may require special relocation considerations and the measures proposed to resolve these relocation concerns.

4. A discussion of the measures to be taken where the existing housing inventory is insufficient, does not meet relocation standards, or is not within the financial capability of the displacees. A commitment to last resort housing should be included when sufficient comparable replacement housing is not anticipated.

5. An estimate of the numbers, descriptions, types of occupancy (owner/tenant), and sizes (number of employees) of businesses and farms to be displaced. Additionally, the discussion should identify (1) sites available in the area to which the affected businesses may relocate, (2)

likelihood of such relocation, and (3) potential impacts on individual businesses and farms caused by displacement or proximity of the proposed highway if not displaced. When an adequate supply of 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. Businesses should be classified by type (e.g. commercial, retail, service, non-profit, cell towers). A discussion of the results of contacts, if any, with local governments, organizations, groups, and individuals regarding residential and business relocation impacts, including any measures or coordination needed to reduce general and/or specific impacts. These contacts are encouraged for projects with large numbers of relocates or complex relocation requirements. Specific financial and incentive programs or opportunities (beyond those provided by the Uniform Act) to residential and business relocates to minimize impacts may be identified, if available through other agencies or organizations.

6. A discussion of any anticipated problems involving the relocation of mobile homes, outdoor advertising signs, well and septic tank issues, availability of public utilities and other problems that may be encountered as a result of local and state regulations. Early coordination with project engineers may result in conflicts being minimized or avoided.

7. A statement that: (a) the acquisition and relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and (b) relocation resources are available to all residential and business relocates without discrimination.

SECTION X – RELOCATION PLAN

This document will be prepared only if the reports specified in Sections VIII and IX have not been completed because no request was received from the Pre-Construction Division.

The plan, if developed, will include an analysis of the relocation problems involved and a scheme for their resolution. The plan should consist of the following:

1. An inventory of individual needs: This inventory must reflect the characteristics and needs of individuals and families to be displaced, obtained by personal contacts and interviews based on the standard of comparable replacement housing.

2. An inventory of available housing, businesses, farms and nonprofit organization sites: A reliable estimate of currently available replacement housing, businesses, farms and nonprofit organization sites must be developed. The estimate shall set forth the type of buildings, number of rooms, adequacy of such property as related to the needs of the individual, family, business, farm or nonprofit organization to be relocated, type of neighborhood, proximity to public transportation and commercial shopping areas, and distance to any pertinent social institutions, such as churches, community facilities, etc.

   The estimate must be supported by a listing of currently available housing that is for sale or rent to those being displaced. Such listings can be obtained from real estate firms, newspapers, apartment directories, multiple listing services, board of realtors, mortgage lenders, Department of Housing & Urban Development, Veterans Administration, and from individuals with property for sale or rent.

   Sufficient listings must be obtained and the estimate should be developed to the extent necessary to illustrate that the relocation plan can be expeditiously and fully implemented. The use of maps, plats, charts, etc. would be useful at this stage. Every potential data source should be investigated, and where appropriate may be part of the plans.

3. An analysis of inventories: An analysis and correlation of the inventory of individual needs, and the inventory of available housing and business,

farm and nonprofit organization sites discussed in Item B above must be prepared so as to develop a relocation plan which will:

a. Outline the various relocation problems and identify and recommend for priority acquisition potential problem tracts to the Director, Rights of Way.

b. Provide an analysis of current and future Federal, State and community programs currently in operation in the project area, and nearby areas affecting the supply and demand for housing including detailed information on concurrent displacement and relocation by other governmental agencies or private concerns.

c. Provide an analysis of the problems involved and the methods of operation to solve such problems and relocate the occupants in order to provide maximum assistance.

d. Estimate the amount of lead time required and demonstrate its adequacy to carry out a timely, orderly and humane relocation program.

e. A discussion of a "relocation site office" determination made for each project.

Upon completion of the above research and analysis, conclusions are made regarding availability of resources and adequacies of the relocation program to be administered for the project. All conclusions reached are to be based upon the facts and the supportable projections developed during research and analysis which becomes the support for "project assurances".

A. Local Relocation Assistance Office

Establishment – The local relocation office (site office) will be established when the Department determines that the volume of work or the needs of displaced persons are such as to justify the establishment of such an office. A site office shall be in a location, which is reasonably convenient to the displacees, and shall be opened during hours convenient to the persons to be relocated. If the local office is opened on a part time basis, a sign should be placed on the door of the office during the periods it is not in operation advising relocates of the hours that it is open to the public. The Department does utilize a 1-800 telephone system with all of the regional right of way offices as well as headquarters; many displaced persons and property owners utilize this service.

SECTION XI - RELOCATION ASSISTANCE ADVISORY SERVICES

A. General

Whenever the acquisition of real property for a publicly financed project undertaken by the Department will result in the displacement of any person, the Department will provide a Relocation Assistance Advisory Program for the displaced persons.

This program should allow displaced persons to receive uniform and consistent services and payments regardless of race, color, religion, sex or nation origin. **If a translator is required the Agent must contact the Relocation Manager or the Relocation Coordinator for further instructions.** The services required are intended, as a minimum, to assist persons in relocating to decent, safe and sanitary housing that meets their needs. The services shall be provided by personal contact, except, if such personal contact cannot be made, the Department shall document the file to show that reasonable efforts were made to achieve the personal contact.

1. To whom provided: Relocation assistance advisory services shall be offered to

   a. Any "displaced person" as defined in Chapter 3.

   b. Any person occupying property immediately adjacent to the real property acquired when the Department determines that such person or persons are caused substantial economic injury because of the acquisition; however, relocation payments are not authorized.

   c. Any person who, because of the acquisition of real property used for his business or farm operation, moves from other real property used for a dwelling, or moves his personal property from such other real property.

   d. Any person who occupies property acquired by the Department, 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 our project, shall be eligible for advisory services, as determined by the Department. The lease and subsequent vacating notice, if required, will inform the tenant of this benefit.

2. Advisory service requirements: The Department's Relocation Advisory Services Program will include such major facilities or services as may be necessary or appropriate to:

a. Personally interview each person to be displaced, determine the person's relocation needs and preference (See Appendix A – Relocation Assistance Forms - Forms 2 and 2A) 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.

b. 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 available.

(1) Inform the displaced person in writing of the specific comparable replacement dwelling and the price or rent used as the basis for establishing the upper limit of the replacement housing payment and the basis for the determination so that the displaced person is made aware of the amount of the replacement housing payment to which he or she may be entitled.

(2) The procedure for adjusting the asking price of comparable replacement dwellings requires that advisory assistance be provided to the displaced person concerning negotiations so that he or she may enter the market as a knowledgeable buyer. (See Section XIV B.3)

(3) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(4) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings not located in an area of minority concentration that are within their financial means. This policy, however, does not require that a person be provided a larger payment than is necessary to enable the person to relocate to a comparable replacement dwelling.

(5) All displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred by the Department.

a. Provide current and continuing information on the availability, purchase prices, and rental costs of

comparable and 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 relocation.

b. 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.

c. 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 persons to be displaced.

d. Provide referrals to appropriate agencies for displacees requiring social services, food stamps etc.

e. Furnish each expected displacee with a Relocation Assistance Brochure.

B. Policy

1. The Relocation Agent will discuss and explain the services available, relocation payments and eligibility requirements and assist in completing any applications or other required forms.

2. Provide current information on a continuous basis regarding the availability, prices and rentals of comparable decent, safe and sanitary housing.

C. Procedures

1. Relocation Agents will read the “Offer Letter” and furnish a brochure to the displacee.

2. The agent will then, in detail, explain the eligibility requirements and methods of computation for each payment described in the “offer letter”.

3. The agent will offer his assistance in locating and/or obtaining replacement housing.

4. The agent will advise the displacee to select a realtor of their choice and, in addition, inform the displacee of the comparables used to compute the offered amount.

5. The agent will obtain the name of the realtor for coordination of the purchase of the replacement house.

6. If the displacee does not select a realtor, the Agent will provide a housing list, HUD list, VA list and in addition, sources and lists of rental property to the displacee. After the displacee has selected the replacement house of his choice, the agent will make the necessary arrangements with the owner of the property or his designated realtor representative to show the house to the displacee.

7. The Agent should identify other problems that can affect the displacee's relocation.

8. The Agent should determine which of the problems warrant extraordinary advisory services.

9. If necessary, the Agent should locate other agencies or organizations that can provide the needed assistance to the displacee.

10. The Agent should refer the displacee to this Department or organization for advisory services.

11. The Agent should refer monitor and evaluate the assistance received by the displacee from the referral Department.

12. The Agent will provide other assistance as needed which will include, but not necessarily be limited to, the following:

    a. Transportation;

    b. Home ownership counseling;

    c. Mortgage finance counseling;

    The amount and extent of the advisory services shall be administered on a reasonable basis commensurate with the displacee's needs or may be referred to other agencies who might be better equipped to provide the required counseling.

D. Coordination of Relocation Activities

The Department shall contact other Federal, State and local governmental agencies to determine the extent of their present and future actions, which will affect the relocation program and the availability of housing resources. Where other agencies are involved in relocation activities, positive action shall be taken by the Department to assure maximum coordination.

Such agencies may include, but not be limited to, social welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, Department of Housing and Urban Development, Veterans Administration, and Small Business Administration.

Contact shall be maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors.

Contact shall be maintained with the Department of Housing and Urban Development and Veterans Administration relative to property held by them which may be available for sale.

It is expected in the application of these programs to specific projects that the Department will coordinate its actions with local agencies responsible for administering other Federal programs.

The Department can consider contracting with a single agency or right of way consultant to assume full responsibility for providing relocation services and assistance in a given community or area. Approval of claims and relocation Appeals will normally be the responsibility of the Department.

SECTION XII – WRITTEN NOTICES

Written notices will be furnished to each displaced person to insure that he is fully informed of the benefits and services available to him. If not personally served, the written notice will be sent by certified mail, return receipt requested. 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. Contact the Relocation Manager, if translation services will be necessary. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed assistance.

A. Notice of Intent to Acquire

This notice will be furnished to owners and tenants (See Forms 17 and 40, Appendix A – Relocation Assistance Forms), along with the brochure, in those "special cases" if the Department elects to establish eligibility for relocation benefits prior to the initiation of negotiations for the parcel. When a notice of intent to acquire is issued, it will be considered, for the purposes of relocation benefits eligibility only, to have the same effect as the initiation of negotiations for the parcel. Prior approval by the Relocation Manager or Director, Rights of Way shall be obtained before the notice is issued.

If this notice is furnished to an owner, it will also be furnished to his tenants. If it is furnished to a tenant, the owner must be simultaneously notified of such action.

The notice of intent to acquire should not be utilized unless the initiation of negotiations for the parcel is imminent. When such notice is issued, every effort should be made to commence negotiations as soon as practical to prevent possible subsequent occupancy and/or minimize rental problems for the owner. Notices generally will not be issued unless the property owner agrees to keep the property vacant.

B. General Information Notice

As soon as feasible, a person scheduled to be displaced should be notified of the possibility of his or her displacement. He or she should also be furnished with a general written description of the Department'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. Indicates that any person displaced will be given reasonable relocation advisory services including housing referrals, help in filing payment claim(s), and other necessary assistance to help the person successfully relocate.

3. 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 to the displaced person. No person will be required to move without at least 90 days advance written notice.

4. Describes the person's right to appeal the Department's determination as to eligibility for or the amount of any relocation payment for which the person is eligible.

The General Information Notice, in the form of the brochure, "Highways and You", will be presented to such persons once they have been identified via the real estate appraisal process, provided negotiations are not imminent. The General Information Notice will be presented in a personal contact by a representative of the Department or via certified mail with an accompanying letter of explanation.

C. Notice of Relocation Eligibility

A notice of relocation eligibility shall be given to all occupants at the initiation of negotiations. This notice may take the form of a Relocation Assistance offer letter or a notice of displacement. No displacee will be given a notice to vacate until he/she has received a written notice of relocation eligibility. The notice of relocation eligibility will be presented in a personal contact by a representative of the Department or via certified mail with an accompanying letter of explanation. Persons receiving the notice of relocation eligibility by certified mail will be contacted within a reasonable period of time thereafter for an explanation of the acquisition and relocation process.

D. Notice of Displacement

1. Owners - At the initiation of negotiations for the parcel, the owner shall be furnished with a written explanation of the eligibility requirements for moving expenses and replacement housing payments, if they are residential occupants. The displacee shall be provided an explanation of the relocation services available and where they may be obtained. The displacee will also be furnished with a copy of the brochure.

2. Tenants - Within a reasonable period of time after the initiation of negotiations for the purchase of the parcel, the tenant shall be furnished, either by personal contact or certified mail, a written statement which includes the date of the initiation of negotiations for the parcel and an explanation of the eligibility requirements to receive moving payments and replacement housing payment, if they are residential occupants. In addition, the displacee shall be provided an explanation

of the relocation services available and where they may be obtained. Each displacee will be provided with a copy of the Brochure.

E. Notice of Relocation Amounts

In lieu of the earlier-described notices of displacement or general information notice, this notice can be issued at the initiation of negotiations. Its purpose is to provide a positive understanding to the displaced persons. This notice will include the amount of the relocation payment to which he is entitled and any pertinent eligibility requirements which must be met before the relocation payment can be paid

F. 90-Day and 30-Day Notices to Vacate

The construction or development of a highway will be so scheduled to the greatest extent practicable that no person lawfully occupying real property shall be required to move from a dwelling or to move from his business or farm without at least 90 days written notice of the intended vacation date. Exceptions to this provision will be made only in the case of very unusual conditions. Written justification will be placed in the file.

The 90-Day Notice (Appendix A – Relocation Assistance Forms) will be issued immediately after or at the initiation of negotiations for the parcel and will include a statement that the displacee will not be required to move from his dwelling, or to move his business or farm, prior to 90 days from the date of the notice. This notice shall inform the displacee that he will be given a 30-day written notice specifying the date in which the property must be vacated. A 90-Day Notice may be incorporated in the Relocation Offer letter as well. **This letter will be issued by the agent.**

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. It is the policy of the Department to issue the 90-day notice concurrently with the Relocation Offer letter. In the Relocation Offer letter the Department informs the displacee of the availability of a comparable replacement property.

The 30-Day Notice (Forms 26, 27, 28 or 29, Appendix A – Relocation Assistance Forms) will not be given until such time as the Department has control of the property. (Control is defined as either payment for the required property or the date of availability of compensation for the property by virtue of depositing the funds in court for the benefit of the owner). **This letter will be issued by Headquarters Office.**

This notice is not required if the displacee moves on his own volition prior to the time the notice was given.

G. Notice of Right of Appeal

All eligible displacees shall be furnished with a written notice of their right to appeal and the procedures for making such an appeal. Such notification will be provided by the brochure

and will be explained again later at the time the displacee is notified of the replacement housing or moving expense entitlements. Form 16 (Appendix A – Relocation Assistance Forms) is to be provided to the displacee for use in formally advising the Department of his/her appeal regarding relocation benefit entitlements.

SECTION XIII - MOVING EXPENSE PAYMENTS

A. General

1. **General Provisions** - This section contains general rules that apply to all moves. These should be understood and used in conjunction with the instructions contained in the following sections relating to specific types of claimants.

2. **Eligibility** - Any "displaced person," as defined in Section III, is eligible to receive payment for eligible moving expenses as determined by the Department in accordance with the criteria in this section for:

   a. Moving of personal property located within the acquired right of way.

   b. The appropriate moving payment below when the acquisition of real property used for a business or farm operation causes a person to vacate his dwelling or other real property not acquired, or to move his personal property from other real property not acquired.

   c. The appropriate moving payment under Item B (Residential Moves) for his dwelling unit and under Item C (Business Moving Expenses) for the other units in an owner-occupied multi-family dwelling,

   d. One move, except where it is shown to be in the public interest.

   e. Inventory, in the case of fluctuating inventory or significant time lapse between initial preparation of property inventory, but prior to actual move an updated Property Inventory should be prepared.

3. **Claim for Payment** - A displacee must file a written claim with the Department (see Appendix A – Relocation Assistance Forms, Form 6) in order to receive payment for moving expenses. All claims for a relocation payment shall be filed with the Department within 18 months after:

   a. For tenants, the date of displacement;

   b. For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later. This time period shall be waived by the Department for good cause.

4. **Advance Payments**

a. Moving expense claims cannot be paid until after the move except in cases of undue hardship. Payment of moving expenses in advance of moving may be made with prior authorization of the Team Leader for Residential moves, and the Relocation Manager for business moves if:

(1) The property has been acquired by the State, or

(2) The displaced person moved as a result of a written order to vacate issued by the Department.

b. If the displacee needs a moving expense payment prior to the time that they are fully eligible for such payment, the following procedures will be implemented:

(1) The displacee will notify the agent of the particular hardship in writing.

(2) The agent transmits the following:

(a) Transmittal memo.

(b) Complete and correct claim.

c. Advanced payment should only be made after:

(1) An effort has been made to arrange payment of moving expenses directly to the mover by the Department, where moving expenses will be large, or to make partial payments as the move progresses.

5. **Partial Payments**

The Department may make partial payments of moving expenses where such claims are based on the actual cost of moving, provided the amount of such partial payment does not exceed the actual cost incurred up to the time such payment is claimed.

a. Claims must be supported by receipted bills or other documentation of expenses actually incurred up to the date of the claim.

b. In complicated moves a reasonable amount will be withheld from payment to cover possible ineligible charges. The displacee will be informed of the amount to be withheld.

c. Schedules which involve partial payments shall be accompanied by a memorandum stating it is a partial payment and summarizing the following information:

(1) Estimated total cost of move.

(2) Amount of the claim.

(3) Amounts of previous claims paid to date.

(4) Estimated remaining costs.

6. **Payment Direct to Commercial Mover**

By written prearrangement between the Department, the displaced person, and the commercial mover, a displaced person may present unpaid moving bills to the Department and the Department may pay the commercial mover directly.

a. Payment of moving expenses may be made directly to commercial movers or contractors by one of two methods:

(1) Written Agreement signed by the claimant, the Department and the mover which specifies that:

(a) Upon completion of the move and presentation of itemized bills and a properly executed claim for payment, the Department will pay the mover for all eligible costs incurred.

(b) In the event charges are incurred during the move which are not considered eligible moving cost, the amounts charged will be deleted by the Department and it shall be the obligation of the claimant to make payment of such cost directly to the mover.

(2) Assignment of the amount claimed, by letter of assignment, to the mover. Before such an assignment is accepted by the Department, all documentation in support of the costs of the mover shall be examined, ineligible costs deleted, and the assignment executed and accepted only for the proper amount.

(a) When scheduling payment directly to the commercial mover or contractor, a copy of the written prearrangement or assignment shall be attached to the claim form (Form 11 – Payment Authorization).

7. Limitations

(a) One Move Per Person

No moving expense payment will be made for more than one move of a claimant except where found by the Department to be in the public interest and prior approval has been granted.

(b) 50-Mile Move Limit

The allowable expense for transportation shall not exceed the cost of moving 50 road miles measured from the point from which the move was made to the point of relocation via the most commonly used routes between such points.

In the case of a business or farm operation, where the Department determines that relocation cannot be accomplished within the 50-mile area, the additional mileage may be allowed with the prior approval of the Director, Rights of Way or Relocation Manager. Payment shall be limited to the nearest available adequate site.

Where a move is accomplished by a commercial mover, bills presented for payment must have the cost of the distance beyond 50 miles separately itemized. The amount shall be deleted from payment of the claim.

Where a move is accomplished under a self-move agreement, estimates or bids submitted shall be examined for amounts resulting from the extra distance.

The 50-mile distance limitation does not apply to moves based on Scheduled Moving Expenses.

8. **Owner-Retained Dwellings**

When an owner retains his dwelling, the cost of moving it onto remainder or replacement land is not eligible as a part of the cost of moving personal property. If the owner chooses to use his dwelling as a means of moving the personal property, payment shall be based on the moving expense schedules found in the Residential Move Section.

9. **Additional Eligible Expenses**

When the displacee elects to move on an actual cost basis, the following expenses are eligible for payment:

a. Storage

When the Department determines that it is necessary for a relocated person to store his personal property for a reasonable time, not to exceed twelve months, the cost of such storage shall be paid as part of the moving expense. The time limit may be extended on the approval of the Director, Rights of Way or Relocation Manager.

Costs of temporary storage shall be paid only when the claimant has shown the necessity for the storage and has obtained approval of the Department in advance of incurring such costs.

Storage claims shall be supported by paid, receipted bills or the cost separately itemized in the bills from moving companies.

NO storage payment shall be made:

(1) For storage of personal property on the property being acquired or on other property owned by relocate.

(2) Where the claimant elects payment under any of the Moving Expense Schedules in the Residential Move Section.

(3) Where the business owner or farm operator elects to receive the In-Lieu-Of payment option.

Important – Storage will normally be authorized only where circumstances beyond the control of the displaced person are involved, such as inability to occupy his replacement location at the time the Department requires that he vacate the acquired premises.

b. **Moving to Replacement Site**: The expenses of moving personal property is limited to a 50-mile radius, either interstate or intrastate, except when the Department determines that relocation cannot be accomplished within the 50-mile area. Such exceptions are allowed to the nearest adequate and available site.

c. **Packing, crating, unpacking and uncrating** of the personal property.

d. **Advertising for Bids**: Advertising for packing, crating and transportation when the Department determines that such advertising is necessary, is eligible for reimbursement as a moving expense. This should be limited, however, to complicated or unusual moves where advertising is the only method of securing bids.

e. **Cost of Bids**: The Department's expense in obtaining moving bids for estimates is normally not to exceed two bids per move. In instances where the two bids received are incompatible, the Department may obtain additional bids.

f. **Insurance**: Insurance premiums covering the reasonable replacement value of personal property against loss and damage while in storage or transit. Claims including insurance premiums must be supported by paid receipts showing the amount paid for such insurance and the amount of insurance coverage involved. The receipt must be prepared in a manner that will relate it to the subject move.

g. **Removal and Reinstallation**: The expenses of removal, reinstallation and re-establishment of machinery, equipment, appliances and other items which are not acquired, including reconnection of utilities to such items, which do not constitute an improvement to the replacement realty, are reimbursable. Such costs are not applicable to items classified by the Appraiser as real property and retained by the owners through the "owner retention" process. Under this method, when costs of this type are not included in the commercial move or bill, the relocatee must attach paid receipts to his moving cost claim showing the separate costs related to each item involved. (If such costs are included in the mover's billing, other than routine

connections, they must be itemized on the receipt in a manner that they can be defined and checked.)

For non-residential moves 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.

h. Personal Property Abandoned

Any person, family, farm operation, or business who is displaced and who would be entitled to a payment for moving of his personal property, but does not do so, shall not be reimbursed for such abandoned or discarded property left on the premises. The displacee, if requested, shall transfer ownership to the Department of any personal property that has not been moved, sold, or traded in.

i. Telephone Equipment

The Department will pay actual and reasonable costs of moving telephone equipment. The Department cannot pay for betterments to telephone systems made in conjunction with moves. The Department should consult local marketing departments of the telephone company for advice and assistance if necessary.

The following general rules apply:

a. Expense of moving telephone equipment will be honored only if the claim is based on "actual cost." No payment will be allowed where the residential moving expense schedule method is used.

b. Where the "actual cost" method is used for residential or nonresidential properties having one telephone number, and one or two extensions, a paid receipt from the telephone company may be used to document the cost.

c. For larger installations, such as master phones, dial installations, etc., the Department shall obtain from the telephone company or other telephone installer, in writing, a statement of the present cost of duplicating the existing system. After the move is completed, a paid receipt from the telephone company will be obtained to support the claim.

(a) If claimant installed a more expensive system in the new location than existed in the old location, the Department will pay no more than the "duplication" cost. The paid receipt required is simply proof that a new telephone system was installed.

(b) If the claimant installed a less expensive system in the new location than existed in the old location, the Department will pay the lower cost. The receipt will constitute evidence of actual cost.

j. **Burglar and Fire Alarm Systems and Other Leased Equipment:** Moving cost payments for leased burglar and fire alarm systems should follow the same principles as for telephone. However, care must be taken to avoid a duplicate payment if such systems have been considered an integral part of the realty.

k. Any **license, permit, 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 or certification.

l. For **nonresidential moves**, the professional services necessary for planning the move of the personal property, moving the personal property, and installing the relocated personal property at the replacement location. Prior approval by the Relocation Manager must be obtained by the displacee before these costs are incurred.

m. **Re-lettering signs and replacing stationery** on hand at the time of displacement that is made obsolete as a result of the move.

10. **Transfer of Ownership**

The displacee shall be requested to furnish a bill of sale or similar document that transfers ownership of any personal property not moved, sold, or traded in.

11. **Controls**

All books and records kept by a claimant as to actual moving expense incurred shall be subject to review and audit by a Department representative during reasonable business hours.

12. **Utilities, Professional Services, Impact Fees (Reference 49 CFR Part 24, Section 24.303)**

The following expenses, shall be provided if the Department determines that they are actual, reasonable and necessary:

a. Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

b. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Department a reasonable pre-approved hourly rate may be established.

c. Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency. Prior written approval by the Relocation Manager or Director, Right of Way is required.

13. **Other**

Other moving-related expenses, not listed as ineligible under Section XIII A-14, as are determined to be reasonable and necessary.

14. **Exclusions**

The following expenses are considered ineligible for participation as "actual moving expenses":

a. Additional living expenses for residential displacements or additional operating expenses for nonresidential displacements incurred because of the new location.

b. Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.

c. Improvements to the replacement site or modification of the personal property to adapt to the replacement site, except as noted in Section XIII A.9.h.

d. Interest on loans to cover moving expenses.

e. Loss of goodwill

f. Loss of business and/or profits.

g. Loss of trained employees.

h. Personal injury.

i. Any legal fee or other cost for preparing a claim for relocation payment or for representing the claimant before the Department.

j. Payment for search cost in connection with locating a residential replacement dwelling.

k. Costs for storage of personal property on real property owned or leased by the displaced person.

l. Refundable security and utility deposits.

B. Residential Moves

1. **General Provisions**

A displaced individual or family eligible under XIII A.2 above is entitled to receive a payment for moving his personal property, himself and his family. The displacee has the option of payment on the basis of actual reasonable moving expenses, or a moving expense schedule. Such payments shall include the cost of dismantling, disconnecting, packing, loading, insuring, transporting, unloading and reinstalling personal property such as furniture, clothing and household goods.

Moving expenses do not include any additions, improvements, alterations or other physical changes in or to any structure in connection with moving personal property.

For all residential moves, the moving company must have a Class E Certificate. Please see the appendix for instructions to view the approved list at www.regulatorystaff.sc.gov. The class E certificate requirement is for residential moves

only.

2. **Special Instructions**

There are procedures available to the Department in effecting residential moves but and/or progress payments and payments directly to the mover by written prearrangement and assignment.

If desired, these special procedures can be used in connection with residential moves. These are fully covered in the General Moving Expense Section preceding this section.

a. Multiple Occupancy

(1) Two or more families occupying the same dwelling unit, who relocate in separate dwelling units, may elect to be reimbursed either on an actual cost basis or on a scheduled move. A scheduled move payment will be based on the number of rooms actually occupied by each family. Community rooms utilized by each family will also be counted provided they contain sufficient personality to count as a room.

(2) Two or more individuals, not a family, who occupy the same dwelling unit, are considered to be a single family.

b. Limits on Moving Payments

(1) ONE MOVE PER PERSON – Without prior approval of Relocation Manager or Director, Rights of Way.

(2) 50 MILE MOVE LIMIT – Without prior approval of Relocation Manager or Director, Rights of Way.

(3) If an owner retains his dwelling for relocation and chooses to leave his personal property therein, payment for the cost of moving the personal property shall be based on the Moving Cost Schedule.

(4) Payment for storage of personal property moved from a residence shall be in accordance with the instructions for storage contained in the General Moving Expense Section.

3. **Types of Payments**

All claimants have the option of payment on the basis of either:

a. Moving Expense Schedules.

b. Actual reasonable cost of move by a commercial mover.

4. **Moving Expense Schedules**

a. General

Any person displaced from a dwelling or a seasonal residence is entitled to receive

an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses.

b. Schedule (See Appendix H).

Schedule is published periodically by the Federal Highway Administration for use by displacing agencies.

c. Miscellaneous

(1) The expense and dislocation allowance to a person whose residential move is performed by the Department at no cost to the person shall be limited to $100.00

(2) An occupant will be paid on an actual cost basis only for moving his or her mobile home from the displacement site. In addition, a reasonable payment to the occupant for packing and securing personal property for the move may be paid at the Department's discretion.

(3) An occupant who moves from a mobile home may be paid for the removal of personal property from the mobile home in accordance with the moving and dislocation allowance payment schedule.

(4) The expense and dislocation allowance to a person with Minimal personal possessions who is in occupancy of a dormitory style room shared by two or more unrelated persons shall be limited to $100.

(5) When using the schedule, a "counted room" means that space in a dwelling unit containing the usual quantity of household furniture, equipment and personal property.

It shall include such space as a living room, dining room, bedrooms, kitchen, recreation room, library, study, laundry room, basement, garage, workshop and patio, and "outbuildings" if such places do, in fact, contain sufficient personality as to constitute a room.

(6) Rooms or storage areas containing substantial amounts of personal property, equivalent to one or more rooms may be counted as additional rooms. Bathrooms will generally be excluded from the room count.

Determination of equivalency requires judgment. An oversized room may contain sufficient furniture for two rooms and can be considered as two rooms. An alcove dining area may be considered as a separate room if it contains a normal amount of dining room furniture.

(7) A record shall be made of the rooms or room equivalents counted for payment of moving expense claims based on schedules.

(8) No temporary storage, lodging or transportation expense shall be paid to claimants electing the Schedule, unless approved by the Relocation Manager or Director, Rights of Way. Generally, exceptions are made when moving mobile homes.

(9) The owner-occupant of a multi-family dwelling unit or of a mixed-use property may elect to receive payment for his own dwelling unit under the schedule and still be eligible to receive payment for moving personal property from the other units as a business move. (See Section XIII Item C).

(10) Where rental units are partially furnished, tenants may elect to receive payment based on the schedule for the personal property they own, to the nearest full room. The cost of moving personal property owned by the landlord in such units can be paid only as a business move.

d. Requirements for Scheduled Payments

Scheduled payment of moving expenses requires only a "Moving Expense Claim" (Appendix A – Relocation Assistance Forms - Form 6) properly completed and signed by the claimant.

5. **Actual Reasonable Cost of Move by a Commercial Mover**

a. A displaced individual or family may be paid the actual, reasonable cost of a move accomplished by a commercial mover. Such expense will be supported by receipted bills. The reasonableness of the cost shall be determined by what commercial movers in the area actually charge. The displacee or Right of Way Agent should obtain two lump sum moving cost bids from commercial movers who are qualified and equipped to accomplish the move. The Department has no obligation to accept unreasonable requests (those with bad business practices or those not acceptable).

The bids should be based on identical services and should be based on "straight time" rates, unless "overtime" rates have been approved in advance of the move.

b. The displacee can employ any moving firm desired to conduct the move; however, the moving cost payment will be for the actual cost of the move, not to exceed the low bid.

c. If the Department has reason to believe that the lower of the two bids is not reasonable, a third bid should be obtained. Only in rare instances will it be permissible to go with the higher bid. In those cases, the file will be documented as to the reasons.

d. Displacees in this category are also entitled to reimbursement for their applicable incidental moving expenses as discussed in Section XIII A.9. Items a - m. They should not be reimbursed for their own labor or for any costs which were not actual "out-of-pocket" expenses.

C. Business Moving Expenses

1. **General Provisions**

a. The owner of an eligible displaced business is entitled to receive payment for either:

(1) Moving and related expenses which include:

(a) Moving costs (e.g. actual, self-move, alternate payments) As provided later in this section; and

(b) Losses of tangible personal property, as provided later in this section; and

(c) Search costs, as provided later in this section; and

(d) Reestablishment expenses at the new site, as provided later in this section.

OR

(2) In lieu of the above payments the displacee may be eligible for a payment based upon average annual net earnings of the business as provided in the Section entitled "In-Lieu-of Payment".

b. Notification and Inspection. The following requirements will apply to payments under this section:

(1) The displaced person must provide the Department with reasonable advance notice of the approximate move date or date of disposition of personal property and a list or inventory of the items to be moved; however, this requirement may be waived by the agency.

(2) The displaced person must permit reasonable and timely inspections of the personal property as it is moved to the new location.

(3) The Department will inform the displaced person of these requirements in the "Notice of Relocation Amount."

2. **Moving Costs – Types of Payments**

The business owner may select one of the following options:

1) Actual, reasonable cost of move performed by a commercial Mover.

2) Self-move

3) Combination self-move/actual cost move

4) Alternate payments

3. **Actual Reasonable Moving Expenses – Commercial Mover**

Payment is based on actual reasonable costs of a move performed by a commercial mover or contractor. Costs that are reimbursable include such items as dismantling, disconnecting,

packing, loading, insuring, transporting, unloading and reinstalling of personal property of the business, and re-lettering signs and replacing stationery on hand at the time of displacement and made obsolete as a result of the move.

The owner of a relocated business is required to submit a certified inventory of the items to be moved in order for his claim for payment of moving costs to be processed and approved. Typically, this inventory will be prepared by the owner of the business and signed and dated by him, certifying it as being true and correct as of the date of preparation. However, in the event that the owner fails to provide such inventory, the agent shall himself prepare an accurate and timely inventory and have the owner certify its correctness. If the inventory changes substantially by the time of the actual move, an updated certified inventory must be prepared and updated moving cost estimates should be obtained.

Reimbursable costs do not include any additions, improvements, alterations or other physical changes on or to any structure in connection with moving personal property; however, it does include modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

The following are requirements for payment:

a. The Department shall secure at least two firm bids or estimates from responsible licensed commercial movers or contractors prior to the move for moving cost exceeding $2,500.00. For moving cost under $2,500.00, only one bid is required unless it appears unreasonable. Payment for the move will be based on the lowest reasonable bid or estimate. Waiver of a second bid for reasonable cause must be obtained from the Team Leader.

b. Payment shall be made by the Department upon presentation of the paid, receipted and itemized bills after the claimant has moved from the premises. Written prearrangements or assignments to pay the mover directly may be used. When the move is completed, the displacee will submit to the Department a receipt for moving costs of the licensed mover or performer of services, which as minimum sets forth:

(1) Name and address of displacee:

(2) Name and address of mover or performer of services;

(3) Identification of personal property moved or description of services provided;

(4) Date or dates of move or services; and

(5) Address from which and to which personal property was moved or where services were rendered.

c. Such expenses will be supported by receipted bills and a certified inventory of the items actually moved. If the items listed on this “as moved” inventory deviate appreciably from the original certified inventory, the amount of the estimate will be

appropriately adjusted for payment. The agent assigned to the tract will advise the displacee and/or the mover what is eligible for moving costs.

d. Where the final bill exceeds the estimate by ten percent (10%) or more, a written explanation shall be secured from the mover and attached to the bill when payment is scheduled.

4. **Self-Move**

a. Bid Method

A business may be authorized to perform the moving of its personal property itself, under the following conditions:

(1) The amount to be paid is to be negotiated between the Department and the business, not to exceed the lower of at least two firm bids or estimates obtained by the Department from qualified movers based on the certified inventory. A 15% deduction should be taken from of the lowest bid or estimate for a negotiated self move. Care should be exercised to insure that provisions have been made in the bids or estimates for all allowable costs including insurance, permits, equipment rental, etc. However, it should be impressed upon the displacee that the bids or estimates contain only those expenses which can be fully supported and justified. All bids shall be based on the prepared certified inventory of the items to be actually moved. Moves shall be completed in substantially the same manner as if performed by a contractor/mover. The Department may make payment based upon a single bid or estimate for moves which are low cost or uncomplicated. Low cost moves are those estimated at $10,000.00 or less. Uncomplicated moves are characterized by being easy to analyze and understand; they are not intricate nor involved. Questions as to whether or not a move is uncomplicated should be referred to the Relocation Manager for decision.

Self-moves apply to situations where the displacee performs the move with his own personnel and equipment, with the amount of compensation negotiated between the Department and the displacee in advance of the actual move. If the displacee decides to employ additional help, rent equipment or have a portion of the move performed under contract by a third party, only in order to more effectively relocate his business, and the additional cost is simply added to the amount originally negotiated, then such additional costs will not be reimbursed.

(2) On complicated moves, the move authorization shall be a written agreement or contract signed by the claimant in advance of the move.

The terms of a self-move agreement may include:

a) A scope of work to be accomplished with completion schedule.

b) A provision that no claim for payment shall be honored by the Department until the move has been completed (unless the agreement provides for partial payments).

c) Any other provisions necessary to protect the interests of the parties to the agreement and any other special provisions occasioned by the nature of the move, type of business or farm operation involved or circumstances peculiar to the case.

d) A provision that claim for payment shall be submitted within 18 months of the date of moving from the premises.

Self-move agreements shall be signed by the agent and initialed by the Regional Right of Way Administrator and the claimant.

b. Actual Cost Method

If bids or estimates cannot be obtained or the claimant is better qualified to perform the move, the claimant may be paid his actual, reasonable moving costs supported by receipted bills or other evidence of expenses incurred. Consult with the Relocation Manager prior to performing work under this method.

The allowable expenses of a self-move under this provision may include:

(1) Amounts paid for truck and/or equipment rental but not to exceed the cost paid by a commercial mover.

(2) If vehicles or equipment owned by a business being moved are used, a reasonable amount to cover gas and oil, and the cost of insurance and depreciation directly allocable to hours and/or days the equipment is used for the move.

Wages paid for the labor of persons who physically participate in the move. Labor costs are to be computed on the basis of actual hours worked at the hourly rate paid, but the hourly rate may not exceed that paid by commercial movers or contractors in the locality for each profession or
craft involved.

On complicated moves, an agreement spelling out the above factors plus any other pertinent data should be completed and signed between the Department and the displacee before the move is commenced.

<u>It is required by law that all moving expenses be actual, reasonable, and necessary. To assure this, the Department will provide surveillance commensurate with the expected expenditures involved. Emphasis will be directed toward those moves that are of a complicated nature and/or a substantial expenditure</u>.

c. Moving Expense Finding

The assigned Right of Way Agent may make a moving cost finding not to exceed $10,000. The amount of the finding may be paid when the move is completed, unless a partial advance is approved by the Team Leader. Supporting evidence of actual expenses incurred is not necessary; the itemized moving cost finding is sufficient. The Team Leader will approve the amount before the payment is offered.

Documentation supporting the moving cost finding shall be prepared by the agent and reviewed by the Team Leader prior to his approval of the amount. Form 7A (Appendix A – Relocation Assistance Forms) shall be used in preparation of the estimate.

It is the Department policy that the estimate normally not exceed $10,000. However, if the move is determined to be uncomplicated, the Relocation Manager may approve the use of this format for moving expense findings in excess of $10,000. Therefore, all pertinent circumstances, including but not limited to the following, should be considered:

(1) Contact with certified moving firms in the project area to establish the hourly rate for movers, cost of moving vans, vans with hydraulic lifts (if necessary), cranes, and any other necessary equipment.

(2) A thorough study of the present and proposed location for moving the personal property, including the distance in miles between the two points.

(3) If the displacee elects to make a self-move, consideration should be given to the expected cost (See Section XIII C.4.1(1).

(4) Computations relative to the estimated requirements of completing the move such as : the number of man hours necessary, the types of personnel needed with an appropriate wage rate for same, and the expenses concerning various types of equipment that may be involved.

5. **Combination Self-Move/Actual Cost Move**

Combination self-move/actual cost moves are allowable. Self-move procedures, described above, shall be followed for that portion of the move; actual cost move procedures shall be followed for the portion of the move performed by a commercial mover or contractor.

6. Alternate Payments

In addition to the above-mentioned options, the owner may be paid moving costs under the following alternate type payments:

a. Losses of tangible personal property, as explained in paragraph 7.

b. Low value/high bulk. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the Department, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business relocation. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Department.

c. Purchase of substitute personal property, as explained in paragraph 8.

7. Losses of Tangible Personal Property

a. Actual direct losses of tangible personal property are allowed when a person who is displaced from his place of business is entitled to relocate such property in whole or in part, but elects not to do so. To be eligible for this benefit the owner of the personal property must:

(1) Be eligible to receive payment for his actual and reasonable moving expenses.

(2) Enter into a written agreement with the Department stating his election of this method of payment, and agreeing that personal property specifically described or tabulated therein is not to be moved.

(3) Make reasonable effort to sell the described personal property, unless it is determined that such effort is not necessary.

8. **Purchase of Substitute Personal Property**

(1) If the business is to be relocated and an item of personal property which is used in connection with the business is not moved, but promptly replaced with a comparable item at the new location, the reimbursement shall be the lesser of:

(a) The replacement cost, including installation, minus the proceeds from the sale or trade in of the replaced item. "Trade-in value" may be substituted for the proceeds of the sale where applicable, or

(b) The estimated cost of moving the items, including installation, to the replacement site, but not to exceed 50 miles, with no allowance for storage. At the Department's discretion, the estimated cost for a low cost move may be based on one bid or estimate.

As used in the above paragraph, a "comparable item" means a replacement, either new or used, which performs the same function as the item to be replaced. "Replacement cost" means the cost to acquire and install a replacement item, either new or used, which performs the same function as the item to be replaced. The trade-in value of old equipment may be used instead of the proceeds of the sale. The amounts received in trade, the proceeds of the sale, the replacement cost of the item, and the estimated cost of moving must be documented.

(2) If the business is being discontinued or the item is not to be replaced in the relocated business, the payment will be the lesser of:

(a) The difference between the fair market value of the personal property for continued use at its location prior to displacement, less the proceeds of the sale. (When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential
selling price.);or

(b) The estimated cost of moving the item to the replacement site but not to exceed 50 miles, with no allowance for storage. 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.

An appraisal of the item may be required to determine depreciated value in place. The appraisal may be an estimate, in writing, by a knowledgeable employee or, if the nature and/or value of the equipment requires it, an appraisal should be secured from knowledgeable outside sources. Proceeds of the sale and the estimated cost of moving must be documented.

(3) If a bona fide sale is not effected, as discussed above, because no offer is received for the property, and the property is abandoned, payment for the actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the item 50 miles, whichever is less, plus the costs of the attempted sale, irrespective of the cost to the Department of removing the item.

(4) When personal property is abandoned with no effort being made by the business to dispose of such property by sale or by removal at no cost by a junk dealer, the owner will not be entitled to moving expenses, or losses, for the items involved. In this situation the Department should obtain a written statement from the owner that he is abandoning the property. The statement should list the abandoned items. If no such statement can be obtained, the owner shall be advised in writing that unless the items are removed, the Department will presume them to be abandoned and will dispose of them as it sees fit.

Abandoned items may be left on the premises for removal by the Department or by the purchaser when buildings are sold for removal.

The cost of removal of personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(5) Payments may be made only after a bona fide effort has been made by the owner to sell the item involved. The sales prices, if any, and the actual, reasonable costs of advertising and conducting the sale shall be supported by copies of bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records and other items supporting the bona fide nature of the sale. The reasonable

cost incurred in attempting to sell an item not relocated will be reimbursed to the displacee.

(6) This subsection does not apply to machinery and equipment which is classified as realty, but was retained by the owner. Also, the cost of moving structures, improvements or other real property in which the displaced person reserved ownership is excluded.

This subsection does not apply where a displaced owner wishes to retain and move material which is of low value and high bulk. Such material is covered under Alternate Payments, Subsection 6 above.

9. Search Costs

The owner of a business may be paid for his actual, reasonable expenses in searching and negotiating for the purchase or lease of a replacement business site, not to exceed $2,500. Expenses may include the cost of transportation, meals, lodging away from home and the reasonable value of time actually spent in search including fees of real estate agents and brokers if actually required and paid by the business (excluding fees or commissions related to the purchase of the site). Time spent in obtaining permits or attending zoning hearings is reimbursable as search costs.

Expenses must be itemized on a statement attached to the claim form. The claim form must also incorporate the attachment by reference.

Mileage claimed may be reimbursed at recognized State mileage rates or at actual costs incurred as verified by paid receipts.

Time spent in searching may be claimed at a reasonable hourly rate experienced by the claimant.

Claims for meals and minor incidentals such as parking fees and telephone expenses may be accepted but should be supported by paid receipts. If there is a problem providing receipts, please consult the Relocation Manager.

Broker and agent fees as well as lodging, where allowed, will require receipted bills. Note that searching expenses incurred in searching beyond the 50 miles radius may be allowed only if the nature of the business to be relocated reasonably justifies such a move. Caution should be exercised to prevent payment for pseudo-searches which may have involved time spent on vacation or other such purposes.

Search expenses may be included with claims for payment of all other actual expenses, but must be itemized and recapitulated on a separate statement as specified above.

10. Guidelines for Business Moves

It is recommended that a pre-move discussion and agreement take place between the relocation agent and the business displacee prior to securing moving estimates. Items to be emphasized and, if possible, agreed upon:

a. Contemplated time of move and destination (new location) of move.

b. Decision by displacee as to self-move, actual cost move by a commercial mover, or a combination of the two. The displacee should be made aware of his options and the necessity to follow through as agreed.

c. Businesses having floating inventories which fluctuate widely from time to time should be encourage to move on an actual cost basis using commercial movers. The Right of Way Agent should closely check these moves, particularly just prior to the move, during the moving, and after the move.

d. Reaching an understanding as to whether there is need for multi-phased move over a period of time or a move all at once.

e. Items not to be moved may not necessarily be real property. They may be items covered under the Direct Loss provisions. If possible, during the pre-move conference, these items should be identified and arrangements made for valuation in place and separate moving estimates for these items. Discussions should include explanation of options for replacement costs, if applicable, and requirements for disposal of items not to be moved and/or reinstalled.

f. Packing, crating, unpacking (if necessary) and moving specifications desired and needed by the displacees.

g. The necessity to have all movers bid on the same basis and to furnish an itemized inventory of items to be moved. Movers' estimates/bids should include complete specifications, conditions and inventory.

h. Arrangement for displacee to notify the Department just prior to moving so that the Right of Way Agent can verify the items to be moved. (The degree of verification would depend on the circumstances.)

i. Explain the need for a properly documented and inventoried bill from the selected mover on actual cost moves.

j. Determine whether storage will be needed and the reasons therefore.

k. If the two moving bids vary widely, a third bid should be considered. Wide variations may indicate lack of uniformity in specifications used for the estimate. Widely divergent estimates may be reconciled by meeting with the estimators.

Review qualifications and experience of various moving companies, particularly in large complex business moves. If there appear to be no well-qualified experienced movers, consideration should be given to hiring well-qualified industrial engineering firms to prepare moving cost estimates.

l. The Right of Way Agent should check realty items in the appraisal to insure that no inventoried items to be moved were paid for in the property valuation as realty items.

m. The Right of Way Agent should check the existence of moving inventory items on site just prior to the move and so document the parcel file.

n. The Right of Way Agent should check moving inventory items on new site just after the move to make sure all inventoried items were actually moved, set in place, connected, etc., as provided in the estimate and so certify by signed memo.

o. Business moves requiring significant disconnect and reconnect costs should be supported by complete certified or original bills including specialists, installers or tradesmen's charges who actually performed the services. The Right of Way Agent should check to see that all work billed for has been accomplished.

p. Each estimator for a moving company should always be accompanied by the relocation agent and owner when making his estimate and he (estimator) should be furnished an inventory list. Specifications and inventory for the move should be agreed on at this time and all moving companies shall bid on the same basis.

D. Re-establishment Expenses

In addition to the moving payments described earlier, a small business, as defined in Section III Page 7, farm or nonprofit organization may be eligible to receive a payment, not to exceed $50,000, for expenses actually incurred in relocating and reestablishing such business, farm or nonprofit organization at a replacement site.

1. **ELIGIBLE EXPENSES**. Reestablishment expenses must be actual, reasonable, and necessary, as determined by the Department. They may include, but are not limited to, the following:

a. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

b. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for

conducting the business.

c. Construction and installation costs for exterior signing to advertise the business.

d. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

e. Advertisement of replacement location.

f. Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

(1) Lease or rental charges,
(2) Personal or real property taxes,
(3) Insurance premiums, and
(4) Utility charges, excluding impact fees.

g. Other items that are considered essential to the reestablishment of the business.

2. **INELIGIBLE EXPENSES**. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible.

a. Purchase of capital assets, such as land, buildings, office furniture, filing cabinets, machinery, or trade fixtures.

b. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

c. Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in Section XIII D.1.e.

d. Interest on money borrowed to make the move or purchase the replacement property.

e. Payment to a part-time business in the home which does not contribute materially to the household income.

f. Cost of constructing a new building.

E. IN-LIEU-OF PAYMENTS

The owner who relocates or discontinues a business may be eligible for a payment in-lieu-of all moving costs and related expenses as outlined in Business Moving Expenses. The payment is equal to the average annual net earnings of the business, except that the payment shall not be less than $1,000 nor more than $40,000, if we determine 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 Department demonstrates that it will not suffer a substantial loss of its existing patronage and;

3. The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the State or the United States which is engaged in the same or similar business.

   In order to make such a determination, it is necessary to establish that there is common control, management and ownership of the similar businesses, i.e. that they can be said to be owned, managed and controlled as a single operating unit. Examples would be: the branch offices of national banks, insurance companies or chain supermarket outlets.

   The "chain operation" rule does not apply when the individual dealer or franchise holder renting or selling a national product is displaced by a highway project. The focus in determining whether the "chain operation" rule applies should be on the proprietary interest of the individual business operator.

   For purposes of this rule, a remaining business facility that did not contribute materially to the income of the displaced person during the two taxable years prior to displacement shall not be considered "another establishment".

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.

6. The business contributed materially to the income of the owner during the two taxable years prior to displacement. A part-time individual or family occupation in the home which does not contribute materially to the income of the displaced owner is not eligible for this payment. See Section III Page 5.

7. 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:

   a. The same premises and equipment are shared;

   b. Substantially identical or interrelated business functions are carried out and business and financial affairs are

commingled;

c. The entities are held out to the public, and to those customarily dealing with them, as one business;

d. The same person or closely related persons own, control, or manage the affairs of the entities.

8. Benefit Calculation and Limitations

Payment is based upon the average annual net earnings of the two taxable years immediately preceding the taxable year in which the business operation relocates.

The term "average annual net earnings" means one-half of any net earnings of the business before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which the business relocated.

If the two taxable years immediately preceding displacement are not representative, a two-year period that would be more representative may be used. It should be determined that the proposed construction has been the cause of the outflow of residents thereby resulting in a decline in net income for the business prior to utilizing this alternate procedure or unusual expense items, depreciation, etc. may be reflected in one year's return, thus, the return would not represent the "average" in such cases.

"Average annual net earnings" includes any compensation paid by the business to the owner, his spouse, or his dependents during the two year period.

In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the principal stockholders of the corporation. A principal stockholder is one who owns 15% or more of the corporation.

For the purpose of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

If the business was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement, site during the two taxable years prior to displacement, projected to an annual rate.

For averaging purposes, zero will be used when one or both of the years has a negative income.

9. Documentation from Claimant

The displaced person shall furnish proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence to satisfactorily support the business income. The Right of Way Agent assigned to the case should obtain copies of the U. S.

Income Tax Return from displacee's tax preparer for the appropriate years. The tax preparer should furnish the following certification:

"I hereby certify that the attached copies of U. S. Income Tax Returns are from copies of those documents on file in our office. I further certify that these returns were prepared by this office and that the originals were given to (name of business representative) or signing, dating and mailing to the Internal Revenue Service."

When electronically filed tax returns are submitted by the displacee, signatures are required on the tax return or a signed statement from tax preparer verifying that the information is correct.

If the displacee prepares his own tax returns, obtain copies of the U. S. Income Tax Return directly from him. He should provide the following certification:

"I hereby certify that the attached copies of U. S. Income Tax Returns are from copies of those documents that I maintain in my file. I further certify that these returns were prepared by me and the originals were mailed to the Internal Revenue Service."

Where the average annual net earnings of a business operation is known or is estimated to be $1,000 or less, it will not be necessary to obtain copies of income tax returns. The claimants may submit their own statement to that fact.

10. Payment Procedure and Processing Request

Where there is personal property to be removed from the acquired premises, removal shall be completed before the payment is made, unless an advance partial payment has been authorized by the Relocation Manager.

Payments based on average annual net earnings are in lieu of all other types of moving expenses. If such payment is to be made, no payment for actual moving costs, search costs, direct loss of tangible personal property, or reestablishment expenses may be made.

When a completed Relocation Assistance Payment Claim is filed by the operator, the claim will be forwarded to the Team Leader for approval and payment in accordance with standard Department Payment Procedures.

F. Farm Moving Expense

The owner of a displaced farm operation is entitled to receive payments for either:

1. Moving and related expense, as described under Business Moving Expenses, which include:

a. Actual Reasonable Moving Expenses,

b. Actual Direct Losses of Tangible Personal Property,

c. Actual Reasonable Expenses in Searching for a Replacement Farm.

d. Reasonable and Necessary Reestablishment Expenses.

The principles which govern moving expense payments to businesses also govern those made to farms except for the specific differences listed below in qualifying for an in-lieu-of payment.

OR

2. In lieu of the above payments, the farm operator may choose a payment equal to the average annual net earnings of the farm operation except that such payment shall not be less than $1,000 nor more than $40,000.

In the case of partial taking, the operator will be considered to be eligible if:

a. The taking caused the operator to be displaced from the farm operation on the remaining land, or

b. The taking caused a substantial change in the principal operation or the nature of the existing farm operation.

G. Nonprofit Organization Moving Expenses

A displaced nonprofit organization is entitled to receive payments for either:

1. Moving and related expenses, as described under Business Moving Expenses, which include:

a. Actual Reasonable Moving Expenses,

b. Actual Direct Losses of Tangible Personal Property,

c. Actual Reasonable Expenses in Searching for a Replacement Site.

d. Reasonable and Necessary Reestablishment Expenses.

The principles which govern moving payments to businesses also govern those made to nonprofit organizations. Details are found in the Business Moving Expenses Section.

OR

2. In lieu of the above moving payments a nonprofit organization may receive a payment of $1,000 to $40,000 if the Department 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 demonstrated otherwise by the Department.

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 two years annual gross revenues less administrative expenses.

Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enable the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items as well as fund raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

H. Outdoor Advertising Billboards

Outdoor Advertising Billboards are considered personal property.

Upon confirmation of a billboard relocation, the Director of Outdoor Advertising's office is to be contacted. The Director's office will confirm whether the billboard is on a regulated or unregulated road/route. The Director's office will also confirm if the structure and/or the site is nonconforming. All billboards on a regulated road/route should be brought up to current county code and Highway Advertising Control Act, HACA (57-25-110, et seq) requirements. Any billboard on an unregulated road/route shall be brought up to the current county code requirements.

a. Conforming billboards: Notwithstanding a county or municipal zoning plan, ordinance, or resolution, outdoor advertising signs conforming to Section 57-25-110, et seq., affected by state highway projects may be relocated pursuant to the federal uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.) to a position which is perpendicular to the right of way of the original sign site, or may be altered so that no portion of the sign overhangs the right of way.

b. Nonconforming billboards: If relocated, can only be relocated to a conforming location under HACA.

Commercial Movers: The owner of a displaced billboard(s) may be paid the actual, reasonable and necessary cost of a move accomplished by a commercial mover. The owner is also entitled to the cost associated with bringing the billboard up to current code requirements. These expenses shall be supported by two estimates from properly insured commercial billboard movers.

Self-Mover: If the billboard owner elects to complete a self-move, the Department will reimburse up to

the low estimate. If two estimates cannot be obtained, the relocation agent must obtain a waiver for second estimate from the Relocation Manager. Incidental costs may be paid to the billboard owner for actual, reasonable and necessary moving costs during the move. All incidental costs must be supported by receipted bills or other evidences of costs incurred.

The amount of a payment for direct loss of an outdoor advertising billboard which is personal property shall be the lesser of the following:

1. The depreciated reproduction cost of the sign, as determined by the Department, less the proceeds from its sale; or

2. The estimated cost of moving the sign, but with no allowance for storage.

Ineligible Costs to include in Scope of Work

1. Costs for the clearing of vegetation within the line of sight for visibility of the motoring public.

2. Costs to repaper the copy

3. Any improvements to the billboard not required by code.

Owners of outdoor advertising billboards are not eligible for reestablishment expenses or search expenses as they are considered personal property.

Under certain circumstances the Department will consider a lease back to the billboard owner; however this leaseback must be approved by the Property Manager, Relocation Manager and Director of Rights of Way.

I. INCENTIVE PAYMENT PROGRAM

Purpose and Objectives

All Incentive Programs are designed to aid in the acquisition of real property and the relocation of displaced persons based on a project's need. Acquisition of property rights and relocation of displacees are core functions of the SCDOT Right of Way Division. The primary goal of property acquisition and relocation is the vacancy and delivery of acquired property to meet project construction schedules while complying with all relevant State and Federal laws and regulations. SCDOT's Incentive Program can be utilized on select projects for acquisition and relocation. The purpose of the Incentive Program is to clear the right of way in an expedited timeframe in order to advance highway projects. It is a voluntary program for landowners and tenants and all incentive payments are over and above the amount computed for the acquisition and/or relocation payment(s) provided by SCDOT.

SCDOT's Incentive Program is to encourage the expeditious clearing and vacancy of real property in a manner that is consistent with the intent of the Uniform Act. The use of this Incentive Program is discretionary on the part of SCDOT and will only be used on projects that meet the criteria established herein and provide cost effective benefits as well as being in the interest of the public. If a project meets the criteria, and is approved for use for the Incentive Program, incentive eligibility will be made available to all acquisition and/or relocation

parcels that meet the pre-approved criteria documented in the Public Interest/Cost Effectiveness Worksheet (SCDOT R/W Form 513).

SCDOT will consider the following types of projects for the use of the Incentive Payment Program:

A. Projects in areas where known market trends will increase right of way costs, such as with escalating property values as may be due to large new industries, real estate development, or property value inflation.

B. Projects that have issues that necessitate the acceleration of a project schedule, such as emergency declarations (example: flooding, bridge collapses, identified hazards, etc.)

C. Projects where properties along the project are similar and where a reasonable analysis indicates that the project could be advanced under the procedures and terms of the SCDOT Acquisition/Relocation Incentive Program.

D. When unanticipated funding becomes available (example: federal stimulus money) that results in SCDOT moving a letting date up for a project, thereby reducing the acquisition/relocation timeline below the typical time period required. Note: This should be evaluated in conjunction with A, B, and C.

Laws and Regulations

SCDOT's Incentive Programs must follow all Federal and State Laws, Regulations and comply with the Uniform Act as listed in the SCDOT Right of Way Acquisition and Relocation Assistance Manuals. Memoranda and/or guidelines for each Incentive Program will provide the processes for authorization and approval from the SCDOT Director of Rights of Way or their designee and the Federal Highway Administration (FHWA). All Incentive Programs must be applied equally and uniformly to all landowners, tenants and parties of interest for the entire project including phased projects. FHWA will review and approve all projects for an Incentive Payment Program, until such review and approval is delegated directly to SCDOT.

Note: The Acquisition Incentive Payment program is based on the FHWA Realty Memorandum Dated April 26, 2006 and as part of 23 C.F.R. 710.203(b)(2)(ii) which allows Federal participation that may exceed the requirements of 49 C.F.R. 24.

Note: The use of incentive payments must not be allowed as a substitute for appropriate project planning and development (including the scheduling of adequate right-of-way lead time).

Request for Participation

The use of Acquisition and/or Relocation Incentive Payments will be decided on a project by project basis. Prior to Right of Way Authorization, a formal written request should be submitted by the Program Manager to the Assistant Director of Rights of Way for Acquisitions & Relocations, or their designee, which must include the following:

1. Public Interest Finding/Cost Effectiveness Estimate Worksheet (SCDOT R/W Form 513)
2. Description of the project
3. Benefits and concerns for the request
4. Relocation Impact Study, if requesting Relocation Incentive Payments
5. SCDOT Cost Estimate (SCDOT R/W Form 100-A)

Criteria

No set criteria are required concerning project selection for Acquisition and/or Relocation Incentive Payments. Flexibility in implementation is a key component and the factors for consideration include, but are not limited to:

1. Constrained/compressed/aggressive project schedule
2. Location

3. Number of relocations
4. Delivery method
5. Overall project budget
6. Emergency declarations
7. Safety concerns
8. Availability of unanticipated funding (grants, stimulus funding, local government contributions, etc.)
9. Potential litigation exposure
10. Current trends of the real estate market which may increase right of way costs
11. Cost/Benefit Analysis

Process for Determination and Plan Requirements

The Assistant Director for Rights of Way for Acquisitions, the Chief Appraiser and the Relocation Manager, if needed, will consult and make a recommendation to the Director of Rights of Way if an Incentive Payment Program is warranted. If a project is categorized as a Mega Project, the Assistant Director of Right of Way for Mega Projects, will be included in the consultation and recommendation process. If the Director of Rights of Way approves the Incentive Payment Plan, he will then seek FHWA Concurrence. The allowance of incentive payments must not be used as a substitute for appropriate project planning and development. If an Acquisition and/or Relocation Incentive Payment Plan is allowed for a project it must include the following, in writing:

1. Identification and discussion of criteria to be considered in justification of the use of the incentive payments for a particular project.
2. Description of how payment amounts will be determined, including formula(s) for their computation, payment maximums and incentive offer expiration limits.
3. Description of the safeguards in place to eliminate attempts to coerce landowners and tenants.
4. Description of actions to monitor the implementation.
5. Analyses to determine the overall effectiveness of SCDOT's incentive program with respect to time required for legal possession of the property upon which the structure and associated appurtenances are situated, the overall amount of elapsed time between right of way and construction authorization, and user cost savings.
6. An estimate of the number of parcels impacted by the Incentive Payment Program.
7. An estimate of the total costs of Incentive Payments.

Other Requirements

A copy of the approved Incentive Payment Plan must be included in each acquisition and relocation claim package submitted for payment.

Incentive Payments provided are in addition to all other eligible acquisition and relocation payments to which the landowner or displacee is entitled. Any Acquisition Incentive Payment made to the displacee shall not be considered when calculating the required relocation eligibility payment.

The use of an Acquisition and/or Relocation Incentive Payments is voluntary. Each individual landowner must be given similar amounts of time to act on Acquisition and/or Relocation Incentive offers. A displacee may elect to accept SCDOT's Relocation Incentive Offer and voluntarily vacate his or her dwelling. Alternatively, he or she retains the right to decline the incentive payment and continue in occupancy in accordance with 90 day notice and provisions of 49 CFR Parts 24.203 and 204. Acceptance of the Relocation Incentive Payment and the Acquisition Incentive Payment, if both are offered, are exclusive of each other.

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SECTION XIV – REPLACEMENT HOUSING

A. General

1. General Provisions

   a. Individuals and families displaced from dwellings, including condominiums, cooperative apartments and mobile homes acquired for highway purposes are eligible for replacement housing payments as outlined in this Section.

   b. Displaced individuals or families are not required to relocate to the same occupancy status (owner or tenant), but have other options depending on their tenancy status and occupancy duration.

   c. Only one replacement housing or rental payment shall be made for each dwelling unit except in the case of multi-family occupancy of one dwelling unit as specified in Subsection A.12 of this Section, and in the case of subsequent occupants.

   d. When existing comparable housing is available on the open market and has been used in computing the replacement housing payment, only one closing cost claim is allowed in the event the displacee elects to build replacement housing. If a displacee elects to build a house, when existing houses are available, they must assume any additional costs (increased mortgage cost, temporary housing, etc.). Any exceptions must be fully justified and approved by either the Director, Rights of Way or the Relocation Manager.

2. Occupancy Provisions

   a. In addition to other requirements the displacee is eligible for the appropriate payments when he relocates to a decent, safe and sanitary dwelling within a one-year period beginning on the following dates:

      (1) For a tenant, the date he moves from the displacement dwelling, or

      (2) For an owner-occupant, the later of:

(a) The date he receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited with the court, or

(b) The date the Department's obligation under Section XIV A.22 is met. The Department may extend this period of time for good cause.

b. A displacee may have either entered into a contract for the construction or rehabilitation of a replacement dwelling or entered into a legally binding contract for purchase of a replacement dwelling, and for reasons beyond his reasonable control, cannot secure title and/or occupy the dwelling within the required period. In these situations, it shall be considered that the displacee purchased and occupied the dwelling as of the date he contracted to purchase the replacement property. However, he must have entered into the contract before the normal one-year replacement period expired.

A statement signed by the displaced person summarizing the "reasons beyond his reasonable control" shall be secured and retained in the case file.

The replacement housing payment under the above situations shall be deferred until the person has actually occupied the replacement dwelling.

If a displaced person demonstrates need in order to avoid or reduce hardship, the Department may advance the relocation payment or portions thereof, provided there are sufficient safeguards to ensure that the objective of the payment is accomplished.

3. Hardship Provisions

If the displacee needs a relocation assistance payment immediately after meeting all the requirements to receive the payments, the following procedures will be implemented:

a. The displacee will notify the agent of the particular hardship.

b. The agent will transmit the necessary documentation and forms for approval.

(1) Transmittal memo, stating facts of hardship

(2) Complete and correct claim

(3) Accepted purchase contract or lease

(4) Decent, safe and sanitary inspection report.

4. Decent, Safe and Sanitary Inspection by the State.

The claimant should be advised of the importance of requesting a Decent, Safe and Sanitary Inspection prior to the time he commits himself either to purchase or rent of replacement dwelling. To permit an unwitting claimant to purchase a non-qualifying replacement dwelling may result in his loss of replacement housing benefits.

Before any replacement housing payments can be made it must be determined that the replacement dwelling meets the standards for decent, safe and sanitary housing (See Section III and Form 4, Appendix A – Relocation Assistance Forms). The Department may utilize the services of any public agency or licensed companies ordinarily engaged in housing inspection to make the inspection.

If it is not possible under the circumstances for the Department to make the necessary inspection or to secure the needed inspection through a competent third party, a certification from the displacee that he has occupied decent, safe and sanitary housing will be sufficient to establish the displacees' eligibility for payment.

The displaced person should understand that the determination that a dwelling meets these standards is made solely for the purpose of determining eligibility for payments under the relocation program and is not intended for any other purpose.

5. Statement of Eligibility to Lending Department - Assignment

a. General

Where a displacee otherwise qualifies for the replacement housing payments except that he has not yet purchased or occupied a suitable replacement dwelling, the Department, after inspecting the proposed dwelling and finding that it meets the standards set forth for decent, safe and sanitary dwellings, shall upon the purchaser's request, state to any interested party, financial institution or lending agency, that the displacee will be eligible for the payment of the specific sum provided he purchases and occupies the inspected dwelling within the time limits specified.

b. Procedures

The following procedures will be used when the displacee elects to Assign: his relocation assistance payment:

(1) The displacee must request the use of the assignment.

(2) The assignment will be completed when:

(a) The decent, safe and sanitary inspection on the replacement property has been completed.

(b) The displacee has an accepted purchase agreement or lease.

(c) The displacee has claimed the relocation payment.

(3) The agent will have the assignment forms signed and dated by the displacee.

(4) The assignment package will be routed for approval and payment processing and will contain:

(a) Completed assignment.

(b) Complete and correct claim.

(c) Decent, safe and sanitary inspection report.

(d) Accepted purchase contract or lease.

6. Application for Replacement Housing Payments

Application for replacement housing payments shall be made in writing on a form provided by the Department (See Form 5, Appendix A – Relocation Assistance Forms). All claims for a relocation payment shall be filed within 18 months after:

(a) For tenants, the date of displacement:

(b) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

This time period may be waived by the Department for good cause.

The payments may be made directly to the relocated individual or family, or upon written instruction from the relocated individual or family, directly to the lessor for rent or the seller for use towards the purchase of a decent, safe and sanitary dwelling. In cases where an applicant otherwise qualifies for replacement housing payments, and upon his specific request in the application, the Department may make such payments into escrow prior to the displacees' moving.

7. Advance Replacement Housing Payments in Condemnation Cases

No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. An advance replacement housing payment can be computed and paid to a property owner if the determination of the State's acquisition price will be delayed pending the outcome of condemnation proceedings. Since the amount of the replacement housing payment cannot be determined due to the pending condemnation proceedings, a provisional replacement housing payment may be calculated by deeming the Department's maximum offer for the property as the acquisition price. Under these circumstances advance payments may be made under the following conditions:

a. The owner-occupant shall sign an agreement, which shall accompany his claim for payment, that states:

(1) He understands the advance payment he is receiving is not necessarily the same as what he may be entitled to when the acquisition price of his dwelling is determined, and that

(2) He concurs with the Department reducing the final payment in a condemnation action, whether settled out of court or by trial of the matter so that the amount received is not greater than the amount entitled to as determined by the replacement housing payment final determination.

b. Pending final determination of the acquisition price of the owner's dwelling unit, the amount of the advance payment shall be determined as follows:

(1) For a replacement housing payment, as described under Purchase Differential Payment Section XIV.B, except that the Department's maximum offer for purchase of the property shall be substituted for the amount for which the Department acquired his dwelling.

(2) For an interest differential payment, as described in Section XVI.

(3) For an incidental expense payment, as described in Section XV.

c. Restitution to the Department will be credited against the acquisition price in a negotiated settlement or credited by stipulation in payment of a judgment in condemnation.

d. In no event shall the eligible owner-occupant be required to refund more than the amount of the replacement housing supplement advanced.

e. If the displaced owner-occupant does not agree to make restitution as required above, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the final judgment as the acquisition price.

f. In the event the replacement housing payment finally determined is larger than the amount advanced under the provisions of this subsection, the Department shall pay the difference between such amount and the amount paid in advance.

8. Ownership of Replacement Dwelling or Land Prior to Displacement

Any person who has obtained legal ownership of a replacement dwelling, or land upon which replacement housing is constructed, either before or after displacement, and occupies the replacement dwelling after being displaced, but within the required one-year time limit, is eligible for replacement housing payment, if the replacement dwelling meets the requirements of DSS housing. The current fair market value of the land or dwelling, not the historical cost, will be used for the purposes of determining the cost of the replacement property. The Appraisal Section's minimal valuation method may be used to arrive at the fair market value or an appraisal prepared by a licensed real estate appraiser.

9. Partial Taking

a. If the acquired dwelling is located on a tract typical in size for residential use in the area, the maximum replacement housing payment is the probable selling price of a comparable replacement dwelling on a tract typical in size for the area less the acquisition price of the acquired dwelling on the tract on which it is located.

b. If the acquired dwelling is located on a tract larger in size than typical for residential use in the area, the maximum replacement housing payment is the probable selling price of a comparable replacement dwelling on a tract typical in size for residential use in the area, less the acquisition price of the acquired dwelling plus the acquisition price of that portion of the acquired land which represents a tract typical in size for residential use in the area.

c. 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, an offer may be made to purchase the entire property. Even if the owner refuses to sell the remainder, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

10. Dwelling on Land with Higher and Better Use

Where the acquired dwelling is located on a tract where the fair market value is established on a highest and best use other than residential, the maximum amount payable is the probable selling price of a comparable replacement dwelling on a tract typical in size for residential use in the area, less the acquisition price of the acquired dwelling plus the acquisition price of that portion of the acquired land which represents a tract typical in size for residential use in the area.

11. Joint Residential and Business Use

When displaced individuals or families occupy living quarters as their primary legal residence on the same premises as a displaced business, farm or nonprofit organization, such individuals or families are separate displaced persons for the purposes of determining entitlement for replacement housing payments.

The value of the owner's residential unit is to be used as the basis for replacement housing payment determination, not the entire fair market value of the subject property. The replacement housing payment determination is that difference, if any, between the value of the owner's living unit and the value of the living unit on the most comparable available property. If the comparable is a triplex, the replacement housing payment is based on the value of only one of the three units; if a duplex, the payment is based on the one of the two units; if a single family dwelling, the payment is based on the entire value of the dwelling. The other living units of a multi-family dwelling cannot be included in the value of a comparable because these are considered as income producing and not part of the owner's personal living area.

12. Multiple Occupancy of Same Dwelling Unit

a. Families

If two or more eligible families occupy the same single family dwelling unit, and a comparable replacement is available, the occupants are entitled to only one replacement housing or rent supplement payment. If a comparable replacement dwelling is not available, a replacement housing or rent supplement payment for each family will be based on housing which is comparable to the quarters privately occupied by each family plus community rooms

which have been shared with other occupants. The acquisition price to be used as the basis for replacement housing payment computations is that amount each owner received from the total payment for the property to be acquired.

b. Individuals

If two or more eligible individuals occupy the same single family dwelling unit, they are to be considered as one "family" for replacement housing payment or rent supplement purposes. When all individuals do not relocate to decent, safe and sanitary housing, the Department shall determine which individuals have relocated to decent, safe and sanitary housing and pay them a prorated share of the appropriate payment that they would have received if all individuals had relocated together in the same ownership or rental status as they had at the time of initiation of negotiations.

Note: The replacement housing payment to two or more eligible individuals with no identifiable head of the household MUST be initially computed and paid based upon the type of payment they would receive if they had relocated to the same occupancy.

13. Owner-Retained Dwellings

The owner-occupant of a dwelling may wish to retain the building and relocate it on to the remainder land or elsewhere. The proper method for calculating the amount of the purchase differential for owner-retained dwellings is described later in Section XIV B.6.e.

14. Ownership

Ownership is the title. Eligibility requiring ownership may also be extended to cases of constructive ownership such as where the practical incidences of ownership are in the claimant, but legal title is in another. An example is the case of purchase contracts, where title is held for security, paid for and used by the claimant, but title is vested in a relative to secure more favorable financing. Another example is where an elderly person retains all the rights of ownership but conveys title to a child to avoid probate.

15. Occupancy

To qualify for replacement housing benefits, the acquired dwelling must be the primary residence. A displaced tenant or owner "occupies" a replacement dwelling within the meaning of this Section only if the dwelling is his permanent place of residence, and he satisfied the eligibility requirements set forth in Sections XIV B, C, and D. Occupancy of a secondary residence, such as a

vacation home, does not establish such eligibilities, except for actual moving expenses.

Constructive Occupancy -- If the cause of the claimant's absence is temporary or beyond his control, he shall be considered an occupant. For example, where the dwelling is maintained as the principal residence and the occupant is (1) temporarily employed in another location; (2) in the hospital; (3) on vacation; or (4) on temporary military duty; away from the property because of 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 Department; he can be considered to be in constructive occupancy. All determinations of constructive occupancy should be referred to the Relocation Manager for decision.

16. Transients, Students and Vacation Homes

Relocation assistance housing payments may be paid only to those who are displaced from their permanent places of residence. Occupancies of a temporary or transient nature, such as short-term guests in motels, hotels and transient-trailer parks will not qualify for any replacement housing payment even though they may have been on the acquired premises at the date of the written offer. However, it is not intended to deny appropriate payments to bona fide, permanent residents in such establishments, especially those who cater to permanent guests.

Where students are displaced, relocation assistance payments will be paid the same as for any other displaced person.

Owners of vacation homes may be paid their actual reasonable moving expenses or the amount based on the residential schedule.

17. Prorated Payments for Divorced or Separated Occupants

The following considerations apply to eligible families at the time of the first written offer that is subsequently separated or divorced and intend to establish separate eligibility. Whether the separation is a voluntary informal act, the result of litigation or the result of Dissolution of Marriage is not important. Separation is the only fact to be considered.

To calculate their respective relocation benefits, it is first necessary to view the occupancy status of the family as of the initiation of negotiations, not at the time of displacement or after relocation.

If the divorce or separation took place prior to the first written offer and one of the spouses vacated the property at that time, the vacating spouse would not be

an eligible displaced person and all relocation benefits would accrue to the remaining spouse in occupancy.

If both husband and wife are in possession at the time of the first written offer and satisfy prior occupancy requirements, they qualify together as a displaced family. Maximum entitlement is the amount the family would have received had the "family" relocated together. The family's entitlement may be divided between husband and wife in any proportion they agree upon. Each may claim payment, as a sole claimant, for his or her share of the family's entitlement. This procedure requires an agreement signed by both parties which establishes the method of division and the agreed percentage which each party claims. The agreed upon division may not thereafter be changed without the written consent of both parties.

Example:

A long-term owner-occupant family agrees to a proportion of sixty percent (60%) to the wife and forty percent (40%) to the husband. If the wife rents and occupies a decent, safe and sanitary replacement dwelling she mayreceive:

-60% of the moving costs, and
-60% of the rental differential payment the family would have received if they had relocated together as tenants.

If the husband purchases and occupies a decent, safe and sanitary replacement dwelling he may receive:

-40% of the moving costs; and
-40% of the purchase differential, interest differential and incidental costs the family would have received had they relocated together as owners.

Claimants may agree upon a division of the moving cost payment which differs from the other replacement housing benefit. For instance, the wife can receive ninety percent (90%) of the moving expenses and sixty percent (60%) of the replacement housing payments.

All of the replacement housing payments must be based on the same percentage division. In other words, the claimants cannot agree that one party is to receive ten percent (10%) of the incidental cost and seventy percent (70%) of the interest differential payment.

Payments of moving expenses can be based on actual costs or a scheduled room-count method. The two methods may be mixed.

The parties may move at different times. Each party is entitled to the current replacement amount for the point in time in which each specific relocation takes place.

If the parties cannot reach an agreement, their entitlement will be viewed as if the family had relocated together. Payment will be based on the relocation criteria of the first party to relocate, establish eligibility, and file claim for payment. The claim forms shall be signed by both parties and the checks will be made payable to both individuals.

Example:

A long-term owner-occupant family is eligible for moving expenses and may be eligible for either a replacement rental payment or a replacement housing payment. If the first party to relocate moves to a rental replacement property, and files a claim for payment, the family's maximum entitlement will be based on this specific move. No other claim will be honored by the Department except where the initial claim was less than the maximum entitlement and the parties thereafter reach agreement and file amended claims within the normal filing period.

The following demonstrates the method of pro-ration for each of the three basic relocation possibilities of divorced or separated couples: (1) both rent, (2) both buy, or (3) one rents and the other buys.

a. Ninety-Day Tenants and Short-Term Owners

(1) Moving Expenses -- Determine the amount that the "family" would have received if they had relocated together (actual cost or scheduled method); prorate to each party by applying the agreed percentage division.

(2) If Both Rent -- Determine the amount the "family" would have received as a rental replacement housing entitlement if they had relocated together (not to exceed $5,250); prorate the amount to each party by applying the agreed percentage division payment to each. The aggregate rent paid by the parties is the amount of the replacement rent used to calculate the rental differential.

(3) If Both Purchase:

(a) Determine the total amount they would have received (exclusive of incidental costs) if they had relocated as a "family".

(b) Prorate the amount for each party, applying the agreed percentage division to the eligible amount.

(c) Add the prorated share of the eligible incidental cost for each replacement property.

(d) Total payment to each party cannot exceed the lesser of (1) the prorated share of the family maximum entitlement, or (2) the prorated share of the maximum $7,200 payment.

(4) If One Rents and the Other Purchases -- Each may be paid the prorated share of the total amount that would have been paid if they had relocated together in the same tenancy status, i.e., rental criteria is applicable in determining the replacement housing amount. The one who purchases may receive his prorated share of the rental amount if it is all applied to the down payment in purchasing.

b. Long-Term Owners

(1) Moving Expenses -- Determine the amount the "family" would have received if they had relocated together (actual cost or scheduled method); prorate the amount to each party by applying the agreed percentage division.

(2) If Both Rent -- See procedure under 17a(2) of this Section.

(3) If Both Purchase -- Each party would be entitled to the following:

(a) Purchase Differential Payment -- Computation is based on the difference between the prorated share of the amount paid for the State-acquired property (fair market value) and the prorated share of the Department's calculated replacement cost. Actual payment is based on the amount spent in excess of the prorated share of the Fair Market Value payment.

(b) Incidental Cost Payment -- Determine the eligible incidental costs applicable to husband's replacement property in the applied percentage division. Repeat the process for the wife's entitlement based on her replacement property.

(c) Interest Differential Payment -- Normal calculations based on a comparison of old loan data and the husband's replacement loan. Apply the same percentage division. Repeat the process for the wife's entitlement based on her replacement property.

(d) If One Rents and the Other Purchases -- Apply the rental criteria to the one that rents and purchase criteria to the one that purchases, same as above.

18. Payments to Estates

An estate as such is not a displaced person and hence cannot be paid any replacement housing or rental housing payments.

However, such payments can be made to the estate of a displaced person who qualified for payment during his lifetime. Relocation Assistance payments may be made to the estate of an eligible displaced person under the following circumstances:

a. The actual cost of removing personal property may be made to an estate if the decedent was in occupancy or the estate had control of the acquired property at the date of the first written offer and the personal property was removed from the premises thereafter.

b. Replacement housing and rental replacement housing payments may be paid to an estate only when an eligible person qualified for such a payment by purchasing or renting and occupying proper replacement housing but died before he could file a claim, or a claim could be paid. On installment payments of rental differential payments, only the amount attributable to the displaced person's period of occupancy shall be paid. Estates of eligible individuals who were still in occupancy of the acquired dwelling at the time of their death cannot claim payments for replacement housing.

c. If one of the married couple dies, the remaining spouse may be paid the same moving expense and replacement housing payments the couple would have received had death not occurred.

d. The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy the replacement dwelling selected in accordance with these regulations.

e. 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. New construction by a single individual may require that a written agreement be entered providing for the sale of the home under construction if relocation funds are advanced prior to occupancy and the displaced person dies during construction. Contact the Relocation Manager for guidance.

19. Replacement Housing Payments - Long-Term Owners

The replacement housing purchase option is a system of payments to help displaced long-term owners purchase and relocate to decent, safe and sanitary housing which is comparable to or better than the dwelling acquired.

Under the Replacement Housing Purchase Option, eligible claimants may be entitled to receive payments for any or all of the following:

a. A Purchase Differential -- A payment which is the difference in the purchase price between the State-acquired dwelling and the most probable selling price of the most comparable replacement dwelling, or the cost of the replacement dwelling actually purchased, whichever is less.

b. An Interest Differential -- A payment which compensates for increased interest and other financing costs.

c. Incidental Costs -- A payment to reimburse the owner for expenses incident to the purchase of replacement housing.

The aggregate of the three payments may not exceed $31,000, nor may any one of the three parts exceed that amount.

A thorough understanding of these benefits is required. (See Sections on Purchase Differential Payment - XIV B, Incidental Costs - XV, and Interest Differential - XVI).

Rental Differential: A long-term owner may elect to receive a rental differential instead of the Replacement Housing Purchase Plan (see Section XIV C).

20. Replacement Housing Payments - Short-Term Owners and Tenants

Replacement Housing Down Payment Option is a system of payments to help short-term owners and tenants purchase and relocate to decent, safe and sanitary housing.

Under the Replacement Housing Down Payment Option, eligible claimants may be entitled to receive:

a. Down Payment (see Section XIV D); and

b. Incidental Costs (see Section XV).

The State's contribution under this option cannot exceed $7,200.

Rental Differential: Short-term owners and tenants may elect to receive a rental differential instead of the Down Payment Option (see Sections XIV C and D).

21. Changes in Replacement Housing Offers

The Department recognizes its obligation to provide a total payment to the displaced person which will be sufficient to allow him to replace himself in a decent, safe and sanitary comparable dwelling. Recognizing this responsibility, the total consideration, consisting of (1) the original fair market value and (2) the original replacement housing differential may not be decreased. The only allowable decrease is because of an error.

If the displacee requests assistance in finding replacement housing, he must be offered housing which is comparable, open housing, and available for purchase within the offered amount. When such housing is no longer available, the State will determine a new replacement housing payment, based on available housing which is equal to or better than the dwelling acquired and meets the other comparability criteria. However, in no event will the new replacement housing payment be less than the original computed amount.

a. Erroneous Offers -- When it is detected that an erroneous relocation entitlement has been represented to a displaced person, the following procedure should be adopted:

(1) The error should immediately be made known to the displaced person.

(2) The displaced person should be informed that he will receive the corrected relocation assistance payment and that he does have the right to appeal if he feels that he is entitled to a greater payment.

(3) If it is determined that the displacee has reasonably relied on representations made by the Department to his substantial detriment, then we will recommend that the claim be paid upon the basis of contractual estoppel. The Legal Division shall be consulted for guidance.

b. Report Revisions -- Replacement housing amounts must be recalculated when a review indicates that they no longer reflect the market for, or availability of, replacement housing. If a report is found to be current, the files must be documented with the basis for such a conclusion. Documentation should consist of a recapitulation of the research involved.

Replacement Housing amounts shall be reviewed and may be increased or decreased (subject to the conditions in c. - Reductions - following this paragraph) when any of the following occur:

(1) Where there is a revised fair market value approval.

(2) Where there is a settlement in excess of the fair market value appraisal; whether administrative, by stipulated judgment or court verdict.

(3) Where information indicates the occupancy status changed prior to the first written offer or is different from that upon which the report was based.

(4) Where the comparable replacement housing market changes.

(5) Where an appeal is made to the Department for the amount of the replacement valuation and changes are warranted.

c. Reductions -- A displaced person, once he has been informed of the cost of purchasing a comparable replacement dwelling, is entitled to rely on that figure when selecting a replacement dwelling. If comparable replacements subsequently become available in the market for lower prices, the prices may not be substituted for those of the original comparables when computing the amount of the housing differential. Stated another way, the amount of the housing differential may not be reduced because of a change in the replacement market. It may be increased, however, by an increase in the cost of comparable replacements.

The amount of the purchase differential a displacee will actually receive may be decreased from the originally calculated payment because of an increase in the price paid (or offered) for the acquired premises or because the displaced person purchased a replacement for less than the originally calculated amount. This concept also applies in the same manner to rental differentials.

A down payment determination may not be reduced due to changes in the replacement housing market.

22. Availability of Comparable Prior to Displacement

The Department must assure that each displaced person has sufficient time to negotiate and enter into a purchase or rental agreement for a comparable replacement dwelling and that each displacee receives his acquisition and relocation payments in sufficient time to complete the purchase or rental of replacement property.

The relocation assistance offer letter, Form 18-O or 18-T (Appendix A – Relocation Assistance Forms), issued to each displacee will contain the address of the comparable replacement dwelling and the date upon which it was available. The Relocation Agent will verbally inform the displacee of all the comparables used in determination of the payment.

If the Department finds it necessary to take eviction action, the records will be documented to verify the fact that the comparable replacement dwelling or one equally comparable as to price as well as all other factors is available.

To assure that the acquisition and relocation payments are available to the displacee in time to complete the replacement housing transaction, the Department will process all claims for payment in a prompt manner.

The FHWA may grant a waiver of the above policy in any case where it is demonstrated that a person must move because of:

a. A major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

b. A presidentially-declared national emergency; or

c. 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.

Whenever a person is required to relocate for a temporary period because of an emergency as described above, the Department shall:

(1) Take whatever steps are necessary to assure that the affected person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay actual reasonable out-of-pocket moving expenses and any reasonable increases in monthly housing costs incurred in connection with the temporary relocation;

(3) As soon as feasible, make at least one comparable replacement dwelling available to the displaced person. (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.)

23. Comparable Selection Criteria

a. Comparables can be selected by any qualified employee of the Department except the appraiser or review appraiser who appraised or reviewed the appraisals of the acquired dwelling.

b. The exterior of potential replacement dwellings and the neighborhood in which they are located must always be inspected by the person responsible for selecting comparable replacement housing. An interior inspection is not required on the non-designated comparables when reliable information is available regarding the interior. An interior inspection should be made, if possible, of the designated comparable.

Experience has proven that it is unreasonable to expect homeowners and/or real estate agents to expend the time and effort necessary to open dwellings that are for sale for the sole purpose of enabling an acquiring Department to decide whether or not they can be approved for referral purposes. In nearly every instance enough information can be obtained concerning the description and condition of the interior to enable the Department to determine whether or not the dwelling meets decent, safe, and sanitary standards. In case of doubt and/or in marginal cases an interior inspection should be made, if possible.

c. A replacement housing payment may be based on a comparable property that has minor decent, safe, and sanitary deficiencies, provided the owner agrees to correct the deficiencies at no increased cost to the displacee. If the owner increases the price, the payment computation should then reflect the cost to correct the item. The details should be noted on Form 8 (Appendix A – Relocation Assistance Forms).

d. The requirement that a comparable replacement dwelling be "functionally similar" to the displacement dwelling means that it

must perform the same function and, provide the same utility as the displacement dwelling. The comparable dwelling need not possess every feature of the displacement dwelling, the principal features must be present.

Generally, functional similarity is an objective standard, reflecting the range of purposes for which the various features of a dwelling may physically be used. However, in determining whether a replacement dwelling is functionally similar to the displacement dwelling, it is permissible to consider reasonable trade-offs in specific features when the replacement unit is "equal to or better than" the displacement dwelling.

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 similar" to a larger but rundown substandard displacement dwelling.

e. To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

f. 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.

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 to a person (not tied to the building), such

as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, 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. Comparable housing for occupants of subsidized housing will be determined by the family composition at the time of displacement and the current housing program criteria, not the size ofthe unit currently occupied.

However, nothing in these regulations prohibits the 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 Department is obligated to inform the person of his or her options under these regulations. (If a person accepts assistance under a government housing program, the rental assistance payment under Section XIV C. would be computed on the basis of theperson's actual out-of-pocket cost for the replacement housing.)

24. Conversion of Payment

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under Section XIV C. is eligible to receive a payment under Sections XIV B or D if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under Sections XIV B or D.

B. Purchase Differential Payment

1. General

The total replacement housing payment for an eligible 90-day homeowner-occupant is an amount, not to exceed $31,000, which is the combined sum of:

a. The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with Section XIV B.3 and

b. The amount necessary to compensate the displaced person for any increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with Section XVIand

c. The amount of the reasonable expenses that are incidental to the purchase of the replacement dwelling, as determined in accordance with Section XV.

2. Eligibility

A displaced person is eligible for the replacement housing payment for a 90-day homeowner-occupant if the person:

a. Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

b. Purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the later of:

(1) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in court for the benefit of the owner, or

(2) The date the Department's obligation under Section XIV A.22 is met. The Department may extend this period of time for good cause.

3. Required Computations

Three distinct computations are involved in determining the purchase differential payment:

a. Calculation of the Adjusted Selling Price of a Comparable Replacement Dwelling

The most probable selling price of the most comparable dwelling must be determined in accordance with instruction for determining replacement housing costs.

(1) The Department will determine the probable selling price of a comparable dwelling by selecting at least three comparable dwellings representative of the dwelling unit to be acquired which are available on the private market and meet the criteria of a DSS "comparable replacement dwelling". Less than three comparables may be used for this determination

when additional comparable dwellings are not available and the Department documents the file to this effect.

(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. If the replacement property actually purchased lacks certain attributes found in both the displacement and comparable property, it would be permissible to add the actual cost of the major exterior attribute to the purchase price of the replacement property in order to establish the total cost of the replacement.

(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 Department may offer to purchase the entire property. If the owner refuses to sell the remainder, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment. Reference 49 CFR Part 24, Section 24.403 (a) (3).

b. Calculation of Entitlement

The maximum amount of purchase differential is calculated by subtracting the actual price the Department pays the claimant for his dwelling from the adjusted selling price of a suitable replacement dwelling (See Form 8, Appendix A – Relocation Assistance Forms).

Example:

If the selling price of the most comparable replacement dwelling is determined by the "three comparable method" to be $33,000 and the Department pays the claimant $28,000 for his dwelling, the calculation of claimant's maximum purchase differential entitlement is as follows:

$33,000.00 selling price
$28,000.00 paid claimant for his dwelling
$ 5,000.00 maximum purchase differential

In order to receive the full $5,000 entitlement, he must purchase a DSS replacement dwelling for $33,000 or more.

The information and computations for 3a and 3b above shall be a part of the individual purchase relocation study prepared by the Right of Way Agent. All relocation studies used to determine purchase differential payments must be approved by the Team Leader, unless the study results in Housing of Last Resort being utilized.

c. Calculation of Payment

If the amount which the claimant pays for his replacement dwelling equals or exceeds the Department's estimate of selling price, the calculated payment will be the same as the Calculated Entitlement.

If the Claimant's actual cost of the replacement dwelling is less than the amount determined by the Department as necessary to purchase a comparable dwelling (used in Calculation of Payment), calculation of purchase differential payment is made by subtracting the price the Department pays the claimant for his dwelling from the actual price paid by the claimant for his replacement dwelling.

Example:

Using the previous example, if the claimant purchases a replacement dwelling for $31,500, the calculated payment is $3,500.

$ 31,500.00 actual replacement cost
- $ 28,000.00 paid claimant for his dwelling
$ 3,500.00 purchase differential payment

4. Amount of Payment to Occupant with a Partial Ownership

a. When a single family dwelling is owned by several persons, and occupied by only some of the owners, replacement housing payment will be the lesser of:

(1) The difference between the owner-occupant's share of the acquisition cost of the acquired dwelling and the actual cost of the replacement dwelling, or

(2) The difference between the total acquisition cost of the acquired dwelling and the amount determined by the Department as necessary to purchase a comparable dwelling.

b. If the displaced owner-occupants do not purchase and occupy a decent, safe and sanitary dwelling, they will be entitled to receive a rent supplement payment if they rent and occupy a decent, safe and sanitary dwelling in accordance with the provisions of Subsection C of this Section.

5. 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 (e.g. fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential.

6. Controls on Purchase Price Paid

The actual price paid for a replacement dwelling must be known to calculate the payment. The following guidelines will be used to determine the purchase price:

a. 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; or

(2) Purchases and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he owns or purchases; or

(4) Constructs a dwelling on a site he owns or purchases; or

(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.

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

b. The purchase price paid will normally be the amount established in an escrow or written contract as the selling price.

The Department will not pay any claims for work to be completed on the replacement dwelling after the close of escrow, except as indicated below or with prior written approval by the Department.

c. Rehabilitating Non-Decent, Safe and Sanitary Dwelling

Where the claimant has purchased a non-decent, safe and sanitary dwelling, he may, with prior Department approval, either self-rehabilitate or hire a contractor to rehabilitate or enlarge the dwelling to meet decent, safe and sanitary standards. The Department will include in computing the cost of the replacement dwelling, only that work necessary to meet decent, safe and sanitary standards. See Payment Procedure below, for method of arriving at costs of rehabilitation.

d. Construction of Replacement Dwelling

Where the claimant has purchased vacant land, he may self-construct or hire a contractor to construct his replacement dwelling. See Section XIV B.6.e.(3) for value of land.

e. Owner Retention of Displacement Dwelling

If the owner retains ownership of his dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be considered to be the sum of:

(1) The moving expenses and the cost of restoration to a condition comparable to that prior to the move, including the retention value of the retained dwelling; and

(2) The costs incurred to make the unit a decent, safe, and sanitary replacement dwelling; and

(3) The cost of the replacement site

(a) The actual cost of a just purchased residential building lot.

(b) The current fair market value for residential use of a replacement site purchased earlier, unless the displacee rented the displacement site and there is a reasonable opportunity for the displacee to rent a suitable replacement site.

(c) If the displacee relocates the dwelling on the remainder of the displacement lot - the portion of the lot not included in a partial acquisition - the "after

value" of the remainder as shown in the appraisal will be considered to be the cost of the replacement site.

(d) If the displacee relocates the dwelling on a parcel of land larger in size than a typical residential lot, the instructions in Section XIV A.9.b. apply. In this case, only the prorated portion of the total purchase price chargeable to a typical residential lot will be allowed as the cost of the replacement site.

(e) If the displacee relocates the dwelling to a typical residential lot that he has owned for some time, the fair market value of that lot will be used as the cost of the replacement site.

7. Payment Procedure

a. Payment into Escrow:

Whenever a claimant requests payment into escrow for the purchase of a replacement property, the following procedures will be followed:

(1) The proposed replacement property shall be inspected to assure that it meets decent, safe and sanitary requirements (See Form 4, Appendix A – Relocation Assistance Forms).

(2) Payments may only be deposited into escrow with a licensed escrow agent, bank, building and loan or savings and loan associations, trust companies, or title companies.

(3) Escrow instructions shall be adequate to assure compliance with our requirements relating to purchase and occupancy and to assure return of funds to the Department if the requirements are not met.

(4) Deposit must be to the account of the claimant.

Any relocation assistance payment may be placed in the replacement escrow for the account of the claimant. Deposit into escrow must be by valid assignment.

Copies of the signed closing statement or HUD 1 and the assignment shall be included with the claim form.

When replacement housing is being constructed or rehabilitated by the claimant, partial or progress payments may not be made from escrow funds. Escrow funds may be released in these cases only when the work is complete and the dwelling satisfies DSS standards. Exceptions for cause may be approved by the Director, Rights of Way or the Relocation Manager.

b. Payment Drawn Before Displacee Eligible:
When the displacee needs the payment immediately after meeting all the requisite requirements, the right of way agent will submit the payment package and include the following:

(1) A memo which explains the reason the displacee needs the money immediately after qualifying. This memo should also explain that the relocation assistance payment will not be released until the displacee is fully eligible for the payment.

(2) An accepted purchase contract, rent receipt or other documentation which supports the amount the displacee is paying for his replacement dwelling. This is not required for moving expense payments.

(3) A decent, safe and sanitary inspection report. This is not required for moving expense payments.

c. Payment After Closing:

When the purchase differential is claimed after the closing on the replacement property, the displaced person shall furnish a copy of the signed closing statement.

Closing statements obtained for the purpose of documenting the actual cost of a replacement property may also be used to support payment of the interest differential and incidental expenses and shall be retained in the case files.

d. Payment for Rehabilitation of a Replacement Dwelling:

Prior to commencing rehabilitation of a replacement dwelling, the claimant shall secure at least two firm bids or estimates from responsible contractors of residential improvements and submit them to the Department for approval; or the Department, at its discretion, may secure such bids or estimates. The Department will use the lowest responsible bid or estimate for computation of the

replacement cost. A qualified building cost estimator employed by the Department may be used in place of the contractors.

Where the final bill exceeds the estimate, a written explanation shall be secured from the contractor when the claim is submitted. Reasons for the excess costs shall be fully documented. The Department should be satisfied that these expenses are warranted before the payment of any additional amount. No increase in cost shall be based upon time spent by the claimant in construction where the work is done.

C. Rental Differential Payment

1. General

The rent differential is a payment designed to help displacees relocate into decent, safe and sanitary rental housing comparable to or better than the Department-acquired dwelling from which they were displaced.

2. Eligibility

A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $7,200 for rental assistance, if such displaced person:

a. Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

b. Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year after:

(1) In the case of a tenant, the date he moves from the displacement dwelling, or

(2) In the case of an owner-occupant, the later of:

(a) The date he receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited in the court; or

(b) The date he moves from the displacement dwelling.

The Department may extend this period of time for good cause.

3. Computations Required

a. Calculation of the Most Probable Rental Price of a Comparable Replacement Dwelling.

The most probable rental price of the most comparable dwelling must be determined in accordance with instruction for determining replacement housing costs.

The Department shall use the "three comparable method". (See Section XIV B.3.a.) The asking (or list) rental price of the selected unit is determined to be the most probable rental price of the most comparable available rental unit because rental rates are usually not subject to negotiations.

b. Calculation of Entitlement

The payment shall be 42 times the amount obtained by subtracting the base monthly cost for rent and utilities of the displacement dwelling from the monthly rent and estimated utilities for a comparable replacement dwelling (See Form 8A, Appendix A – Relocation Assistance Forms)

The base monthly rental for the displacement dwelling is the lesser of:

(1) The average monthly cost for rent and estimated utilities at the displacement dwelling.

(a) Average monthly rent means the average of the actual rent paid by a displaced person during the last three months prior to the date of initiation of negotiations.

(b) Estimated utility cost will be by use of the Utility Allowance established by the local housing authority. If the community doesn't have a local housing authority, the right of way agent will contact the utility companies to establish the estimated utility cost. Utility cost will be the average monthly utility cost based on a twelve month period and type of utilities used.

(c) For an owner-occupant or a tenant who pays little or no rent, the average cost for rent shall be the fair market rent. The fair market rent will not be used in those situations where the displacee would be put in a

hardship position. Consideration will be given to the displacees income and/or other special circumstances. The use of market rent is to avoid providing a windfall payment to a displacee.

(2) Thirty percent (30%) of the 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. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in Section XIV C.3.b.(1). A full-time student or resident of an institution may be assumed to be a dependent unless the person demonstrates otherwise.); or

(3) The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

c. Calculation of Payment

If the rent and estimated utilities which the tenant actually pays for a replacement dwelling is equal to or greater than the amount determined by the Department as necessary for rent and utilities at the comparable dwelling, the payment calculation is the same as used for Calculation of Entitlement.

If the amount which the tenant actually pays for rent and estimated utilities at the replacement dwelling is less than the amount determined by the Department as necessary for rent and utilities for the comparable dwelling (used in Calculation of Entitlement), calculation of payment will be made by using the lesser rent and utilities.

4. Payment Procedure

The payment under this section shall be disbursed in a lump sum amount, unless determined on a case-by-case basis, for good cause, that the payment should be made in installments. The file will be documented as to the reasons for the decision. However, except as limited by Section XIV A.18., the full amount vests immediately, whether or not there is any later change in the person's income or rent, or the condition or location of the person's housing.

D. Down Payments

1. General

An eligible displaced person who purchases a replacement dwelling is entitled to a payment for down payment assistance. However, a displaced person eligible to receive a replacement housing payment for a 90-day homeowner occupant under Section XIV B is not eligible for this payment.

2. Eligibility

A 90 day tenant or owner-occupant displaced from a dwelling is entitled to this payment, if such displaced person:

a. Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

b. Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year after:

(1) In the case of a tenant, the date he or she moves from the displacement dwelling, or

(2) In the case of an owner-occupant, the later of:

(a) The date he receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited in the court; or

(b) The date he moves from the displacement dwelling.

The Department may extend this period of time for good cause.

3. Amount of Payment

The amount of the down payment assistance payment is limited to the amount that the displacee would have received as a rent differential payment described in Section XIV C plus actual reasonable closing or incidental expenses, not to exceed $7,200. If the displaced person is eligible, under Last Resort Housing, for a payment in excess of $7,200.00, the full payment ($7,200.00 plus amount of Last Resort Housing) may be applied towards a down payment and eligible closing cost. All down payment assistance funds will be used for that purpose. Close coordination with the lender and realtor

will be necessary to insure the displaced person receives the maximum benefit.

For purposes of this section, the term "required down payment" means the down payment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the down payment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required down payment" shall be the amount which is determined as necessary for the down payment (See Form 5, Appendix A – Relocation Assistance Forms).

However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under Section XIV B if he or she met the 180-day occupancy requirement.

4. Owner Retention of Dwelling

The owner may retain his dwelling, and a replacement housing payment, if any, will be determined in accordance with the provisions of Section XIV B.6.e. and this Section.

5. Application of Payment

The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

6. Combined Payments

If an owner-occupant is otherwise qualified under this Subsection but has previously received a payment under Section XIV C, the amount of such payment made under Section XIV C shall be deducted from the amount to which he is entitled under this Subsection.

7. Payment Procedures

The down payment/incidental costs benefit may be:

a. Placed in an escrow for the account of the displaced person who is in the process of purchasing a replacement dwelling (see Section XIV B.7.a); or

b. Paid either to him directly or to his mortgage lender for reduction of the loan balance where the replacement property has already been

purchased.

(1) Calculate the amount of his down payment, and include all eligible incidental expenses as shown by his closing statement.

(2) If the actual down payment on the replacement property is less than the calculated entitlement, the claimant's reimbursement will be limited to a calculation based on his actual down payment.

(3) The claimant should be informed of additional amounts to which he may be entitled. Such payment may be made directly to the mortgage lender using an assignment from the displaced person.

(4) If the actual down payment has already been made by the displaced person, using his funds on the replacement dwelling is greater than the calculated down payment, the Department may make payment directly to the displaced person.

SECTION XV – INCIDENTAL OR CLOSING EXPENSES

A. General

The incidental expense payment is the amount necessary to reimburse a displaced person for the actual costs incurred by him incidental to the purchase of a replacement dwelling.

Only those persons eligible to elect the replacement housing option or the down payment option are eligible for an incidental expense payment.

Short-term owner-occupants and tenants who purchase decent, safe and sanitary replacement housing are subject to the limitations governing down payments.

B. Types of Expense

Reimbursable incidental expenses shall be those costs necessary and reasonable which are actually incurred by the displaced person incidental to the purchase of a replacement dwelling. They will include, but are not limited to, the following, if normally paid by the buyer:

1. Legal, closing and related costs, including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incidental to recordation.

2. Lender, FHA or VA appraisal and application fees (only if the displacement property was encumbered with a mortgage).

3. Certification of structural soundness and termite inspection.

4. Credit Report (only if the displacement property was encumbered with a mortgage).

5. Owner's title policy not to exceed the costs for a comparable dwelling or the cost of an attorney's opinion of marketable title when the seller furnishes the buyer with an updated abstract of title.

6. Escrow fees.

7. State Revenue stamps (not to exceed the cost for the comparable dwelling).

8. Sales Tax on Mobile Homes (not to exceed the charge for the comparable replacement).

9. "Points" and loan origination fees actually paid by the displaced person, if any, in connection with the election of the down payment option by short-term owners and tenants only.

10. The single premium collected by the Department of Housing and Urban Development (HUD) for mortgage insurance. It should be based upon not only the calculated buy-down mortgage amount of the new mortgage or the amount of the old mortgage, whichever is lesser, but should also be based upon the actual term of the new mortgage or the remaining term of the mortgage on the acquired property, whichever is lesser.

    In cases where there is no mortgage on the acquired property, any payment made for mortgage insurance is not eligible for reimbursement. In addition, a displaced long-term owner is not eligible to receive this payment if the equity from the acquired property and the amount of the computed purchase differential is adequate to obtain conventional loan financing.

    Tenants are eligible to receive this reimbursement. A mortgage insurance premium that is required as an expense incidental to obtaining a mortgage is eligible for reimbursement within the limits of down payment assistance.

    Similar types of mortgage guarantee insurance premiums are eligible if required from the lender (e.g. MGIC) to insure against default on a conventional loan.

    The Department will not obtain a refund from the property owner if the owner receives a refund of a portion of the insurance premium from HUD upon prepayment of the insured loan. It is the Department's position that the expenses and red tape involved in assuring that a credit to project funds is received at some uncertain future date would not be cost effective.

11. Surveys of savings and loan institutions indicate that some agencies do not require any inspections, while others do. Certain inspections, such as heating, air conditioning, plumbing and electrical are considered typical (i.e. over fifty (50%) percent obtain such inspections) while others may be necessary in certain instances due to the condition or age of a home. The Department will provide reimbursement in those cases where inspections are customary or the displacee documents the reasons for obtaining such inspection.

C. Limitations

Items NOT considered as reimbursable incidental expenses.

1. Incidental expenses incurred by the property owner in the conveyance of his property to the Department.

2. For long-term owner-occupants, any fee, cost, charge or expense which is determined to be a part of the debt service, or finance charge under the "Truth in Lending Acts" (Points) in the purchase of replacement housing. These are part of the interest differential payment.

3. The incidental closing costs as referred to herein relate only to the displacees' purchase of replacement property and in no way includes or involves any closing costs related to the attempted purchase of a replacement dwelling.

4. Any items paid in advance by the seller of the real property and prorated between the seller and the buyer at the close of escrow such as real property taxes, fire insurance, home owners' association dues and assessment payments, etc.

5. Sales or use tax on mobile homes based on an amount in excess of the calculated replacement cost.

6. Independent mortgage broker fees charged by individuals who purport to represent one or more companies which provide short or long term financing. This restriction is to prevent mortgage brokers who engage in predatory lending practices from seeking extensive fees and not those seeking the typical standard fees allowed in normal mortgage lending. Waivers may be granted only by the Director, Rights of Way or the Relocation Manager.

7. Any cost incurred in securing a larger mortgage on the replacement dwelling than existed on the acquired dwelling is considered unnecessary and therefore is ineligible for payment.

D. Proof of Payment

Proof of payment of actual expenses incurred will be documented as follows:

1. Payments made through closing: Proper items must be separately itemized in the closing statement.

2. Payments made outside of closing: Paid, receipted statements, or statements and cancelled checks as evidence of payment.

E. Method of Payment

Claims for payment of incidental expenses shall be accomplished by use of Forms 12 and 14 (Appendix A – Relocation Assistance Forms).

The form shall be accompanied by supporting documentation such as a copy of the closing statement, receipted bills, etc.

SECTION XVI – INTEREST DIFFERENTIAL PAYMENTS

A. General

The Department shall determine the factors to be used in computing the amount to be paid to a displaced person under this section. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling.

B. Eligibility

To be eligible all of the following conditions must exist.

1. The displacee must have been an owner-occupant for more than 90 days prior to the date of the first written offer or the date of the Notice of Intent to Acquire.

2. The displacee must have purchased and occupied a suitable replacement dwelling within the prescribed time limits.

3. The mortgage or contract of sale must be bona fide and have been a valid lien for not less than 180 days prior to the date of the first written offer or the date of the Notice of Intent to Acquire. All mortgages shall be used to compute the payment.

4. There must be a mortgage or contract of sale on the replacement dwelling and it must bear a higher rate of interest than the interest rate on the existing encumbrance.

5. Mortgages or similar notes used to purchase mobile homes are mortgages for the purpose of this procedure.

   In addition, payments shall include other debt service costs, if not paid as incidental costs.

C. Interest Rates

The difference between the interest rates of the existing and new loans is one of the basic factors in the calculation of the payment. The actual rate of the existing loan is used. On the new

loan, the rate used is the actual rate not to exceed the rate currently charged by mortgage lending institutions in the vicinity of the replacement property. The controlling date for determining the maximum allowable interest rate that may be used is the date of the new mortgage note.

D. Payment Procedures

Payment computation - The amount of the increased interest payment will be computed on Form 15 (Appendix A – Relocation Assistance Forms) and in accordance with the following procedures:

1. The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buy-down determination, the payment will be prorated and reduced accordingly (See Section XVI F). 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. If the term on the new mortgage is shorter and, therefore, used in the determination of the payment, it will be necessary to recalculate a new monthly principal and interest payment for the displacement dwelling based on the interest rate and mortgage balance(s) on the displacement dwelling and the term of the new mortgage (See Section XVIF).

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:

    a. They are not paid as incidental expenses;

    b. They do not exceed rates normal to real estate transactions in the area;

    c. The Department determines the costs to be necessary; and

    d. 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 such 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. Payment Computation Requirements

1. To accomplish the computation of the increased interest payment, it will be necessary for the displacee to provide the Department with the following documents:

   a A copy of all notes or existing mortgages on the displacement property;

   b. A copy of all new mortgages on the replacement property; and

   c. A copy of the closing statement covering the replacement property purchased.

2. A determination of the prevailing interest rate currently being charged by mortgage lending institutions must be obtained. The prevailing interest rate currently being charged by mortgage lending institutions is established by the Relocation Manager by conducting a periodic survey of interest rates and discount points being charged by residential lenders in the project area. The file must be documented to show how such prevailing interest rate was determined.

F. Computation Steps

1. Section XVI sets forth the factors to be used in computing the payment necessary to reduce the displacees' replacement mortgage 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. If the term on the new mortgage is shorter and, therefore, used in the determination of the payment, it will be necessary to recalculate a new monthly principal and interest payment for the displacement dwelling based on the interest rate and mortgage balance(s) on the displacement dwelling and the term of the new mortgage. This payment is commonly known as the "buy-down".

2. 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 must be known 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.

3. Sample Computations

Old Mortgage:
Remaining Principal Balance $50,000.00
Monthly Payment (principal and interest)..... 458.22
Interest rate (per cent)..... 7%

New Mortgage:
Interest rate (percent).....10
Points..... 3
Term (years).....15

The 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.

The amount to be financed to maintain a monthly payment of $458.22 at 10% is $42,010.49.

Remaining principal balance on old mortgage..... $50,000.00
Less amount of reduced loan..... $42,010.49
Plus increased mortgage interest costs..... $7,989.51
Plus 3 points on $42,010.49 ..... $1,260.31

Total buy-down necessary to maintain payments at $458.22/month is $9,249.82

If the new mortgage actually obtained is less than the computed amount for a new mortgage ($42,010.49), the buy-down is to be prorated accordingly. If the actual mortgage obtained in the example was $35,000, the buy-down payment would be $7,706.03 ($35,000 divided by $42,010.49 = .8331 $9,249.82 x .8331 = $7,706.03).

The following sample is for computations involving a shorter term at the replacement property.

Old Mortgage:
Remaining Principal Balance..... $50,000.00

Monthly Payment (principal and interest)..... $458.22
Interest Rate (percent) 7%
Remaining Term (months).....174

New Mortgage:
Interest Rate (percent) 10
Term (months)..... 120
Points 3

Because the new term is less than the remaining term at the displacement dwelling, it is necessary to recalculate a new monthly principal and interest payment for the displacement dwelling based on the interest rate and mortgage balance on the old mortgage and the term of the new mortgage. The monthly payment for $50,000.00 at 7% for 120 months is $580.54.

The amount to be financed to maintain a monthly payment of $580.54 at 10% is $43,930.14.

Remaining principal balance on old mortgage $50,000.00
Less amount of reduced loan.....-$43,930.14
Plus increased mortgage interest costs $6,069.86
Plus 3 points on $43,930.14 .....$1,317.90

Total buy-down necessary to maintain payments at $580.54/month$ 7,387.76

4. The Department is obligated to inform the displacee of the approximate amount of this payment and that he or she must obtain a mortgage of at least the same amount as the calculated buy-down mortgage amount and for at least the same term in order to receive the full amount of this payment. The displacee is also to be advised of the interest rate and points used to calculate the payment.

G. Limitations and Exclusions

1. To Whom Payments Are Made

The payment described in this Section may be made directly to the displaced individual or family upon receipt of Form 5 (Appendix A – Relocation Assistance Forms) or upon written instructions from the displaced individual or family, directly to the mortgagee of the replacement dwelling. In cases where an applicant is otherwise qualified for an interest payment, and upon his specific request, the State may make an advanced payment into escrow prior to the displacees' moving.

2. Partial Acquisition

   a. Where the dwelling is located on a tract normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the acquisition price bears to the before value; except the reduction shall not apply when the mortgage requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

   b. Where a dwelling is located on a tract of land larger than normal for residential use in the area, the total mortgage balance should be reduced to the percentage ratio that the value of the residential portion bears to the before value for computational purposes. This reduction shall apply regardless of whether it is required that the entire mortgage balance be paid.

3. Multi-Use Properties - The interest payment on multi-use properties shall be reduced to the percentage ratio that the residential value of the multi-use property bears to the before value.

4. Other Highest and Best Use - If a dwelling is located on a tract where the fair market value is established on a higher and better use, and if the mortgage is based on the residential value, the interest payment shall be computed as provided in the appropriate paragraphs above. If the mortgage is based on a higher use, however, the interest payment shall be reduced to the percentage ratio that the estimated residential value of the parcel has to the before value.

5. Mortgage Combinations/Variable Principal and Interest Payments and Terms. The many different combinations of details that could exist concerning amounts on each mortgage (different interest rates, etc.) and the number of mortgages involved, all of which could affect the payment computation procedure, make it impractical, if not impossible, to include all instructions to cover the various situations which could be encountered. Therefore, if a situation is encountered or the need for such computations exist, all facts are to be presented to the Relocation Manager with a request for specific increased interest payment computations and instructions.

6. Displacee Assumes Existing Mortgage on Replacement Property. If an eligible displacee assumes a mortgage which already existed on the property he purchased as a replacement, consider it as a "new" mortgage. The unpaid debt balance he assumes, and the remaining term of such mortgage, shall be used in the "new mortgage" computations.

7. Condemnation Involved. The fact that the subject property was acquired through condemnation has no effect on the increased interest payment as such payment will be claimed in the "replacement housing claim" regardless of whether such claim is filed before or after the case is finally settled. The

increased interest payment amount will not be changed or affected even though the final replacement housing payment amount may be adjusted to the amount of the final judgment.

8. Interim financing or a loan obtained for construction purposes is not considered an eligible loan and is excluded from the Interest Differential Payment.

9. Mortgages on timber, trade fixtures, growing crops and all types of personal property are excluded, with the exception of mobile homes.

10. Mortgages with terms that have materially changed within the 180-day period prior to the date of the first written offer or the date of issuance of a Notice of Intent to Acquire are not eligible.

SECTION XVII – MOBILE HOMES

A. General

This section provides additional instructions which are intended to assist the right of way agent in dealing with the special aspects of mobile home relocation that are different or at variance with normal procedures and requirements applicable to relocation involving conventional dwellings. Since basic and universally applied requirements ARE NOT REPEATED in this section, it is necessary that they be understood prior to applying the special variations found herein. If the mobile home owner should elect to relocate the mobile home themselves the agent should contact the Relocation Manager for further instructions.

The eligibility requirements of displaced mobile home occupants are basically the same as those for occupants of conventional dwellings. The computation of benefits, however, presents unique problems due to the various combinations of ownership and tenancy found in mobile home occupancy and the fact that different data is encountered in incidental expenses, down payment and loan criteria. The general difficulty in finding vacant spaces for mobile homes which are more than two or three years old also presents special problems in providing effective relocation.

It should also be noted that, generally, the relocation of an isolated single mobile home from a residential lot, farm property or privately-owned rural plot will not involve any unusual difficulties, because a replacement site will usually be available. Though the instructions contained in this section will be of assistance in such cases, they are primarily oriented to more difficult situations involving the displacement of more than a few units from an established mobile home park.

1. Acceptability of the Mobile Home - If otherwise eligible under this section, the owner of a mobile home is entitled to a replacement housing payment if his mobile home does not meet comparable mobile home park entrance requirements. The amount of such payment will be computed as the difference between acquisition cost (or the trade-in value of the mobile home that is personality and is not acquired) and the price of a mobile home acceptable to the mobile home park; or, if less, the cost to rehabilitate the existing mobile home, if practicable, to meet the entrance requirements.

2. Mobile Home Park Entrance Fees - If the displacee is required to pay an entrance fee in order to enter a mobile home park, such fees will be included in the moving expense payment provided:

a. The fee does not exceed the fee at a comparable mobile home park, if the person is displaced from a park, and

b. The fee is not refundable to the tenant like a security deposit would be, or

c. The Department determines the payment of the fee is necessary to effect relocation.

3. Partial Acquisition of Mobile Home Park

Where the Department determines that a sufficient portion of a mobile home park is taken to justify the operator of such park to move his business or go out of business, the owners and occupants of the mobile home dwellings not within the actual taking but who are forced to move shall be eligible to receive the same payments as though their dwellings were within the actual taking. This decision will be made by the Director, Rights of Way or the Relocation Manager after a review of the pertinent information.

4. Mobile Homes as Replacement Dwellings

A mobile home may be considered a replacement dwelling provided:

a. The mobile home meets standards of decent, safe and sanitary as provided in Section III.

b. The mobile home is placed in a fixed location:

(1) In a mobile home park which is licensed and operating under State law; or

(2) In a mobile home subdivision wherein the displaced person owns the lot on which the mobile home is placed; or

(3) On real property owned or leased by the displaced person in other than a mobile home subdivision, provided such placement is in accordance with State and local laws or ordinances, and provided such placement was made under permit from the State or local jurisdiction.

(4) The mobile home meets local code requirements, has a minimum square footage of 320 heated square feet when erected and is connected to all utilities.

5. Computation on Next Highest Type

When a comparable mobile home is not available, it will be necessary to calculate the replacement housing payment on the basis of the next highest type of dwelling that is available and meets the applicable requirements and standards, i.e., a higher type mobile home or a conventional dwelling.

"Not available" as used in this subsection includes, but is not limited to, those cases where mobile homes cannot be relocated in mobile home parks within a reasonable distance from the place of displacement because of lack of available spaces or because of the standards and rules of the mobile home parks where spaces are available.

6. General Rules for Replacement Housing or Rent Supplement Payment Computations - The general provisions for moving expenses and replacement housing payments of Section XIII and XIV are also applicable to owners and tenants of mobile homes.

a. The ownership or tenancy of the mobile home (not the land on which it is located) determines the occupant's status as an owner or a tenant. The length of ownership and occupancy of the mobile home on the mobile home site will determine the occupant's status as a 90-day owner or tenant.

b. The mobile home must be occupied on the same site (or in the same mobile home park) for the requisite 90 days to make the occupant eligible for the appropriate payment limitations - $7,200 or $31,000.

c. After the determinations of a and b above, the replacement housing payment is computed in two parts:

(1) The replacement housing or rent supplement payment is computed for the mobile home in accordance with the same procedures for any comparable dwelling unit.

(2) The replacement housing or rent supplement payment for the mobile home site will be computed in accordance with the same procedures of comparability, but the payment is limited to the maximum according to his ownership or tenancy of the land unless Housing of Last Resort is required.

The sum of the two parts computed in (1) and (2) above cannot exceed the maximum limitations of the $7,200 or $31,000, unless Housing of Last Resort was required.

d. If the displaced person chooses to exercise his option for change of ownership or tenancy, the same procedures employed for other dwelling units will be used and substituted for the appropriate part in c. (1) or c. (2) above.

B. Eligibility

Owner-occupants and tenants of mobile homes are eligible for the same purchase, rental, and interest differentials, and incidental expense payments as the owner-occupants and tenants of conventional dwellings, apartments or condominiums.

Determination of eligibility for mobile home occupants may be more involved because of:

1. The possibility of divided ownership between the mobile home and the site on which it is located.

2. The fact that the Department may acquire the site and not the mobile home.

3. The possibility of replacement of the mobile home and/or site in an ownership and tenancy not identical with the type presently held by the displacee.

   The most common type of interest encountered in mobile home occupancy is where the occupant owns the mobile home and rents a site in a privately-owned mobile home park. Providing relocation benefits to this type of occupant presents no unusual problems, if there is a suitable vacant space available and the unit can be moved. In this situation, benefits can be administered in accordance with the instructions pertaining to moving benefits and rent differentials. Where the unit is not DSS or where it cannot be moved due to physical reasons or lack of a suitable vacant replacement site, the problems of applying the various benefits are more complex. Because of this complexity, anyone involved in the administration of these benefits should understand the specific mobile home replacement housing payments which apply to mobile home relocation found later in this section.

C. Preparation and Delivery of Relocation Assistance Services and Benefits to Mobile Home Occupants

The time limitation for presenting relocation information to eligible mobile home occupants on rented sites is the same as for conventional dwelling tenants.

The fact that a mobile home resident occupies a dwelling which is considered personal property and which is normally capable of being moved requires special considerations in the determination and explanation of relocation benefits.

When possible, the primary method of effecting relocation of mobile home occupants should be the moving of the displaced mobile home to a suitable replacement site. Since the extension of various benefits depends on whether or not such a move can be accomplished, it is usually not possible to make a complete determination of benefits until the time of the relocation offer orthereafter.

The following steps should be included in preparing and delivering relocation information in addition to the Relocation Brochure.

1. Where a substantial number of mobile home relocations are involved, it is desirable that a agent be assigned at the time the market value appraisal is being prepared. This will provide sufficient lead-time for the Right of Way Agent to inspect the affected park and become aware of the specific amenities available to occupants. An interview with the park manager will be helpful in obtaining background information such as the extent of social activity (clubs, etc.) and trends ofoccupancy (mostly retired, etc.).

2. The right of way agent should also have knowledge of the availability of suitable replacement sites. A field survey of surrounding parks located through the classified telephone directory, the local Chamber of Commerce and realtors in the area should be performed. A discussion with local zoning and building officials is necessary to understand the local code requirements.

3. The agent should also understand the special problems involved in moving mobile homes, be prepared to explain the moving benefits and process necessary for relocating the displaced person and mobile home.

4. A review of replacement site rentals should permit calculation of rental differential benefits.

5. If a move cannot be effective, the displacee may be eligible for purchase benefits, e.g. purchase differential or down payment (for the unit) as well as a rental differential (for the site).

6. The agent should prepare his file so that the Decent, Safe and Sanitary status of the unit can be established or confirmed at the time of the initial interview. Information should include model, year manufactured (from registration slip) and presence or lack of a current registration. Confirmation of occupancy date and current rental rate should also be made. A review of the appraisal is also necessary to determine if any items of realty were purchased.

D. Presentation of Information to Non-Eligible Occupants

In partial acquisitions of large parks or where occupants of excess land will not be displaced as a result of the acquisition, the dissemination of information to non-eligible occupants is highly desirable.

Also, although mobile home sites are usually rented, occupancy in a mobile home park is a much more permanent residential arrangement than apartment occupancy. A primary reason for this is that most occupants own their mobile home, and the cost of moving often equals as much as fifty percent (50%) of the in-place value.

The overall result of these trends is a close-knit community with a large degree of social activity among occupants. This is exemplified by the fact that a "clubhouse" or "assembly room" is one of the standard amenities of a modern mobile home park.

These factors, when coupled with substantial variances in eligibility for benefits from unit to unit, often result in excessive uncertainty, rumors and confusion concerning acquisition and relocation. Unless the acquisition is of a small and relatively insignificant part of a park, all occupants should be contacted either individually or by group meeting at the time of the initial interviews.

It is also advisable that a "non-eligible" file be established containing a list of names and space numbers. This file will also be a convenient place for documentation of communications and inquiries received from these people.

E. Relocation Advisory Assistance Service

To provide effective relocation assistance to mobile home occupants, the r agent must understand the special aspects of this type of housing. It is vital that the right of way agent know these things prior to contact with affected claimants. Information concerning trends in occupancy is contained in the preceding parts of this section. Reasons for the general difficulty in locating a suitable vacant space are due in part to the following factors:

1. Mobile home parks occupy an unfavorable position in community planning and zoning considerations because of the low tax base and the fact that conventional residential owner-occupants do not want them around. Consequently, these parks are more difficult to establish.

2. When occupants of mobile home space find it necessary to move, the unit is sometimes sold in place due to loss in value when moved and the relatively high cost of moving. Some parks charge a fee when the unit remains, but this is usually less than the loss involved in moving. Thus, even though occupants move, the space remains occupied with the unit, and changes in occupancy rarely result in vacant spaces.

3. In cases where a vacant space does become available, the void is often filled as a result of a continuing agreement between the park management and local mobile home dealers who have what is tantamount to an option on the vacant site for their customers.

4. Normally new parks will accept only new or near new units. Where used units are accepted, park management often requires painting, new skirting,

awnings, landscaping, etc. New parks are generally designed to accept "double-wide" units which eliminate them as a prospect for the relocation of single-wide units.

5. It will probably be necessary for the agent to coordinate the entire relocation process, including arranging for lodging until the mobile home is moved and ready for occupancy. It is critical that all necessary elements of the move be planned ahead of time and executed promptly to minimize the time the occupant is out of their home. The agent should be on site most of the time while work is being accomplished by contractors.

   Because of these considerations it is often difficult to find vacancies for displaced mobile home units. Since vacancies which arise are rapidly filled, successful advisory service requires a continuing liaison with the mobile home rental market.

   In fulfilling the Department's obligation to provide suitable replacement sites, compliance with regulations defining comparable replacement dwellings is required; however, it should be stressed that the replacement need not be identical to be a reasonable one.

   Where limited vacancies are encountered, claimants should be encouraged to take advantage of them even though three locations are not available from which to choose.

F. Mobile Home Moving Costs

The payment of moving costs to displaced mobile home occupants and owners is covered by the section on Moving Expenses (See Section XIII). A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with Sections XIII A.9 and B.5. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under Sections XIII A.9 and C. However, if the mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described in Section XVII H.1, 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. Generally, the most difficult aspect of moving a mobile home is finding a suitable vacant site as discussed under the topic of Relocation Advisory Assistance above.

1. Move from a Mobile Home

   Where the mobile home occupant moves into another mobile home or into a conventional dwelling, regular application of moving schedules or actual costs of a commercial carrier may be used. This will cover costs incurred by the claimant in relocating his furnishings and/or miscellaneous personal property to the new place of residence.

2. Actual Cost Mobile Home Moves

Because special equipment, skills and knowledge are required in moving a mobile home, these moves are usually done by mobile home moving specialists on an actual cost basis. As in other actual cost moves, two bids should be obtained and carefully reviewed before authorization is granted to move. Special attention should be given to the following items to see that they are considered.

a. The disconnection and reconnection of utilities and appliances.

b. The need to provide a flag car or additional axles and/or brakes, if required, in compliance with State requirements.

c. The alternative of shipping the unit on a "low-boy" trailer.

d. The need to rent suitable wheels and/or tires.

e. Specifications for temporary protection such as plywood or plastic covers for separated doubles.

f. The need to reseal roofing (older units usually develop cracks in the roof when moved). All appropriate roofs should be “cool sealed” after a move.

g. The need to remove, clean and reinstall or replace carpeting or other flooring material when double-wide units are moved.

h. Set up on replacement pad, including leveling.

i. The reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting, and awnings) which were not acquired, anchoring of the unit, and utility "hook-up" charges.

j. Non-refundable entrance fees are reimbursable as part of actual cost moving expenses unless the Department determines that comparable mobile home parks are available which do not require entrance fees.

k. An inspection, using a camera to record the inspection, should be made to determine the condition of the mobile home, whether air conditioning and furnaces operate, plumbing conditions, etc. If problems exist prior to the move, which effect either DSS standards or the ability of the mobile home to be moved, it may be necessary to

secure bids to make said repairs or make alternate decisions, and/or consult supervisory personnel for guidance.

3. Special Moving Costs

In addition, moving costs may include those items reasonably required to place a mobile home in a suitable replacement site. These items usually include painting or waxing, the purchase and installation of such items as skirting, awnings, landscaping and minor modifications to hide tongues and air conditioners. It is also necessary that the need for these items be verified through a determination that they are based on requirements that are universally and consistently applied in the replacement park.

If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe, and sanitary, and it is determined that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.

The standard moving payment limitation of 50 miles also applies in the case of mobile home moves, but authorization to pay for voluntary moves in excess of this distance may be obtained through the Relocation Manager where suitable replacement sites are not available within 50 miles, and where the amount paid for moving would be less than the housing differential to an eligible occupant.

4. PERSON MOVES MOBILE HOME. If the owner is reimbursed for the cost of moving the mobile home, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

G. Mobile Home Decent, Safe and Sanitary Inspections

Decent, Safe and Sanitary requirements for mobile homes are basically the same as those required for conventional dwellings.

The mobile home must be placed in a fixed location which is either (1) a properly-licensed mobile home park, (2) an owner-occupied lot in a mobile home subdivision or (3) on other real property where placement is in accord with local laws or ordinances and pursuant to a permit.

Used mobile homes which are purchased as replacement dwellings by claimants should be inspected prior to purchase agreement because used units often lack necessary qualifying features. If size requirements are met, new mobile home DSS inspections can be made at the time of claimant occupancy. Federal regulations for our program prohibit the use of mobile homes less than 320 square feet of heated space. However, it should be stressed that every effort should be made to preclude the claimant's purchase of a mobile home which would prove to be a non-DSS dwelling.

H. Mobile Home Purchase Differentials

1. Department Acquisition of Mobile Homes

Mobile home purchase differentials are only paid when a unit owned and occupied by an eligible claimant qualifies under these procedures. The procedures authorize such a payment if the Department acquires the mobile home as real property or if the mobile home is not acquired but the owner is displaced because of a determination that the mobile home:

a. Is not and cannot economically be made decent, safe, and sanitary; or

b. Cannot be moved without substantial damage or unreasonable cost; or

c. Cannot be moved because there is no available comparable replacement site; or

d. Cannot be moved because it does not meet mobile home park entrance requirements.

When the mobile home is not actually acquired, the acquisition cost of the displacement dwelling used for the purpose of computing the price differential amount, described in Section XIV B, shall include the salvage value or trade-in value of the mobile home, whichever is higher.

If the Department determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for purchase of a mobile home. However, the owner is eligible for moving cost described in 49 CFR Part 24, Section 24.301 and any replacement housing payment for the purchase or rental of a comparable replacement site.

2. Suitable Replacement Sites

The requirements for comparable replacement dwelling must be satisfied in qualifying a park vacancy as a suitable replacement site. The question whether or not an available vacancy is a suitable replacement site is to be determined by the Department using reasonable objective standards. This is necessary because an eligible claimant, by capriciously refusing to accept a vacant site, could secure for himself several thousand dollars in differential benefits to which he is not really entitled. In any event, the claimant should be given as many choices of replacement sites as are available at the time of relocation.

3. Payment Calculation

At the time it is determined that a mobile home is not DSS and/or cannot be moved, the trade-in or salvage value of the unit shall be obtained and the replacement housing cost shall be calculated. The purchase differential will be the difference between the amount of the trade-in or salvage value and the calculated replacement housing cost.

4. Limitations

Follow limitations as provided in conventional dwellings, the claimant's qualification for the purchase differential payment is limited by the amount spent in buying the replacement unit up to the calculated amount. The cost of all accessories such as awnings, carports, and skirting, landscaping and installation charges may be included in qualifying for the payment. Reimbursable incidental expenses which are incurred in the purchase should not be included in this calculation. Before the purchase differential claim can be paid, the occupied replacement unit and site must comply with the requirement set forth in this section under Decent, Safe and Sanitary Inspections.

5. Site Differentials

Purchase differentials for mobile home sites are paid only when a mobile home occupant is relocated from a site purchased from him to a replacement site purchased by him. The amount is a differential between the amount paid by the Department for the site and the amount the Department determines is necessary to purchase a comparable replacement site. Occupancy and expenditure requirements must be met before payment of the purchase differential is made unless provided as an advance payment to minimize a hardship.

6. Use of Assignments and Escrows

To assist a claimant in purchasing a replacement mobile home it is sometimes necessary to place (or hold) the funds due the claimant in escrow. This procedure usually requires an assignment and a letter confirming the availability of funds and instructions for their use being issued to the mobile home dealer (seller) in order to secure the purchase order.

I. Mobile Home Down Payments

Mobile home down payments are processed according to the same general principles that apply to conventional dwellings, subject to the following.

It is only necessary that the Department acquire the rental site to fulfill the acquisition qualification for relocation benefits. It is not necessary that the mobile home be acquired by the

Department. The 90-day occupant may be considered to be displaced for any of the circumstances described Section XVII H.1.

J. Mobile Home Incidental Expenses

The principles providing for payment of incidental expenses incurred in the purchase of mobile homes are the same as those for conventional dwellings (see Incidental Expense Payments, Section XV). Variations result, however, from the fact that expenses are encountered in the purchase of mobile homes that do not arise with other property acquisitions.

Examples of typical eligible incidental expenses with appropriate remarks follow.

1. Sales Tax - Payment will be based on the applicable tax rate for the calculated replacement cost or the actual tax paid, whichever is less. The Sales Tax on additional improvements (i.e. skirting, awnings, etc.) is eligible for total reimbursement provided the items are required for park occupancy.

2. Transfer Fee - Amount charged by Department of Motor Vehicles for transfer of title.

3. Permit Fees - Amount charged for building permits, transportation permits (if not paid as part of moving expense), etc.

K. Mobile Home Rental Differential Payments

1. Both Rental and Purchase Differentials May Be Paid to One Claimant

   A displaced person may be paid a rental differential payment for the rental of a replacement mobile home or site together with any other payments to which he may be entitled, such as mobile home moving cost or down payment or purchase differentials on either the mobile home or site.

2. Acquisition Requirement

   It is not necessary for the Department to acquire the mobile home from which the tenant is displaced before he may qualify for this payment. Acquisition of the mobile home site satisfies the acquisition requirement. The 90-day occupant may be considered to be displaced for any of the circumstances described in Section XVII H.1.

3. Calculation of Benefit

   The amount of payment is calculated as the difference between actual rent for the acquired site or unit and that determined by the Department as necessary to rent an appropriate replacement site or unit for a period of 42 months (See Form 8A, Appendix A – Relocation Assistance Forms). The

amount is limited by the rental expenditure as in the case of conventional dwellings; DSS and occupancy requirements must also be met.

L. Mobile Home Interest Differential Payments

The Section on mortgage interest differential payments (XVI) authorizes the payment of increased interest expenses incurred by eligible owner-occupants in replacement mobile home and site purchases. Because mobile homes are generally considered as personality, shorter terms and higher interest rates are used. The annual interest rates used in calculating mobile home interest differential payments may be obtained from local savings and loan associations which provide mobile home financing.

The following instructions cover the three basic situations involving mobile home interest differential payments.

1. Conventional Dwelling to Mobile Home

   Where a displaced person elects to relocate from a conventional dwelling, with financing secured by a mortgage, to a mobile home, the maximum interest rate allowable in calculating the interest differential is that which is allowed for a conventional dwelling.

2. Mobile Home to Mobile Home

   Where the Department uses a trade-in or salvage value on a mobile home and the owner-occupant has financing secured by a lien, the interest differential payment will be calculated on the difference between the existing loan interest rate and the current maximum for mobile homes or the actual rate, whichever is less.

3. Mobile Home to Conventional Dwelling

   Calculation of the interest differential payment, where the Department purchases an owner-occupied mobile home, is the same as in the preceding case where a mobile home is selected as a replacement dwelling. It is recognized that interest rates on the conventional dwellings are naturally lower (due to greater security), and that the calculation will generally result in no interest differential payment.

M. Persons with Both an Ownership and Tenant Interest

A displaced mobile home occupant may own the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section. However, the total replacement housing payment to a person shall not exceed the

maximum payment (either $31,000 or $7,200) permitted under the section that governs the computation of the dwelling.

N. Replacement Housing Payments for 90-Day Mobile Home Owner-Occupants

1. A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed $31,000, under Section XIV B if:

   a. The person owned the displacement mobile home and occupied it 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 in Section XIV B; and

   c. The Department acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Department but the owner is displaced from the mobile home because it is determined that the mobile home:

      (1) Is not and cannot economically be made decent, safe, and sanitary; or

      (2) Cannot be relocated without substantial damage or unreasonable cost; or

      (3) Cannot be relocated because there is no available comparable replacement site; or

      (4) Cannot be relocated because it does not meet mobile home park entrance requirements.

2. If the mobile home is not acquired and the Department determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described in Section XIV B, shall include the salvage value or trade-in value of the mobile home, whichever is higher.

O. Replacement Housing Payment for 90-Day Mobile Home Occupants

A displaced tenant or short-term owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed $7,200, under Section XIV C if:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

2. The person meets the other basic eligibility requirements in Section XIV C; and

3. The Department acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Department but the owner or tenant is displaced from the mobile home because of one of the circumstances described in Section XVII N.1.C.

SECTION XVIII – HOUSING OF LAST RESORT

A. Purpose

The Last Resort Housing Program allows utilization of project funds to construct or otherwise provide housing. No eligible person will be required to move from the right of way acquired until comparable decent, safe and sanitary housing is available for immediate occupancy. These procedures will be implemented when normal Relocation Assistance Payment limits are inadequate to affect a solution to the housing needs of eligible displacees.

The number of different housing situations which will be encountered dictates a need for program flexibility. Innovative approaches to realistic solutions for implementing Last Resort Housing are encouraged.

B. General

1. The provisions of this Section are not intended to deprive any displaced person of his right to receive relocation assistance payments for which he may be eligible nor of his freedom of choice in the selection of replacement housing. The Department may not require a displaced person, without his written consent, to accept a dwelling provided by the Department under these provisions in lieu of his acquisition payment, if any, or the real property from which he is displaced or the replacement housing payments for which he may be eligible. However, the Department's obligation of providing comparable replacement housing is discharged when such housing is made available to the displaced person in compliance with the Uniform Relocation Act. If the displacee does not accept the comparable replacement housing provided by the Department, but obtains and occupies other decent, safe and sanitary housing, the replacement housing payment shall be the amount necessary to provide comparable replacement housing or the amount actually incurred by the displacee for decent, safe and sanitary housing, whichever is the lesser.

2. Any person displaced because of the acquisition of real property for a last resort housing project under the Department's power of eminent domain (including amicable agreements under the threat of such power) is entitled to all benefits for which he is eligible under the relocation assistance provisions, except this provision is not applicable to an owner-occupant who voluntarily acts to sell his property to the Department.

3. Ownership or tenancy status. It is the responsibility of the Department under this Section to provide a replacement dwelling which places the displacee in the same ownership or tenancy status as he enjoyed prior to displacement, provided the displacee meets the appropriate occupancy criteria, i.e., owner or for or tenant for 90 days or more.

   At the request of the displacee, the Department may provide a dwelling which changes the ownership or tenancy status of the displacee if such a dwelling is available and can be provided more economically. However, if the computed replacement housing payment for an owner-occupant is less than $7,200, a rental supplement not to exceed $7,200 may be paid.

   The Department is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement home than the Department would provide to such persons if they owned fee simple title.

C. Applicability

1. Utilization of last resort housing may be provided when:

   a. comparable replacement housing is not available for the displaced person, or

   b. comparable replacement housing is available for the displaced person but:

      (1) the computed replacement housing payment exceeds the $31,000 limitation of Section XIV B, or

      (2) the computed rent supplement exceeds the $7,200 limitation of Section XIV C.

   c. displaced owner-occupant is unable to secure financing.

2. Replacement Housing Costs in Excess of $31,000 for a 90-day Owner. The 90-day owner is eligible for increased interest costs, closing costs, and a replacement housing payment. When the sum of these items is estimated to exceed the $31,000 maximum, the last resort housing provisions are applicable.

3. Rent Supplement in Excess of $7,200 for a 90-day Owner or Tenant. A 90-day owner or tenant, in accordance with Section XIV, is eligible for a rent

supplement. When this payment is expected to exceed the $7,200 maximum, the last resort housing provisions are applicable.

4. Down Payments for 90-Day Tenants Who Wish To Purchase. If suitable dwellings are available for purchase, the tenant may be paid a down payment for financing a conventional loan for a decent, safe and sanitary dwelling provided this payment does not exceed the amount that would be required to place the tenant in comparable rental housing.

5. Last Resort Housing will be provided for displacees who have less than a 90-day occupancy at the acquired dwelling and in those cases where replacement rental housing is not available at rental rates within the person's financial means (see Section III, A,G, (3)). Such assistance shall cover a period of 42 months.

6. Direct payment. Payments under this Section may be paid directly to the displacee, except in those instances where the Department, in its judgment, considers a direct payment to be inadvisable. Whenever a direct payment is inadvisable, the file will be documented with the reasons.

D. Methods of Providing Comparable Housing

When comparable replacement housing is not available and cannot otherwise be made available, the Department may provide such housing by methods which include, but are not limited to, the following:

1. A replacement housing payment in excess of the limits set forth in Section XIV B, C or D.

2. The purchase of land and/or dwellings and subsequent sale, lease, or exchange with the displaced person. Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, will apply when such acquisitions are made under the Department's power of eminent domain or the threat of eminent domain;

3. Rehabilitation of and/or additions to an existing dwelling;

4. The relocation and, if necessary, the refurbishing or rehabilitation of dwellings purchased by the Department for right of way purposes;

5. The construction of new dwellings; or

6. The removal of barriers to the handicapped.

7. 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, 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 Section III A.7.b.

This 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, when no other large comparable dwellings are available in the area.

E. Last Resort Housing Plan

1. General

Whenever this Section must be used to provide housing or payments in excess of the maximum limits, a Preliminary Housing Study and a Last Resort Housing Plan must be completed by the Regional Right of Way Administrator and approved by the Director, Rights of Way or Relocation Manager.

When simple displacements are involved, the study and plan may be combined and can be simple in content and nature. The document will advise the Director, Rights of Way and the Relocation Manager of the necessity for such action and will furnish a proposal for providing replacement housing.

If it appears that there will be a lack of available replacement housing, two separate documents may need to be submitted separately. Any decision to provide last resort housing assistance must be adequately justified either:

a. On a case-by-case basis, for good cause, appropriate consideration should be given to:

(1) The availability of comparable replacement housing in the program or project area; and

(2) The resources available to provide comparable replacement housing; and

(3) The individual circumstances of the displaced person; or

b. By a determination that:

(1) There is little, if any, comparable replacement housing available to displaced persons within the entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and

(2) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(3) The method selected for providing last resort housing assistance is cost effective considering all elements which contribute to total program or project costs; e.g., the potential increase in overall project cost does not justify waiting until less expensive comparable replacement housing becomes available.

2. Preliminary Housing Study

This document should discuss in necessary detail the following:

a. The characteristics, relocation needs, desires and intentions of those being displaced.

b. An inventory of currently available comparable replacement housing for sale or rent.

3. Development of Housing Plan

This document should develop a plan or method of providing comparable housing. In developing the plan, innovative approaches and methods will be utilized in providing housing. The plan should discuss, as needed, and in necessary detail, the following:

a. How, when and where housing will be provided.

b. The environmental suitability of the location of the housing.

c. The estimated amount of project funds to be used for such housing.

d. How construction, rehabilitation, relocation and refurbishment will be monitored.

e. Analysis of the prices at which the housing will be rented or sold and the relationship to the financial means of the families and individuals to be displaced.

f. Arrangements for rental housing management.

g. Other relevant information, as necessary.

4. All payments under housing of last resort must be approved as follows:

RHP-Owners	RHP-Tenants	Approving Authority
To $31,000.00	to $7,200.00	Regional Administrator
$31,001 - $40,000	$7,201-$20,000	Field Administrator
$40,000 +	$20,000 +	Relocation Manager or Director, Rights of Way

SECTION XIX – PRECLUDING TENANCY BY NEW TENANTS

A. General

In certain situations it may be advantageous to the Department to rent vacated/vacant tenant properties from the property owner.

Large older dwellings which would accommodate large families, multi-family structures and non-decent, safe and sanitary houses present a relocation problem, and could possibly be kept vacant by paying rent to the landlord. This would result in a savings to the Department by not having to relocate any new occupants where a moving cost, rent supplement and possible last resort housing payment would be necessary and much more costly than the rent payment to the landlord.

Ordinarily, Right of Way Agents will encourage tenants to remain in occupancy until the property is acquired. However, if it becomes feasible to commence relocation activities to meet a scheduled construction letting date, or because of the availability of a comparable dwelling or replacement site, or any other reason, the Department will proceed and consider implementing this Section.

B. Policy

The Department shall consider renting vacant rental units when it is reasonably anticipated to be cost effective as compared to relocation costs associated with any potential new occupants. The estimated payment should not exceed the cost which would reasonably be required to relocate any subsequent occupant.

The following information will be furnished to the Director, Rights of Way in order to make a decision on renting the vacant property:

An estimate of potential relocation costs. The estimate will be prepared by the Regional Right of Way Administrator.

An estimate of the amount of time to keep the unit vacant. Input will be gathered from appraisal, negotiation and legal personnel, as necessary.

An estimate of the expected rental rate. The Appraisal Section will be consulted to confirm the economic rent of the unit, so as to compare it to the actual rent being charged by the owner.

If the decision is made to rent the property from the owner, the following actions will be completed:

1. A lease will be prepared by the Relocation Manager's Office.

2. The offer will be made to the owner by either the Relocation Manager or a Right of Way Agent, whichever is more appropriate.

3. The fully executed lease will be returned to the Relocation Manager's Office. This section will be responsible for processing the monthly rent so it will be available on the rent due date. This section will also be responsible for utility payments, if necessary, and periodic inspection of the property.

4. The Regional Right of Way Administrator will advise the Relocation Manager when the acquisition agreement has been signed by the owner or when the condemnation notice has been filed.

5. Rental payments will cease when the acquisition payment has been made to the owner or when the offered amount has been deposited with the Court.

The Director, Rights of Way shall be informed if it is expected that the Department will exceed the original estimate on the amount of time to keep the unit vacant. A new decision may need to be made concerning the continued renting of the property.

SECTION XX – RELOCATION ASSISTANCE APPEAL PROCEDURES

A. Notice of Right of Appeal

Persons dissatisfied by the determination of their eligibility for relocation assistance payments, or the amount of payment, may have their eligibility reviewed by means of an appeal, (Form 16). Such persons shall be promptly furnished with the forms necessary to file an appeal and will be advised of the procedures required for presentation of their grievances.

B. Review of File by Person Making Appeal

The displacee shall be permitted to inspect and copy all materials pertinent to the appeal in the Central Office during normal working hours. However, the Right of Way Agent's log is confidential and cannot be inspected or copied as provided by 49 CFR Part 24 Section 24.9 (b).

C. Authority

The provisions of this regulation are issued pursuant to Code of Laws of South Carolina, 1976, Section 28-11-10 and Regulation 63-322, and the Administrative Procedures Act, S.C. Code Section 1-23-10, et. seq.

1. An applicant for a relocation assistance payment shall be promptly notified in writing of his eligibility for assistance, the amount of entitlement, if any, and the time and manner in which such payment shall be made. Such notification shall also advise the applicant of the right to appeal and of the procedures for filing an appeal. If the displacee disagrees with the Relocation Manager's decision with respect to eligibility for a payment or the amount of payment offered under this regulation, he shall be promptly reminded of the procedures to be followed in filing a request for review or an appeal.

2. Whenever a displaced person indicates dissatisfaction with the Department's determination of relocation assistance eligibility or when such eligibility is otherwise contested, the assigned Right of Way Agent shall provide full instructions regarding the filing and mailing of the appeal (See Form 16 – Appendix A – Relocation Assistance Forms).

D. Time Limit for Appeals

A request for review by the Director, Rights of Way, the SCDOT Executive Director's designee must be requested within sixty (60) days after the person receives written notification of the Department's determination of eligibility or of the amount of any relocation assistance payment. An appeal of the Director's decision must be filed within thirty (30) days of receipt of the Director's decision before the Administrative Law Judge Division.

E. Appeal Procedures

Any person who files a proper petition or request for review within the time specified in this regulation shall be given a prompt decision in writing along with the reasons for such decision.

SECTION XXI – CIVIL RIGHTS

A. The Department must take affirmative action to ensure that replacement housing resources used are, in fact, open housing to all races and sexes without discrimination.

B. The Department must fully inform displacees of their fair housing rights and options in selecting replacement housing in areas of their choice and of the available assistance from the State in ensuring relocatees that their fair housing rights will be protected in accordance with Title VII of the Civil Rights Act of 1968 and the HUD Amendment Act of 1974.

SECTION XXII – ILLEGAL ALIENS

A. Public Law 105 – 117 provides 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.

B. To insure compliance with the law, all displaces (head of household and businesses) must complete the Certification of Legal Residency in the United States (Form 1) in order to receive relocation benefits.

C. If an Agent encounters any situation involving illegal aliens or someone who refuses to sign the Certification of Legal Residency, the Relocation Manager should be contacted for further guidance.

SECTION XXIII – EVICTIONS

A. Evictions are a last resort in the right of way process; occurring only after all reasonable efforts have been made to relocate displacees in accordance with federal and state law.

B. Prior to commencing with any eviction efforts, the Director, Rights of Way will be notified by the appropriate Regional Right of Way Administrator that the potential exists for an eviction. A detailed summary, along with the appropriate files, shall be sent to the Director, Rights of Way stating the problems and efforts made to resolve said problems.

C. The Director, Rights of Way shall appoint another individual, other than those currently working with the displacee, to meet with the displacee in an attempt to resolve any differences. Upon meeting with the displacee, the Director, Rights of Way shall be provided a report detailing any recommendations.

D. If eviction is recommended, the Director, Rights of Way shall notify the Executive Director and State Highway Engineer ten (10) days prior of the intent to begin the eviction proceedings and will state why an eviction is necessary at that time.

E. Notification of the eviction action will also be provided to the Director of Communications. A brief description of the situation including benefits offered and a timeline for relocation contacts will be provided. The Director of Communications will take such preventive action as possible to reduce potential negative media attention. Scheduling of the eviction should occur the latter part of the week.

F. Arrangements must be made with a local moving company to pack and store all belongings for a period not to exceed twelve (12) months. Insurance coverage shall be maintained as appropriate. In addition, motel arrangements may be secured for one (1) week on behalf of the displacee. In some situations, a rental unit may be secured by the Department prior to eviction; however, payment after one month's occupancy shall be at the expense of the displacee.

SECTION XXIV – RENT FOR HOLDOVER LANDOWNERS

It is the South Carolina Department of Transportation's (SCDOT) policy to vacate acquired improved properties as quickly as possible, so that projects can proceed to construction in a timely manner. In order to promote a uniform procedure for charging and collecting rent, the following guidelines are to be used. However, in some circumstances, which are reviewed on a case by case basis, it maybe in the best interest of SCDOT and the public for SCDOT to lease property that has been acquired.

A. Owner Occupant (Residential and Commercial)

Rent amounts to be charged are those normally associated with short term occupancy. SCDOT will not be responsible for utilities, unless the use of a master meter is in place, nor for maintenance of any improvements. Therefore, rent for an occupant will be computed as follows:

Appraised value x 70% x 10% divided by 12 months = Monthly Rent.

Example:
$150,000 Appraised value
x .70
$105,000
x .10
$10,500 ÷ 12 months = $875 monthly rent

Note (1): Rent should be rounded to the nearest $25.

Note (2): If acquisition is based on a negotiated settlement figure, the rent shall be based upon the settlement figure, unless agreed to otherwise and approved by the Regional Right of Way Administrator.

B. Tenant (Residential and Commercial)

Tenant will be charged the same rental amount as previously charged by their Landlord(s) prior to the acquisition by the SCDOT. Exceptions for residential tenants are for those whose household income is classified as "low income" by the Housing of Urban Development's (HUD) Annual Survey of Income Limits

for the Public Housing and Section Eight Program. In those cases, 30 percent of household income is the maximum rent permitted by federal regulations.

Rent will commence within 60 days following payment to the property owner of the acquisition amount. Rent will not be charged for the remainder of the month in which the property is purchased, nor for the following month. Exceptions may be made where multiple rental units are purchased from an existing landlord and the SCDOT deems it appropriate to continue with the landlord's management services.

Rent will be computed and placed in the SCDOT's offer letter to purchase right of way. If the SCDOT and the property owner are in disagreement on the proposed right of way offer, rental adjustments may be made if a settlement can be reached. All rental adjustments should be approved by the Right of Way Regional Manager.

When property is acquired, SCDOT's Relocation Office will include a statement of rental charges and the effective date in the vacate letter sent to each displaced occupant. The notice will include the mailing address where all checks are to be sent. The SCDOT's Finance Office will be provided a copy of this letter along with a Form 3025A detailing the charge codes for rent to be charged to and the renter's Social Security number or Federal Identification. The Finance Office shall bill the tenant for the monthly rent until the Right of Way office provides notification that the occupancy has been terminated. The SCDOT's cashier shall provide a monthly listing of rent received to the Right of Way Relocation Office.

Although delinquent rent can be offset against relocation benefits, they will not be offset if it impedes the displaced person's relocation.

The Rights of Way Director shall have the authority to waive and/or adjust rent when it is deemed in the SCDOT's best interest.

CERTIFICATION OF LEGAL RESIDENCY IN THE UNITED STATES

Project ID No. _____ County _____

Road/Route _____ Tract _____ Displacee No. _____

(Please read instructions below carefully before completing this form)

RESIDENTIAL DISPLACEES

A. Individual. I certify that (check one):
I am a citizen of the United States..... ☐
I am an alien lawfully present in the United States ..... ☐

B. Family. I certify that:
There are ___ persons (number) in my household and that ___ are citizens (number) of the United States and are aliens (number) lawfully present in the United States.

NON-RESIDENTIAL DISPLACEES

C. Sole Proprietorship. I certify that (check one):
I am a citizen of the United States ..... ☐
I am an alien lawfully present in the United States..... ☐
I am a non-U.S. citizen not present in the United States.. ☐

D. Partnership. I certify that:
There are ____ partners (number) in the partnership and that ____ are citizens (number) of the United States, ____ are aliens (number) lawfully present in the United States, and ___ are non-U.S. citizens (number) not present in the United States.

E. Corporation. I certify that:
____ (name of corporation) is established pursuant to State Law and is authorized to conduct business in the United States.

_____ _____
Signature Date

Instructions:

1. Please use only the category above (Individual, Family, Sole Proprietorship, etc.) that describes your occupancy status.
2. For B or D above, please fill in the correct number of persons.
3. The certification for non-residential displacee may be signed by an owner or other person authorized to sign on their behalf.
4. Your signature on this (or the claim) form constitutes certification.

RESIDENTIAL RELOCATION WORK SHEET

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Name of displaced person _____ Initial ☐ Less than 90-day occupant ☐

Old Address _____ Telephone ( ) -

New Address _____ Telephone ( ) -

Date written offer made by negotiation agent for parcel: Click or tap to enter a date.

Date of relocation offer: Click or tap to enter a date. by _____

Is assistance desired in finding available properties? YES ☐ NO ☐

Delivered copy of brochure "Highways and You"? YES ☐ NO ☐ Date delivered Click or tap to enter a date.

If no, explain _____

Appropriate section of brochure indicated to relocatee during discussion of benefits YES ☐ NO ☐

General area where displacee would like to relocate _____

Date 90-day notice issued: Click or tap to enter a date. Day 30-day notice expires Click or tap to enter a date.

Date relocation occurred: Click or tap to enter a date.

Relocation done by SCDOT YES ☐ NO ☐ Other Agency _____

Utilities paid by landlord? Water ☐ Electricity ☐ Sewer ☐ Other ☐ _____

Type of occupancy - Before: Tenant ☐ Owner ☐ After: Tenant ☐ Owner ☐

Total Household Income $ _____ Weekly ☐ Bi-Weekly ☐ Monthly ☐

Other Income $ _____ Weekly ☐ Bi-Weekly ☐ Monthly ☐

30% Monthly Income $ _____ Average Monthly Utilities Cost $ _____

Employer and address (Head of Household) _____

Telephone ( ) -

Date of beginning occupancy Click or tap to enter a date. Verified by means of (must be independent and reliable source) _____

Number in family _____ Race _____

Type of property: Single Family ☐ Multi-family ☐ Single Room ☐ Apartment ☐ Mobile Home ☐ Other (explain) ☐ _____

*Mobile Home Owner _____

Homesite value (owned) $ _____ Monthly rent: $ _____ Market $ _____ Actual $ _____

Number of rooms occupied DSS- YES ☐ NO ☐

Does displacee own furniture? YES ☐ NO ☐

Dwelling proof of purchase: Deed Book _____ Page _____ County Choose an item.

Is there a mortgage on acquired dwelling? YES ☐ NO ☐ Mortgagor _____

Is there a mortgage on replace dwelling? YES ☐ NO ☐

Date _____ Agent _____

Inspection for rodents made? YES ☐ Date Click or tap to enter a date.

Evidence of infestation found? YES ☐ NO ☐ If yes, the date Columbia Office notified to request DHEC to take eradication measures: _____

PERMANENT OCCUPANTS NEEDING RELOCATION

Name	Age	Relation	Name	Age	Relation

NON-RESIDENTIAL RELOCATION WORK SHEET

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Name of Displaced Person _____

Old Address _____ Telephone ( ) -

New Address _____ Telephone ( ) -

Date written offer made by negotiation agent for parcel Click or tap to enter a date.

Date of relocation offer Click or tap to enter a date. by _____

Is assistance desired in finding available properties? YES ☐ NO ☐

Delivered copy of brochure "Highways and You"? YES ☐ NO ☐

If no, explain _____

Appropriate section of brochure indicated to relocate during discussion of benefits? YES ☐ NO ☐

General area where displacee would like to relocate _____

Date 90-day notice issued Click or tap to enter a date. Date 30-day notice expires Click or tap to enter a date.

Date Relocation occurred Click or tap to enter a date.

Relocation done by SCDOT? YES ☐ NO ☐ Other Agency? _____

Date of beginning occupancy Click or tap to enter a date. Type of business _____

Is the business part of another business not being acquired that is engaged in same or similar business?
YES ☐ NO ☐

Is there adequate remaining property to relocate business? YES ☐ NO ☐

(Continued)

Does business "contribute materially" to the income of the displaced person? YES ☐ NO ☐

Length of time in business _____ Race _____

Current rent $ _____ New rent $ _____

Net earnings last two taxable years Year _____ - $ _____ Year _____ - $ _____

Explanation

_____

_____

Business: Continued ☐ Terminated ☐ Distance moved (if continued) _____

Referrals: Small Business Administration: YES ☐ NO ☐ Other: YES ☐ NO ☐

Results _____

Self Move ☐ Actual Cost ☐ Low Bid ☐ Moving Cost Finding Amount $ _____

"In Lieu of Payment" ☐ Amount $ _____

Explained Actual Direct Loss Tangible Personal Property? YES ☐ NO ☐

Explained Purchase of Substitute Personal Property? YES ☐ NO ☐

Explained Search Expense? YES ☐ NO ☐

Explained replacing obsolete stationery as result of move? YES ☐ NO ☐

Date _____ Agent _____

DSS DWELLING INSPECTION

Project ID No. _____ County Choose an item.

Road/Route _____ Owner ☐ Tenant ☐ Displacee No. _____

Occupant _____ Tract _____

ADDRESS	SUBJECT	REPLACEMENT
TYPE OF UNIT		
DATE INSPECTED		
1) DSS CODES		
2) WATER		
3) KITCHEN		
4) HEAT		
5) BATHROOM		
6) LIGHTING		
7) STRUCTURE		
8) EGRESS		
ROOMS (SQ FT & #) (TYPE)		
HANDICAPPED CAPABILITY		

REMARKS:

_____
RELOCATION AGENT

SCDOT R/W Form 5 (10-2017)

CLAIM FOR REPLACEMENT HOUSING PAYMENT

VENDOR NO.

Date Click or tap to enter a date.

Price Differential Payment ☐ Rent Supplement ☐ Down Payment ☐

I hereby certify that I was required to vacate my previous dwelling located at _____

_____ for the construction of the above referenced project.

On , 20 _____ the replacement dwelling located at _____

_____ was occupied by me.

To the best of my knowledge and belief, I am eligible for this payment and my replacement dwelling is my permanent place of residence and it meets the standards for decent, safe and sanitary housing as established by rules and regulations of the Department of Transportation.

I have been advised of all requirements and agree that the total amount of the replacement housing payment to which I am entitled is $____.

Mailing Address _____ _____

_____ _____

Signature of Claimant Date

DISTRIBUTION OF CHARGES:					
Cost Center	Fund	Functional Area	GL Account	WBS Element	Amount
					$
					$
					$

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Objective Code(s): _____

I hereby certify that I have personally inspected the replacement dwelling of _____

at _____

and that it meets all requirements of decent, safe and sanitary dwellings except _____

as of Choose an item. , 20 _____

Certified by Relocation Agent Date Checked by Relocation Manager Date

Recommended for payment: Approved for payment:

Assistant Director of Rights of Way for Acquisitions Date Director, Rights of Way Date

CLAIM FOR MOVING EXPENSE

VENDOR NO.

Date _____

RESIDENTIAL

Actual Cost (bid or receipts ..... **$** _____

_____ rooms (scheduled)... **$** _____

Moving Cost Finding..... **$** _____

TOTAL ..... $ 0.00

BUSINESS, FARM, NON-PROFIT ORGANIZATION

Actual Cost (low bid) **$** _____

(self move) **$** _____

Moving Cost Finding **$** _____

In Lieu of **$** _____

Re-establishment **$** _____

Search Expenses **$** _____

TOTAL CLAIM $ 0.00

I have been fully informed of the different methods available for determining the moving payment I am eligible to receive. I further certify that no previous claim has been submitted; that payment of these costs has not been received, nor is payment expected from any other source.

I hereby certify that, on Choose an item. , 20 , I removed my personal property from the residence and/or business located at to .

I my new place of residence or business.

Please mail check to: _____ _____

_____ _____

Signature of Claimant Date

DISTRIBUTION OF CHARGES:					
Cost Center	Fund	Functional Area	GL Account	WBS Element	Amount
					$
					$

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Objective Code(s): _____

I hereby certify that the above property has been inspected and found to be vacant and the above claimant is therefore due moving expenses as of this date Choose an item. , 20 .

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

_____ _____ _____ _____

Certified by Relocation Agent Date Checked by Relocation Manager Date

Recommended for payment: Approved for payment:

_____ _____ _____ _____

Assistant Director of Rights of Way for Acquistions Date Director, Rights of Way Date

MOVING COST PROPOSAL

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Occupant _____ Owner ☐ Tenant ☐

Present Address _____

New Address _____

Items to be moved and/or work to be done to include scope of work:

We propose hereby to do the above specified work for the sum of: $ _____

Authorized Signature _____ Date _____

Phone No. ( ) - _____ Company _____

Company Street Address _____

Company City, State, Zip Code _____

SCDOT R/W Form 7A (10-2017)

MOVING COST FINDING

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Occupant _____ Owner ☐ Tenant ☐

Present Address _____

New Address _____

Items to be moved and/or work to be done to include scope of work (explanation of arrived amount):

Total estimated cost of moving above items: **$** _____

Estimate prepared by _____ Date Click or tap to enter a date.

Estimate approved by _____ Date Click or tap to enter a date.

Choose an item.

I agree to accept the above estimate cost of moving items listed as full payment for moving same.

_____ _____

Signature of Displacee Date

SCDOT R/W Form 8 (10-2017)

FINAL PRICE DIFFERENTIAL PAYMENT

Project ID No. _____ County _____

Road/Route _____ Tract _____

Occupant _____ Displacee No. _____

The price differential payment for _____

has been determined to be $ _____ and is supported as follows:

$ _____ Price Differential Payment $ _____ Down Payment

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

1) I understand that this amount is to be used in connection with a Federal-Aid Highway project.

2) I have no direct or indirect, present or contemplated personal interest in this transaction, nor will I derive any benefit from this payment.

_____ _____

DATE **RELOCATION AGENT**

Project ID No. - County - - Tract No(s) - Displacee No.

	SUBJECT	1. COMPARABLE	2 . COMPARABLE	3. COMPARABLE
ADDRESS				
1. Meets DSS Standards	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐
2. Total number rooms Number of bedrooms Number of Baths				
3. Area of living space				
4. Type of construction	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐
5. Compare neighborhood with SUBJECT (Environmental)				
6. Access to: (a) Public Service (b) Transportation (c) Employment	(a) (b) (c)	(a) (b) (c)	(a) (b) (c)	(a) (b) (c)
7. Adequate to Needs	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐
8. Type: (a) Heat (b) Air Condition	(a) (b)	(a) (b)	(a) (b)	(a) (b)
9. Carport (indicate if detached)	CARPORT ☐ GARAGE ☐	CARPORT☐ GARAGE☐	CARPORT☐ GARAGE☐	CARPORT☐ GARAGE☐
10. Lot Size				
11. Other Amenities				
APPROVED BY:	LIST PRICE	$	$	$
Relocation Coordinator Date	ADJUSTMENT (IF ANY TO LISTING PRICE)	$	$	$

I. Number was considered most comparable because: List Price $

II. Less than 3 Comparables were used because:

TENANT RHP COMPUTATION FORM

Project ID No. _____ County _____

Road/Route _____ Tract Bickley, Frances E. Parcel _____

Displacee's Name _____ Displacee No. _____

Old Address _____

New Address _____

If utilities are not included in rental amounts listed below indicate N/A

A. Present Rent or Market Rent	$	$	B. Most Comparable Rent	$	
Plus average cost of utilities included in Comparable **(1)** or New Rent **(2)** which is not included in present rent:			Plus average cost of utilities included in present rent which is not included in Comparable rent:		
Water	$	$	Water	$	
Sewer	$	$	Sewer	$	
Electricity	$	$	Electricity	$	
Gas	$	$	Gas	$	
Other	$	$	Other	$	
Total adjusted present rent or Market rent: (1)	$ 0.00	(2) $ 0.00	Total adjusted comparable rent (1)	$ 0.00	
C. New Rent	$		D. 30% of Gross Monthly Income	$	
Plus average cost of utilities included in present rent and not included in new rent:					
Water	$				
Sewer	$				
Electricity	$				
Gas	$				
Other	$				
Total adjusted new rent: (1)	$ 0.00		Total 30% GMI	$ 0.00	
I. Total adjusted Comparable rent (amount Line B-1)	$ 0.00		II. Total adjusted new Rent (amount line C-1)	$ 0.00	
Less total adjusted present rent or market rent (amount line A-1) or 30% GMI (if applicable)	$		Less total adjusted rent or market rent (amount line A-2) or 30% GMI (if applicable)	$	
Difference	$ 0.00 x 42		Difference	$ 0.00 x 42	
Maximum Rent Supplement Payment: (a)	$ 0.00		Total	$ 0.00	
Rent Supplement Payment - The lesser of I(a) or II(a) above				$	

Project ID No. - County - - Tract Bickley, Frances E. - Displacee No.

	SUBJECT	1. COMPARABLE	2 . COMPARABLE	3. COMPARABLE
ADDRESS				
1. Meets DSS Standards	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐
2. Total number rooms Number of bedrooms Number of Baths				
3. Area of living space				
4. Type of construction	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐	BV ☐ Frame ☐ Block ☐ Other ☐
5. Compare neighborhood with SUBJECT (Environmental)				
6. Access to: (a) Public Service (b) Transportation (c) Employment	(a) (b) (c)	(a) (b) (c)	(a) (b) (c)	(a) (b) (c)
7. Adequate to Needs	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐	YES ☐ NO ☐
8. Type: (a) Heat (b) Air Condition	(a) (b)	(a) (b)	(a) (b)	(a) (b)
9. Carport (indicate if detached)	CARPORT ☐ GARAGE ☐	CARPORT ☐ GARAGE ☐	CARPORT ☐ GARAGE ☐	CARPORT ☐ GARAGE ☐
10. Lot Size				
11. Other Amenities				
APPROVED BY:				
Relocation Coordinator Date				
	RENT	$	$	$

I. Number was considered most comparable because:

List Price $

Rental Supplement $

Down Payment amount $

II. Less than 3 Comparables were used because:

CHECKLIST FOR RELOCATION

Project ID No. _____ County Choose an item. Agent _____
Road/Route _____ Tract _____ Displacee No. _____

Date Keys Submitted to Region Click or tap to enter a date. Date Keys Submitted to HQ Click or tap to enter a date.

Form/Document		Homeowner		Tenant		Business		Sign/Other	
☐	Survey Form	☐	Form 2 (Residential Relocation Work Sheet)	☐	Form 2 (Residential Relocation Work Sheet)	☐	Form 2A (Non-Residential Relocation Work Sheet)	☐	Form 2A (Non-Residential Relocation Work Sheet)
☐	Communication Log	☐	Written Contact Log	☐	Written Contact Log	☐	Written Contact Log	☐	Written Contact Log
☐	DSS Dwelling Inspection	☐	Form 4 (Dwelling Inspection)	☐	Form 4 (Dwelling Inspection)	☐		☐	
☐	Offer Letters	☐	Form 18-O (Offer Letter Owner)	☐	Form 18-T (Offer Letter Tenant)	☐		☐	
☐	RHP Computation	☐	Form 8 (Final Price Differential Payment)	☐	Form 8A (Tenant Computation)	☐		☐	
☐	90 Day Vacate	☐	Form 33 (90 day notice Total Acquisition) Form 34 (90 day Partial Acquisition)	☐	Form 31 (90 day vacate for Tenant) Form 32 (90 day vacate Partial Acquisition Tenant	☐	Form 33 (90 day notice Total Acquisition) Form 34 (90 day Partial Acquisition)	☐	Form 33 (90 day notice Total Acquisition) Form 34 (90 day Partial Acquisition)
☐	30 Day Vacate	☐	Form 1-O (30 day vacate)	☐	Form 29 (30 Day Vacate Renters)	☐		☐	
☐	Occupancy Verification	☐	Form 22 (Affidavit of Present Rent)	☐	Form 22 (Affidavit of Present Rent)	☐		☐	
☐	Moving Expenses	☐	Form 6 / Invoices	☐	Form 6 / Invoices	☐	Form 6 / Invoices	☐	Form 6 / Invoices
☐	Two Bids	☐		☐	Copy of Hud Utility Allowance Sheet	☐	Form 7 (Moving Cost Proposal)	☐	Form 7 (Moving Cost Proposal)
☐	Inventory	☐		☐		☐	Form 20 (Property Inventory)	☐	Form 20 (Property Inventory)
☐	Less than $5,000	☐		☐		☐	Form 7A (Moving Cost Finding)	☐	Form 7A (Moving Cost Finding)
☐	RHP Claim	☐	Form 5 (Contract of Sale)	☐	Form 5 (Copy of new Lease)	☐		☐	
☐	Closing Cost	☐	Form 12 (Loan Closing Statements)	☐		☐		☐	
☐	Closing Cost	☐	Form 14 (Mortgage Interest Payment & Incidental Expenses)	☐		☐		☐	
☐	Searching Cost	☐		☐		☐	Form 23 (Searching Detail) & Form 24 (Searching Form)	☐	
☐	Payment in Lieu of Moving Expense	☐		☐		☐	Justification Form 6 (Tax Reports)	☐	

RELOCATION ASSISTANCE FORM
IMPROVEMENTS WITHIN RIGHT OF WAY

Project ID No. _____ Road/Route _____ County Choose an item.

Tract	Station	Occupant & Address	Actual Vacate Date	Vacate Dates 90	30	Type of Improvement	Race	Owner / Tenant

Date _____ Relocation Agent _____

Charge Code / WBS Element _____ Right of Way Agent _____

RELOCATION PAYMENT AUTHORIZATION

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

To: South Carolina Department of Transportation
P. O. Box 191
Columbia, SC 29202

I hereby authorize the South Carolina Department of Transportation (SCDOT) to pay $__ to __.

These expenses were incurred as a result of my relocation from right-of-way acquired by the SCDOT.

Please mail payment to __.

_____ _____
Witness Signature

_____ _____
Witness Signature

THE STATE OF SOUTH CAROLINA)
)
COUNTY OF Choose an item.)

ACKNOWLEDGEMENT

Personally appeared before me the above named person(s), agent or officer and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this ____ day of_____, 20__.

_____
Signature of Notary Public

_____
Printed Name of Notary Public

NOTARY PUBLIC FOR THE STATE OF _____
My Commission Expires: _____
(Affix seal if outside SC)

PURCHASERS
LOAN CLOSING STATEMENT

DATE Click or tap to enter a date.

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

NAME OF MORTGAGOR _____

PROPERTY ADDRESS _____

SELLING PRICE: $ _____

CLOSING COST:

Attorney's Fees	$
Appraisal Fee	$
FHA or VA Application Fee	$
Inspections	$
Credit Report & Pictures	$
*Title Insurance	$
Escrow Agent's Fee	$
*State Revenue Stamps	$
Sales or Transfer Taxes	$
Recording Fees	$
** Discount Points	$
** Origination or Assumption Fee	$
Survey	$
Other	$

TOTAL CLOSING COST $ 0.00

DOWN PAYMENT $ _____

NOTE: DO NOT include Prepaid Items in Closing Cost

TOTAL CLOSING COST AND DOWN PAYMENT $ _____

BALANCE FINANCED $ _____

TOTAL $ _____

The above statement has been read by me/us and I/we acknowledge the correction of same.

_____
Signature

_____
Loan Closing Officer

* Not to exceed the costs for a comparable replacement dwelling

** Not to exceed prevailing rate for area and limited to the necessary mortgage amount

STATE OF SOUTH CAROLINA)
) **AGREEMENT FOR PAYMENT**
COUNTY OF)

Project ID No.
Road/Route
Tract
Displacee No.

THIS AGREEMENT is entered into between the South Carolina Department of Transportation (hereinafter called "Agency") and (hereinafter called "Displacee").

WHEREAS, Agency has determined that Displacee is entitled to Replacement Housing payment under its Relocation Assistance Program.

WHEREAS, Agency and Displacee have failed to agree upon the just compensation payable to Displacee for the acquisition of the property located at (hereinafter called "Subject Property") but Displacee desires to received Replacement Housing payment in advance of a final settlement of the pending condemnation action through which a determination will be made of the amount of just compensation Displacee is to be paid for the Subject Property.

NOW THEREFORE, it is (therefore) agreed by the parties hereto as follows:

Displacee Agrees:

1. That Agency has made an offer of **$** to Displacee as just compensation for the acquisition of the Subject Property. Displacee has elected to receive a drawdown of **$** .

2. That the amount deposited with the Court as just compensation for the Subject Property is **$** .

3. That the Agency's offer of just compensation attributable to acquisition of the Subject Property is **$** .

4. That based upon comparable replacement housing of **$** Agency has determined that Displacee is entitled to a Replacement Housing Payment of **$** .

5. That if Agency will pay to Displacee **$** as the Replacement Housing Payment prior to Final Adjudication of the Subject Condemnation Case, then Displacee agrees that if the amount of just compensation finally determined to be due Displacee under applicable Eminent Domain Laws exceeds the **$** , then said Replacement Housing payment shall be recomputed. The excess amount, if any, shall be paid to the Agency immediately after Final Judgement or an appropriate credit therefore, will be made to the Agency against the Final Judgement amount.

6. Displacee agrees to execute any documents necessary to carry out the purpose of this Agreement upon final determination of just compensation due under existing condemnation laws. This document may be used, if necessary, to obtain credit on any judgment in favor of Displacee and

against Agency in the event Displacee fails or refuses to give appropriate credit as provided herein by means of other documents submitted or requested by Agency.

Agency Agrees:

1. That it will pay to Displacee a Replacement Housing payment of **$** in Advance of Final Adjudication of the just compensation due Displacee for the Subject Property.

2. That if the amount of just compensation finally determined to be due Displacee under applicable Eminent Domain laws is less that **$** , Agency will pay to the Displacee any additional amount that is due as the balance of the Replacement Housing Payment.

Both Parties Agree:

1. That this Document shall not be admissible in evidence in the Trial of the Condemnation regarding the Subject Property.

2. That applicable law relative to Eminent Domain are not supplemented or expanded by this Agreement.

Executed by parties on the dates noted below:

Witnesses: South Carolina Department Of Transportation

_____ By: _____

_____ Its: Director, Rights of Way

Date: _____

Witnesses: Displacee

_____ _____

_____ _____

Date: _____

MORTGAGE INTEREST PAYMENT & INCIDENTAL EXPENSES

VENDOR NO.:

Date _____

The following incidental expenses and increased interest payment are claimed by me:

1.	Mortgage Interest Payment	$	9.	Revenue stamps	$
2.	Attorney fee	$	10.	Sales or Transfer taxes	$
3.	Appraisal fee	$	11.	Recording fee	$
4.	FHA or VA application fee	$	12.	Discount points	$
5.	Inspections	$	13.	Origination or Assumption fee	$
6.	Credit report	$	14.	Survey	$
7.	Title insurance	$	15.	Other	$
8.	Escrow agent's fee	$			

Total $ 0.00

I hereby certify that the above amounts were incidental to the purchase of replacement housing located at _____

_____

_____ _____
Signature of Claimant Date

FOR OFFICIAL USE ONLY

DISTRIBUTION OF CHARGES:

Cost Center	Fund	Functional Area	GL Account	WBS Element	Amount
					$
					$

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Objective Code(s): _____

I certify that the above expenses were reasonable and necessary expenses incurred in obtaining replacement housing due to the construction of this project. To the best of my knowledge the amounts claimed are correct.

Certified by Relocation Agent	Date	Checked by Relocation Manager	Date
Recommended for payment:		Approved for payment:	
Assistant Director of Rights of Way for Acquistions	Date	Director, Rights of Way	Date

SCDOT R/W Form 15 (10-2017)

MORTGAGE INTEREST DIFFERENTIAL COMPUTATION

COMPUTATION OF PRINCIPAL REDUCTION METHOD PAYMENTS

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

EXISTING MORTGAGE DATA - ACQUIRED PROPERTY

Date executed Click or tap to enter a date. Original Mortgage Amount $ _____

Interest Rate _____ % Remaining Periods (as calculated) _____

Monthly payment $ _____ Remaining Principal Balance $ _____

REPLACEMENT MORTGAGE DATA

Date executed Click or tap to enter a date. Mortgage Amount $ _____

Term _____ Interest Rate _____ %

Monthly Payment $ _____ Plus _____ Points (if applicable) $ _____

Prevailing interest rate being charged by leading institutions for conventional mortgages in general area of replacement property is _____ % plus _____ points (if applicable)

Interest rate currently being paid on 30-month certificates of deposit by commercial banks in general area of. replacement property is _____ %.

Was mortgage in effect for at 180 days prior to the initiation of negotiations for the acquisitions of the subject property YES ☐ NO ☐

Old Mortgage $ _____ for _____ period @ _____ % = $ _____

New Mortgage $ _____ (same) for _____ (same) period @ _____ % = $ _____

= $ _____

\+ $ _____

TOTAL--- $ _____

_____ _____

Computed by: (Signature of Relocation Agent) Date

Date _____

Project ID No. _____ County Choose an item.
Road/Route _____ Tract _____ Displacee No. _____

Mr. Michael W. Barbee, P. E.
Director, Rights of Way
South Carolina Department of Transportation
Post Office Box 191
Columbia, South Carolina 29202

Subject: Appeal Proposal for Relocation Assistance Payments

Dear Mr. Barbee:

I request that the proposal you have made for relocation assistance payments due me be revised.

The amount that I was offered is not adequate for the following reasons:

_____

_____

_____

_____

_____

_____

_____

_____

_____
Signature

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
NOTICE OF INTENT TO ACQUIRE —

Dear :

The South Carolina Department of Transportation is proposing to improve . The new construction will require the acquisition of additional right of way that you .

The purpose of this letter is to inform you that the Department has approved your request to relocate prior to the initiation of negotiations.

In order to be fully eligible for relocation assistance payments, the following conditions must be met.

a) You must be in occupancy at the time this notice is received.

b) You move your personal property from the real property being acquired; and

c) You must meet all other eligibility requirements.

A brochure is enclosed that briefly outlines the Right of Way and Relocation Assistance Program. Additional information can be obtained by contacting your State Relocation Agent.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

www.scdot.org
An Equal Opportunity
Affirmative Action Employer
855-GO-SCDOT (855-467-2368)

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
AVAILABILITY OF PAYMENTS – RELOCATION ASSISTANCE – OWNER

Dear :

The Department is negotiating to purchase your property. The purchase of the property for construction of the above project will require you to move. However, this is not a notice to move. In order to meet the Department's construction schedule, it will be necessary for you to vacate only that portion of the property being acquired in the near future. While we need your cooperation in vacating that portion as soon as possible after payment for the property has been made, you will under no circumstances be required to vacate the property for at least 90 days from receipt of this letter.

At the time the Department takes possession of the property, we will advise you of the specific date by which you must vacate the acquired right of way. The specific vacate date will be 30 days or more from the date of notification.

Upon payment, you may be obligated to pay rent to the Department until you vacate the property. When we notify you of the specific vacate date you will be advised of the rental amount, if any, and the date on which the rent is due to the Department.

Moving Costs: Your moving cost can be based on bids either from moving companies that are obtained by the Department or you can select to be paid for your moving expenses based on a schedule. Based on a schedule, you will receive $____ for moving, this amount includes your dislocation allowance. Your claim for moving expenses will be verified by me and must be filed within 18 months of the date you move, or the date the final acquisition payment is made, whichever is later.

Replacement Housing: I have made a detailed study of available, comparable, decent, safe and sanitary dwellings for sale and determined that you are eligible for a maximum price differential payment of $___. This payment is in addition to the acquisition payment. However, to receive the maximum price differential payment you must spend a total of $___ on replacement housing. The comparable dwelling used to compute the above payment is located at ___ and is listed for sale for $. If this house is no longer available, contact me and I will refer you to other comparable housing within the amount offered. The price differential payment is conditional and subject to change if the acquisition amount changes, or if you purchase a dwelling for less than the total amount stated above. Also, if you decide to rent a replacement dwelling, your price differential payment may change. Therefore, if you intend to rent let me know and I will inform you of the amount for which you are eligible and what you must do to qualify for it.

In addition, owner-occupants of 180 days or more are eligible for a mortgage interest payment. Mortgage interest payments are provided to compensate a displaced owner for the difference between the existing monthly payment and the new monthly payment the person is required to pay for financing a replacement dwelling. Further, closing costs incurred in buying the replacement dwelling are reimbursable.

Full details about all of these payments are included in the Right of Way Relocation Assistance brochure you have been given. If there is anything you do not understand, please ask me for an explanation.

If you consider the above figures unsatisfactory, you may request a review of these findings by the Assistant Director of Rights of Way in Columbia, South Carolina. I will be glad to provide assistance in requesting this review. You will receive payment of your claims by mail from the Columbia Office.

Yours very truly,

_____
Relocation Agent

_____
Address and Telephone Number

Hand delivered to me this _____ Day of _____
By Relocation Agent _____
Accepted by _____

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
AVAILABILITY OF PAYMENTS – RELOCATION ASSISTANCE – TENANT

Dear :

The Department is negotiating to purchase the property you occupy. The purchase of the property for construction of the above project will require you to move. However, this is not a notice to move. In order to meet the Department's construction schedule, it will be necessary for you to vacate only that portion of the property being acquired in the near future. While we need your cooperation in vacating that portion as soon as possible after payment for the property has been made to the owner, you will under no circumstances be required to vacate the property for as least 90 days from receipt of this letter.

You will be advised when the Department has made payment to the owner for the property. At that time, we will advise you of the specific date by which you must vacate the acquired right of way. The specific vacate date will be 30 days or more from the date of notification.

Upon payment being made to the owner, you may be obligated to pay rent to the Department until you vacate the property. When we notify you of the specific vacate date you will be advised of the rental amount, if any, and the date on which the rent is due to the Department.

Moving Costs: Your moving cost can be based on bids either from moving companies that are secured by the Department or you can select to be paid for your moving expenses based on a schedule. Based on a schedule, you will receive $____ for moving, this amount includes your dislocation allowance. Your claim for moving expenses will be verified by me and must be filed within 18 months of the date you move, or the date the final acquisition payment is made, whichever is later.

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

Replacement Housing: I have made a detailed study of available, comparable, decent, safe and sanitary rental housing in this area. If you continue to rent you will be eligible for a maximum payment of $___ if you rent a decent, safe and sanitary dwelling for $___ per month or more and provide me with a rent receipt. The rental dwelling used to compute the above payment is located at ___ and rents for $. If this rental unit is no longer available, contact me and I will refer you to other comparable housing within the amount offered or recompute the amount offered. The above amount is conditional and it will be recomputed if you pay less rent than the amount listed above. If you are interested in buying a replacement dwelling, you may be eligible for an amount up to $___ which you must use for a down payment and closing costs.

If you are interested in buying a dwelling, let me know and I will advise you how the payment is determined and what you must do to qualify for it. Full details about these payments are included in the Right of Way Relocation Assistance brochure you have been given. If there is anything you do not understand, please ask me for an explanation.

If you consider the above figures unsatisfactory, you may request a review of these findings by the Assistant Director of Rights of Way for Operations in Columbia, South Carolina. I will be glad to provide assistance in requesting this review. You will receive payment of your claims by mail from the Columbia Office.

Yours very truly,

_____
Relocation Agent

_____
Address and Telephone Number

Hand delivered to me this _____ Day of _____
By Relocation Agent _____
Accepted by _____

PROPERTY INVENTORY

Name ____

Address ____

Project ID No. ______________________ County ______________________

Road/Route ______________ Tract ______________ Displacee No. ______________

Item No.	Quantity	Size	Description	Attached? Yes	Attached? No	After Relocation Item Moved? Yes	After Relocation Item Moved? No
				☐	☐	☐	☐
				☐	☐	☐	☐
				☐	☐	☐	☐
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				☐	☐	☐	☐

SEE REVERSE SIDE

Project ID No. County - - Tract No(s) - Displacee No.

Item	Description	Quantity	Attached? Yes	Attached? No	After Relocation Item Moved? Yes	After Relocation Item Moved? No
A	Heat Pump		☐	☐	☐	☐
B	Central Heating System		☐	☐	☐	☐
C	Central Air Conditioning System		☐	☐	☐	☐
D	Refrigerator		☐	☐	☐	☐
E	Unusual Light Fixtures		☐	☐	☐	☐
F	Ceiling Fans		☐	☐	☐	☐
G	Bathroom Commodes		☐	☐	☐	☐
H	Bathroom Vanities		☐	☐	☐	☐
I	Bathroom Sinks		☐	☐	☐	☐
J	Bathroom Medicine Cabinets		☐	☐	☐	☐
K	Mirrors		☐	☐	☐	☐
L	Bathtubs		☐	☐	☐	☐
M	Kitchen Sinks		☐	☐	☐	☐
N	Kitchen Stove		☐	☐	☐	☐
O	Garbage Disposal		☐	☐	☐	☐
P	Kitchen Cabinets		☐	☐	☐	☐
Q	Microwave Ovens		☐	☐	☐	☐
R	Outside Storage Sheds		☐	☐	☐	☐
S	Freezer		☐	☐	☐	☐
T	Dishwasher		☐	☐	☐	☐
U	Storm windows/doors		☐	☐	☐	☐
V	Other		☐	☐	☐	☐

Comments:

Are there any underground or aboveground tanks on this tract?	YES ☐	NO ☐	

If yes, give number, age and description of tanks below.

No. of Tanks	**Age**	**Description**

Certified true and correct inventory: _____

Verified by _____ _____

Relocation Agent Date

THE STATE OF SOUTH CAROLINA)
)
COUNTY OF)

AFFIDAVIT OF PRESENT RENT
(for Tenant Relocation)

Project ID No. _____
Road/Route _____
Tract _____
Displacee No. _____

I, _____, being duly sworn state that I pay $ per month for rental of my present dwelling located at _____

_____ (L.S.)

_____
Print or Type Name here

Sworn to me this _____ day

of _____ A.D., 20_____

_____
NOTARY PUBLIC FOR SOUTH CAROLINA

_____
Print or Type Name here
My Commission Expires _____

SEARCHING DETAIL

Project ID No. _____ County Choose an item.
Road/Route _____ Tract _____ Displacee No. _____

DATE	HOURS	RATE	LOCATION VISITED	CONTACTED	MILES

SEARCHING FORM

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Claim Of: _____

BUSINESS:	Reimbursement not to exceed $2,500.00 MAXIMUM	ADVERTISING SIGN:	Reimbursement not to exceed $2,500.00

1. Name of Displacee: _____
2. Transportation: No. of miles _____ x Rate $ _____ per mile $ _____
3. Meals: No. of meals _____ x (Attach Receipts) $ _____
4. Lodging: No of nights _____ x (Attach Receipts) $ _____
5. Searching: Hours _____ x Rate _____ $ _____

***Note: Attach justification for rate used.**

TOTAL $ 0.00

6. Other: Specify and attach receipts.

_____

_____

*NOTE: JUSTIFICATION FOR RATE USED ABOVE.

7. Name of person who searched: _____
8. Unexplained searching cost not listed above. _____

TOTAL AMOUNT CLAIMED: $ _____ (NOT TO EXCEED THE MAXIMUM LISTED ABOVE)

South Carolina Department of Transportation
Appraisal Sheet for Relocation

Project ID No. _____ County Choose an item.

Road/Route _____ Tract _____ Displacee No. _____

Stations – From: _____ To: _____

Size of Tract _____ Area to be acquired (AC. or S.F.) _____

Owner and Address _____

Property Location _____

Present Use _____ H & B Use _____

Utilities _____ Zoning or Restrictions _____

Description of Property: (Including type, location, site and neighborhood analysis, description of improvements and any other data applicable.) "Use back of sheet if necessary."

Value of Whole Property $ _____

Value of Home Site $ _____

Total $ 0.00

_____
Appraiser

_____
Date

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract

Dear :

The South Carolina Department of Transportation tendered payment on for purchase of the property that your sign occupies. As a result of this acquisition, any lease that you may have on the acquired area is hereby cancelled. In order to meet our construction schedule, you are hereby requested to vacate the premises on or before .

By your continued occupancy of the acquired property, you acknowledge full responsibility for all utility charges imposed and the cost of any necessary repairs to the property during your occupancy.

Sincerely,

Fran Bickley
Relocation Manager

FB/
ec: , Relocation Agent
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract

Dear :

The South Carolina Department of Transportation tendered payment on for purchase of the property that you occupy. In order to meet our construction schedule, you are hereby requested to vacate the premises on or before .

By your continued occupancy of the acquired property, you acknowledge full responsibility for all utility charges imposed and the cost of any necessary repairs to the property during your occupancy.

Sincerely,

Fran Bickley
Relocation Manager

FB/
ec: , Relocation Agent
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract

Dear :

The South Carolina Department of Transportation tendered payment on for purchase of right of way across a portion of property that you occupy. In order to meet our construction schedule, you are hereby requested to vacate that portion of the property on or before .

By your continued occupancy of the acquired property, you acknowledge full responsibility for all utility charges imposed and the cost of any necessary repairs to the property during your occupancy.

Sincerely,

Fran Bickley
Relocation Manager

FB/
ec: , Relocation Agent
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – County – Tract

Dear :

The South Carolina Department of Transportation (SCDOT) tendered payment on for purchase of property that you occupy. In order to meet our construction schedule, you are hereby requested to vacate that portion of the property on or before .

Effective , you will be obligated to pay rent at the rate of **$** per month, until the acquired premises are vacated and possession is surrendered to the Department. The first rent payment is due on , and on the same day each subsequent month until the property is vacated. **Rent payments are to be made payable to the *South Carolina Department of Transportation* and mailed to SCDOT Cashier, P. O. Box 191, Columbia, South Carolina, 29202-0191**. Please include the Project ID No. _____ and Tract No. on your checks, when rent payments are submitted. Failure to make required rent payment to the Department might result in a reduction of the relocation payments to which you are otherwise entitled.

By your continued occupancy of the acquired property, you acknowledge full responsibility for all utility charges imposed and the cost of any necessary repairs to the property during your occupancy.

Sincerely,

Fran Bickley
Relocation Manager

FB/
ec: , Relocation Agent
File: RW/FB

WEEKLY PROJECT RELOCATION REPORT

Project ID No. _____ County Choose an item.

Road/Route _____ Relocation Agent _____ R/W Agent _____

Tract	Name	Type Improvement	Owner / Tenant	Date Init.of.Neg.	Date Relocated	Relocated	Remarks

RE: Project ID No. — Choose an item. — Choose an item. County — Tract(s)
ACQUISITION OFFER AND AVAILABILITY OF PAYMENTS – RELOCATION ASSISTANCE – OWNER

Dear Landowner:

As previously discussed with you, the South Carolina Department of Transportation (SCDOT) proposes to acquire for this improvement project. The Department must pay just compensation for the property based on an appraisal made by a qualified real estate appraiser using comparable sales in the area.

The appraisal, a copy of which is included herein, was completed, reviewed and approved, and I am now authorized to make you the following offer:

$ of land and all improvements thereon, including the

The purchase of the property for construction of the above project will require you to move. In order to meet the Department's construction schedule, it will be necessary for you to vacate the property being acquired in the near future. While we need your cooperation in moving as soon as possible after payment for the property has been tendered, you will under no circumstances be required to vacate the property for at least **90 days** from receipt of this letter.

Upon tendering payment for the property, we will advise you of the specific date by which you must vacate the acquired right of way. The specific vacate date will be no less than **30 days** from the date of payment. Upon payment tendered and expiration of your 30-day notice, you may be obligated to pay rent to the Department until you vacate the property. However, you will be advised of the rental rate should you continue occupancy beyond the specific vacate date.

Moving Costs

You will be required to submit a certified inventory of the items to be moved in order for your claim for said inventory to be processed, approved and payment tendered. **Moving costs** that are reimbursable include dismantling, disconnecting, packing, loading, insuring, transporting, unloading, and reinstalling of personal property of the business, as well as re-lettering signs and replacing stationary on hand at the time of displacement and made obsolete as a result of the move. Items not eligible for reimbursement under moving costs are any additions, improvements, alterations or other physical changes on or to any structure in connection with moving personal property. However, it does include modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site and modifications necessary to adapt the utilities at the replacement site to the personal property. Businesses must provide the Department with reasonable advance

notice of the approximate date of the move and may select one of the following methods for moving costs. ***Please refer to page 31-32 of the Highways and You brochure for additional details:***

- **Commercial move**
- **Self-move**
- **Combination self-move/actual move**
- **Alternate payments**

– You may elect to perform the move for the personal property and will be reimbursed **$** . Once the move has been completed and inspected at the new location, a claim can be completed and submitted for payment. This amount is based on the low bid amount of two bids obtained by the Department's Agent. You also have the option to have the low bidder, perform .

Search Expenses

You may be eligible for your actual, reasonable expenses in searching and negotiating the purchase or lease of a replacement business site, **not to exceed $2,500.00**. ***Please refer to pages 32-33 of the Highways and You brochure for additional details.***

Re-establishment Expenses

In addition to the moving payments and search expense described above, you may be eligible to receive a payment **not to exceed $50,000.00**, for expenses actually incurred in re-establishing your business at a replacement site. ***Please refer to pages 34-35 of the Highways and You brochure for additional details.***

Utilities, Professional Services, Impact Fees, License, Permit or Certification

- The following expenses, shall be reimbursed if the Department determines that they are actual, reasonable and necessary:
    - Connection to available nearby utilities from the right of way to improvements at the replacement site.
    - Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Department, a reasonable pre-approved hourly rate may be established.
    - Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the Department. Prior written approval by the Relocation Manager or Director, Rights of Way is required.
    - Any license, permit or certification required of the displaced person at the replacement location. However, the payment should be based on the remaining useful life of the existing license, permit or certification.

OR

In-Lieu of Payment

If you relocate or discontinue your business, you may be eligible for a payment **in-lieu of all moving costs, search and re-establishment,** shown above. The payment is equal to the average annual net earnings of the business, except that the payment **shall not be less than $1,000 or more than $40,000.** ***Please refer to pages 33-34 of the Highways and You brochure for additional details.***

Any claim by you for relocation expenses will be verified by me and must be filed within **18 months of the date of the move, or the date of the final acquisition payment,** whichever is later. Full details about all of these payments are included in the Highways and You brochure that you have been given. If there is anything you do not understand, please ask me for an explanation.

As the Department's Agent assigned to this project, I will be available to answer any questions you may have and will render the assistance necessary to insure that your acquisition and relocation is accomplished with the least inconvenience. Please give this offer your prompt attention and inform me of your decision as soon as possible. Retain this information to report your payment according to IRS rules in Publication 544.

If you consider the above figures unsatisfactory, you may request a review of these findings by the Director, Rights of Way in Columbia, South Carolina. I will be glad to provide assistance in requesting this review.

Sincerely,

Relocation Agent

/
cc: Fran Bickley, SCDOT, Relocation Manager

RE: Project ID No. — Choose an item. — Choose an item. County — Tract(s)
ACQUISITION OFFER AND AVAILABILITY OF PAYMENTS – RELOCATION ASSISTANCE – TENANT

Dear Displacee:

The South Carolina Department of Transportation (SCDOT) has made an offer to the owner to purchase that you occupy.

The purchase of the property for construction of the above project will require you to move. In order to meet the Department's construction schedule, it will be necessary for you to vacate the property being acquired in the near future. While we need your cooperation in moving as soon as possible after payment for the property has been made, you will under no circumstances be required to vacate the property for at least **90 days** from receipt of this letter.

Upon payment being made for the property, we will advise you of the specific date by which you must vacate the acquired right of way. The specific vacate date will be no less than **30 days** from the date of payment. Upon payment being made, you may be obligated to pay rent to the Department until you vacate the property. However, you will be advised of the rental rate should you continue occupancy beyond the specific vacate date.

Moving Costs

You will be required to submit a certified inventory of the items to be moved in order for your claim for said inventory to be processed, approved and payment tendered. **Moving costs** that are reimbursable include dismantling, disconnecting, packing, loading, insuring, transporting, unloading, and reinstalling of personal property of the business, as well as re-lettering signs and replacing stationary on hand at the time of displacement and made obsolete as a result of the move. Items not eligible for reimbursement under moving costs are any additions, improvements, alterations or other physical changes on or to any structure in connection with moving personal property. However, it does include modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site and modifications necessary to adapt the utilities at the replacement site to the personal property. Businesses must provide the Department with reasonable advance notice of the approximate date of the move and may select one of the following methods for moving costs. ***Please refer to page 31-32 of the Highways and You brochure for additional details.***

- **Commercial move**
- **Self-move**
- **Combination self-move/actual move**
- **Alternate payments**

– You may elect to perform the move for the personal property and will be reimbursed **$** . Once the move has been completed and inspected at the new location, a claim can be completed and submitted for payment. This amount is based on the low bid amount of two bids obtained by the Department's Agent. You also have the option to have the low bidder, perform .

Search Expenses

You may be eligible for your actual, reasonable expenses in searching and negotiating the purchase or lease of a replacement business site, **not to exceed $2,500.00**. ***Please refer to pages 32-33 of the Highways and You brochure for additional details.***

Re-establishment Expenses

In addition to the moving payments and search expense described above, you may be eligible to receive a payment **not to exceed $50,000.00**, for expenses actually incurred in re-establishing your business at a replacement site. ***Please refer to pages 34-35 of the Highways and You brochure for additional details.***

Utilities, Professional Services, Impact Fees, License, Permit or Certification

- The following expenses, shall be reimbursed if the Department determines that they are actual, reasonable and necessary:
    - Connection to available nearby utilities from the right of way to improvements at the replacement site.
    - Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Department, a reasonable pre-approved hourly rate may be established.
    - Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the Department. Prior written approval by the Relocation Manager or Director, Rights of Way is required.
    - Any license, permit or certification required of the displaced person at the replacement location. However, the payment should be based on the remaining useful life of the existing license, permit or certification.

OR

In-Lieu of Payment

If you relocate or discontinue your business, you may be eligible for a payment **in-lieu of all moving costs, search and re-establishment,** shown above. The payment is equal to the average annual net earnings of the business, except that the payment **shall not be less than $1,000 or more than $40,000.** ***Please refer to pages 33-34 of the Highways and You brochure for additional details.***

Any claim by you for relocation expenses will be verified by me and must be filed within **18 months of the date of the move, or the date of the final acquisition payment,** whichever is later. Full details about all of these payments are included in the Highways and You brochure that you have been given. If there is anything you do not understand, please ask me for an explanation.

As the Department's Agent assigned to this project, I will answer any questions you may have and will render the assistance necessary to insure that your relocation is accomplished with the least inconvenience.

If you consider the above figures unsatisfactory, you may request a review of these findings by the Director, Rights of Way in Columbia, South Carolina. I will be glad to provide assistance in requesting this review.

Sincerely,

Relocation Agent

/

cc: Fran Bickley, SCDOT, Relocation Manager

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Moving Assistance — Moving Cost

Dear :

I am enclosing check number , dated , in the amount of $ and drawn in your favor. This check is payment for the relocation claim that was recently submitted by you.

This expense was incurred when you vacated premises formerly occupied by you and acquired by the South Carolina Department of Transportation for the improvement of the above project in County.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Fran Bickley
Relocation Manager

HSH/
Enclosure
ec: , Relocation Agent
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Payment – Services Rendered

Dear :

I am enclosing is check number , dated , in the amount of $ and drawn in your favor. This check is payment for and is in accordance with your statement dated .

Thank you for your cooperation in this matter.

Sincerely,

Fran Bickley
Relocation Manager

/
Enclosure
ec: , Relocation Agent
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Conditional Eligibility for Relocation Assistance

Dear :

On , the South Carolina Department of Transportation (SCDOT) purchased a portion of the property where your business is located. This property is part of Tract No. as identified above.

Although SCDOT did not actually purchase the land where your building is located, the design of future road improvements is such that access to your business will be affected. For this reason, SCDOT is making available to you the benefit of relocation assistance while this project is in the right of way phase. The effective date of this notice is , and you are now eligible to receive relocation assistance. Since SCDOT did not purchase the actual location of your store building, this offer is conditional. You are not being required to move by SCDOT; the choice is one you should consider and make. If you elect to receive relocation assistance from SCDOT, you must relocate with twelve (12) months from , and file a claim within eighteen (18) months of this same date.

To assist you in your relocation, you are eligible for reimbursement for the actual reasonable cost of moving your business and a payment up to $50,000.00 for eligible expenses to help reestablish your business at another location. As an alternative to these payments, you may, if you meet certain eligibility conditions, elect to receive a fixed payment that is based on your average annual net earnings. The minimum fixed payment is $1,000.00; the maximum is $40,000.00.

I am enclosing a brochure entitled "Highways and You." Please read the brochure carefully. It will help you determine which of these payments is most advantageous to you.

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

I want to make it clear that you are eligible for assistance to help you relocate. In addition to these payments, a displaced business may also be entitled to a maximum of $2,500.00 for eligible costs incurred in searching for a replacement relocation.

, SCDOT's right of way consultant for this project, may be contacted if you have any questions concerning relocation payments or procedures. He can explain your rights and help you obtain the relocation payments and other assistance for which you are eligible. In the meantime, if you have any questions regarding this notice, please contact Annette L. McCrorey at (803) 737-1400.

Remember, do not move before we have a chance to discuss your eligibility for assistance. Please note also that we will need timely advance notice of your move if you plan to apply for reimbursement of your actual moving expenses. This letter is important to you and should be retained.

Sincerely,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
File: RW/FB

STATE OF SOUTH CAROLINA	)	**AGREEMENT FOR PAYMENT**
	)	**NOTICE OF INTENT TO**
COUNTY OF	)	**ACQUIRE (HOMEOWNER)**

Road/Route
Project ID No.
Tract

This Agreement is made this day of **Choose an item., 20** by and between the South Carolina Department of Transportation (hereafter referred to as "SCDOT") and (hereafter referred to as "Displacee.")

Whereas, SCDOT has identified the subject tract for purchase which will result in the displacement of said occupants; and

Whereas, SCDOT has not completed the appraisal for establishing fair market value for the property being acquired which is necessary for computing a Replacement Housing Payment; and

Whereas, this Agreement is to provide relocation eligibility in accordance with Section XII, paragraph A (Notice of Intent to Acquire), SCDOT Relocation Manual, dated January 2016; and

Whereas, a Replacement Housing Payment comparability study would estimate the maximum housing price necessary to determining a Replacement Housing Payment; and

Whereas, SCDOT and Displacee mutually agree that this action is voluntary and for the benefit of the Displacee to purchase replacement housing and relocate prior to a formal appraisal being completed.

NOW THEREFORE, the parties agree as follows:

(1) SCDOT shall complete a relocation comparability study used to estimate the maximum housing price for computing a Replacement Housing Payment.

(2) Without a formal appraisal being completed at this time, SCDOT will issue a check for **$** with **$** estimated as the fair market value of the property being acquired and **$** estimated for the relocation Replacement Housing Payment.

(3) In exchange for the total amount in paragraph 2, the displacee shall convey a Title to Real Estate for the required right of way; however, the consideration shown in the deed will be the estimated real property value, **$** .

AGREEMENT FOR PAYMENT
Notice of Intent To Acquire (Homeowner)
Page Two

(4) All monies identified in paragraph (2) shall be issued to the closing attorney for the purchase of .

(5) The displacee must purchase and occupy a decent, safe and sanitary house with a minimum purchase price of **$** as estimated in the relocation comparability study. If the purchase price is less than **$** , the Replacement Housing Payment will be reduced accordingly (actual purchase price minus fair market value equals Replacement Housing Payment) and the displacee shall be responsible for refunding any difference, if any.

(6) The Displacee shall have 90 days from the date a check is issued by SCDOT in which to vacate, unless extended by SCDOT.

(7) SCDOT will complete a formal appraisal in the future and if the property owner is entitled to additional compensation, SCDOT will pay any increase as necessary.

(8) Displacee agrees to execute any documents necessary to carry out the purposes of this agreement.

(9) This Agreement shall be binding upon the parties, their successors, personal representatives and assigns.

IN WITNESS WHEREOF, I (or we) have hereunto set my (or our) hand(s) and seal(s) this day of Choose an item., in the year of our Lord, Two Thousand and .

Signed, sealed and delivered in the presence of:

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

_____ By: _____

1st Witness

_____

Typed or Printed Name

_____ Its: _____

2nd Witness

AGREEMENT FOR PAYMENT
Notice of Intent To Acquire (Homeowner)
Page Three

THE STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGEMENT

Personally appeared before me the above named person(s), agent or officer and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this day of Choose an item., 20 .

_____
Signature of Notary Public

_____
Printed Name of Notary Public

NOTARY PUBLIC FOR THE STATE OF _____
My Commission Expires: _____
(Affix seal if outside SC)

IN WITNESS WHEREOF, I (or we) have hereunto set my (or our) hand(s) and seal(s) this day of Choose an item., in the year of our Lord, Two Thousand and .

Signed, sealed and delivered in the presence of:

_____
1st Witness

_____
Displacee

_____
Typed or Printed Name of Displacee

_____
2nd Witness

_____
Displacee

_____
Typed or Printed Name of Displacee

AGREEMENT FOR PAYMENT
Notice of Intent To Acquire (Homeowner)
Page Four

THE STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGEMENT

Personally appeared before me the above named Displacee(s) and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this day of Choose an item., 20 .

_____
Signature of Notary Public

_____
Printed Name of Notary Public

NOTARY PUBLIC FOR THE STATE OF _____

My Commission Expires: _____

(Affix seal if outside SC)

FEDERAL AID RESIDENTIAL RELOCATION WORKSHEET

Project ID No. ____________________ Road/Route ________________ County ______________________ R/W Agent, On-Call Consultant or Other (Specify) ______________________

				Moving Expense		Replacement Housing Payments					
Tract	Displacee	Owner/Tenant	Actual	Schedule	Differential	Last Resort (Owner)	Last Resort (Tenant)	Closing Cost	Increased interest	Rental Asst.	Down Payment
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
			$	$	$	$	$	$	$	$	$
		TOTALS	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**	**$ 0.00**

RELOCATION PROJECT SUMMARY

Payments made during Fiscal Year 20

I. TOTAL HOUSEHOLD DISPLACEMENTS _____ Owners _____ Tenants _____

a. Payments for Moving Households

Payment Type	Amount	# Claims
Actual Expenses	$	
Schedule	$	
Increased Mortgage Interest Costs	$	
Number _____ Amount	$	
Average Actual Cost Payment	$	
Average Schedule Payment	$	

b. Replacement Housing Payments

Payment Type	Amount	# Claims
Rental Supplements	$	
Down Payments	$	
Last Resort (Tenants)	$	
	$	
Last Resort (Owners)	$	
TOTAL	$0.00	

c. Relocation Grievances Filed _____

d. Relocation Advisory Services Costs $ _____

II. TOTAL BUSINESS/FARM/NPO DISPLACEMENTS _____ Owners _____ Tenants _____

Type of Payment	Amount	Number
Payments based on Actual Expenses	$	
Re-establishment Payments	$	
Payments based on In Lieu Criteria	$	
TOTAL	$0.00	

INSTRUCTIONS: Use this form to summarize the information on relocation forms *41 Federal Aid Residential Relocation Worksheet* and *42 Federal Aid Commercial Relocation Worksheet*

FEDERAL AID COMMERCIAL RELOCATION WORKSHEET

Project ID No. _____ Road/Route _____ County _____ R/W Agent, On-Call Consultant or Other (specify) _____

Tract	Displacee	Owner/ Tenant	Actual Moving Expense	Reestablishment	Payment In Lieu
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
			$	$	$
		TOTALS	**$ 0.00**	**$ 0.00**	**$ 0.00**

ELIGIBLE COSTS REIMBURSEMENT FORM

Project ID No. (Ex. 0039390 or P029518)		Road/Route	
County		Tract	
Name/Displacee:		Displacee No.	
Sale Price			
Selected Comparable:		Actual Replacement	
Mortgage Balance			
Acquired		Actual Replacement	

Settlement Costs		Actual	Reimbursable
	Appraisal Fee	$0.00	$0.00
	Credit Report	$0.00	$0.00
	Legal Fees	$0.00	$0.00
	Title Exame Fee	$0.00	$0.00
	Document Preparation	$0.00	$0.00
	Notary Fee	$0.00	$0.00
	Judgment Reports	$0.00	$0.00
	Lien Certificate	$0.00	$0.00
	Recording Mortgage/Deed	$0.00	$0.00
	Survey	$0.00	$0.00
	House Inpsection	$0.00	$0.00
Limited Reimbursable Items			
	Loan Origination	$0.00	$0.00
	Buyer's Points	$0.00	$0.00
	Lender's Title Insurance	$0.00	$0.00
	Owner's Title Insurance	$0.00	$0.00
	County Stamps	$0.00	$0.00
	State Stamps	$0.00	$0.00
	County Recordation	$0.00	$0.00
Other Incidental Costs			
Total Eligible Reimbursable Settlement Costs			$0.00

CERTIFICATION OF OCCUPANCY OF DWELLING

Project ID No. _____ County _____
Road/Route _____ Tract _____ Displacee No. _____

I/we, , hereby certify that I/we have continuously occupied the dwelling located at as my/our permanent and primary domicile since . This residency is supported by the following documentation:

- ☐ Drivers License #
- ☐ Voter Registration
- ☐ County Tax Assessment Notice
- ☐ US Individual Income Tax Report
- ☐ Other (please list)

_____ _____
Signature Date

_____
Printed or Typed Name Here

Definition of dwelling (per SCDOT Relocation Handbook, Section 111-3, Paragraph A,6).

The term "dwelling" means the place of permanent or customary and usual abode. It includes a single-family house, a one family unit in a multi-family building, a unit of a condominium or cooperative housing project, or any other residential unit, including a mobile home. The term "place of permanent or customary and usual abode" is interpreted to mean "domicile." "Domicile is the place where a person has his true, fixed, permanent home and principal establishment, into which place he has, whenever he is absent, the intention of returning." A person may have but one "domicile" at any given moment and where a person has two or more houses or residences, the issue of which one is "domicile" is a question of fact.

STATE OF SOUTH CAROLINA)
)
COUNTY OF)

MORTGAGE OF REAL ESTATE

Road/Route
Project ID No.
Tract

WHEREAS, (hereinafter collectively call the Mortgagor), in and by their certain Note of even date herewith stands firmly held and bound unto **SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (SCDOT)** (hereinafter called the Mortgagee) whose address is Post Office Box 191, Columbia, South Carolina 29202 , **Attention: SCDOT Cashier**, for the payment of the full and just sum of $, payable in full, if not sooner paid, on , with interest, as in and by the Note, reference being had thereto, will more fully appear.

NOW, KNOW ALL MEN BY THESE PRESENTS, that the Mortgagor, for and in consideration of the debt or sum of money aforesaid, and to better secure its payment to the Mortgagee according to the condition of the Note, and also in consideration of the further sum of Three Dollars ($3.00) to the Mortgagor in hand well and truly paid by the Mortgagee at the before the sealing the delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the Mortgagee, its/his successors, heirs and assigns, the real property described as follows:

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the premises belonging, or in anywise appertaining.

TO HAVE AND TO HOLD, all and singular the premises unto the Mortgagee, its/his successors, heirs and assigns forever.

AND, the Mortgagor does hereby bind himself and his heirs and successors to warrant and forever defend all and singular the premises unto the Mortgagee, its/his successors, heirs and assigns, from and against himself and his heirs and successors, lawfully claiming, or to claim the same, or any part thereof.

AND IT IS AGREED, by and between the parties that the Mortgagor, his heirs and successors and assigns, shall keep any building erected on the premises insured against loss and damage

from fire and such other insurable hazards and contingencies in such amounts as Mortgagee may require, but in no event less than the full amount shown above, with such company as shall be approved by the Mortgagee, its/his successors, heirs or assigns, and shall deliver the policy to the Mortgagee. At least thirty (30) days prior to the expiration date of all such policies, renewals there of satisfactory to the Mortgagee shall be delivered to the Mortgagee. Mortgagor shall deliver to Mortgagee receipts evidencing the payment of all premiums of such insurance policies and renewals. In default thereof, the Mortgagee its/his successors, heirs or assigns may effect such insurance and reimburse themselves under this mortgage for the expense thereof, together with interest thereon at the rate provided in the Note from the date of its payment and it is further agreed, in the event of other insurance and contribution between the insurers, that the Mortgagee, its/his successors, heirs and assigns, shall be entitled to receive from the aggregate of the insurance monies to be a sum equal to the amount of debt secured by this Mortgage.

AND IT IS AGREED, by and between the parties, that if the Mortgagor, his heirs and successors or assigns, shall fail to pay all taxes and assessments upon the premises when they shall first become payable, then the Mortgagee, its/his successors, heirs or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse themselves under this Mortgage for the sum so paid with interest thereon at the rate provided in the Note from the date of such payment.

AND IT IS AGREED, by and between the parties that upon any default being made in the payment of the Note or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, or failure to pay any other indebtedness which constitutes a lien upon the real property when the same shall severally become payable, then the entire amount of the debt secured or intended to be secured hereby shall become due, at the option of the Mortgagee, its/his successors, heirs or assigns, although the period for the payment thereof may not have expired. Mortgagor will pay all taxes and assessments and will deliver to the Mortgagee proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent.

AND IT IS AGREED, by and between the parties that should legal proceedings be instituted for the collection of the debt secured hereby, then the Mortgagee, its/his successors, heirs or assigns, shall have the right to have a receiver appointed of the rents and profits of the premises, who, after deducting all charges and expenses attending such proceedings, and the execution of the trust as receiver, shall apply the residue of the rents and profits towards the payment of the debt secured hereby.

AND IT IS FURTHER AGREED, by and between the parties that should legal proceedings be instituted for the foreclosure of this Mortgage, or should the Mortgagee become a party to any action by reason of this Mortgage, or should the debt secured hereby be placed in the hands of an attorney at law for collection, by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable as part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, NEVERTHELESS, and it is the true intent and meaning of the parties, that if the Mortgagor does and shall well and truly pay, or cause to be paid, unto the Mortgagee, its/his successors, heirs and assigns, the debt or sum of money aforesaid, with interest thereon, and if any shall be due according to the true intent and meaning of the Note and this Mortgage, then this Mortgage shall cease, determine, and be utterly null and void; otherwise it shall remain in full force and virtue.

AND IT IS AGREED, by and between the parties that the Mortgagor should hold and enjoy the premises until default or payment shall be made.

Any reference in this instrument to the plural shall include the singular, and any reference to the neuter shall include the male and female, the male shall include the female, and vice versa.

WITNESS the hand and seal of the Mortgagor on this day of **Choose an item., 20**

.

SIGNED, SEALED AND DELIVERED

In the presence of:

_____ _____(Seal)

_____ _____(Seal)

STATE OF SOUTH CAROLINA)
)
COUNTY OF)

ACKNOWLEDGEMENT

Personally appeared before me the above named Grantee(s) and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this day of , 20 .

_____
Signature of Notary Public

_____
Printed Name of Notary Public

NOTARY PUBLIC FOR THE STATE OF _____

My Commission Expires: _____

(Affix seal if outside SC)

STATE OF SOUTH CAROLINA)
)
COUNTY OF)

PROMISSORY NOTE

Road/Route
Project ID No.
Tract

$, South Carolina

FOR VALUE RECEIVED, the undersigned promises to pay to the order of South Carolina Department of Transportation (SCDOT) (hereinafter called "Noteholder") whose address is Post Office Box 191, Columbia, South Carolina 29202-0191 Attention: SCDOT Cashier or at such other place as the holder hereof may from time to time designate in writing, the full and just principal sum of $ Dollars payable with interest at the rate of per annum, principal and interest being payable in lawful money of the United States as follows:

Principal and interest is payable in equal consecutive monthly installments of **$** beginning . Remaining installments will be due on the same day of each succeeding month until all outstanding indebtedness has been paid in full. The final installment of principal and all accrued and unpaid interest will be due on .

Any payment of principal or interest which is not made by the thirtieth (30th) day of the month, shall bear interest at the note rate until paid, and the undersigned will pay the Holder a "late charge" of five (5%) per cent of the monthly payment amount which shall be for the purpose of reimbursing the Holder for expenses incurred by reason of said late payment.

The Holder shall have the optional right to declare the amount of the total unpaid balance hereof to be due and forthwith payable in advance of the maturity date as fixed herein, upon the failure of the undersigned to pay, when due, any one of the installments hereon, or upon the occurrence of any event of default. Upon exercise of this option by the Holder, the entire unpaid principal and unpaid interest shall bear interest at the Note Rate until paid. Forbearance to exercise this option with respect to any failure or breach of the undersigned shall not constitute a waiver of the right as to any subsequent failure or breach.

The maker of this Note further contracts and agrees to pay all costs of collection when incurred, including a reasonable attorney's fee if this Note is placed in the hands of an attorney for collection.

This Note is secured by a Mortgage, bearing even date herewith, executed by the undersigned in favor of the payee herein, upon certain property located in County, South Carolina.

The indebtedness evidenced by this Note may be prepaid in whole or in part without penalty.

The maker of this Note hereby waives presentment, demand, protest and notice of dishonor.

This Note is made and executed under and in all respects to be construed by the laws of the State of South Carolina.

If more than one party shall execute this Note, the term "undersigned", as used herein, shall mean all parties signing this Note and each of them, who shall be jointly and severally obligated hereinunder.

_____(Seal)

_____(Seal)

STATE OF SOUTH CAROLINA)
) **LEASE AGREEMENT**
COUNTY OF)

Road/Route
Project ID No.
Tract

THIS LEASE made and entered into this __ day of Choose an item., __, by and between the South Carolina Department of Transportation (SCDOT), Columbia, South Carolina, the Lessor, party of the first part and ____ of South Carolina, the Lessee, party of the second part (hereinafter "Lessee".).

WITNESSETH: That the Lessor, party of the first part, has granted and leased, and by these presents does grant and lease unto the Lessee, party of the second part, the following described premises, to wit:

TO HAVE AND TO HOLD the said premises unto the said Lessee for the term of commencing on the ___ day of Choose an item., ___, and ending on the ___ day of Choose an item., ___, yielding and paying thereof during said term rent at the rate of $___ per Choose an item., to be paid in advance on ____ and the said Lessee, party of the second part, for and in consideration of the above premises, does covenant and agree to pay to the said South Carolina Department of Transportation, the Lessor, party of the first part, the above stipulated rent, in the amount and manner herein specified. Rental payments are to be made payable to the ***South Carolina Department of Transportation*** and mailed to **SCDOT Cashier, P. O. Box 191, Columbia, South Carolina, 29202-0191**. When submitting rent payments, please include your Project ID No. . along with the Tract No. on the payments. Rental shall continue on a monthly basis until terminated by either party.

And it is hereby further agreed by and between the Lessor, party of the first part, and the Lessee, party of the second part that this lease is subject to the provisions set forth on the attached lease provisions.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year first above written.

Witnesses as to
South Carolina Department of
Transportation:

_____

_____

LESSOR:
SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

BY: _____
Michael W. Barbee, P. E.
Director, Rights of Way

Witnesses as to Lessee:

_____

_____

LESSEE:

_____

_____
Print or Type Name Here

_____

_____
Print or Type Name Here

LEASE PROVISIONS

1. The Lessee agrees to pay for all taxes, insurance, water and other utilities imposed or charged upon the leased premises, or upon the owner or occupier in respect thereof.

2. Lessee agrees not to make or permit to be made any alterations in or additions to the leased premises without the previous written consent of the Lessor.

3. The Lessee shall make no repairs to the premises at the expense of the Lessor.

4. The Lessee agrees not to assign, sublet, or part with the possession of whole or any part of the leased premises without the previous written consent of the Lessor.

5. The Lessee agrees that he has examined and knows the condition of leased premises and that no representations as to the condition or repair thereof have been made by the Lessor, and the Lessee further agrees to keep the said premises in such state of repairs as the same was in the commencement of the term of the lease or such state as the same may be put in by the Lessor during the continuance thereof, reasonable use and wear (and damage by fire or other unavoidable casualties) only excepted.

6. The Lessor shall not be liable for any damage occasioned by reason of the condition of repairs of leased premises or for any other reason, and the Lessee does hereby agree to relieve the Lessor from any and all liability which the said Lessor may otherwise have by reason of the occupancy of said premises by the Lessee.

7. The Lessee agrees to use the property for legal purposes only and agrees to conform with all local, state, and federal laws and ordinances governing the use and occupancy thereof.

8. That upon 30 days written notice by the Lessee to the Lessor of the Lessee's desire to vacate the premises, or upon like notice of the Lessor to the Lessee of the Lessor's desire to repossess the premises, this lease shall terminate. It is understood and agreed that under no circumstances shall this lease be binding upon either party for a longer period of time than that specifically stated herein. That is to say, upon expiration of the term herein specified this lease shall be terminated and no notice shall be required from either party that the premises are to be vacated. But the destruction of the premises by fire, or by any other casualty, shall terminate this lease.

9. If any rent shall be due and unpaid or if default shall be made in any of the covenants herein contained on the part of the Lessee, then it shall be lawful for the Lessor to enter the same premises and to again have, possess, and enjoy the same.

10. The parties covenant that the use of these premises pursuant to this lease agreement shall in no way discriminate on the grounds of race, religion, color, sex, age, disability or national origin.

11. Lessee agrees to use reasonable care to prevent damage to said property, and will indemnify the Lessor, and hold Lessor harmless from any claims and demands of any person or persons arising out of or based upon personal injuries, death or property damage suffered by such person or persons resulting directly or indirectly from the Lessee's action while occupying the leased premises.

12. Lessee shall obtain and keep in effect during the term of this Lease a policy of insurance sufficient to cover any and all liability which Lessee or Lessor may incur as a result of the Lessee's occupancy of the leased premises and which policy names Lessor as an additional named insured. Lessor shall be named as additional insured for an amount of not less than $300,000 per person and $600,000 per occurrence. Proof of insurance must be provided to the Lessor.

13. Lessee shall indemnify and hold harmless the Lessor from any and all claims, damages, obligations, or responsibilities whatsoever which may arise out of or as a result of the underground storage tanks existing on the leased premises or any contamination to the leased premises.

South Carolina
Department of Transportation

RE: Project ID No. — — County — Tract
Relocation Payment — Price Differential & Closing Cost

Dear :

I am enclosing check number , dated , in the amount of $ made payable to your firm and . Also enclosed is check number dated , in the amount of $. The enclosed checks are to be used toward the purchase and eligible cost associated with the closing on their replacement house located at in , South Carolina.

Please furnish this office with executed copies of the deed, note, mortgage, and settlement statements. Also, after the closing, please provide this office with a final statement showing the exact amounts disbursed. These documents, and any over payment of closing cost funds, must be mailed to Michael W. Barbee, P. E., Director, Rights of Way, South Carolina Department of Transportation, P. O. Box 191, Columbia, South Carolina 29202, Attention: Relocation Office.

If for any reason this closing is not consummated, please return the check to my office or call me at (803) 737-1400 for additional instructions.

If I can be of further assistance, please call me.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

South Carolina
Department of Transportation

RE: Project ID No. — — County — Tract
Relocation Payment — Replacement House Being Constructed

Dear :

I am enclosing check number , dated , in the amount of $ made payable to your firm and . The enclosed check is to be used for the construction of replacement house which is being built by .

This check is to be deposited in your firms escrow account and disbursed as construction progresses and property is purchased. South Carolina Department of Transportation (SCDOT) funds shall be the last funds disbursed after inspection and approval by our agent .

When construction and payment are completed, please provide this office with a record of disbursements and copies of lien releases. In addition, please provide SCDOT with a copy of the deed, note, mortgage and closing statements. Copies of these documents, and any overpayment of closing cost funds, must be mailed to Michael W. Barbee, P. E., Director, Rights of Way, South Carolina Department of Transportation, P. O. Box 191, Columbia, South Carolina 29202, Attention: Relocation Office.

If I can be of further assistance, please call me.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Moving Assistance — In-Lieu-Of Payment

Dear :

I am enclosing check number , dated , in the amount of $ that has been drawn in your favor. This check represents allowable compensation for the in-lieu-of moving expenses that were incurred in relocating your business. The property formerly occupied by you was acquired by the Department for the improvement of the above project in County.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

www.scdot.org
An Equal Opportunity
Affirmative Action Employer
855-GO-SCDOT (855-467-2368)

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Moving Assistance — Re-establishment Expenses

Dear :

I am enclosing check number , dated , in the amount of $ which has been drawn in your favor. This check represents allowable compensation for the re-establishment expenses that were incurred in relocating your business. The property formerly occupied by you was acquired by the Department for the improvement of the above project in County.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

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South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Payment — Scheduled Move Entitlement

Dear :

I am enclosing check number , dated , in the amount of $ and drawn in your favor. This check is payment for the relocation claim that was recently submitted by you for your scheduled move entitlement.

This expense was incurred when you vacated premises formerly occupied by you and acquired by the Department for the improvement of the above project in County.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
Relocation Payment —

Dear :

I am enclosing check number , dated , in the amount of $ which has been drawn in your company's favor. This check is payment for the relocation claim that was recently submitted regarding (with copies of your invoice attached).

Thank you for the services you provided.

Sincerely yours,

Fran Bickley
Relocation Manager

FB/
Enclosure
ec: , Relocation Agent
, Regional Right of Way Administrator
, Regional Right of Way Team Leader
File: RW/FB

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191

South Carolina
Department of Transportation

RE: Project ID No. – – County – Tract
TEN DAY NOTICE LETTER

Dear :

I am writing concerning the Outdoor Advertising (ODA) Sign on the above-referenced property acquired by the South Carolina Department of Transportation (SCDOT). SCDOT tendered payment on Enter date. for purchase of the property that your sign occupies. As a result of this acquisition, any lease that you may have had on the acquired area was and is cancelled.

As required by State and Federal Regulations, SCDOT or its contractors issued to you a 90-day Vacate Notice on Enter date. which required you to remove and relocate the Sign by Enter date.. Following tender of payment to the landowner or deposit of the tender with the Clerk of Court, SCDOT or its contractors issued you a 30-day notice on Enter Date. which required you to remove and relocate the Sign by Enter date.. By following the applicable Regulations, SCDOT has afforded you ample time to accomplish removal of the Sign and other personal property from the purchased right of way. If your personal property is not removed within 10 days of the date of this letter, SCDOT, through its contractors, will remove your personal property and place it in storage at the local maintenance facility or at a location of your choosing if you provide this.

If SCDOT must remove your Sign or other personal property because you have not done so, the risk of damage to or loss of your Sign or other personal property will be your responsibility. Your continued occupancy of SCDOT's acquired property, after notice of our demand to vacate, renders you responsible for all utility charges incurred as well as the cost of any necessary repairs to the property during your occupancy.

Sincerely,

Fran Bickley
Relocation Manager

FB/
ec: Enter name., Relocation Agent
File: RW/FB

Post Office Box 191
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Columbia, SC 29202-0191

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South Carolina
Department of Transportation

Incentive Program
PUBLIC INTEREST FINDING/COST SAVINGS ESTIMATE WORKSHEET

Approval requested for:
- Acquisition Incentive ☐
- Relocation Incentive ☐
- Both ☐

This estimate and any additional supporting documentation developed shall be forwarded to SCDOT Rights of Way Department for approval by the Director of Rights of Way (to be completed by Program Manager).

Project ID:	County: Choose an item.
PS&E Date:	Letting Date:
Estimated Construction Cost: $	
Estimated R/W Cost: $	

1. **Safety concerns and benefits to traveling public from expedited project completion of right of way acquisition and relocation (to be completed by Program Manager).**
   Review and discuss Concept Definition Report/Design Study Report, Purpose and Need Statement in EIS, and interview SCDOT project manager and regional traffic engineer to determine what safety benefits are necessary and/or recognized by the traveling public from early project completion. Include estimate of what lowering the accident rate or roadway hazard may be in terms of injuries or fatalities avoided or a decrease in traffic accidents from historical data. Enter narrative summary of comments below.

2. **Cost effectiveness of expedited project completion of right of way acquisition (to be completed by Program Manager).**

Highway Construction Calculation		
A. Estimated roadway construction cost (excludes any real estate costs).		$
B. Current annual rate of inflation of construction cost:		%
C. Estimated increase in construction cost if project is delayed one year by R/W acquisitions.	A($) x B(%) = estimated increase.	$
D. Estimated total cost of highway construction delayed one year.	A + C = total estimated increased construction costs.	$
E. Calculation assumes a one year time savings in letting date if condemnations are avoided.	A - D = dollar amount of savings from construction moved up one year.	$

3. **Available housing/business supply (to be completed by Relocation Manager, if Relocation Incentive is requested).**
   Review and discuss Conceptual Stage Plan and/or Acquisition Stage Plan for this project, if available, or use other sources. Identify housing/businesses to be acquired and type of comparable properties from these plans indicating availability of real estate in the area of highway project. Attach Conceptual or Acquisition Stage Plan, MLS data or other pertinent data to indicate that an available replacement property is obtainable.

South Carolina
Department of Transportation

4. **Real estate market trends/rate of inflation (to be completed by Chief Appraiser).**
Review engineer's reports, build-out estimate, and cost-estimating documents and determine what types of properties will be acquired. Complete grid below for appropriate types of properties on project. Attach sales information.

Real Estate Market Trends/Rate of Inflation Grid				
Property Type on Project	Real Estate Project Cost Estimates	% increase	(%) decrease	Difference
Residential				
Commercial				
Industrial				
Agricultural				
		Total = Estimated savings for early completion (1 yr)		$

5. **Estimate of real estate labor costs savings for employees and/or consultants (to be completed by Assistant Director of Rights of Way for Acquisitions & Relocations).** $

6. **Estimated real estate litigation cost saving (to be completed by Chief Appraiser and/or Condemnation Coordinator).**
Review litigation expense data on previous projects similar in construction and real estate parcel types to estimate probable expenses. Estimate cost savings based on reduced litigation expenses. $

7. **Total cost savings estimate for project (to be completed by Chief Appraiser and/or Relocation Manager):**

Add (+) real estate (lines 4, 5, & 6) ……		*$*
Add (+) highway construction (line 2) ……	+	*$*
Equals (=) estimated savings utilizing Relocation Incentive Program	=	*$*
Subtract (-) estimated cost of incentive payments on project ……	-	*$*
Net estimated cost savings for Relocation Incentive Program ……	**=**	***$***

8. **If there is no net cost savings, use of Incentive Program may still be justified. Provide justification (e.g., safety reasons) (to be completed by Program Manager):**

9. **Discuss any and all other considerations analyzed and the conclusion(s) (to be completed by Program Manager).**
Example: Review whether the inclusion of businesses could derail the abbreviated project timeline; if offering the incentive to landlords is feasible; the controversial nature of the project (if any); etc. Then, provide your reasons to believe that inclusion of incentives would be successful in that those affected will likely be receptive and have both the desire and ability to comply successfully with conditions of the program.

10. **Explain why the usual and customary relocation & acquisition practices and procedures will not meet project needs (to be completed by the Assistant Director of Rights of Way for Acquisitions & Relocations):**

South Carolina
Department of Transportation

11. Additional supporting documentation attached: Yes ☐ / No ☐

Request for Incentive Program Payments by:

_____
Regional Production Group Program Manager

Date: _____

Recommendation for Approval for Incentive Program Payments:

_____
Assistant Director of Rights of Way for Acquisitions and Relocations

Date: _____

Project Approved for Incentive Program Payments

_____
Director, Rights of Way

Date: _____

Columbia, S. C. **DATE:** Claim Date

PAY TO:

PAYMENT FOR:

Enter payment information.

TOTAL AMOUNT DUE…… $

Checked by: | Prepared by:

Project ID | Road/Route | County

DISTRIBUTION OF CHARGES						
Cost Center	**Fund**	**Functional Area**	**GL Account**	**Objective**	**WBS**	**Amount**
						$
						$
						$
						$

Payment Recommended:

Assistant Director of Rights of Way for Acquisitions — Date

Delivered to Accounting Office

Check Delivered to R/W Office

Check Number

Document Number

Payment Approved:

Check Mailed/Delivery Date

Director, Rights of Way — Date

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number

☐☐ – ☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here **Signature of U.S. person** ▶ **Date** ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting,* later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the instructions for Part II for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code,* later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships,* earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code,* later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester,* later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.SSA.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code,* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account[1]
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor[2]
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee[1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner[1]
6. Sole proprietorship or disregarded entity owned by an individual	The owner[3]
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity[4]
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships,* earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint*. You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Form **W-9(SP)**
(Rev. octubre de 2018)
Department of the Treasury
Internal Revenue Service

Solicitud y Certificación del Número de Identificación del Contribuyente

▶ **Visite *www.irs.gov/FormW9SP* para obtener las instrucciones y la información más reciente.**

Entregue el formulario al solicitante. No lo envíe al *IRS*.

Escriba en letra de molde o a máquina. Vea **Instrucciones Específicas** en la página **3.**

1 Nombre (tal como aparece en su declaración de impuestos sobre el ingreso). Se le requiere anotar un nombre en esta línea; no deje esta línea en blanco.

2 Nombre del negocio/Nombre de la entidad no considerada como separada de su dueño, si es diferente al de arriba.

3 Marque el encasillado correspondiente para la clasificación tributaria federal de la persona cuyo nombre se indica en la línea **1.** Marque solo **uno** de los siguientes **7** encasillados:

☐ Individuo/empresario por cuenta propia o *LLC* de un solo miembro ☐ Sociedad anónima tipo C
☐ Sociedad anónima tipo S ☐ Sociedad colectiva ☐ Fideicomiso/caudal hereditario
☐ Cía. de responsabilidad limitada *(LLC).* Anote la clasificación tributaria (C=Soc. anónima tipo C, S=Soc. anónima tipo S, P=Soc. colectiva) ▶ _____

Nota: Marque el encasillado correspondiente en la línea anterior de la clasificación tributaria de la *LLC* de un solo miembro. No marque *LLC* si la *LLC* está clasificada como una de un solo miembro que no es considerada separada de su dueño, a menos que el dueño sea otra *LLC* que **no** es considerada separada de su dueño para propósitos tributarios federales estadounidenses. De lo contrario, vea las instrucciones en la página **3.**

☐ Otro (vea las instrucciones) ▶

4 Exenciones (los códigos aplican solo a ciertas entidades, no a individuos; vea las instrucciones en la página **4**):

Código de beneficiario exento (si alguno) _____

Código para la exención de la declaración conforme a *FATCA* (si alguno) _____
(aplica a las cuentas mantenidas fuera de los EE.UU.)

5 Dirección (número, calle y número de apartamento o de suite). Vea las instrucciones.

Nombre y dirección del solicitante (opcional)

6 Ciudad, estado y código postal *(ZIP)*

7 Anote el (los) número(s) de cuenta(s) aquí (opcional)

Parte I Número de identificación del contribuyente *(TIN)*

Anote su número de identificación del contribuyente (*TIN,* por sus siglas en inglés) en el encasillado correspondiente. El *TIN* tiene que concordar con el nombre provisto en la línea **1** para evitar la retención adicional del impuesto. Para los individuos, este es, por lo general, su número de Seguro Social (*SSN,* por sus siglas en inglés). Sin embargo, para un extranjero residente, empresario por cuenta propia o entidad no considerada como separada de su dueño, vea las instrucciones para la Parte I, más adelante. Para otras entidades, es su número de identificación del empleador (*EIN,* por sus siglas en inglés). Si no tiene un número, vea **Cómo obtener un *TIN,*** más adelante.
Nota: Si la cuenta está a nombre de más de una persona, vea las instrucciones para la línea **1.** Vea también **Nombre y número que se le debe dar al solicitante** para recibir asesoramiento sobre cuál número debe anotar.

Número de Seguro Social
☐☐☐ – ☐☐ – ☐☐☐☐

o

Número de identificación del empleador
☐☐ – ☐☐☐☐☐☐☐

Parte II Certificación

Bajo pena de perjurio, yo declaro que:

1. El número que aparece en este formulario es mi número de identificación de contribuyente correcto (o estoy esperando que me asignen un número) y
2. No estoy sujeto a la retención adicional de impuestos porque: (a) estoy exento de la retención adicional o (b) no he sido notificado por el Servicio de Impuestos Internos (*IRS,* por sus siglas en inglés) de que estoy sujeto a la retención adicional de impuestos como resultado de no declarar todos los intereses o dividendos o (c) el *IRS* me ha notificado que ya no estoy sujeto a la retención adicional y
3. Soy ciudadano de los EE.UU. u otra persona de los EE.UU. (definido después) y
4. El (Los) código(s) de la *Foreign Account Tax Compliance Act* (Ley de Cumplimiento Tributario para Cuentas Extranjeras o *FATCA,* por sus siglas en inglés) anotado(s) en este formulario (si alguno) indicando que estoy exento de declarar conforme a *FATCA* es el (son los) correcto(s).

Instrucciones para la certificación. Tiene que tachar la partida **2** anterior si el *IRS* le ha notificado que usted en estos momentos está sujeto a la retención adicional de impuestos porque no declaró todos los intereses y dividendos en su declaración de impuestos. Para las transacciones de bienes inmuebles, la partida **2** no corresponde. Para los intereses hipotecarios pagados, la adquisición o abandono de bienes asegurados, la cancelación de deudas, las contribuciones a un arreglo de jubilación individual (*IRA,* por sus siglas en inglés) y, por lo general, los pagos que no sean intereses y dividendos, no se le requiere firmar la certificación pero tiene que proveer su *TIN* correcto. Vea las instrucciones para la Parte II, más adelante.

Firme Aquí | **Firma de la persona de los EE.UU.** ▶ | **Fecha** ▶

Instrucciones Generales

Las secciones a las cuales se hace referencia son del Código Federal de Impuestos Internos, a menos que se indique de otra manera.

Acontecimientos futuros. Si desea obtener información sobre los más recientes acontecimientos que afectan al Formulario W-9(SP) y sus instrucciones, tales como legislación promulgada después de que estos se han publicado, visite *www.irs.gov/FormW9SP.*

Propósito del formulario

Una persona o entidad (nombrada en el Formulario W-9(SP)) a quien se le requiera presentar una declaración informativa ante el *IRS* tiene que obtener su *TIN* correcto, el cual puede ser su *SSN,* número de identificación del contribuyente (*ITIN,* por sus siglas en inglés), número de identificación del contribuyente para adopción (*ATIN,* por sus siglas en inglés) o *EIN,* para declarar en una declaración informativa la cantidad pagada a usted u otra cantidad declarada en una declaración informativa. Ejemplos de declaraciones informativas incluyen, pero no se limitan a, los siguientes:

• Formulario 1099-INT (interés ganado o pagado).

• Formulario 1099-DIV (dividendos, incluyendo aquellos provenientes de acciones o fondos mutuos).

• Formulario 1099-MISC (diferentes tipos de ingresos, premios, recompensas o ingresos brutos).

• Formulario 1099-B (ventas de acciones o fondos mutuos y ciertas otras transacciones de corredores).

• Formulario 1099-S (ingresos de transacciones de bienes inmuebles).

• Formulario 1099-K (transacciones efectuadas por medio de tarjetas mercantiles y aquellas efectuadas por una red de terceros).

• Formulario 1098 (intereses hipotecarios), 1098-E (intereses de préstamos estudiantiles), 1098-T (matrícula).

• Formulario 1099-C (cancelación de deudas).

• Formulario 1099-A (adquisición o abandono de bienes asegurados).

Use el Formulario W-9(SP) (o Formulario W-9, en inglés) solo si usted es una persona de los EE.UU. (incluyendo a un extranjero residente) para proveer su *TIN* correcto.

Si usted no le provee el Formulario W-9(SP) al solicitante con un TIN, *usted podría estar sujeto a la retención adicional. Vea* **¿Qué es la retención adicional?,** *más adelante.*

Al firmar el formulario completado, usted:

1. Certifica que el *TIN* que está facilitando es correcto (o está esperando que se le asigne un número);

2. Certifica que no está sujeto a la retención adicional de impuestos; o

3. Reclama una exención de la retención adicional si es un beneficiario exento de los Estados Unidos. Si le corresponde, también certifica que, como persona de los EE.UU., todo ingreso procedente de su participación asignable en una sociedad colectiva, de comercio o negocio estadounidense no está sujeto al impuesto retenido sobre la participación de socios extranjeros en los ingresos efectivamente relacionados; y

4. Certifica que el (los) código(s) para *FATCA* anotado(s) en este formulario (si alguno) indicando que está exento de declarar conforme a *FATCA* es (son) correcto(s). Vea **¿Qué es la declaración conforme a *FATCA*?,** más adelante, para más información.

Nota: Si usted es una persona de los EE.UU. y un solicitante le da un formulario que no sea el Formulario W-9(SP) (o Formulario W-9, en inglés) para solicitar su *TIN,* usted tiene que usar el formulario del solicitante si es considerablemente similar a este Formulario W-9(SP) (o al Formulario W-9, en inglés).

Definición de persona de los Estados Unidos. Para propósitos tributarios federales, a usted se le considera ser una persona de los EE.UU. si es:

• Un individuo que es ciudadano de los EE.UU. o extranjero residente de los EE.UU.;

• Una sociedad colectiva, sociedad anónima, compañía o asociación creada u organizada en los EE.UU. o conforme a las leyes de los EE.UU.;

• Un caudal hereditario (que no sea un caudal hereditario extranjero); o

• Un fideicomiso doméstico (como se define en la sección 301.7701-7 del Reglamento).

Reglas especiales para las sociedades colectivas. Conforme a la sección 1446, a las sociedades colectivas que desempeñen actividades comerciales o de negocios en los Estados Unidos, por lo general, se les requiere pagar un impuesto de retención del ingreso tributable sobre la participación asignable de todo socio extranjero procedente de dichas actividades comerciales o de negocio. Además, en ciertos casos en que no se ha recibido un Formulario W-9(SP) (o Formulario W-9, en inglés), las reglas conforme a la sección 1446 requieren que una sociedad colectiva que dé por hecho que el socio es una persona extranjera pague el impuesto de retención conforme a la sección 1446. Por lo tanto, si usted es una persona de los EE.UU. que es socio de una sociedad colectiva que desempeña actividades comerciales o de negocios en los Estados Unidos, provéale el Formulario W-9(SP) (o Formulario W-9, en inglés) a la sociedad colectiva para establecer su condición de estadounidense y evitar la retención conforme a la sección 1446 sobre su participación de ingresos de la sociedad.

En los casos a continuación, las siguientes personas tienen que entregarle el Formulario W-9(SP) (o Formulario W-9, en inglés) a la sociedad colectiva para propósitos de establecer su condición de estadounidense y evitar la retención sobre su participación asignable de los ingresos netos procedentes de la sociedad colectiva que desempeña comercio o negocios en los Estados Unidos.

• En el caso de una entidad no considerada como separada de su dueño con un dueño estadounidense, el dueño estadounidense de una entidad no considerada como separada de su dueño y no la entidad en sí;

• En el caso de un fideicomiso cesionista con un cesionista u otro dueño estadounidense, por lo general, el cesionista u otro dueño estadounidense de un fideicomiso cesionista y no el fideicomiso en sí; y

• En el caso de un fideicomiso estadounidense (que no sea un fideicomiso cesionista), el fideicomiso estadounidense (que no sea un fideicomiso cesionista) y no los beneficiarios del fideicomiso.

Persona extranjera. Si es una persona extranjera o una sucursal estadounidense de un banco extranjero que ha optado por ser tratado como persona de los EE.UU., no use el Formulario W-9(SP) (ni el Formulario W-9, en inglés). En su lugar, use el Formulario W-8, en inglés, correspondiente o el Formulario 8233 (vea la Publicación 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities* (Retención del impuesto a extranjeros no residentes y entidades extranjeras), en inglés).

Extranjero no residente que se convierte en extranjero residente. Por lo general, solo un individuo extranjero no residente puede usar los términos de un tratado tributario para reducir o eliminar impuestos estadounidenses sobre ciertas clases de ingresos. Sin embargo, la mayoría de los tratados tributarios contienen una disposición conocida como "cláusula restrictiva". Las excepciones indicadas en la cláusula restrictiva pueden permitir que una exención del impuesto continúe para ciertas clases de ingresos aun después de que el beneficiario de otra manera se haya convertido en extranjero residente de los EE.UU. para propósitos tributarios.

Si es extranjero residente de los EE.UU. que depende de una excepción contenida dentro de una cláusula restrictiva de un tratado tributario para reclamar una exención del impuesto estadounidense sobre ciertas clases de ingresos, tendrá que adjuntar una declaración al Formulario W-9(SP) (o Formulario W-9, en inglés) que especifique las cinco partidas siguientes:

1. El país con el tratado tributario. Por lo general, este tiene que ser el mismo tratado conforme al cual usted reclamó exención del impuesto como extranjero no residente.

2. El artículo del tratado donde se aborda el ingreso.

3. El número del artículo (o su ubicación) dentro del tratado tributario que contiene la cláusula restrictiva y sus excepciones.

4. La clase y la cantidad de ingreso que reúne los requisitos para la exención del impuesto.

5. Suficientes hechos para justificar la exención del impuesto conforme a los términos del artículo del tratado.

Ejemplo. El Artículo 20 del tratado tributario sobre los ingresos entre los EE.UU. y China permite una exención del impuesto para el ingreso de una beca recibida por un estudiante chino que se encuentre temporalmente en los Estados Unidos. Conforme a la ley estadounidense, este estudiante se convertirá en extranjero residente para propósitos tributarios si su estadía en los Estados Unidos supera los 5 años naturales. Sin embargo, el párrafo 2 del primer Protocolo al tratado entre los EE.UU. y China (fechado el 30 de abril de 1984) permite que las disposiciones del Artículo 20 continúen vigentes aun después de que el estudiante chino se convierta en extranjero residente de los Estados Unidos. Un estudiante chino que reúne los requisitos para esta excepción (conforme al párrafo 2 del primer Protocolo) y está contando con esta excepción para reclamar una exención del impuesto sobre el ingreso de su beca o beca de investigación, adjuntaría a su Formulario W-9(SP) (o Formulario W-9, en inglés) una declaración que incluya la información descrita anteriormente para apoyar esa exención.

Si es extranjero no residente o una entidad extranjera, entréguele al solicitante el Formulario W-8 correspondiente o el Formulario 8233 que ha sido completado, ambos en inglés.

Retención adicional

¿Qué es la retención adicional? Las personas que le hacen ciertos pagos tienen que, bajo ciertas condiciones, retener y pagarle al *IRS* un porcentaje (24%) de dichos pagos. A esto se le llama "retención adicional". Los pagos que pueden estar sujetos a la retención adicional incluyen los de intereses, intereses no sujetos a impuestos, dividendos, transacciones de corredores y de trueques, alquileres, regalías, compensación que no sea de empleado, pagos hechos en liquidación de transacciones efectuadas con tarjetas de pago y aquellas efectuadas por una red de terceros y ciertos pagos de operadores de barcos pesqueros. Las transacciones de bienes inmuebles no están sujetas a la retención adicional.

No estará sujeto a la retención adicional sobre los pagos que reciba si le provee al solicitante su *TIN* correcto, hace las certificaciones correspondientes y declara todos sus intereses y dividendos tributables en su declaración de impuestos.

Los pagos que reciba estarán sujetos a la retención adicional si:

1. Usted no le provee su *TIN* al solicitante;

2. Usted no certifica su *TIN* cuando se le requiere (vea las instrucciones para la Parte II para más detalles);

3. El *IRS* le informa al solicitante que usted ha provisto un *TIN* incorrecto;

4. El *IRS* le informa que usted está sujeto a la retención adicional porque no declaró todos sus intereses y dividendos en su declaración de impuestos (para intereses y dividendos declarables solamente); o

5. Usted no le certifica al solicitante que no está sujeto a la retención adicional bajo la partida **4,** anteriormente (solamente para cuentas con intereses y dividendos declarables que fueron abiertas después de 1983).

Ciertos beneficiarios y pagos están exentos de la retención adicional. Vea **Código de beneficiario exento,** más adelante, y las Instrucciones para el Solicitante del Formulario W-9(SP) (o Formulario W-9, en inglés) para más información.

Vea también **Reglas especiales para las sociedades colectivas,** anteriormente.

¿Qué es la declaración conforme a *FATCA*?

La *Foreign Account Tax Compliance Act* (Ley de Cumplimiento Tributario para Cuentas Extranjeras o *FATCA,* por sus siglas en inglés) requiere que las instituciones financieras extranjeras participantes informen sobre todo titular de cuentas de los Estados Unidos que se especifican personas de los Estados Unidos. Ciertos beneficiarios están exentos de declarar conforme a *FATCA*. Vea **Códigos para la exención de la declaración conforme a la ley *FATCA,*** más adelante, y las Instrucciones para el Solicitante del Formulario W-9(SP) (o Formulario W-9, en inglés) para más información.

Actualizar su información

Si usted ya no es un beneficiario exento y anticipa recibir pagos declarables en el futuro, tiene que proveerle información actualizada a toda persona a la cual usted se le declaró como un beneficiario exento. Por ejemplo, puede ser que necesite proveer información actualizada si tiene una sociedad anónima tipo C que elije ser tratada como tipo S, o si usted ya no está exento de impuesto. Además, tiene que proveer un Formulario W-9(SP) (o Formulario W-9, en inglés) nuevo si el nombre o el *TIN* cambia en la cuenta; por ejemplo, si el cesionista de un fideicomiso cesionista fallece.

Multas

El no proveer el *TIN.* Si no le provee su *TIN* correcto al solicitante, usted está sujeto a una multa de $50 por cada vez que no lo provea, a menos que su falta se deba a una causa razonable y no por negligencia intencional.

Multa civil por dar información falsa con respecto a la retención. Si hace una declaración falsa sin ninguna base razonable que resulta en la no retención adicional del impuesto, estará sujeto a una multa de $500.

Multa penal por falsificar información. La falsificación intencional de las certificaciones o afirmaciones lo sujetan a multas penales que incluyen sanciones y/o encarcelamiento.

Uso incorrecto del *TIN.* Si el solicitante divulga o usa el *TIN* en violación de la ley federal, el solicitante puede estar sujeto a multas civiles y penales.

Instrucciones Específicas

Línea 1

Usted tiene que anotar el nombre de uno de los siguientes en esta línea; **no** deje esta línea en blanco. El nombre debe coincidir con el nombre en su declaración de impuestos.

Si el Formulario W-9(SP) es para una cuenta conjunta (que no sea una cuenta mantenida por una institución financiera extranjera (*FFI*)), primero anote y después marque un círculo alrededor del nombre de la persona o entidad cuyo número usted anotó en la Parte I del Formulario W-9(SP). Si usted está proporcionando el Formulario W-9(SP) a una *FFI* para documentar una cuenta conjunta, cada titular de la cuenta que es una persona estadounidense debe proporcionar un Formulario W-9(SP).

a. Individuo. Por lo general, anote el nombre que aparece en su declaración de impuestos. Si ha cambiado su apellido sin informar a la Administración del Seguro Social (*SSA,* por sus siglas en inglés) del cambio de nombre, anote su nombre, su apellido como aparece en su tarjeta de Seguro Social y su nuevo apellido.

Nota para solicitante de *ITIN*: Anote su nombre individual tal como fue anotado en la línea **1a** de su Formulario W-7(SP) (o Formulario W-7, en inglés). Este también debe ser el mismo nombre que fue anotado en el Formulario 1040/1040A/1040EZ que usted presentó con su solicitud.

b. Empresario por cuenta propia o *LLC* de un solo miembro. Anote su nombre tal como aparece en la línea **1** de su Formulario 1040/1040A/1040EZ. Puede anotar el nombre del negocio, nombre comercial o el "Nombre bajo el cual se hace negocios" (*DBA,* por sus siglas en inglés) en la línea **2.**

c. Sociedad colectiva, *LLC* que no es *LLC* de un solo miembro, Sociedad anónima tipo C o Sociedad anónima tipo S. Anote el nombre de la entidad tal como aparece en la declaración de impuestos de la entidad en la línea **1** y el nombre del negocio, nombre comercial o *DBA* en la línea **2.**

d. Otras entidades. Anote su nombre tal como se identifica en otros documentos requeridos para los impuestos federales estadounidenses en la línea **1.** Este nombre tiene que ser igual al nombre en las escrituras u otros documentos legales que establecieron la entidad. Usted puede anotar el nombre del negocio, nombre comercial o *DBA* en la línea **2.**

e. Entidad no considerada como separada de su dueño. Para propósitos de los impuestos federales estadounidenses, una entidad no considerada como entidad separada de su dueño es tratada como una "entidad no considerada como separada de su dueño". Vea la sección 301.7701-2(c)(2)(iii) del Reglamento. Anote el nombre del dueño en la línea **1.** El nombre de la entidad anotado en la línea **1** nunca debe ser de una entidad no considerada como separada de su dueño. El nombre en la línea **1** debe ser el nombre que aparece en la declaración de impuestos en la cual se debe declarar el ingreso. Por ejemplo, si una compañía de responsabilidad limitada (*LLC,* por sus siglas en inglés) del extranjero que es tratada como una entidad no considerada como separada de su dueño para propósitos de impuestos federales de los EE.UU. tiene un dueño único que es una persona de los EE.UU., se requiere proveer el nombre del dueño estadounidense en la línea **1.** Si el dueño directo de la entidad también es una entidad no considerada como separada de su dueño, anote el nombre del primer dueño que no sea considerado como una entidad separada de su dueño para propósitos de los impuestos federales estadounidenses. Anote el nombre de la entidad no considerada como separada de su dueño en la línea **2,** "Nombre del negocio/Nombre de la entidad no considerada como separada de su dueño". Si el dueño de la entidad no considerada como separada de su dueño es una persona del extranjero, dicho dueño tiene que completar un Formulario W-8 correspondiente, en inglés, en lugar de un Formulario W-9(SP) (o Formulario W-9, en inglés). Este es el caso aun si la persona extranjera tiene un *TIN* estadounidense.

Línea 2

Si usted tiene un nombre de empresa, comercial, *DBA* o de entidad no considerada como separada de su dueño, puede anotarlo en la línea **2.**

Línea 3

Marque el encasillado correspondiente en la línea **3** de la clasificación tributaria federal de los EE.UU. de la persona cuyo nombre se anotó en la línea **1.** Marque solo un encasillado en la línea **3.** No marque *LLC* si la *LLC* está clasificada como una de un solo miembro que no es considerada separada de su dueño, a menos que el dueño sea otra *LLC* que **no** es considerada separada de su dueño para propósitos tributarios federales estadounidenses. De lo contrario, una *LLC* de un solo miembro que no es considerada separada de su dueño debe marcar el encasillado correspondiente para la clasificación tributaria de su propietario.

SI la entidad/individuo en la línea 1 es un(a) . . .	ENTONCES marque el encasillado para . . .
• Sociedad anónima	Sociedad anónima
• Individuo, • Empresario por cuenta propia o • Sociedad de responsabilidad limitada *(LLC)* de un solo miembro propiedad de un individuo y no es considerada como separada de su dueño para propósitos tributarios federales estadounidenses.	Individuo/empresario por cuenta propia o *LLC* de un solo miembro
• *LLC* que se trata como una sociedad colectiva para propósitos tributarios federales estadounidenses, • *LLC* que ha presentado el Formulario 8832 o el Formulario 2553 para pagar impuestos como una sociedad anónima, o • *LLC* de un solo miembro que no es considerada como separada de su dueño, pero el dueño es otra *LLC* que es considerada separada de su dueño para propósitos tributarios federales estadounidenses.	Sociedad de responsabilidad limitada e ingrese la clasificación tributaria apropiada. (P=Sociedad colectiva; C=Sociedad anónima tipo C; o S=Sociedad anónima tipo S)
• Sociedad colectiva	Sociedad colectiva
• Fideicomiso/caudal hereditario	Fideicomiso/caudal hereditario

Línea 4, Exenciones

Si usted está exento de la retención adicional y/o de declarar conforme a la ley *FATCA,* anote en el espacio correspondiente en la línea **4** todo código que pueda aplicarse en su caso.

Código de beneficiario exento.

• Por lo general, las personas (incluidos los dueños únicos) no están exentos de la retención adicional.

• Salvo como se le indique a continuación, las sociedades anónimas están exentas de la retención adicional sobre ciertos pagos, incluidos los intereses y dividendos.

• Las sociedades anónimas no están exentas de la retención adicional sobre pagos hechos en la liquidación de transacciones efectuadas con tarjetas de pago y aquellas efectuadas por una red de terceros.

• Las sociedades anónimas no están exentas de la retención adicional en cuanto a los pagos por honorarios o ganancias brutas hechos a abogados y las sociedades anónimas que proveen servicios médicos o de cuidado de salud no están exentas de la retención adicional en cuanto a los pagos declarables en el Formulario 1099-MISC.

Los siguientes códigos identifican a beneficiarios quienes están exentos de la retención adicional. Anote el código correspondiente en el espacio de la línea **4.**

1. Una organización exenta de impuestos conforme a la sección 501(a), todo *IRA* o una cuenta de custodia conforme a la sección 403(b)(7) si la cuenta satisface los requisitos de la sección 401(f)(2).

2. Los Estados Unidos o cualquiera de sus agencias o dependencias (instrumentalidades).

3. Un estado, el Distrito de Columbia, un estado libre asociado con los Estados Unidos, un territorio (posesión) de los Estados Unidos o cualquiera de sus subdivisiones políticas o dependencias (instrumentalidades).

4. Un gobierno extranjero o cualquiera de sus subdivisiones políticas, agencias o dependencias (instrumentalidades).

5. Una sociedad anónima.

6. Un comerciante de valores o materias primas al que se le requiere que se registre en los Estados Unidos, el Distrito de Columbia, un estado libre asociado con los Estados Unidos o un territorio (posesión) de los Estados Unidos.

7. Un comerciante de contratos de futuros sobre mercancías u opciones registrado en la *Commodity Futures Trading Commission* (Comisión de Comercio en Futuros sobre Mercancías).

8. Un fideicomiso de inversiones en bienes inmuebles.

9. Una entidad registrada en todo momento del año tributario conforme a la *Investment Company Act of 1940* (Ley sobre Compañías de Inversiones de 1940).

10. Un fondo fiduciario común administrado por un banco conforme a la sección 584(a).

11. Una institución financiera.

12. Un intermediario conocido en el campo de inversiones como nominatario o custodio.

13. Un fideicomiso exento de impuestos conforme a la sección 664 o como se describe en la sección 4947.

La tabla a continuación muestra las clases de pagos que pueden estar exentos de la retención adicional. La tabla les corresponde a los beneficiarios exentos enumerados anteriormente en las partidas **1** a **13.**

SI el pago es para . . .	ENTONCES el pago está exento para . . .
Pagos de intereses y dividendos	Todos los beneficiarios exentos excepto el **7**
Transacciones de corredores	Beneficiarios exentos del **1** a **4** y del **6** a **11** y toda sociedad anónima tipo C. Las sociedades anónimas tipo S no pueden anotar un código de beneficiario exento porque solo están exentas por la venta de valores no protegidos adquiridos antes de 2012
Transacciones de trueques y dividendos de patrocinio	Beneficiarios exentos del **1** a **4**
Pagos en exceso de $600 que se requieren ser declarados y ventas directas en exceso de $5,000[1]	Por lo general, beneficiarios exentos del **1** a **5**[2]
Pagos hechos en liquidación de transacciones efectuadas con tarjetas de pago o aquellas efectuadas por una red de terceros	Beneficiarios exentos del **1** a **4**

[1] Vea el Formulario 1099-MISC, *Miscellaneous Income* (Ingresos misceláneos) y sus instrucciones, ambos disponibles en inglés.

[2] Sin embargo, los siguientes pagos hechos a una sociedad anónima y declarables en el Formulario 1099-MISC no están exentos de la retención adicional: pagos médicos y de cuidados de salud, honorarios pagados a abogados, ganancias brutas pagadas a un abogado declarables conforme a la sección 6045(f) y pagos hechos por una agencia federal ejecutiva por servicios recibidos.

Códigos para la exención de la declaración conforme a la ley *FATCA.* Los siguientes códigos identifican a beneficiarios que están exentos de declarar conforme a la ley *FATCA*. Estos códigos aplican a personas quienes presentan este formulario que tienen cuentas bancarias fuera de los Estados Unidos en ciertas instituciones financieras extranjeras. Por lo tanto, si solo está presentando este formulario debido a una cuenta que tiene en los Estados Unidos, puede dejar este espacio en blanco. Consulte con la persona quien le está solicitando este formulario si no está seguro de que la institución financiera está sujeta a estos requisitos. El solicitante puede indicar que no se requiere un código al darle un Formulario W-9(SP) con "No aplicable" (o cualquier otra indicación similar) escrito o impreso en la línea para el código de exención de la declaración conforme a la ley *FATCA.*

A. Una organización exenta de impuestos conforme a la sección 501(a) o cualquier *IRA* como se define en la sección 7701(a)(37).

B. Los Estados Unidos o cualquiera de sus agencias o dependencias (instrumentalidades).

C. Un estado, el Distrito de Columbia, un estado libre asociado con los Estados Unidos, un territorio (posesión) de los Estados Unidos o cualquiera de sus subdivisiones políticas o dependencias (instrumentalidades).

D. Una sociedad anónima cuyas acciones normalmente son negociadas en una o más bolsas de valores establecidas tal como se describe en la sección 1.1472-1(c)(1)(i) del Reglamento.

E. Una sociedad anónima que es miembro del mismo grupo expandido afiliado tal como una sociedad anónima descrita en la sección 1.1472-1(c)(1)(i) del Reglamento.

F. Un comerciante de valores, materias primas o instrumentos financieros derivados (incluyendo contratos principales nominales, de futuros, contratos a término *(forwards)* y opciones) que está registrado como tal conforme a las leyes de los Estados Unidos o cualquiera de sus estados.

G. Un fideicomiso de inversiones en bienes inmuebles.

H. Una compañía de inversiones regulada como se define en la sección 851 o una entidad registrada en todo momento durante el año tributario conforme a la *Investment Company Act of 1940* (Ley sobre Compañías de Inversiones de 1940).

I. Un fondo fiduciario común como se define en la sección 584(a).

J. Un banco como se define en la sección 581.

K. Un corredor de bolsa.

L. Un fideicomiso exento de impuesto conforme a la sección 664 o como se describe en la sección 4947(a)(1).

M. Un fideicomiso exento de impuesto conforme a un plan de la sección 403(b) o un plan de la sección 457(g).

Nota: Quizás quiera consultar con la institución financiera que solicita este formulario para determinar si el código para la exención de la declaración conforme a la ley *FATCA* y/o el código de beneficiario de pago exento deben ser completados.

Línea 5

Anote su dirección (número, calle y número de apartamento o de suite). Aquí es donde el solicitante de este Formulario W-9(SP) le enviará por correo sus declaraciones informativas. Si esta dirección difiere de la que el solicitante ya tiene en el archivo, escriba "*NEW*" en la parte superior. Si se proporciona una nueva dirección, todavía existe la posibilidad de que la dirección antigua se use hasta que el pagador cambie su dirección en sus registros.

Línea 6

Anote su ciudad, estado y código postal.

Parte I. Número de identificación del contribuyente *(TIN)*

Anote su *TIN* en el encasillado correspondiente. Si es extranjero residente y no tiene ni reúne los requisitos para obtener un *SSN,* su *TIN* es su número de identificación personal del contribuyente del *IRS* (*ITIN,* por sus siglas en inglés). Anótelo en el encasillado para el número de Seguro Social. Si no tiene un *ITIN,* vea **Cómo obtener un *TIN,*** más adelante.

Si es empresario por cuenta propia y tiene un *EIN,* puede anotar su *SSN* o su *EIN.*

Si es una *LLC* de un solo miembro que no se considera como entidad separada de su dueño, anote el *SSN* del dueño (o *EIN,* si el dueño lo tiene). No anote el *EIN* de la entidad no considerada como separada de su dueño. Si la *LLC* es clasificada como una sociedad anónima o sociedad colectiva, anote el *EIN* de la entidad.

Nota: Vea **Nombre y número que se le debe dar al solicitante,** más adelante, para mayor aclaración de las combinaciones de nombre y *TIN.*

Cómo obtener un *TIN.* Si no tiene un *TIN,* solicite uno inmediatamente. Para solicitar un *SSN,* obtenga el Formulario SS-5-SP, Solicitud para una Tarjeta de Seguro Social, de su oficina local de la *SSA* u obtenga este formulario por Internet en *www.SeguroSocial.gov.* También puede obtener el formulario llamando al 1-800-772-1213. Use el Formulario W-7(SP), Solicitud de Número de Identificación Personal del Contribuyente del Servicio de Impuestos Internos, para solicitar un *ITIN,* o un Formulario SS-4, *Application for Employer Identification Number,* en inglés, para solicitar un *EIN*. Puede solicitar un *EIN* por Internet visitando *www.irs.gov/EIN* y pulsando sobre *Español* y, para más información sobre el número de identificación personal del contribuyente *(ITIN),* visite *www.irs.gov/ITIN* y pulse sobre *Español*.

Visite *www.irs.gov/Forms,* disponible en inglés, para ver, descargar o imprimir el Formulario W-7(SP) y/o el Formulario SS-4, en inglés. O puede visitar *www.irs.gov/OrderForms,* en inglés, para hacer un pedido y recibir el Formulario W-7 y/o SS-4 por correo dentro de 10 días laborables.

Si le piden que complete el Formulario W-9(SP) (o Formulario W-9, en inglés) pero no tiene un *TIN,* solicite uno y anote "*Applied For*" (Solicitado) en el espacio para el *TIN,* firme y feche el formulario y entréguelo al solicitante. Para los pagos de intereses y dividendos y ciertos pagos hechos con respecto a instrumentos con facilidad de negociación, por lo general, tendrá 60 días para obtener un *TIN* y proveérselo al solicitante antes de que esté sujeto a la retención adicional sobre los pagos. La regla de los 60 días no le corresponde a otras clases de pagos. Estará sujeto a la retención adicional sobre tales pagos hasta que le provea su *TIN* al solicitante.

Nota: El anotar "*Applied For*" (Solicitado) significa que ya ha solicitado un *TIN* o que tiene intenciones de solicitar uno pronto.

Precaución: Una entidad de los EE.UU. no considerada como separada de su dueño que tiene dueño extranjero debe usar el Formulario W-8 correspondiente, en inglés.

Parte II. Certificación

Para establecer ante el agente de retención que usted es una persona de los EE.UU. o un extranjero residente, firme el Formulario W-9(SP) (o Formulario W-9, en inglés). El agente de retención puede pedirle que firme, aunque la partida **1, 4** ó **5,** más adelante, indique lo contrario.

Para una cuenta conjunta, solo la persona cuyo *TIN* aparece en la Parte I deberá firmar (cuando se requiera). En el caso de una entidad no considerada como separada de su dueño, la persona identificada en la línea **1** tiene que firmar. Los beneficiarios exentos deberán ver **Código de beneficiario exento,** anteriormente.

Requisitos para la firma. Complete la certificación tal como se le indica en las partidas **1** a **5** a continuación.

1. Cuentas de interés, dividendos y de trueques abiertas antes de 1984 y cuentas de corretaje consideradas activas durante 1983. Tiene que proveer su *TIN* correcto, pero no tiene que firmar la certificación.

2. Cuentas de interés, dividendos y de trueques abiertas después de 1983 y cuentas de corretaje consideradas inactivas durante 1983. Tiene que firmar la certificación, de lo contrario, se le aplicará la retención adicional. Si está sujeto a la retención adicional y simplemente le está proporcionando su *TIN* correcto al solicitante, tiene que tachar la partida **2** en la certificación antes de firmar el formulario.

3. Transacciones de bienes inmuebles. Tiene que firmar la certificación. Puede tachar la partida **2** de la certificación.

4. Otros pagos. Tiene que proveer su *TIN* correcto, pero no tiene que firmar la certificación, a menos que se le haya notificado que ha proporcionado un *TIN* incorrecto anteriormente. "Otros pagos" incluyen pagos hechos durante el transcurso del oficio o negocio del solicitante para alquileres, regalías, bienes (que no sean facturas para mercancías), servicios médicos y de cuidados de salud (incluyendo pagos a sociedades anónimas), pagos hechos a un individuo que no es empleado suyo pero que le presta servicios, pagos hechos en liquidación de transacciones efectuadas con tarjeta de pago y por una red de terceros, pagos a ciertos miembros de la tripulación de barcos pesqueros y a pescadores y las ganancias brutas pagadas a abogados (incluyendo los pagos a sociedades anónimas).

5. Intereses hipotecarios pagados por usted, la adquisición o abandono de bienes asegurados, la cancelación de deudas, pagos de un programa que reúne los requisitos para la matrícula (conforme a la sección 529), cuentas *ABLE* (conforme a la sección 529A), contribuciones o distribuciones de un *IRA, Coverdell ESA, Archer MSA* o *HSA* y distribuciones de pensiones. Tiene que proveer su *TIN* correcto, pero no tiene que firmar la certificación.

Nombre y número que se le debe dar al solicitante

Para esta clase de cuenta:	Dar el nombre y *SSN* de:
1. Individual	El individuo
2. Dos o más individuos (cuenta conjunta que no sea una cuenta mantenida por una *FFI*)	El verdadero dueño de la cuenta o, si son fondos combinados, el primer individuo en la cuenta[1]
3. Dos o más personas de los EE.UU. (cuenta conjunta mantenida por una *FFI*)	Cada titular de la cuenta
4. Cuenta de custodia de un menor de edad (*Uniform Gift to Minors Act* (Ley Uniforme de Regalos a Menores))	El menor de edad[2]
5. a. El fideicomiso revocable de ahorros normal (el cesionista también es fideicomisario) b. Una supuesta cuenta fiduciaria que no es un fideicomiso legal o válido conforme a la ley estatal	El fiduciario-cesionista[1] El verdadero dueño[1]
6. Empresario por cuenta propia o entidad no considerada como separada de su dueño que es propiedad de un individuo	El dueño[3]
7. El fideicomiso cesionista que utiliza el método opcional de presentación número 1 del Formulario 1099 (vea la sección 1.671-4(b)(2)(i)(A) del Reglamento)	El cesionista*
Para esta clase de cuenta:	**Dar el nombre y *EIN* de:**
8. Entidad no considerada como separada de su dueño que no es propiedad de un individuo	El dueño
9. Un fideicomiso, caudal hereditario o fideicomiso de pensiones válido	La entidad legal[4]
10. Una sociedad anónima o *LLC* que elige ser tratada como sociedad anónima en el Formulario 8832 o el Formulario 2553	La sociedad anónima
11. Asociación, club, organización religiosa, caritativa, educativa u otra exenta de impuestos	La organización
12. Sociedad colectiva o *LLC* de varios miembros	La sociedad colectiva
13. Un corredor de bolsa o nominatario registrado	El corredor de bolsa o nominatario
14. Cuenta con el Departamento de Agricultura a nombre de una entidad pública (tal como un gobierno estatal o local, distrito escolar o una cárcel) que recibe pagos del programa de agricultura	La entidad pública
15. El fideicomiso cesionista que declara conforme al método de presentación del Formulario 1041 o al método opcional de presentación número 2 del Formulario 1099 (vea la sección 1.671-4(b)(2)(i)(B) del Reglamento)	El fideicomiso

[1] Anote primero el nombre de la persona cuyo número usted proporcionó y luego marque un círculo alrededor de ese nombre. Si en una cuenta conjunta solo una persona tiene un *SSN,* el número de esa persona se tiene que proveer.

[2] Marque un círculo alrededor del nombre del menor de edad y provea el *SSN* del menor de edad.

[3] Tiene que anotar su nombre individual y puede también anotar el nombre de su negocio o *DBA* en la línea **2.** Puede usar su *SSN* o su *EIN* (si lo tiene) pero el *IRS* le recomienda usar su *SSN.*

[4] Anote primero el nombre del fideicomiso, caudal hereditario o fideicomiso de pensiones y marque un círculo alrededor del nombre. (No provea el *TIN* del representante personal o del fideicomisario, a menos que la entidad legal misma no esté designada en el título de la cuenta). Vea también **Reglas especiales para las sociedades colectivas,** anteriormente.

*** Nota:** El cesionista también tiene que proveerle un Formulario W-9(SP) (o Formulario W-9, en inglés) al fideicomisario.

Nota: Si no se marca un círculo alrededor de ningún nombre cuando se ha anotado más de un nombre, se considerará que el número es del primer nombre anotado.

Proteja sus Registros Tributarios del Robo de Identidad

El robo de identidad ocurre cuando alguien usa su información personal, tal como su nombre, *SSN* u otra información de identidad sin su permiso para cometer fraude u otras clases de delitos. Un ladrón que roba su identidad puede usar su *SSN* para obtener empleo o puede presentar una declaración de impuestos para obtener un reembolso.

Para reducir su riesgo:

- Proteja su *SSN,*
- Asegúrese de que su empleador esté protegiendo su *SSN* y
- Tenga cuidado al escoger un preparador para la declaración de impuestos.

Si sus registros tributarios son afectados por el robo de identidad y recibe una notificación del *IRS,* responda inmediatamente a la persona cuyo nombre y número de teléfono aparecen en la carta o en la notificación del *IRS*.

Si sus registros tributarios no están actualmente afectados por el robo de identidad pero piensa que está en riesgo debido a la pérdida o el robo de una cartera o billetera, una actividad sospechosa en sus tarjetas de crédito o en su informe de crédito, llame al número telefónico para Robo de Identidad del *IRS,* 1-800-908-4490, o presente el Formulario 14039 (SP) (o Formulario 14039, en inglés).

Para más información, vea la Publicación 5027(SP), Información de Robo de Identidad para los Contribuyentes (o Publicación 5027, disponible en inglés).

Las víctimas del robo de identidad que sufran daños económicos o problemas sistémicos, o que buscan ayuda para resolver problemas tributarios que no han sido resueltos por las vías normales, pueden reunir los requisitos para recibir ayuda del *Taxpayer Advocate Service* (Servicio del Defensor del Contribuyente o *TAS,* por sus siglas en inglés). Puede comunicarse con el *TAS* llamando gratuitamente a la línea de admisión de casos del *TAS* al 1-877-777-4778 o si es usuario del sistema *TTY/TDD* para personas sordas, con impedimentos auditivos o del habla, al 1-800-829-4059.

Protéjase de correos electrónicos sospechosos o de intentos de fraude electrónico *(phishing).* El fraude electrónico *(phishing)* es la creación y uso de correos electrónicos y de sitios web diseñados para imitar mensajes de correo electrónico y sitios web comerciales legítimos. La práctica más común es el envío de correo electrónico a un usuario que falsamente alega ser de una empresa legítima establecida en un intento de timar al usuario para que este divulgue información privada que se usará para el robo de identidad.

El *IRS* no inicia el contacto con los contribuyentes por medio del correo electrónico. Además, el *IRS* no solicita información personal detallada por medio del correo electrónico ni les pide a los contribuyentes sus números de identificación personal (*PIN,* por sus siglas en inglés), contraseñas o información de acceso similar para sus tarjetas de crédito, cuentas bancarias ni otras cuentas financieras.

Si recibe un correo electrónico no solicitado que alega ser del *IRS,* reenvíe ese mensaje a *phishing@irs.gov.* También puede dar parte del uso indebido del nombre, logotipo o de otros bienes públicos del *IRS* al *Treasury Inspector General for Tax Administration* (Inspector General del Tesoro para la Administración Tributaria) al 1-800-366-4484. Puede reenviar los mensajes sospechosos a la *Federal Trade Commission* (Comisión Federal de Comercio o *FTC,* por sus siglas en inglés) a *spam@uce.gov* o infórmelos en *www.ftc.gov/complaint,* y pulse sobre *Español.* Puede comunicarse con el *FTC* en *www.ftc.gov/idtheft* y pulse sobre *Vea esta página en español* o al 877-*IDTHEFT* (877-438-4338). Si ha sido víctima de un robo de identidad, visite *www.RobodeIdentidad.gov* y vea la Publicación 5027(SP).

Visite *www.irs.gov/IdentityTheft* y pulse sobre *Español* para obtener más información sobre el robo de identidad y cómo puede reducir su riesgo.

Aviso sobre la Ley de Confidencialidad

La sección 6109 del Código de Impuestos Internos requiere que usted provea su *TIN* correcto a las personas (incluyendo a agencias federales) a quienes se les requiere presentar declaraciones informativas ante el *IRS* para declarar intereses, dividendos o ciertos otros ingresos pagados a usted; intereses hipotecarios que usted pagó, la adquisición o abandono de bienes asegurados; la cancelación de deudas; o las aportaciones que usted le hizo a un arreglo *IRA, Archer MSA* o *HSA*. La persona que recibe este formulario utiliza la información en el formulario para presentar declaraciones informativas ante el *IRS* que incluyen la información provista. Los usos normales de esta información incluyen darle esta información al Departamento de Justicia para litigio civil o penal y a las ciudades, estados, el Distrito de Columbia, los estados libres asociados con los Estados Unidos y los territorios (posesiones) de los Estados Unidos para que estos hagan cumplir sus respectivas leyes tributarias. También puede divulgarse esta información a otros países conforme a los tratados tributarios que tengan con los Estados Unidos, a agencias federales o estatales para hacer cumplir las leyes civiles y penales o a las agencias federales encargadas del cumplimiento de la ley o de inteligencia para combatir el terrorismo. Tiene que proveer su *TIN* independientemente de si usted está obligado a presentar una declaración de impuestos. Conforme a la sección 3406, los pagadores, por lo general, tienen que retener un porcentaje de los intereses, dividendos y ciertos otros pagos sujetos a impuestos hechos al beneficiario que no le facilite un *TIN* al pagador. También pueden aplicarse ciertas multas por proveer información falsa o fraudulenta.

Exhibit 5-1: Income Inclusions and Exclusions

24 CFR 5.609(b) and (c)

Examples included in parentheses have been added to the regulatory language for clarification.

INCOME INCLUSIONS

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a **periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph;**

(5) Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;

(6) Welfare Assistance.

(a) Welfare assistance received by the family.

(b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities. the amount of welfare assistance income to be included as

income shall consist of:

(c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(d) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regularr contributions or gifts received from organizations or from persons not residing in the dwelling; and

(8) All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under Income Exclusions.

(9) For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.)*, from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph "financial assistance" does not include loan proceeds for the purpose of determining income. *(Note: This paragraph also does not apply to a student who is living with his/her parents who are applying for or receiving Section 8 assistance.)*

INCOME EXLCUSIONS:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 CFR 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution (see Income Inclusions (9), above, for students receiving Section 8 assistance);

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);

(8) (a) Amounts received under training programs funded by HUD (e.g., training received under Section 3);

(b) Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);

(c) Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(d) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident-initiative coordination. No resident may receive more than one such stipend during the same period of time; or

(e) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

(9) Temporary, nonrecurring, or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);

(11) Earnings in excess of $480 for each full-time student 18 years or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;

(14) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

(15) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(16) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the *Federal Register* and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

The following is a list of income sources that qualify for that exclusion:

(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);

(b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);

(c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c])

(d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);

(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]; (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, Americorps);

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L-94-540, 90 Stat. 2503-04);

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

(i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

(j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;

(k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

(m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

(n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);

(o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

(p) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);

(q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

(r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

(s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

Displaying title 49, up to date as of 10/15/2021. Title 49 was last amended 10/14/2021.

ENHANCED CONTENT - TABLE OF CONTENTS

Title 49

PART 24 - UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Authority: 42 U.S.C. 4601 *et seq.;* 49 CFR 1.48(cc).

Source: 70 FR 611, Jan. 4, 2005, unless otherwise noted.

Subpart A - General

§ 24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) (Uniform Act), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;

(b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

(c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

§ 24.2 Definitions and acronyms.

(a) ***Definitions.*** Unless otherwise noted, the following terms used in this part shall be understood as defined in this section:

(1) ***Agency.*** The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

(i) ***Acquiring Agency.*** The term *acquiring Agency* means a State Agency, as defined in paragraph (a)(1)(iv) of this section, which has the authority to acquire property by eminent domain under State law, and a State Agency or person which does not have such authority.

(ii) ***Displacing Agency.*** The term *displacing Agency* means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(iii) ***Federal Agency.*** The term *Federal Agency* means any department, Agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(iv) ***State Agency.*** The term *State Agency* means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(2) ***Alien not lawfully present in the United States.*** The phrase "alien not lawfully present in the United States" means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and,

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) ***Appraisal.*** The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) ***Business.*** The term *business* means any lawful activity, except a farm operation, that is conducted:

(i) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

(ii) Primarily for the sale of services to the public;

(iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(5) ***Citizen.*** The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) ***Comparable replacement dwelling.*** The term *comparable replacement dwelling* means a dwelling which is:

(i) Decent, safe and sanitary as described in paragraph 24.2(a)(8) of this section;

(ii) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (*See* appendix A, § 24.2(a)(6));

(iii) Adequate in size to accommodate the occupants;

(iv) In an area not subject to unreasonable adverse environmental conditions;

(v) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(vi) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also § 24.403(a)(2));

(vii) Currently available to the displaced person on the private market except as provided in paragraph (a)(6)(ix) of this section (See appendix A, § 24.2(a)(6)(vii)); and

(viii) Within the financial means of the displaced person:

(A) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in § 24.401(c), all increased mortgage interest costs as described at § 24.401(d) and all incidental expenses as described at § 24.401(e), plus any additional amount required to be paid under § 24.404, Replacement housing of last resort.

(B) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at § 24.402(b)(2).

(C) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in § 24.402(b)(2). Such rental assistance must be paid under § 24.404, Replacement housing of last resort.

(ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (*See* appendix A, § 24.2(a)(6)(ix).)

(7) ***Contribute materially.*** The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(i) Had average annual gross receipts of at least $5,000; or

(ii) Had average annual net earnings of at least $1,000; or

(iii) Contributed at least $33^{1}/_{3}$ 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, weather tight, and in good repair;

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

(iii) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;

(iv) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies;

(v) There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

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

(vii) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, § 24.2(a)(8)(vii).)

(9) ***Displaced person.***

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

(A) As a direct result of a written notice of intent to acquire (see § 24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

(B) As a direct result of rehabilitation or demolition for a project; or

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

(ii) ***Persons not displaced.*** The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations (see § 24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project;

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(D) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project (See appendix A, § 24.2(a)(9)(ii)(D));

(E) An owner-occupant who moves as a result of an acquisition of real property as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct

result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(F) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

(G) A person who, after receiving a notice of relocation eligibility (described at § 24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

(H) An owner-occupant who conveys his or her property, as described in §§ 24.101(a)(2) or 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(I) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(J) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93-477, Appropriations for National Park System, or Pub. L. 93-303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

(K) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in § 24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with § 24.208; or

(M) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act (Pub. L. 108-186; codified at 42 U.S.C. 12821).

(10) ***Dwelling.*** The term *dwelling* means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(11) ***Dwelling site.*** The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, § 24.2(a)(11).)

(12) ***Farm operation.*** The term *farm operation* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(13) ***Federal financial assistance.*** The term *Federal financial assistance* means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(14) ***Household income.*** The term *household income* means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (*See* appendix A, § 24.2(a)(14) for examples of exclusions to income.)

(15) ***Initiation of negotiations.*** Unless a different action is specified in applicable Federal program regulations, the term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the *initiation of negotiations* means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(iii) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or Superfund) (CERCLA) the *initiation of negotiations* means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(iv) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, § 24.2(a)(15)(iv)).

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

(17) ***Mobile home.*** The term *mobile home* includes manufactured homes and recreational vehicles used as residences. (*See* appendix A, § 24.2(a)(17)).

(18) ***Mortgage.*** The term *mortgage* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(19) ***Nonprofit organization.*** The term *nonprofit organization* means an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(20) ***Owner of a dwelling.*** The term *owner of a dwelling* means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

(i) Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

(ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(iii) A contract to purchase any of the interests or estates described in § 24.2(a)(1)(i) or (ii) of this section; or

(iv) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

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

(22) ***Program or project.*** The phrase *program or project* means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

(23) ***Salvage value.*** The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

(24) ***Small business.*** A *small business* is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of § 24.304.

(25) ***State.*** Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

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

(27) ***Uneconomic remnant.*** The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Agency has determined has little or no value or utility to the owner.

(28) ***Uniform Act.*** The term *Uniform Act* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

(29) ***Unlawful occupant.*** A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

(30) ***Utility costs.*** The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) ***Utility facility.*** The term *utility facility* means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) ***Utility relocation.*** The term *utility relocation* means the adjustment of a utility facility required by the program or project undertaken by the displacing Agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) ***Waiver valuation.*** The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions.

(b) ***Acronyms.*** The following acronyms are commonly used in the implementation of programs subject to this regulation:

(1) BCIS. Bureau of Citizenship and Immigration Service.

(2) FEMA. Federal Emergency Management Agency.

(3) FHA. Federal Housing Administration.

(4) FHWA. Federal Highway Administration.

(5) FIRREA. Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(6) HLR. Housing of last resort.

(7) HUD. U.S. Department of Housing and Urban Development.

(8) MIDP. Mortgage interest differential payment.

(9) RHP. Replacement housing payment.

(10) STURAA. Surface Transportation and Uniform Relocation Act Amendments of 1987.

(11) URA. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) USDOT. U.S. Department of Transportation.

(13) USPAP. Uniform Standards of Professional Appraisal Practice.

§ 24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by the Agency to have the same purpose and effect as such payment under this part. (See appendix A, § 24.3).

§ 24.4 Assurances, monitoring and corrective action.

(a) ***Assurances.***

(1) Before a Federal Agency may approve any grant to, or contract, or agreement with, a State Agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State Agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing Agency's assurances shall be in accordance with section 210 of the Uniform Act. An acquiring Agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to §§ 301 or 302 of the Uniform Act. If, in the judgment of the Federal Agency, Uniform Act compliance will be served, a State Agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency, which both acquires real property and displaces persons, may combine its section 210 and section 305 assurances in one document.

(2) If a Federal Agency or State Agency provides Federal financial assistance to a "person" causing displacement, such Federal or State Agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal Agency may provide Federal financial assistance to a State Agency after it has accepted a certification by such State Agency in accordance with the requirements in subpart G of this part.

(b) ***Monitoring and corrective action.*** The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see § 24.603, of this part).

(c) ***Prevention of fraud, waste, and mismanagement.*** The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

§ 24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 24.6 Administration of jointly-funded projects.

Whenever two or more Federal Agencies provide financial assistance to an Agency or Agencies, other than a Federal Agency, to carry out functionally or geographically related activities, which will result in the acquisition of property or the displacement of a person, the Federal Agencies may by agreement designate one such Agency as the cognizant Federal Agency. In the unlikely event that agreement among the Agencies cannot be reached as to which Agency shall be the cognizant Federal Agency, then the Lead Agency shall designate one of such Agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part,

that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal Agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federally-assisted activities under the agreement shall be deemed a project for the purposes of this part.

§ 24.7 Federal Agency waiver of regulations.

The Federal Agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ 24.8 Compliance with other laws and regulations.

The implementation of this part must be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to, the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 *et seq.*).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*).

(f) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234).

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

(h) Executive Order 11063 - Equal Opportunity and Housing, as amended by Executive Order 12892.

(i) Executive Order 11246 - Equal Employment Opportunity, as amended.

(j) Executive Order 11625 - Minority Business Enterprise.

(k) Executive Orders 11988 - Floodplain Management, and 11990 - Protection of Wetlands.

(l) Executive Order 12250 - Leadership and Coordination of Non-Discrimination Laws.

(m) Executive Order 12630 - Governmental Actions and Interference with Constitutionally Protected Property Rights.

(n) Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*).

(o) Executive Order 12892 - Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994).

§ 24.9 Recordkeeping and reports.

(a) ***Records.*** The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) ***Confidentiality of records.*** Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) ***Reports.*** The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. The report shall be prepared and submitted using the format contained in appendix B of this part.

§ 24.10 Appeals.

(a) ***General.*** The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) ***Actions which may be appealed.*** Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) ***Time limit for initiating appeal.*** The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) ***Right to representation.*** A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) ***Review of files by person making appeal.*** The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) ***Scope of review of appeal.*** In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) ***Determination and notification after appeal.*** Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

(h) ***Agency official to review appeal.*** The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B - Real Property Acquisition

§ 24.101 Applicability of acquisition requirements.

(a) ***Direct Federal program or project.***

(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (*See* appendix A, § 24.101(a).)

(2) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property shall be so informed in writing. Owners of such properties are not displaced persons, (*see* §§ 24.2(a)(9)(ii)(E) or (H)), and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (*See* § 24.2(a)(9)).

(b) ***Programs and projects receiving Federal financial assistance.*** The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (*See* § 24.2(a)(9).)

(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (*See* appendix A, § 24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and

(ii) Inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, § 24.101(b)(1)(iv) and (2)(ii).)

(3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.

(c) ***Less-than-full-fee interest in real property.***

(1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent and/or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered.

(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.

(d) ***Federally-assisted projects.*** For projects receiving Federal financial assistance, the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (*See* § 24.4(a).)

§ 24.102 Basic acquisition policies.

(a) ***Expeditious acquisition.*** The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) ***Notice to owner.*** As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (*See* § 24.203.)

(c) ***Appraisal, waiver thereof, and invitation to owner.***

(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if:

(i) The owner is donating the property and releases the Agency from its obligation to appraise the property; or

(ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $10,000 or less, based on a review of available data.

(A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.

(B) The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the $10,000 threshold, up to a maximum of $25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, § 24.102(c)(2).)

(d) ***Establishment and offer of just compensation.*** Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation. (*See* § 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (*See* appendix A, § 24.102(d).)

(e) ***Summary statement.*** Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, *e.g.*, a tenant-owned improvement, and indicate that such interest is not covered by this offer.

(f) ***Basic negotiation procedures.*** The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with § 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation. (*See* appendix A, § 24.102(f).)

(g) ***Updating offer of just compensation.*** If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) ***Coercive action.*** The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) ***Administrative settlement.*** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (*See* appendix A, § 24.102(i).)

(j) ***Payment before taking possession.*** Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of

compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (*See* appendix A, § 24.102(j).)

(k) ***Uneconomic remnant.*** If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (*See* § 24.2(a)(27).)

(l) ***Inverse condemnation.*** If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) ***Fair rental.*** If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (*See* appendix A, § 24.102(m).)

(n) ***Conflict of interest.***

(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is $10,000, or less. (*See* appendix A, § 24.102(n).)

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

§ 24.103 Criteria for appraisals.

(a) ***Appraisal requirements.*** This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP).[1] (*See* appendix A, § 24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).[2]

(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in § 24.2(a)(3) and the five following requirements: (*See* appendix A, §§ 24.103 and 24.103(a).)

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (*See* appendix A, § 24.103(a)(1).)

(ii) All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (*See* appendix A, § 24.103(a).)

(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) ***Influence of the project on just compensation.*** The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (*See* appendix A, § 24.103(b).)

(c) ***Owner retention of improvements.*** If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.

(d) ***Qualifications of appraisers and review appraisers.***

(1) The Agency shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Agency shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. (*See* appendix A, § 24.103(d)(1).)

(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*).

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

FOOTNOTES - 24.103

[1] Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: *http://www.appraisalfoundation.org/htm/USPAP2004/toc.htm.*
[2] The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at *http://www.usdoj.gov/enrd/land-ack/toc.htm* or in soft cover format from the Appraisal Institute at *http://www.appraisalinstitute.org/econom/publications/Default.asp* and select "Legal/Regulatory" or call 888-570-4545.

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§ 24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser (*see* § 24.103(d)(1) and appendix A, § 24.104) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the Agency to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (*See* appendix A, § 24.104(a).)

(b) If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring Agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with § 24.103 to support a recommended (or approved) value. (*See* appendix A, § 24.104(b).)

(c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (*See* appendix A, § 24.104(c).)

§ 24.105 Acquisition of tenant-owned improvements.

(a) ***Acquisition of improvements.*** When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) ***Improvements considered to be real property.*** Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.

(c) ***Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.*** Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a)(23).)

(d) ***Special conditions for tenant-owned improvements.*** No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) ***Alternative compensation.*** Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§ 24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).

Subpart C - General Relocation Requirements

§ 24.201 Purpose.

This subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

§ 24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § 24.2(a)(9). Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and this regulation. (*See* appendix A, § 24.202.)

§ 24.203 Relocation notices.

(a) ***General information notice.*** As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

(2) Informs the displaced person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced person successfully relocate;

(3) Informs the displaced person that he or she will not be required to move without at least 90 days advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;

(4) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in § 24.208(h); and

(5) Describes the displaced person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) ***Notice of relocation eligibility.*** Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in § 24.203(d)), the initiation of negotiations (defined in § 24.2(a)(15)), or actual acquisition, whichever occurs first. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) ***Ninety-day notice*** -

(1) ***General.*** No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) ***Timing of notice.*** The displacing Agency may issue the notice 90 days or earlier before it expects the person to be displaced.

(3) ***Content of notice.*** The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (*See* § 24.204(a).)

(4) ***Urgent need.*** In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the displacing Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

(d) ***Notice of intent to acquire.*** A notice of intent to acquire is a displacing Agency's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, which clearly sets forth that the Agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance. (*See* § 24.2(a)(9)(i)(A).)

§ 24.204 Availability of comparable replacement dwelling before displacement.

(a) ***General.*** No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 24.2 (a)(6)) has been made available to the person. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location;

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) ***Circumstances permitting waiver.*** The Federal Agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5122);

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) ***Basic conditions of emergency move.*** Whenever a person to be displaced is required to relocate from the displacement dwelling for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

§ 24.205 Relocation planning, advisory services, and coordination.

(a) ***Relocation planning.*** During the early stages of development, an Agency shall plan Federal and federally-assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, the Agency should consider housing of last resort actions.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are

reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

(5) Consideration of any special relocation advisory services that may be necessary from the displacing Agency and other cooperating Agencies.

(b) ***Loans for planning and preliminary expenses.*** In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the Lead Agency will establish criteria and procedures for such use upon the request of the Federal Agency funding the program or project.

(c) ***Relocation assistance advisory services*** -

(1) ***General.*** The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offer the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) ***Services to be provided.*** The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

(A) The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.

(B) Determination of the need for outside specialists in accordance with § 24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(C) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

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

(E) An estimate of the anticipated difficulty in locating a replacement property.

(F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.

(ii) Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for

obtaining such assistance. This shall include a personal interview with each residential displaced person.

(A) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 24.204(a).

(B) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (*see* § 24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(C) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (*See* § 24.2(a)(8).) If such an inspection is not made, the Agency shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(D) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (*See* appendix A, § 24.205(c)(2)(ii)(D).)

(E) The Agency shall offer all persons transportation to inspect housing to which they are referred.

(F) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (*see* § 24.2(a)(6)(ix)), as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

(iii) Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(d) ***Coordination of relocation activities.*** Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (*See* § 24.6.)

(e) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

§ 24.206 Eviction for cause.

(a) Eviction for cause must conform to applicable State and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the Agency determines that:

(1) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

(2) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(3) In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

(b) For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project. (*See* appendix A, § 24.206.)

§ 24.207 General requirements - claims for relocation payments.

(a) ***Documentation.*** Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) ***Expeditious payments.*** The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) ***Advanced payments.*** If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) ***Time for filing.***

(1) All claims for a relocation payment shall be filed with the Agency no later than 18 months after:

(i) For tenants, the date of displacement.

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) The Agency shall waive this time period for good cause.

(e) ***Notice of denial of claim.*** If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

(f) ***No waiver of relocation assistance.*** A displacing Agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the Uniform Act and this regulation.

(g) ***Expenditure of payments.*** Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.

§ 24.208 Aliens not lawfully present in the United States.

(a) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding Agency and, within those parameters, that of the displacing Agency.

(c) In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(d) The displacing Agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing Agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the Agency considers reliable and appropriate.

(e) Any review by the displacing Agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing Agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing Agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination:

(1) If the Agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing Agency shall obtain verification of the alien's status from the local Bureau of Citizenship and Immigration Service (BCIS) Office. A list of local BCIS offices is available at *http://www.uscis.gov/graphics/fieldoffices/alphaa.htm.* Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If an Agency is unable to contact the BCIS, it may contact the FHWA in Washington, DC, Office of Real Estate Services or Office of Chief Counsel for a referral to the BCIS.)

(2) If the Agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing Agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing Agency's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, “exceptional and extremely unusual hardship” to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing Agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in § 24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105-0508)

§ 24.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, U.S. Code), or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 U.S. Code 301 *et seq.*) or any other Federal law, except for any Federal law providing low-income housing assistance.

Subpart D - Payments for Moving and Related Expenses

§ 24.301 Payment for actual reasonable moving and related expenses.

(a) ***General.***

(1) Any owner-occupant or tenant who qualifies as a displaced person (defined at § 24.2(a)(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary.

(2) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under § 24.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at § 24.502(a)(3), the home-owner occupant is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) ***Moves from a dwelling.*** A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (g)(7) of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

(1) ***Commercial move*** - moves performed by a professional mover.

(2) ***Self-move*** - moves that may be performed by the displaced person in one or a combination of the following methods:

(i) ***Fixed Residential Moving Cost Schedule.*** (Described in § 24.302.)

(ii) ***Actual cost move.*** Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(c) ***Moves from a mobile home.*** A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (g)(7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (g)(10) of this section.)

(1) ***Commercial move*** - moves performed by a professional mover.

(2) ***Self-move*** - moves that may be performed by the displaced person in one or a combination of the following methods:

(i) ***Fixed Residential Moving Cost Schedule.*** (Described in § 24.302.)

(ii) ***Actual cost move.*** Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(d) ***Moves from a business, farm or nonprofit organization.*** Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) of this section and paragraphs (g)(11) through (g)(18) of this section and § 24.303.)

(1) ***Commercial move.*** Based on the lower of two bids or estimates prepared by a commercial mover. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(2) ***Self-move.*** A self-move payment may be based on one or a combination of the following:

(i) The lower of two bids or estimates prepared by a commercial mover or qualified Agency staff person. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

(e) ***Personal property only.*** Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) and (g)(18) of this section. (See appendix A, § 24.301(e).)

(f) ***Advertising signs.*** The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

(g) ***Eligible actual moving expenses.***

(1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including

those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the property in connection with the move and necessary storage.

(6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(7) Other moving-related expenses that are not listed as ineligible under § 24.301(h), as the Agency determines to be reasonable and necessary.

(8) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.

(9) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

(10) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

(11) Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

(12) Professional services as the Agency determines to be actual, reasonable and necessary for:

(i) Planning the move of the personal property;

(ii) Moving the personal property; and

(iii) Installing the relocated personal property at the replacement location.

(13) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(14) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or

(ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, § 24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

(15) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(16) ***Purchase of substitute personal property.*** If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed $2,500, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation;

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

(18) ***Low value/high bulk.*** When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the displacing Agency, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency.

(h) ***Ineligible moving and related expenses.*** A displaced person is not entitled to payment for:

(1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this part does not preclude the computation under § 24.401(c)(2)(iii));

(2) Interest on a loan to cover moving expenses;

(3) Loss of goodwill;

(4) Loss of profits;

(5) Loss of trained employees;

(6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in § 24.304(a)(6);

(7) Personal injury;

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency;

(9) Expenses for searching for a replacement dwelling;

(10) Physical changes to the real property at the replacement location of a business or farm operation except as provided in §§ 24.301(g)(3) and 24.304(a);

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

(12) Refundable security and utility deposits.

(i) ***Notification and inspection (nonresidential).*** The Agency shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person as set forth in § 24.203. To be eligible for payments under this section the displaced person must:

(1) Provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(2) Permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(j) ***Transfer of ownership (nonresidential).*** Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

§ 24.302 Fixed payment for moving expenses - residential moves.

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under § 24.301. This payment shall be determined according to the Fixed Residential Moving Cost Schedule[3] approved by the Federal Highway Administration and published in the FEDERAL REGISTER on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by an Agency at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

FOOTNOTES - 24.302

[3] The Fixed Residential Moving Cost Schedule is available at the following URL: *http://www.fhwa.dot.gov//////realestate/fixsch96.htm.* Agencies are cautioned to ensure they are using the most recent edition.

§ 24.303 Related nonresidential eligible expenses.

The following expenses, in addition to those provided by § 24.301 for moving personal property, shall be provided if the Agency determines that they are actual, reasonable and necessary:

(a) Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

(b) Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Agency a reasonable pre-approved hourly rate may be established. (See appendix A, § 24.303(b).)

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

§ 24.304 Reestablishment expenses - nonresidential moves.

In addition to the payments available under §§ 24.301 and 24.303 of this subpart, a small business, as defined in § 24.2(a)(24), farm or nonprofit organization is entitled to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) ***Eligible expenses.*** Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

(1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

(2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(3) Construction and installation costs for exterior signing to advertise the business.

(4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

(5) Advertisement of replacement location.

(6) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

(i) Lease or rental charges;

(ii) Personal or real property taxes;

(iii) Insurance premiums; and

(iv) Utility charges, excluding impact fees.

(7) Other items that the Agency considers essential to the reestablishment of the business.

(b) ***Ineligible expenses.*** The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(3) Interest on money borrowed to make the move or purchase the replacement property.

(4) Payment to a part-time business in the home which does not contribute materially (defined at § 24.2(a)(7)) to the household income.

§ 24.305 Fixed payment for moving expenses - nonresidential moves.

(a) ***Business.*** A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§ 24.301, 24.303 and 24.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the Agency determines that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site;

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage;

(3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(6) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See § 24.2(a)(7).)

(b) ***Determining the number of businesses.*** In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) ***Farm operation.*** A displaced farm operation (defined at § 24.2(a)(12)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) ***Nonprofit organization.*** A displaced nonprofit organization may choose a fixed payment of $1,000 to $20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. (See appendix A, § 24.305(d).)

(e) ***Average annual net earnings of a business or farm operation.*** The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the Agency determines is satisfactory. (See appendix A, § 24.305(e).)

§ 24.306 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing Agency causes the relocation of a utility facility (see § 24.2(a)(31)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing Agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way;

(2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement;

(3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing Agency;

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing Agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing Agency is in accordance with State law.

(b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing Agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally-assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing Agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (*See* appendix A, § 24.306.)

Subpart E - Replacement Housing Payments

§ 24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) ***Eligibility.*** A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the displaced person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or

(ii) The date the displacing Agency's obligation under § 24.204 is met.

(b) ***Amount of payment.*** The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed $22,500. (See also § 24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section;

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) ***Price differential*** -

(1) ***Basic computation.*** The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling and site (*see* § 24.2(a)(11)) to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) ***Owner retention of displacement dwelling.*** If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at § 24.2(a)(8)); and

(iii) The current fair market value for residential use of the replacement dwelling site (*see* appendix A, § 24.401(c)(2)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) ***Increased mortgage interest costs.*** The displacing Agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d)(1) through (d)(5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the displaced person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. (See appendix A, § 24.401(d).) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

(5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(e) ***Incidental expenses.*** The incidental expenses to be paid under paragraph (b)(3) of this section or § 24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

(4) Professional home inspection, certification of structural soundness, and termite inspection.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, *e.g.*, title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determine to be incidental to the purchase.

(f) Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with § 24.402(b)(1), except that the limit of $5,250 does not apply, and disbursed in accordance with § 24.402(b)(3). Under no circumstances would the rental assistance payment exceed the amount that could have been received under § 24.401(b)(1) had the 180-day homeowner elected to purchase and occupy a comparable replacement dwelling.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

§ 24.402 Replacement housing payment for 90-day occupants.

(a) ***Eligibility.*** A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling; or

(ii) For an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) ***Rental assistance payment*** -

(1) ***Amount of payment.*** An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance. (See § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) ***Base monthly rental for displacement dwelling.*** The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances);

(ii) Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as “low income” by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs[4] . The base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section for persons with income exceeding the survey's “low income” limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

(iii) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(3) ***Manner of disbursement.*** A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by § 24.403(f), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) ***Downpayment assistance payment*** -

(1) ***Amount of payment.*** An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the Agency's discretion, a downpayment assistance payment that is less than $5,250 may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under § 24.401(b) if he or she met the 180-day occupancy requirement. If the Agency elects to provide the maximum payment of $5,250 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under § 24.401(a) is not eligible for this payment. (See appendix A, § 24.402(c).)

(2) ***Application of payment.*** The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

FOOTNOTES - 24.402

[4] The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on FHWA's Web site at *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

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§ 24.403 Additional rules governing replacement housing payments.

(a) ***Determining cost of comparable replacement dwelling.*** The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at § 24.2(a)(6)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (*e.g.*, the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(4) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(5) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(6) Deductions from relocation payments. An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Mixed-use and multifamily properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered the acquisition cost when computing the replacement housing payment.

(b) ***Inspection of replacement dwelling.*** Before making a replacement housing payment or releasing the initial payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 24.2(a)(8).

(c) ***Purchase of replacement dwelling.*** A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling;

(2) Purchases and rehabilitates a substandard dwelling;

(3) Relocates a dwelling which he or she owns or purchases;

(4) Constructs a dwelling on a site he or she owns or purchases;

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair 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* § 24.3.)

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

§ 24.404 Replacement housing of last resort.

(a) ***Determination to provide replacement housing of last resort.*** Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in § 24.401 or § 24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area;

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person, or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

(b) ***Basic rights of persons to be displaced.*** Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) ***Methods of providing comparable replacement housing.*** Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in § 24.401 or § 24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation and, if necessary, rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing Agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers for persons with disabilities.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (*see* appendix A, § 24.404(c)), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with § 24.2(a)(6)(ii) of this part.

(3) The Agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§ 24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. (*See* § 24.2(a)(6)(viii)(C).) Such assistance shall cover a period of 42 months.

Subpart F - Mobile Homes

§ 24.501 Applicability.

(a) ***General.*** This subpart describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with subpart D of this part and a replacement housing payment in accordance with subpart E of this part to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in § 24.301(g)(1) through (g)(10).

(b) ***Partial acquisition of mobile home park.*** The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person who is entitled to relocation payments and other assistance under this part.

§ 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.

(a) ***Eligibility.*** An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed $22,500, under § 24.401 if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at § 24.401(a)(2); and

(3) The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not, and cannot economically be made decent, safe, and sanitary;

(ii) Cannot be relocated without substantial damage or unreasonable cost;

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) ***Replacement housing payment computation for a 180-day owner that is displaced from a mobile home.*** The replacement housing payment for an eligible displaced 180-day owner is computed as described at § 24.401(b) incorporating the following, as applicable:

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

(2) If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (*i.e.*, purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the Agency's selected comparable mobile home less the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(c) ***Rental assistance payment for a 180-day owner-occupant that is displaced from a leased or rented mobile home site.*** If the displacement mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in § 24.402(b). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

(d) ***Owner-occupant not displaced from the mobile home.*** If the Agency determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at § 24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or § 24.503 as applicable.

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

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed $5,250, under § 24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described at § 24.502(a)(3).

Subpart G - Certification

§ 24.601 Purpose.

This subpart permits a State Agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by § 24.4 of this part.

§ 24.602 Certification application.

An Agency wishing to proceed on the basis of a certification may request an application for certification from the Lead Agency Director, Office of Real Estate Services, HEPR-1, Federal Highway Administration, 1200 New Jersey Avenue, SE., 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.

[70 FR 611, Jan. 4, 2005, as amended at 73 FR 33329, June 12, 2008]

§ 24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

Appendix A to Part 24 - Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

Subpart A - General

Section 24.2 Definitions and Acronyms

Section 24.2(a)(6) Definition of comparable replacement dwelling. The requirement in § 24.2(a)(6)(ii) that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, and provide the same utility. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling. Another example is when a displaced person accepts an offer of government housing assistance and the applicable requirements of such housing assistance program require that the displaced person occupy a dwelling that has fewer rooms or less living space than the displacement dwelling.

Section 24.2(a)(6)(vii). The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

Section 24.2(a)(6)(ix). A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing.

A housing program subsidy that is paid to a person (not tied to the building), such as a HUD Section 8 Housing Voucher Program, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing assistance program, the rules of that program governing the size of the dwelling apply, and the rental assistance payment under § 24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary. Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Section 24.2(a)(8)(vii) Persons with a disability. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

Section 24.2(a)(9)(ii)(D) Persons not displaced. Paragraph (a)(9)(ii)(D) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered “displaced persons” under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. The Agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses or must be determined to be displaced at the Agency's option.

Any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with 49 CFR part 24.10 of this regulation.

Section 24.2(a)(11) Dwelling Site. This definition ensures that the computation of replacement housing payments are accurate and realistic

(a) when the dwelling is located on a larger than normal site,

(b) when mixed-use properties are acquired,

(c) when more than one dwelling is located on the acquired property, or

(d) when the replacement dwelling is retained by an owner and moved to another site.

Section 24.2(a)(14) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by Federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see Federal Highway Administration, Office of Real Estate Services Web site: *http://www.fhwa.dot.gov/realestate/.* (FR 4644-N-16 page 20319 Updated.) If there is a question on whether or not to include income from a specific program contact the Federal Agency administering the program.

Section 24(a)(15) Initiation of negotiations. This section provides a special definition for acquisition and displacements under Pub. L. 96-510 or Superfund. The order of activities under Superfund may differ slightly in that temporary relocation may precede acquisition. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert individual owners and tenants to potential health or safety threats and to offer to temporarily relocate them while additional information is gathered. If a decision is later made to permanently relocate such persons, those who had been temporarily relocated under Superfund authority would no longer be on site when a formal, written offer to acquire the property was made, and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition of initiation of negotiation, which is based on the date the Federal Government offers to temporarily relocate an owner or tenant from the subject property.

Section 24.2(a)(15)(iv) Initiation of negotiations (Tenants.) Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

Section 24.2(a)(17) Mobile home. The following examples provide additional guidance on the types of mobile homes and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the “primary” place of residence; it is located on a purchased or leased site and connected to or have available all necessary utilities for functioning as a housing unit on the date of the displacing Agency's inspection; and, the dwelling, as sited, meets all local, State, and Federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

For HUD programs, mobile home is defined as “a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act.” In 1979 the term “mobile home” was changed to “manufactured home.” For purposes of this regulation, the terms mobile home and manufactured home are synonymous.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

The 1976 HUD standards distinguish manufactured homes from factory-built “modular homes” as well as conventional or “stick-built” homes. Both of these types of housing are required to meet State and local construction codes.

Section 24.3 No Duplication of Payments. This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment is computed.

Subpart B - Real Property Acquisition

Federal Agencies may find that, for Federal eminent domain purposes, the terms “fair market value” (as used throughout this subpart) and “market value,” which may be the more typical term in private transactions, may be synonymous.

Section 24.101(a) Direct Federal program or project. All 49 CFR Part 24 Subpart B (real property acquisition) requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. There are no exceptions for “voluntary transactions.”

Section 24.101(b)(1)(i). The term “general geographic area” is used to clarify that the “geographic area” is not to be construed to be a small, limited area.

Sections 24.101(b)(1)(iv) and (2)(ii). These sections provide that, for programs and projects receiving Federal financial assistance described in §§ 24.101(b)(1) and (2), Agencies are to inform the owner(s) in writing of the Agency's estimate of the fair market value for the property to be acquired.

While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited “public interest value” valuation concepts.

After an Agency has established an amount it believes to be the market value of the property and has notified the owner of this amount in writing, an Agency may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the regulations, it would be entirely appropriate for Agencies to apply the administrative settlement concept and procedures in § 24.102(i) to negotiate amounts that exceed the original estimate of market value. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.

Section 24.101(c) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases.

Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner. The purpose of the appraisal waiver provision is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated work.

The Agency employee making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated.

Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. However, the Agency must have a reasonable basis for the waiver valuation and an Agency official must still establish an amount believed to be just compensation to offer the property owner(s).

The definition of “appraisal” in the Uniform Act and appraisal waiver provisions of the Uniform Act and these regulations are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.

Section 24.102(d) Establishment of offer of just compensation. The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures. An offer should be adequately presented to an owner, and the owner should be properly informed. Personal, face-to-face contact should take place, if feasible, but this section does not require such contact in all cases.

This section also provides that the property owner be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency. In order to satisfy this requirement, Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the Agencies adhere to the Uniform Act ban on coercive action (section 301(7) of the Uniform Act).

If the owner expresses intent to provide an appraisal report, Agencies are encouraged to provide the owner and/or his/her appraiser a copy of Agency appraisal requirements and inform them that their appraisal should be based on those requirements.

Section 24.102(i) Administrative settlement. This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental. Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed “the fair rental value of the property to a short-term occupier.” Generally, the Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.102(n) Conflict of interest. The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. There are three parts to this provision.

The first provision is the prohibition against having any interest in the real property being valued by the appraiser (for an appraisal), the valuer (for a waiver estimate) or the review appraiser (for an appraisal review.)

The second provision is that no person functioning as a negotiator for a project or program can supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent Agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it would create a hardship for the Agency. The intent is to accommodate Federal-aid recipients that have a small staff where this provision would be unworkable.

The third provision is to minimize situations where administrative costs exceed acquisition costs. Section 24.102(n) also provides that the same person may prepare a valuation estimate (including an appraisal) and negotiate that acquisition, if the valuation estimate amount is $10,000 or less. However, it should be noted that this exception for properties valued at $10,000 or less is not mandatory, *e.g.*, Agencies are not required to use those who prepare a waiver valuation or appraisal of $10,000 or less to negotiate the acquisition, and, all appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at $10,000 or less.

Section 24.103 Criteria for Appraisals. The term “requirements” is used throughout this section to avoid confusion with The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) “standards.” Although this section discusses appraisal requirements, the definition of “appraisal” itself at § 24.2(a)(3) includes appraisal performance requirements that are an inherent part of this section.

The term “Federal and federally-assisted program or project” is used to better identify the type of appraisal practices that are to be referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.

Section 24.103(a) Appraisal requirements. The first sentence instructs readers that requirements for appraisals for Federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs or projects. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other Federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the USPAP. Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This “consistent” relationship was more formally recognized in OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for Federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of this regulation. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term “scope of work” defines the general parameters of the appraisal. It reflects the needs of the Agency and the requirements of Federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency official who is competent to both represent the Agency's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is fair market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a)(2)(i) through (v) and address them as appropriate.

Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where an Agency determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term “project” means an undertaking which is planned, designed, and intended to operate as a unit.

When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(d)(1). The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication

of an appraiser's abilities.

Section 24.104 Review of appraisals. The term “review appraiser” is used rather than “reviewing appraiser,” to emphasize that “review appraiser” is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal Agencies have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should possess both appraisal technical abilities and the ability to be the two-way bridge between the Agency's real property valuation needs and the appraiser.

Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may be involved in devising the scope of work statements and participate in making appraisal assignments to fee and/or staff appraisers. They are also mentors and technical advisors, especially on Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.

Section 24.104(a). This paragraph states that the review appraiser is to review the appraiser's presentation and analysis of market information and that it is to be reviewed against § 24.103 and other applicable requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal review is to be a technical review by an appropriately qualified review appraiser. The qualifications of the review appraiser and the level of explanation of the basis for the review appraiser's recommended (or approved) value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is not acceptable, the review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development of an acceptable appraisal.

In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.

If the Agency intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount the Agency believes is just compensation, she/he must be specifically authorized by the Agency to do so. If the review appraiser is not specifically authorized to approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount believed to be just compensation, that authority remains with another Agency official.

Section 24.104(b). In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act Section 301(3) purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.

Section 24.104(c). Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this part, an acceptable appraisal is any appraisal that, on its own, meets the requirements of § 24.103. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact science, there may be more than one acceptable appraisal of a property, but for the purposes of this part, there can be only one approved appraisal.

At the Agency's discretion, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

Section 24.106(b). Expenses incidental to transfer of title to the agency. Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. Such expenses must be reasonable and necessary.

Subpart C - General Relocation Requirements

Section 24.202 Applicability and Section 205(c) Services to be provided. In extraordinary circumstances, when a displaced person is not readily accessible, the Agency must make a good faith effort to comply with these sections and document its efforts in writing.

Section 24.204 Availability of comparable replacement dwelling before displacement.

Section 24.204(a) General. This provision requires that no one may be required to move from a dwelling without a comparable replacement dwelling having been made available. In addition, § 24.204(a) requires that, "where possible, three or more comparable replacement dwellings shall be made available." Thus, the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (*e.g.*, when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation assistance advisory services. Section 24.205(c)(2)(ii)(D) emphasizes that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.206 Eviction for cause. An eviction related to non-compliance with a requirement related to carrying out a project (*e.g.*, failure to move or relocate when instructed, or to cooperate in the relocation process) shall not negate a person's entitlement to relocation payments and other assistance set forth in this part.

Section 24.207 General Requirements-Claims for relocation payments. Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated nonresidential moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in § 24.301(d)(1).

While § 24.207(f) prohibits an Agency from proposing or requesting that a displaced person waive his or her rights or entitlements to relocation assistance and payments, an Agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the Agency.

Subpart D - Payment for Moving and Related Expenses

Section 24.301. Payment for Actual Reasonable Moving and Related Expenses.

Section 24.301(e) Personal property only. Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be taken and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the acquiring Agency may obtain estimates from qualified movers to use as the standard in determining the payment.

Section 24.301 (g)(14)(i) and (ii). If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. As prescribed in the regulation, the allowable in-place value estimate (§ 24.301(g)(14)(i)) and moving cost estimate (§ 24.301(g)(14)(ii)) must reflect only the "as is" condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

Section 24.301(g)(17) Searching expenses. In special cases where the displacing Agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on salary or earnings, required to apply for licenses or permits, zoning changes, and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to investigate and acquire the site exceed $2,500, the displacing Agency may consider waiver of the cost limitation under the § 24.7, waiver provision. Such a waiver should be subject to the approval of the Federal-funding Agency in accordance with existing delegation authority.

Section 24.303(b) Professional Services. If a question should arise as to what is a "reasonable hourly rate," the Agency should compare the rates of other similar professional providers in that area.

Section 24.305 Fixed Payment for Moving Expenses - Nonresidential Moves.

Section 24.305(d) Nonprofit organization. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising, and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public Agencies.

Section 24.305(e) Average annual net earnings of a business or farm operation. If the average annual net earnings of the displaced business, farm, or nonprofit organization are determined to be less than $1,000, even $0 or a negative amount, the minimum payment of $1,000 shall be provided.

Section 24.306 Discretionary Utility Relocation Payments. Section 24.306(c) describes the issues that the Agency and the utility facility owner must agree to in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

Subpart E - Replacement Housing Payments

Section 24.401 Replacement Housing Payment for 180-day Homeowner-Occupants.

Section 24.401(a)(2). An extension of eligibility may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction, or physical modifications required for reasonable accommodation of a replacement dwelling, or other like circumstances causes a delay in occupying a decent, safe, and sanitary replacement dwelling.

Section 24.401(c)(2)(iii) Price differential. The provision in § 24.401(c)(2)(iii) to use the current fair market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used.

Section 24.401(d) Increased mortgage interest costs. The provision in § 24.401(d) sets forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the “buydown.”

The Agency must know the remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

Sample Computation

Old Mortgage:	
Remaining Principal Balance	$50,000
Monthly Payment (principal and interest)	$458.22
Interest rate (percent)	7
New Mortgage:	
Interest rate (percent)	10
Points	3

Term (years)	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee. However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of $458.22 at 10% = $42,010.18.

Calculation:	
Remaining Principal Balance	$50,000.00
Minus Monthly Payment (principal and interest)	−42,010.18
Increased mortgage interest costs	7,989.82
3 points on $42,010.18	1,260.31
Total buydown necessary to maintain payments at $458.22/month	9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage ($42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were $35,000, the buydown payment would be $7,706.57 ($35,000 divided by $42,010.18 = .8331; $9,250.13 multiplied by .83 = $7,706.57).

The Agency is obligated to inform the displaced person of the approximate amount of this payment and that the displaced person must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of this payment. The Agency must advise the displaced person of the interest rate and points used to calculate the payment.

Section 24.402 Replacement Housing Payment for 90-day Occupants

Section 24.402(b)(2) Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with § 24.402(b). One factor in this calculation is to determine if a displaced person is “low income,” as defined by the U.S. Department of Housing and Urban Development's annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the Agency must:

(1) Determine the total number of members in the household (including all adults and children);

(2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm*);

(3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA)*, or Primary Metropolitan Statistical Area (PMSA)* in which the displacement property is located; and

(4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (§ 24.2(a)(15)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18. If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered "low income." For example:

Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the Agency is as follows:

Tom Smith, employed, earns $21,000/yr.

Mary Smith, receives disability payments of $6,000/yr.

Tom Smith Jr., 21, employed, earns $10,000/yr.

Mary Jane Smith, 17, student, has a paper route, earns $3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18)

Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is: $21,000 + $6,000 + $10,000 = $37,000

The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: $47,450. (2004 Income Limits)

This household is considered "low income."

* A complete list of counties and towns included in the identified MSAs and PMSAs can be found under the bulleted item "Income Limit Area Definition" posted on the FHWA's Web site at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm*.

Section 24.402(c) Downpayment assistance. The downpayment assistance provisions in § 24.402(c) limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance that exceeds the computed rental assistance payment, up to the $5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy that affords equal treatment for displaced persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For the purpose of this section, should the amount of the rental assistance payment exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

Section 24.404 Replacement Housing of Last Resort.

Section 24.404(b) Basic rights of persons to be displaced. This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under § 24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at § 24.2(a)(20). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement

dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing comparable replacement housing. This Section emphasizes the use of cost effective means of providing comparable replacement housing. The term "reasonable cost" is used to highlight the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller, decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Appendix B to Part 24 - Statistical Report Form

This Appendix sets forth the statistical information collected from Agencies in accordance with § 24.9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally-assisted project or program subject to the provisions of the Uniform Act. If the exact numbers are not easily available, an Agency may provide what it believes to be a reasonable estimate.

2. *Report period.* Activities shall be reported on a Federal fiscal year basis, *i.e.*, October 1 through September 30.

3. *Where and when to submit report.* Submit a copy of this report to the lead Agency as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15. Lead Agency address: Federal Highway Administration, Office of Real Estate Services (HEPR), 1200 New Jersey Avenue, SE., Washington, DC 20590.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts of this section A, B and C to the nearest dollar.

6. *Regulatory references.* The references in Parts A, B, C and D of this section indicate the subpart of the regulations pertaining to the requested information.

Part A. Real property acquisition under The Uniform Act

Line 1. Report all parcels acquired during the report year where title or possession was vested in the Agency during the reporting period. The parcel count reported should relate to ownerships and not to the number of parcels of different property interests (such as fee, perpetual easement, temporary easement, etc.) that may have been part of an acquisition from one owner. For example, an acquisition from a property that includes a fee simple parcel, a perpetual easement parcel, and a temporary easement parcel should be reported as 1 parcel not 3 parcels. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.)

Line 2. Report the number of parcels reported on Line 1 that were acquired by condemnation. Include those parcels where compensation for the property was paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency through condemnation authority.

Line 3. Report the number of parcels in Line 1 acquired through administrative settlement where the purchase price for the property exceeded the amount offered as just compensation and efforts to negotiate an agreement at that amount have failed.

Line 4. Report the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency in Line 1.

Part B. Residential Relocation Under the Uniform Act

Line 5. Report the number of households who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling. The term “households” includes all families and individuals. A family shall be reported as “one” household, *not* by the number of people in the family unit.

Line 6. Report the total amount paid for residential moving expenses (actual expense and fixed payment).

Line 7. Report the total amount paid for residential replacement housing payments including payments for replacement housing of last resort provided pursuant to § 24.404 of this part.

Line 8. Report the number of households in Line 5 who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling as part of last resort housing assistance.

Line 9. Report the number of tenant households in Line 5 who were permanently displaced during the fiscal year by project or program activities, and who purchased and moved to their replacement dwelling using a downpayment assistance payment under this part.

Line 10. Report the total sum costs of residential relocation expenses and payments (excluding Agency administrative expenses) in Lines 6 and 7.

Part C. Nonresidential Relocation Under the Uniform Act

Line 11. Report the number of businesses, nonprofit organizations, and farms who were permanently displaced during the fiscal year by project or program activities and moved to their replacement location. This includes businesses, nonprofit organizations, and farms, that upon displacement, discontinued operations.

Line 12. Report the total amount paid for nonresidential moving expenses (actual expense and fixed payment.)

Line 13. Report the total amount paid for nonresidential reestablishment expenses.

Line 14. Report the total sum costs of nonresidential relocation expenses and payments (excluding Agency administrative expenses) in Lines 12 and 13.

Part D. Relocation Appeals

Line 15. Report the total number of relocation appeals filed during the fiscal year by aggrieved persons (residential and nonresidential).

[70 FR 611, Jan. 4, 2005, as amended at 73 FR 33329, June 12, 2008]

Illegal Aliens and the Uniform Act, Questions and Answers on Public Law 105-117

August 9, 1999

A. General

Question 105-117_ 1: What is the purpose of Public Law 105-117?
Answer: The purpose of P.L. 105-117 is to prohibit, with certain limited exceptions, the provision of relocation payments or assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, to persons not lawfully present in the United States

Question 105-117_ 2: When did the law become effective?
Answer: On the day it was signed into law by the President, November 21, 1997. This position was clearly conveyed in Cindy Burbank's memorandum to the former Regional offices and her letter to the other Federal agencies both dated February 23, 1998. The final rule was published in the Federal Register on February 12, 1999.

Question 105-117_3: Are moving expense payments covered by the law's prohibition on benefits?
Answer: Yes.

Question 105-117_4: May a displacing agency choose to do nothing to implement the 1997 amendments and the implementing regulation?
Answer: The law and the regulation require displacing agencies to take some implementing action or risk losing Federal participation in the cost of relocation payments or assistance. The regulation provides minimal requirements for complying.

Question 105-117_5: What is the impact if State law does not authorize compliance with the 1997 amendments (and subsequent final rule)?
Answer: Each state agency will have to determine if the lack of authorization prevents it from complying. If an agency determines that it cannot comply, then Federal funds will not be able to participate in the cost of any relocation payments or assistance.

B. Process-Related

Question 105-117_6: When should potential displaced persons be informed of the requirements of P.L. 105-117?
Answer: Information concerning the requirements of P.L. 105-117 should be provided to potential displaced persons no later than the provision of the General Relocation Notice (49 CFR 24.203(a)).

Question 105-117_7: When should the displacing agency seek the certification from the displaced person?
Answer: As early as the provision of advisory assistance and no later than the application for benefits (claim).

Question 105-117_8: What is the role of the INS in the process outlined under the final rule?
Answer: The INS maintains a register of aliens who are lawfully in the U.S. and will serve as a potential source of verification for persons who certify that they are aliens lawfully present in the U.S. If an agency questions such a certification, it must check the residency status of the person with the INS before denying benefits.

Question 105-117_9: How do I contact the INS?
Answer: The November 17, 1997, Federal Register contains a list of local INS offices. This list may be found at 62 FR 61350. If you are unable to contact the INS, you may contact FHWA (Ron Fannin at 202-366-2042 or Reid Alsop at 202-366-1371) to obtain the listing for the office nearest you.

Question 105-117_10: Does P.L. 105-117, the regulation, or another Federal statute require the displacing agency to report to the INS any alien it believes to be present in the U.S. illegally?
Answer: No. The obligations of a displacing agency under P.L. 105-117 and the final rule extend only to assuring that aliens not lawfully present in the U.S. do not receive Uniform Act relocation payments and assistance. In addition, we asked the INS if another Federal statute requires the reporting of a person thought to be an illegal alien and they have told us that there is no such obligation.

C. Certification

Question 105-117_11: Must every person seeking benefits under the Uniform Act certify as to residency status?
Answer: Yes.

Question 105-117_12: What form may the certification take?
Answer: In keeping with our objective of minimizing prescriptive Federal requirements, we have not required a particular form for the certification. As noted in the NPRM, we believe it would be acceptable for an agency to incorporate the certification into its existing claim forms (for example, by adding a group of boxes to be checked), if the agency determines that this approach is appropriate to its process. However, in response to requests from a number of States, we have developed two sample certification forms which may be used or not, as suits a State's needs. Those sample forms are attached following the Qs and As.

Questions 105-117_13: Three related questions:
a. What documentation should be required in support of the certification?
b. What should be the nature of a displacing agency's review process?
c. What findings must an agency make?
Answer: We believe that documentation standards, the nature of a displacing agency's review process, and the question of required findings are matters best left to the displacing agency to determine, except that all processes and criteria related to this rule must be nondiscriminatory.

Question 105-117_14: What might constitute ''reason to believe'' a certification may be invalid?
Answer: The determination of what constitutes ''reason to believe'' a certification may be invalid should be based on the judgment of the displacing agency, relying on the agency staff's contacts with the displaced person, their knowledge of the affected geographic area, contacts with neighbors and neighborhood institutions, and various other factors specific to each situation.

Question 105-117_15: Are there certain circumstances which automatically would require documentation for a certification?
Answer: Not to our knowledge. The commenter who raised this issue in response to the Notice of Proposed Rulemaking did not provide any examples of such circumstances and we have been unable to identify any. In particular, we question whether a policy which determined that a particular situation(s) always required documentation could be implemented in a truly nondiscriminatory manner. We continue to think that each case must be handled on an individual basis.

Question 105-117-16: Who may sign the certification in the case of a family that is to be displaced?
Answer: We believe that a head of household may sign the certification, just as a head of household may sign the claim form for a relocation payment, and have so provided in new section 24.208(a) (2). However, unlike an individual's certification, a head of household's certification

also would certify as to the residency status of other family members. Agencies should be careful to design their certification materials to be sure they ask for a response appropriate to the displaced person's situation.

D. Eligibility

Question 105-117_17: What is the meaning of the term " exceptional and extremely unusual hardship?"
Answer: The final rule includes a definition of the phrase "exceptional and extremely unusual hardship," which focuses on significant and demonstrable impacts on health, safety, or family cohesion. This phrase is intended to allow judgement on the part of the displacing agency and does not lend itself to an absolute standard applicable in all situations.

Question 105-117_18: To whom does the "hardship exemption" extend?
Answer: When considering whether such an exemption is appropriate, a displacing agency may examine only the impact on an alien's spouse, parent, or child who is a citizen or lawful resident alien.

Question 105-117_19: What is a spouse?
Answer: In determining who is a spouse, we expect displacing agencies to use the definition of that term under State or other applicable law.

Question 105-117_20: What documentation is required to support a claim of hardship?
Answer: In keeping with the principle of allowing displacing agencies maximum reasonable discretion, we believe the question of what documentation is required to support a claim of hardship is one best left to the displacing agency, as long as it is handled in a nondiscriminatory manner.

Question 105-117_21: May income level be a factor in the consideration of "hardship."
Answer: We believe the amendments contemplate a standard of hardship involving more than the loss of relocation payments and/or assistance alone which, after all, is the basic thrust of the amendments. Thus, we believe that income alone (for example, measured as a percentage of income spent on housing), would not make the denial of benefits an "exceptional and extremely unusual hardship" and qualify for a hardship exemption.

Qestion 105-117_22: When may an agency deny eligibility for benefits?
Answer: Under this rule, a displacing agency may deny eligibility only if: (1) a person fails to provide the required certification; or (2) the agency determines that a person's certification is invalid, based on a fair and nondiscriminatory review of an alien's documentation or other information that the agency considers reliable and appropriate, including (for persons claiming to be lawfully present aliens) review by the Immigration and Naturalization Service (INS); and (3) the agency concludes that denial would not result in "exceptional and extremely unusual hardship."

Question 105-117_23: Does the answer in Question 22 mean that failure to certify can result in a denial of Uniform Act benefits without INS verification?
Answer: Yes, provided the displacing agency is satisfied that the failure to certify constitutes a refusal or inability to certify and is not merely an oversight, misunderstanding, or other mistake.

Question 105-117_24: May a denial of Uniform Act benefits under the 1997 amendments be appealed?
Answer Yes. Any person who is denied eligibility may utilize the existing appeals procedure, described in 49 CFR 24.10.

Question 105-117_25: How do the 1997 Uniform Act amendments apply to on-going relocation cases in which displacement occurred after the passage of the amendments (November 21, 1997) but before the effective date of the final rule (March 15, 1999)?
Answer: The general principle of the 1997 amendments is that, with certain limited exceptions, no relocation payment or assistance under the Uniform Act should be provided to a displaced person by a displacing agency if the agency is aware that the residency status of an alien is unlawful. FHWA notified its field offices and the other Federal agencies whose programs are covered by the Uniform Act of the law's requirements and effect on February 23, 1998. Allowing a reasonable amount of time for an agency to adapt its processes to the new

requirements, FHWA believes that no payment or assistance should have been provided to a person known to be in unlawful residency status who was displaced after June 1, 1998.

Between November 21, 1997, and June 1, 1998, for payments which already had been made, or, in the case of installment payments where an installment already had been paid, FHWA does not believe it is necessary to seek repayment or to terminate the remaining installments.

E. Residential Displacements

Question 105-117_26: How should payments be computed if some members of a displaced family are present lawfully but others are present unlawfully?
Answer: There are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the RHP would be computed accordingly.

A "pro rata" approach to an RHP calculation disregarding alien status for comparability determination and applying a percentage to the RHP amount based upon the number of legal household members divided by the total number of household members is not permitted (consistent with Public Law 105-117).

The "pro rata" approach may result in a higher RHP eligibility than the displaced persons would otherwise be eligible to receive. The "pro rata" approach of providing a percentage of the calculated eligibility is contrary to the requirements of the Uniform Act and 49 CFR Part 24. Example:

Household of seven (including one illegal alien individually occupying one bedroom.) Displacement dwelling - 4 BR unit, with rent/utilities of $1200/month Housing requirements for all lawful occupants (six) is a 3 BR unit Comparable dwelling 3 BR unit with rent/utilities of $1300/month Calculation of RHP under regulations (illegal alien excluded) $1300 (comparable) - $1200 (displacement unit) = $100 RHP x 42 months = $4,200 RHP

Question 105-117_27: If a person who is a member of a family being displaced is not eligible for (does not receive) Uniform Act benefits because he or she is in the United States unlawfully, is that person's income excluded from the computation of family income?
Answer: No, the person's income is still counted unless the displacing agency is certain that the ineligible person will not continue to reside with the family. To exclude the ineligible person's income would result in a windfall by providing a higher relocation payment because a family member was not present lawfully in the United States. This is the result which led to the 1997 amendments in the first place.

Question 105-117_28: What is the effect of P.L. 105-117 on installment payments where one or more installments remain to be paid?
Answer: As noted under Question 105-117_25, in the case of installment payments where an installment already had been paid, FHWA does not believe it is necessary to seek repayment or to terminate the remaining installments.

F. Business Displacements

Question 105-117_29: Does the prohibition on benefits in Public Law 105-117 apply to businesses?
Answer: Yes. It seems clear that it does since the term ''person'' used in Public Law 105-117 is defined broadly in the Uniform Act so as to include businesses (as well as farms and nonprofit organizations). We believe the Congress intended to prevent the receipt of Uniform Act

benefits by any alien not legally present in the U.S. and not meeting the exception requirements previously discussed under section D. (Eligibility).

We also believe that the prohibition on benefits must be applied differently to the differing "ownership" situations found in, for example, a sole proprietorship, a partnership, or a corporation.

Question 105-117_30: How are the differing ownership situations referred to in Question 105-117_29 to be treated?
Answer: As in the case of residential displacees, we think the answer lies in looking at the nature of the entity to be displaced. Since a sole proprietorship involves only one person, the eligibility of the business is synonymous with the residency status of its proprietor.

At the other end of the spectrum, it is our view that a corporation, as a legal person established pursuant to State law, need only certify that it is authorized to conduct business in the United States.

For partnerships or other associations that have more than one owner but are not incorporated, we believe that the certification must be designed to elicit a response reflective of the status of all of the owners. If any of the owners are not eligible, no relocation payments may be made to such ineligible persons. Finally, any relocation payments for which the business would otherwise be eligible should be reduced by a percentage based on the proportion of eligible owners to the total number of owners. For example, if four out of five owners of a business to be displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the relocation payment(s) that otherwise would have been received.

We have adopted a similar approach to mixed eligibility in residential situations and have added clarifying language in Sec. 24.208(c) of the final rule.

Question 105-117_31: The law prohibits payments to " persons not lawfully present." Does this mean that the owner(s) of a business must be present in the United States to be eligible for Uniform Act benefits?
Answer: No. The focus is on the displaced person's unlawful residency status, not his or her presence in the United States. If the owner of a business located in the U.S. was, for example, a resident of Great Britain and the business was displaced by a Federal or federally-assisted program or project, the owner's residency would have no effect on eligibility for Uniform Act benefits.

Uniform Act Frequently Asked Questions

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act)

Frequently Asked Questions (FAQs) on 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

There have been changes to this subpart. A side-by-side comparison of these changes is available.

1. What is the Uniform Act?

It is the short name for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. This law was enacted as Public Law 91-646, and brought a minimum standard of performance to all Federally funded projects with regard to the acquisition of real property and the relocation of persons displaced by the acquisition of such property.

2. Has it been amended since passage?

Yes, there have been several amendments over the years, with the most significant taking place as a part of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

3. Where can I find the law and the rules created to carry out the law?

The law is codified in 42 U.S.C. 4601 et seq. The regulation governing the law is found in 49 CFR, Part 24. There may be other laws, regulations, policies and procedures established by agencies that elaborate or expand upon these minimum standards. Links to the basic law and regulation can be found at https://www.fhwa.dot.gov/hep/guidance/.

4. Which Federal agencies must abide by the provisions of the Uniform Act?

All acquiring agencies meeting the definition set out in Section (§) 24.2(a)(1)(iii) are required to comply with the Uniform Act and the implementing regulation, 49 CFR Part 24.

5. Does the Uniform Act apply to local agencies or third parties who acquire properties in advance of federal authorization or a federal project designation?

The funding agency will review such acquisitions to determine if the intent of the acquisition was for a federally funded program or project, in which case the provisions of the Uniform Act and the implementing regulation apply.

Subpart A - General (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

6. Appendix A. The word "should" is used. Does this mean that the appendix provisions are suggestions rather than requirements?

Appendix A is an integral part of the regulation. While it does not impose additional mandatory requirements, it provides important guidance and information concerning the purpose, intent and implementation of many of the provisions in the regulation. "Should," when used in the appendix to describe a mandatory requirement of the regulation, cannot alter or reduce that requirement. When used to provide guidance, it explains how a regulatory provision is to be implemented under most circumstances.

7. §24.2(a)(6). In localities where houses sell for a premium over the list price, can the relocation agent adjust the relocation housing payment to account for this premium?

The regulation does not call for adjusting the asking price, either upward or downward. The regulation does say the comparable must be available. If a comparable is not available for the amount calculated, a new calculation may be in order.

8. §24.2(a)(6)(ix) and appendix A, Subpart A, §24.2(a)(6)(ix). Can the displaced occupant of a public housing unit be offered other public housing units as comparable replacement housing?

Yes. A person displaced from a public housing project may be offered a comparable public housing unit as a replacement dwelling or they may be offered a unit subsidized under another housing program, e.g., Section 8 Housing Choice Voucher. Only if no subsidized housing is available should a subsidized tenant be offered a non-subsidized unit as a comparable. A person who is displaced from subsidized housing and placed in private-market housing will potentially lose the security of affordable housing after the 42-month Uniform Act payment is exhausted. While the Uniform Act replacement housing payment softens the blow of a move, after the payment is exhausted a formerly-subsidized tenant may not be able or eligible to return to subsidized housing, either because no subsidized units are available or because their income exceeds the admission income limits. For this reason, every effort should be made to find another subsidized unit as replacement housing so that the tenant will continue receiving the housing subsidy as long as it is needed.

9. §24.2(a)(8). Can an eligible displaced person ever occupy a non-decent, safe and sanitary (DSS) replacement dwelling and still receive a replacement housing payment?

No, unless one or a very few of the DSS conditions listed in §24.2(a)(8) were waived under §24.7 or §24.2(a)(8), so that the dwelling could then be considered to be DSS. However, all the DSS conditions could not be waived.

10. §24.2(a)(9)(A). Can an eligible displaced person be paid relocation benefits prior to completion of negotiations or acquisition of the property that they occupy?

Yes. Persons who move as a result of the initiation of negotiations are eligible displaced persons entitled to benefits and should be paid promptly. Payments to such persons are eligible for Federal funding or reimbursement at the time that residential occupants move to DSS dwellings adequate to accommodate them or non-residential occupants vacate the property

11. §24.2(a)(15)(iv). What do I look for in determining whether there is a written agreement that meets the definition of initiation of negotiations in order to establish tenant eligibility for relocation payments?

The written agreement must bind the agency to purchase the property from which a tenant would be displaced. That is, both the agency and the property owner are subject to legally enforceable commitments to proceed with the purchase.

Subpart B - Real Property Acquisition (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

12. Subpart B. The preamble to the revised regulation published January 4, 2005, states that the FHWA decided to retain the term "fair market value" throughout Subpart B except for §24.101(b)(1) and (5). Yet the term "market value" appeared in the final regulation in a number of other places, including§24.102(d) and (j), §24.103(b), and §24.105(c). Which is correct?

The preamble is correct. The FHWA published a technical correction on Monday, May 2, 2005, in the Federal Register (70 FR 22610) that resolved the problem by changing the term to "fair market value" in all parts of the regulation except §24.101(b)(1) through (5).

13. §24.101, §24.108, and Subpart E. If property is acquired through donation, exchange, or some method other than purchase, are the occupants entitled to relocation assistance and payments for vacating the property?

The occupants are eligible as "displaced persons" if they meet the definition of a displaced person [24.2(a)(9)].

14. §24.101(a)(2) and §24.101(b)(1) through (5). If a Federal agency operating in accordance with §24.101(a)(2), or an agency acquiring in accordance with §24.101(b)(1) through (5), will not acquire a property except through amicable negotiation, is the owner entitled to relocation assistance? Are tenants on such properties eligible for relocation assistance?

Owners of such properties are not displaced persons. Tenants of such properties are eligible for relocation assistance and benefits.

15. §24.102(b). Can the required early notice be provided at a public meeting? When is the best time to give this notice?

No. When property is to be acquired, each owner should be notified in such a way that an administrative record exists to attest to the delivery to the owner. There is no assurance when using a public meeting that all affected owners will be present and each owner is due the courtesy of receiving a timely notice of the agency's intent. The notice should be provided as early as possible, when it is known a property interest will be acquired, and no later than when the appraisal or waiver valuation assignments are made.

16. §24.102(c)(2)(ii)(C). Is a §24.7 waiver required to provide a waiver valuation, rather than an appraisal, for properties estimated to be worth over $10,000 and up to $25,000?

No. §24.102(c)(2)(ii)(C) contains its own waiver provision that specifically permits the use of the waiver valuation for these properties provided the Federal funding agency approves the higher threshold beyond $10,000 and the agency agrees to offer the owner the right to have an appraisal prepared.

17. §24.102(c)(2)(ii)(C). If an agency routinely uses waiver valuations on properties with an estimated value of up to $25,000, does it have to offer an owner the option of receiving an appraisal if the property being acquired was estimated to be worth $3,000? How should agencies document that they have offered a property owner the option of having the property appraised and the owner has elected not to have an appraisal prepared?

No, the agency does not need to offer the owner an appraisal if the estimated value is under $10,000. The owner must be offered the option of receiving an appraisal, prior to using the waiver valuation, if the property is estimated to be worth more than $10,000, up to a maximum of $25,000. No set form of documentation is prescribed. However, to be consistent with other property contact requirements in the regulation, the agency should offer the option to have the property appraised to the property owner in writing (when over $10,000), and obtain a written response from the owner. An agency must maintain adequate records, as set out in §24.9(a), in sufficient detail to demonstrate that it offered the owner the option of receiving an appraisal for the property.

18. §24.102(c)(2). What constitutes a knowledgeable person who is qualified to prepare waiver valuations?

The regulation calls for a waiver valuation preparer to have sufficient understanding of the local market. The funding agency may issue further guidance, however, it is expected that the person will be knowledgeable of local real estate sales.

19. §24.102(f). If the waiver valuation preparer makes an $8,000 offer and the owner makes a counter offer for $10,000, can the waiver valuation preparer/negotiator adjust the amount of the waiver valuation?

Yes, if market data supports such a change.

20. §24.102(i). If there is no market data to support an adjustment to the waiver valuation amount, can an administrative settlement be considered, even if the administrative settlement amount is over $10,000?

Yes, if justified and in accordance with the funding agency's approved procedure. Safeguards should be considered when the waiver valuation preparer is the negotiator and recommends an administrative settlement. It is appropriate to have a different agency official approve the administrative settlement. This can be accomplished in a cost effective manner, such as by phone, fax, or email. Administrative settlements may also be used if the funding agency is operating at the $25,000 waiver valuation level. It is not necessary to complete an appraisal in these situations.

21. §24.102(d). Who determines the offer of just compensation for the property to be acquired?

The agency determines the just compensation amount to be offered the property owner in a two-step process. An appraiser researches the real estate market and presents an appraisal of the fair market value. A review appraiser evaluates that appraisal and recommends an amount for an agency official to approve as the agency's estimate of just compensation. For some uncomplicated, low value acquisitions, the agency may determine an appraisal is not required and prepare a waiver valuation that will be the basis upon which an agency official will approve the offer of just compensation.

22. §24.102(d) and §24.102(g). Must all offers by an agency to acquire property be made in writing?

The first time an agency makes an offer to purchase; it must be in writing and be in the full amount approved by the agency as its estimate of just compensation. Subsequent formal offers and notices are also required to be in writing. This does not preclude the use of verbal value discussions during negotiations to arrive at an agreed purchase price for the property, depending upon agency policy and applicable law.

23. §24.102(i) and §24.102(j). What if the owner doesn't agree with the amount offered? Is condemnation the only solution when an agency can't reach agreement on the purchase of property for the project?

The possibility of an administrative settlement should be explored, reference §24.102(i). Agency officials may approve the use of an administrative settlement if it is reasonable, prudent and in the public interest. Agencies may also use other alternative dispute resolution options, such as mediation or arbitration. If all efforts to negotiate/settle fail then the laws of the agency set forth the legal steps the agency must take when they wish to purchase property that an owner does not want to sell.

24. §24.102(f). Can property owners provide their own appraisal to the acquiring agency?

Yes. The agency should consider all relevant information in its negotiations with property owners.

25. §24.102(f). Which agency official is authorized to make the final settlement offer?

This is a matter of agency policy, as well as laws governing the agency. The regulation does not address or require a final settlement offer. The agency is required to consider valuation information and suggested modifications provided by the owner.

26. §24.102(j). When should property owners be paid for their property?

Property owners should be paid as quickly as possible under the applicable laws, on or before the time the owner is required to give up physical possession. This must occur when the property owner transfers title. The agency should work with the property owner to resolve any liens against the property.

27. §24.102(j). When can a property owner be required to turn possession of the property over to an agency?

A property owner may voluntarily turn control of his or her property over to an agency at any mutually agreeable time. An agency may not require a property owner to give them possession until the sale of the property is complete, payment is made and title transferred. In the case of property used for business, residence, or farm, the owner must be given the 90-day notice in writing. In situations where condemnation is necessary, the laws governing the agency set forth the steps the agency must take to gain legal and physical possession. As in negotiated settlements, the 90-day notice on occupied property further governs the physical possession date.

28. §24.102(n). Do the conflict of interest provisions in 49 CFR §24.102 apply to consultants?

Yes. §24.102(n) applies to all acquisitions that are subject to the Uniform Act acquisition requirements, including those undertaken by consultants. The intent of §24.102(n)(2) is to insure appraiser independence and to shield appraisers from inappropriate influence. In the case of an appraiser who is hired by an agency or a consultant, the agency or consultant may not attempt to influence or coerce the appraiser regarding valuation, or any other aspect of an appraisal, review or waiver valuation.

29. §24.102(n)(2). What does conflict of interest mean?

The purpose of this section is to assure the agency has a valid approved appraisal, or, if appropriate, waiver valuation, that represents the fair market value for the needed real property. It is intended to prohibit attempts to coerce the appraiser or review appraiser to meet a certain target or "pre-agreed-on" value to be reported as the approved appraised value to support a contrived determination of just compensation to be offered a property owner. To prevent this, each situation needs to be evaluated on a case-by-case basis. It is critical to prevent inappropriate influence on the valuation process that leads to, and results in, the initial offer of just compensation. To accomplish this, it is necessary for the appraiser and review appraiser's first-line supervisor to be independent of the negotiation process and not function as a negotiator. Conversely, any person functioning as a negotiator is prohibited from being the appraiser or review appraiser's first-line supervisor.

For the FHWA, "functioning as a negotiator" means initiating price negotiations with the property owner. It does not include occasional involvement in subsequent negotiations by senior level personnel. For the FHWA, "supervise or formally evaluate the performance," refers to the first-line supervisor.

When an agency has contracted, or a consultant has subcontracted, with an appraiser, review appraiser, or waiver valuer, there may not be a typical supervisory relationship. Nevertheless,the conflict of interest provision applies. The person who the contract appraiser, review appraiser, or waiver valuer is responsible to on an operational basis may not be the negotiator, or attempt to influence or coerce the appraiser, review appraiser or waiver valuer regarding valuation, or any other aspect of an appraisal, review, or waiver valuation process.

30. §24.102(n)(2). Does the conflict of interest provision preclude an upper level agency manager, director, or other agency administrative settlement official, who technically is the "supervisor" over the appraisal/appraisal review section, from negotiating a claim for an administrative settlement or appeal?

No, as long as the person is not the individual appraiser, review appraiser or waiver valuer's first-line supervisor, or the supervisor is not the person initiating price negotiations with the property owner. There is no restriction against higher-level supervisors being involved in the later stages of negotiation.

31. §24.102(n)(2). Is this waiver, and the exception in §24.102(n)(3), related to the general waiver provision in §24.7?

No. §24.102(n)(2) provides that a person functioning as a negotiator may not supervise or formally evaluate the performance of an appraiser or review appraiser except that, on a federally assisted project, the Federal funding agency may waive the application of this requirement to

an acquiring agency if the Federal agency determines it would create a hardship for the agency. This is intended to accommodate a Federal aid recipient with a small staff, where this provision would be unworkable. §24.102(n)(3) provides that an appraiser may be permitted to act as a negotiator if the offer to acquire the property is $10,000 or less. Because of the specific language in §24.102(n), an agency can exercise the waiver described in §24.102(n)(2), or the $10,000 or under exception in §24.102(n)(3), without recourse to the general waiver provision provided for by §24.7.

32. §24.103. What does "consistent" mean with respect to the appraisal criteria and the provisions of Uniform Standards of Professional Appraisal Practice (USPAP)?

The appraisal criteria in §24.103 are considered to be consistent with USPAP. Both are designed and intended to produce accurate valuation information. §24.103 and the rest of the regulation implement the Federal statutory requirements in the Uniform Act that specifically apply to the acquisition of real property for Federal and federally assisted projects. Those statutory requirements, and their implementing regulations, are not exactly the same as the USPAP provisions, but are generally similar and compatible. This subject was carefully considered during the development of the regulation, and is discussed in some detail in appendix A, §24.103(a).

33. §24.103(a). How does the scope of work requirement relate to abbreviated appraisal formats?

The scope of work requirement applies to all appraisal formats. The extent of the scope of work statement depends on the circumstances of each acquisition. Additional scope of work guidance is provided in appendix A §24.103(a). The scope of work statement should consider the five specific requirements in §24.103(a)(2)(i) through (v), and address them as appropriate. A scope of work is not required for a waiver valuation because a waiver valuation is not an appraisal.

34. §24.103(d). Who are qualified appraisers?

Qualified appraisers are those determined by the agency to be capable to perform the appraisal work needed. The regulation requires agencies to establish criteria for determining qualifications and competency. Only those appraisers and review appraisers who meet those requirements should be hired. The regulation lists several standards the agency shall review when determining an appraiser or review appraiser's qualifications.

35. §24.103. Are contract (fee) review appraisers required to have a state certification or license in the same manner as is required of contract (fee) appraisers?

No. However, the FHWA encourages partner agencies to include State certification or licensing as a factor to judge the qualification of the review appraiser. If contract (fee) review appraisers are used, the regulation only requires the agency to match the review appraiser's qualifications with the scope of work of the appraisals he/she reviews. Selection of the appraiser is an agency decision.

36. §24.103(a)(2)(i) and appendix §24.103(a)(1). Does the requirement to include items identified as personal property and real property, as part of an adequate description of the property being appraised, require the appraiser and relocation agent to prepare lists of both real and personal property for residential and commercial property?

The intent of this provision is to avoid situations where an item is included in the appraised value and subsequently also relocated at agency expense. To avoid this, the appraiser and the relocation agent should agree on which questionable items are to be appraised and which are to be relocated. The personal property items included in the appraisal should be listed in the appraisal report. This should be done in all situations, whether the property is residential, commercial, or other use, where there is a question how a particular item is to be handled.

Items of real property being appraised should identify ownership, i.e., tenant-owned or lessor-owned, if applicable. The relocation advisory services interview with business owners should address and resolve these issues.

37. §24.104.Is the review appraiser acting as an appraiser under USPAP? How do USPAP standards apply?

For appraisal review activities related to acquisition performed under the Uniform Act, all of the review appraiser's actions are specified by, and are considered to be part of the appraisal review process required by 49 CFR Part 24. Note that, even though §24.104 does require the review appraiser to comply with §24.103 appraisal requirements when developing an independent approved or recommended value, it also specifically cites this work as being part of the review itself. USPAP is not an appropriate measure of the review appraiser's activities.

Compliance with USPAP standards is not required by this regulation. Appraisal and appraisal review reports are to be prepared in accordance with the Uniform Act regulation, which the FHWA believes is consistent with, but not necessarily identical to, USPAP. The FHWA believes that appraisal reviews performed in compliance §24.104 requirements do comply with USPAP Standard 3.

38. §24.104(a).Can a fee review appraiser approve the appraisal or just recommend it?

A fee review appraiser, or any review appraiser, may recommend an appraisal, as the basis for establishing the amount believed to be just compensation by the agency. However, based upon the language in the Uniform Act, Section 301(3), the approval of the appraisal must be by the agency, that is to say, an in-house approval.

Any review appraiser may also accept the appraisal as meeting all requirements but not select it as recommended. This may be appropriate when there are multiple appraisals, or determine the appraisal to be not acceptable. Only an agency staff employee, including a staff review appraiser, may be authorized by the agency to approve the appraisal as the basis for establishment of the amount believed to be just compensation. Such employee may, if authorized, develop and report the amount believed to be just compensation.

39. §24.104(a).What constitutes a review appraiser's written report? What if there are multiple appraisals? Is a stamp and signature procedure sufficient, and if so, would it raise USPAP issues?

The review appraiser's written report must identify the appraisal reports reviewed, identify any damages or benefits to any remaining property, document the findings and conclusions arrived at during the review of the appraisals, and provide a signed certification that states the parameters of the review and the approved value. If authorized to do so, the review appraiser's certification shall establish the amount believed to be just compensation.

The review appraiser shall identify each appraisal as recommended, accepted, or not accepted. Each appraisal reviewed should be identified in the review appraiser's report. A stamp (recommended, accepted, or not accepted) and a review appraiser's signature would not be sufficient to satisfy §24.104(c) requirements. However, as described in the appendix, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation and/or approval, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

40. §24.103(a)(2)(iii). Is the requirement to verify property sales information by a party involved in the transaction limited to the grantor or grantee?

Sales verification is an essential part of the research underlying the data used to support an appraisal and the degree of inquiry should be commensurate with the scope of work of the appraisal assignment. Verification can be with any party involved in the transaction that has sufficient knowledge of the specific components of the sale to provide insight into the considerations and motivations that lead to the agreed upon sale price at the date of sale.

41. §24.102(f) Can an agency use the Global Settlement method when negotiating the acquisition of property for federal and federal-aid projects? This method as currently defined is the combining of just compensation for acquired real property including incidental acquisition expenses and all relocation benefits in the offer of settlement by the acquiring agency. In most acquiring agencies this settlement offer is made prior to the expenditure of relocation expenses by the property owner or tenant?

The Uniform Act and implementing regulations in 49 CFR Part 24 require that certain incidental expenses and relocation benefits including relocation housing payments be based on actual costs. These costs are not generally available at the time negotiations for the real property

are completed by acquiring agencies. In addition, most residential moving costs and many business moving expenses must also be based on actual expenditures. FHWA is requesting proponents of the Global Settlement method to provide an explanation of their proposed use and the perceived advantage/s of using this settlement concept. When we receive supporting information on their proposed methodology we will determine if their proposals can meet current Uniform Act and regulatory provisions.

Until such a determination is completed, the use of Global Settlements on federal and federal-aid projects is not permitted.

Subpart C - General Relocation Requirements (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

42. §24.203. How early can the agency give a 90-day notice. Does it have to be written?

The notice must be in writing and can be given at the initiation of negotiations or later, providing at least 90 days advance notice of the specific date possession will be required. When given at the initiation of negotiations it will include an assurance that another notice will be given at least 30 days before the property needs to be vacated. This latter date shall not be any earlier than the date provided in the initial 90-day notice.

43. §24.203. Is there a requirement to give illegal aliens a 90-day notice?

The regulation prohibits Federal participation in relocation payments or relocation advisory services to illegal aliens but does not prohibit notices. Often illegal aliens and legal residents reside together. Giving every resident, legal and illegal, the 90-day notice will assure compliance with the Uniform Act.

44. §24.203 and §24.5. Is an agency required to prepare a relocation brochure?

A relocation brochure is not required; however, each displaced person must be provided a general written description of the agency's relocation program. Brochures are very effective for providing accurate general relocation information in a uniform manner. It is strongly recommended that each agency have brochures available to furnish displaced persons at the initial contact and to the public, as appropriate.

The FHWA relocation brochure https://www.fhwa.dot.gov/real_estate/publications/your_rights/ is available for this purpose. Translation of relocation notices and brochures to another language may be appropriate to assist displacees in understanding their rights and benefits. Several Spanish brochures and notices can be found on HUD's website at https://www.hud.gov/program_offices/comm_planning/library/relocation. Where translation of documents is not practical, the use of a translator is strongly encouraged.

45. §24.203(d) and §24.2(a)(9)(i)(A). Can an agency issue a notice of intent to acquire a parcel in order to establish a date of eligibility for relocation benefits prior to the initiation of negotiations?

Yes. Eligibility for benefits can be established prior to the initiation of negotiations by issuing a notice of intent to acquire to a person who will be displaced by a program or project.

46. §24.203(b). Can an owner of a property to be acquired prevent the agency from contacting the tenants of the property?

An owner may not prevent authorized agency employees from notifying tenants of the benefits they may be eligible to receive under the Uniform Act. The agency should advise the owner that it is better to explain to the tenants the requirements and obligations for the eligibility for benefits and to advise them there is no rush to relocate. In situations where the owner is concerned the tenants will move and there will be loss of rental income, the agency may offer to make a payment to replace lost rent for vacancies occurring due to relocation for a reasonable period of time.

47. §24.203(c). Must the agency restart the 90-day clock if the original comparable replacement dwelling has been sold?

No. The 90-day time period continues to run without interruption. However, if the original comparable dwelling is no longer available, the agency must assure itself that equally comparable dwellings are still available in the same price range. If the agency finds it necessary to initiate eviction actions, its records must contain sufficient documentation to confirm that a comparable replacement dwelling is available for occupancy.

48. §24.204. Can the agency reduce the relocation payment offer if, after 90 days have passed, the displaced person has not acquired replacement housing and the agency locates another comparable dwelling that is available for less than the comparable used for the offer?

Yes. If the displaced person has made little or no effort to acquire a replacement dwelling, it would be permissible, after a reasonable period of time, to reduce the offer if a less-expensive, comparable dwelling becomes available. If an agency elects to lower a payment offer, it should document the files with the rationale and make every effort to avoid acting in a coercive manner.

49. §24.205. How does a Federal funding agency insure that an agency is engaged in relocation planning and providing the advisory services described in this section? How does an agency demonstrate compliance?

The regulations do not prescribe any particular form of monitoring or recordkeeping. §24.4(b) requires that Federal agencies shall monitor compliance with the regulation, and, if necessary, apply sanctions in accordance with applicable program regulations. Compliance with all aspects of the Uniform Act should be part of a Federal agency's overall program management and oversight functions. §24.9 requires that agencies maintain adequate records in sufficient detail to demonstrate compliance.

50. §24.205. Does lack of cooperation on the part of the displacee relieve the agency of its obligation to provide required relocation advisory assistance?

The agency must provide notices and advisory services to all displacees. All contacts and efforts to contact a displacee must be documented in the agency files. The agency is not relieved of its responsibility regardless of displacee cooperation. In some cases, the relocation agent should seek advice early in process from legal counsel.

51. §24.205(c)(2)(i). When should an agency conduct the interview with owners of businesses and provide the other advisory services? How can agency compliance be documented?

General information can be included in a relocation plan, survey or study, §24.205(a), or in an environmental document. Interviews with business owners and early advisory services are an important part of relocation planning, and are intended to facilitate the successful reestablishment of the business. Interviews should be conducted with enough lead-time to maximize the likelihood that information obtained from the interviews can assist in the successful relocation of the business. An agency can conduct more than one interview with a business. The timing of the business interview(s) and planning may depend on the nature of the business and kind of issues involved in its relocation. While no particular documentation is prescribed, an agency must maintain adequate records in sufficient detail to demonstrate compliance.

52. §24.205(c)(2)(ii)(E). Since agencies are required to provide transportation for displaced persons, what is an agency to do in a rural area where there is no public transportation, and agents are prohibited by agency policy from using a company car for anyone who is not an agency employee? [Private insurance doesn't cover the passenger if there were an accident in their privately owned vehicle.]

The agency needs to assess the needs of the displaced person and develop viable alternatives to meet the needs identified. The agency may need to rent a car for the displaced person, hire someone to take them around (possibly a local realtor), etc. In a rural setting, it may be even more critical to assist a displaced person who has no means of transportation. If the person has their own transportation, the agency may pay for their mileage costs.

53. §24.206. What changes were made in the eviction for cause provision?

A person who is a lawful occupant on the date of initiation of negotiation is presumed to be entitled to relocation benefits, and can only be denied benefits if the person has been evicted under applicable local law prior to the initiation of negotiations, or is evicted "for serious or repeated violation of material terms" of a lease or occupancy agreement, and in either case the eviction is not undertaken to evade Uniform Act obligations. The appendix A clarifies that a failure or refusal to move for a project cannot be considered to be a "serious or repeated violation of material terms" of a lease or agreement for purposes of this section.

54. §24.208. Is there any background or clarification on how I can best stay within the law when my project displaces someone who may not be in the United States legally?

The background and tips for success in this are found in the comprehensive discussion at https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/illegaqa.cfm.

55. §24.208. How should payments be computed if some members of a displaced family are present lawfully but others are present unlawfully?

There are two different computation methods, one for moving expenses and one for replacement housing payments (RHP). For moving expenses, the payment is to be based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80 percent and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

For the RHP, the unlawful occupants are not counted as a part of the family and its size is reduced accordingly. Thus a family of five, one of whom is a person not lawfully present in the U.S., would be counted as a family of four. The comparable for the family would reflect the makeup of the remaining four persons and the RHP would be computed accordingly.

A "pro rata" approach to an RHP calculation disregarding alien status for comparability determination and applying a percentage to the RHP amount based upon the number of legal household members divided by the total number of household members is not permitted (consistent with Public Law 105-117).

- The "pro rata" approach may result in a higher RHP eligibility than the displaced persons would otherwise be eligible to receive.
- The "pro rata" approach of providing a percentage of the calculated eligibility is contrary to the requirements of the Uniform Act and 49 CFR Part 24.

Example:

Household of seven (including one illegal alien individually occupying one bedroom.)
Displacement dwelling - 4 BR unit, with rent/utilities of $1200/month
Housing requirements for all lawful occupants (six) is a 3 BR unit
Comparable dwelling
3 BR unit with rent/utilities of $1300/month
Calculation of RHP under regulations (illegal alien excluded)
$1300 (comparable) - $1200 (displacement unit) = $100 RHP x 42 months = $4,200 RHP

56. §24.208. If a person who is a member of a family being displaced is not eligible for and does not receive Uniform Act benefits because he or she is in not lawfully in the United States, is that person's income excluded from the computation of family income?

No. The person's income is still counted unless the agency is certain that the ineligible person will not continue to reside with the family. To exclude the ineligible person's income would result in a windfall by providing a higher relocation payment. This is an example of a payment that the illegal alien provision is trying to avoid.

Subpart D - Payment For Moving And Related Expenses (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

57. §24.301. When a business is relocating, for which expenses related to the purchase or lease of a replacement site, can the owner be reimbursed?

A business owner is entitled to compensation for actual reasonable expenses incurred in searching for a replacement site, up to $2,500, including, but not limited to, the expenses described in §24.301(g)(17). These expenses could include costs for the time spent negotiating the purchase or the lease of a replacement site.

In addition, an owner can also be compensated for professional services performed prior to the purchase or lease, to determine the suitability of the replacement site for the business, if the agency determines that they are actual, reasonable and necessary. These services include such things as soil tests or marketing studies, but do not include fees or commissions directly related to the purchase or lease, as covered in §24.303(b).

In other words, reimbursement can be provided for time spent negotiating the purchase or lease as part of the $2,500 searching expenses, and for professional fees to determine the suitability of the site, but cannot be provided for fees or commissions directly related to the purchase or lease.

58. §24.301(d). If a project is not impacting the entire business but only a portion of the business's personal property, is the business eligible for a move payment based on direct loss of tangible personal property or substitute personal property? These options are not listed under §24.301(e), personal property moves.

Yes. While the regulation does not list the tangible personal property or substitute personal property options, they are always available at the agency's option when it makes sense to use them.

59. §24.301(e). What is covered by the "personal property only" moving provision in this section?

This section covers personal property that must be moved for a Federal or federally assisted project, and is owned by a person who is not displaced from a dwelling, business, farm or nonprofit organization. This includes personal property in a mini-storage facility that is being acquired, or personal property located on vacant land that is being acquired.

60. §24.301(g)(3) and §24.304(a)(1). Are costs incurred in complying with OSHA and other code requirements at the replacement location considered eligible costs in situations where the business was not subject to the requirement at the displacement property because of a grandfathered provision?

Modifications to personal property mandated by Federal, State or local law, code, or ordinance that are necessary to reassemble or reinstall the personal property or adapt it to the replacement structure, the replacement site, or the utilities at the replacement site are eligible for reimbursement under §24.301(g)(3). The modifications authorized by this subsection must be clearly and directly associated with the reinstallation of the personal property and cannot be for general repairs or upgrading of equipment or facility. Finally, expenditures for authorized modifications must be reasonable and necessary.

Costs for repairs, modifications, or improvements to the replacement real property due to the requirements of laws, codes, or ordinances can only be paid under §24.304(a)(1) and are limited to the $10,000 maximum payment under this subsection. Any costs in excess of $10,000

are ineligible.

61. §24.301(g)(3). Can the costs of pits, pads, and foundations necessary for the installation of machinery or equipment in the replacement business site be reimbursed as a moving cost?

The costs of pits, pads, and foundations can be reimbursed as an eligible moving cost if they are necessary for the reinstallation of equipment or machinery or the installation of substitute items that are necessary for the business operation. Normally, pits, pads, and foundations only add value to a property for a particular business operation and would not generally enhance real property. In the case where the pits, pads and foundations are ascribed a contributory value, then that value may be deducted from the cost of the newly constructed pit, pads and foundations.

62. §24.301(g)(3). Are the costs incurred for site preparation for installing underground tanks eligible moving expenses?

Underground tanks are generally considered realty and purchased as part of the real estate. If under state law, the underground tanks are personal property and will be moved and used at the replacement site, then they can be considered an eligible moving expense.

63. §24.301(g)(11). Are there any limitations on the costs *that* can be reimbursed for licenses, permits, or certifications required of the displaced person at the replacement location?

The costs must be actual, reasonable, and necessary. The licenses, permits, or certification requirementsnecessary to operate the particular business being relocated are eligible for payment as moving expenses. Occupancy permits, licenses and such fees paid for the replacement real property, which were formerly eligible as reestablishment expenses, can now be reimbursed as moving expenses. Reimbursement of actual, reasonable, and necessary costs may be limited to those amounts that are for the remaining useful life of the licenses, etc., at the site acquired.

64. §24.301(g)(14). What changes were made to the provision that covers actual direct loss of tangible personal property?

The wording was revised to clarify that current estimated cost to move and reconnecting an item "as is" at the replacement site will not include upgrades for code requirements. If the equipment is in storage or not being used at the acquired site the estimated cost to move it cannot include storage or cost to reconnect. The intent of the revision of the actual direct loss of tangible personal property provision is to insure the payment is based on the lesser of the fair market value "in place, as is" or the estimated cost to "move and reconnect, as is." The fair market value in place, as is, is based on the current fair market value of the item at the displacement site. The payment shall consist of the lesser of A. or B., as shown in this example:

A. Calculate the amount for the continued use of an item, in place, as is, at the displacement site, and subtract the (net) proceeds from the sale:

Current fair market value of the equipment in place, as is, installed and fully operational	$10,000
Subtract the proceeds from the sale	- 7,000
	$ 3,000

B. The wording in §24.301(g)(14)(ii) was revised to clarify that current estimated cost to move and reconnecting an item "as is" at the replacement site will not include upgrades for code requirements. If the equipment is in storage or not being used at the acquired site the estimated cost to move cannot include storage. Calculate the estimated cost to move and reconnect the item, as is, with no upgrades:

Current estimated cost to move and reconnect, as is with no upgrades for code requirements $ 2,500
Payment is the lesser of A. or B., in this case $2,500.

65. §24.301(g)(14). What is the difference between actual direct loss and substitute personal property?

Actual direct loss is intended to be used by businesses, farms and non-profits that are either going out of business or elect not to move a particular piece of equipment. The payment for substitute personal property is intended to pay for an item that will not be moved, but will be promptly replaced at the replacement site. The payment is the lesser of lesser of A. or B., as shown in this example:

A. Cost of a substitute item	$10,000
Add the cost of installation	+ 1,000
	$11,000
Subtract the proceeds of sale or trade-in	- 2,500
	$ 8,500

B. Cost to move and reinstall the replaced item with no allowance for storage $12,500.
Payment is the lesser of A. or B. above, in this case $8,500.

66. §24.301(g)(17). How early can search costs be incurred by a displaced business and still be reimbursable? Could they be incurred prior to authorization or award of a grant for the project or program? Can search expenses ever exceed $2,500?

While searching costs may be incurred by the displaced business at any time after there is a reasonable expectation that the business will be displaced, the agency cannot reimburse the displaced business for any searching costs incurred until the displaced business qualifies as a displaced business as defined in §24.2(a)(9).

In unusual circumstances search expenses over $2,500 may be reimbursed when the agency verifies that the expenses are justified and obtains a waiver from the funding agency, per §24.7.

67. §24.301(g)(17)(vi). Is a business or farm displacee entitled to payment for time spent negotiating the lease of a replacement site under actual, reasonable moving and related costs? Or does that provision apply only to displacees who purchase a replacement property?

The benefit applies to leases as well as purchases. The list in §24.301(g)(17) provides examples of qualifying costs; it is not an all-inclusive list.

68. §24.301(g)(18). What is low value/high bulk and when should I use it?

Low value/high bulk is an eligible moving expense for certain types of personal property encountered with nonresidential properties. Low value/high bulk materials are items of personal property owned by a displaced business, farm or non-profit organization that the agency determines would cost more to move than replace. Some examples of low value/high bulk materials include but are not limited to stockpiled sand, gravel, metals, etc.

Low value/high bulk may also be applied to personal property only moves in §24.301(e).

The application of the low value/high bulk provision is at the agency's discretion. The agency should only use this provision if it is willing to accept ownership and the ultimate cleanup costs of the material. If the agency opts to offer this provision to the displaced business, the agency makes the decision on whether the material is to be moved to the new location. If the agency determines that the cost to move is disproportionate to the property's value, the moving cost payment shall not exceed the lesser of the value of the property or the cost to move

it. It may be in the agency's best interest to have the owner remove it, since the material will have to be removed as a project expense otherwise. Generally, if the agency requires the material to be moved by the owner, then this provision should not be used.

69. §24.301(i). Can the agency withhold payment for a move solely because the displaced person does not provide advance written notice to the agency of the date of the proposed move?

Yes. However, the records of the agency should provide documentation of the advice provided to the displaced person concerning the responsibility to provide notice and the necessity for the notice. Advance notice allows the agency to monitor the move and make reasonable and timely inspection of the personal property at both the displacement and replacement sites. If the displaced business provides verifiable records, bills, and receipts documenting actual expenses incurred and identifies the personal property moved, withholding payment is inappropriate. A displaced person has the right to appeal a decision to withhold payment under §24.10

70. §24.301(d)(2). Should a moving cost estimate prepared by an agency employee be based on the costs charged by a professional moving firm or on the actual costs a displaced person may incur? Is it permissible to negotiate with the owner of a business the amount to be paid to him/her for a self-move?

The moving cost estimate for a non-residential self-move prepared by a qualified agency employee should be based on the cost that would be charged by a professional moving firm. If the estimate includes profit, overhead, or other additional costs that the business will not actually incur, it is permissible for the agency to negotiate a payment for an amount that would reflect the actual costs the business would incur in the move. This procedure does not preclude the owner from electing to make an actual cost, documented self-move.

71. §24.301(g)(4). Is storage of personal property an entitlement of every displaced person? Who determines if an agency should pay for the storage of personal property, the terms of such storage, and the length of time for storage payment?

The agency determines if the storage of personal property is a reasonable and necessary moving expense for a displaced person. The determination should be based on the needs of the displaced person, the nature of the business, the plans for permanent relocation, the amount of time available for the relocation process, and whether storage will facilitate relocation. It is the agency's responsibility to set the terms for storage.

72. §24.302. When a new fixed residential moving cost schedule is published how does the effective date affect moves being processed?

Unless the agency selects an earlier date to begin operating under the new schedule than the effective date published in the Federal Register, the date of the move is the operative date. The newly published moving cost schedule applies even if the initiation of negotiation occurred prior to the effective date of the new schedule. The key is the date of the actual move.

73. §24.302. Is the fixed moving payment the only coverage for a seasonal residence?

No. The occupant of a seasonal residence could receive actual moving expenses in accordance with §24.301. Persons owning or renting seasonal residences are generally not eligible for any relocation payments other than for moving expenses.

74. §24.303. Can a displaced business obtain reimbursement for professional services to determine the suitability of more than one site?

Yes. If, as a result of the professional services performed, one or more sites are found to be unsuitable for the business. An agency may also agree to provide reimbursement for multiple site assessments. In all cases the agency must determine that the cost of such additional professional services are actual reasonable and necessary. If professional services indicate that a particular replacement site would be suitable, but an owner simply changes his/her mind and decides not to move to that site, additional professional services to assess other sites should normally not be considered reasonable and necessary.

75. §24.303(c). What are some examples of impact fees or one-time assessments?

Actual and reasonable impact fees for anticipated heavy utility usageare eligible for payment as a related moving expense. In the past these fees were eligible as a reestablishment expense and limited to $10,000. Examples include (a) water and sewer tap fees for a laundromat business which requires a larger service tap than a typical business, (b) a fee to provide 3-phase electrical service required by the displaced business when replacement sites available were served by single phase transformers, or (c) other one-time charges or fees a utility requires to finance infrastructure necessary to provide increased usage.

The intent is to reimburse a business for impact fees for anticipated heavy utility usage when the move requires the business to move to a new location where impact fees for anticipated heavy utility usageare being charged. If suitable replacement sites or properties are available where impact fees for anticipated heavy utility usageare not being charged, reimbursement is at the agency's discretion, based on what is reasonable and necessary. Potential eligibility of impact feesfor anticipated heavy utility usageis an important advisory service. The regulation limits impact fees or one-time assessments for anticipated heavy utility usage to utilities, i.e., water, sewer, gas, and electric. Impact fees for other major infrastructure such as roads, fire stations, regional drainage improvements and parks, for example, are not eligible.

76. §24.304. Is new construction at the replacement site eligible for reimbursement as a reestablishment expense?

The cost of constructing a new business building on the vacant replacement property is a capital expenditure and is generally ineligible for reimbursement as a reestablishment expense. In those rare instances when a business cannot relocate without construction of a replacement structure, an agency may request a waiver of §304(b)(1) under the provisions of §24.7. An example of such an instance would be in a rural area where there are no suitable buildings available and the construction of a replacement structure will enable the business to remain a viable commercial operation. If a waiver is granted, the cost of constructing the new building will be considered an eligible reestablishment expense subject to the $10,000 statutory limit on such payment.

77. §24.304. What reestablishment expense costs are eligible for reimbursement if a displaced business occupies a shell structure?

Basically all of the costs listed under §24.304(a) are eligible if considered actual, reasonable and necessary for the operation of the business. In markets where existing and new buildings are available for rental (and sometimes for purchase), the buildings or the various units available within the buildings often have only the basic amenities such as heat, light, and water, and sewer available. These buildings or units are shells. The cost of the building (shell) is not an eligible expense because the shell is considered a capital real estate improvement (a capital asset). However, this determination does not preclude the consideration by an agency of certain modifications to an existing replacement business building. Eligible improvements or modifications up to the amount of $10,000 may include the addition of necessary facilities such as bathrooms, room partitions, built-in display cases and similar items, if required by Federal, State or local codes, ordinances, or simply considered reasonable and necessary for the operation of the business.

78. §24.304. If the nature, character, or type of business established after displacement is different from the business displaced by acquisition, would it be eligible for a reestablishment payment?

Yes. A change in a displaced business does not affect eligibility for actual, reasonable, and necessary reestablishment expenses incurred in reestablishing a business. In some instances, it is not economically feasible to relocate a particular business operation and a change in the nature, character, or type of business may be the most practical solution for the business operator. Expenditures of funds for reestablishing the business must be reviewed for acceptability. Costs of new or used equipment purchased to serve the changed business operation are not eligible for reimbursement as reestablishment expenses. Similarly, general repairs or improvements to the replacement property made to the structure because of the personal choice of the business operator are ineligible. The costs of utility upgrades and necessary and reasonable modifications to the real property to accommodate the changed business may be eligible when properly supported. All reestablishment payments are limited by the $10,000 statutory maximum.

79. §24.304. Is a business operation that consists solely of leasing real estate to others at the displacement site eligible for the reestablishment payment?

Yes. The business of leasing real estate to others is considered to be a small business for the purposes of the regulations for the Uniform Act. The owner of the business is eligible for reimbursement of the actual, reasonable, and necessary expenses for the reestablishment of a rental property. The agency should provide the same advisory services to real estate leasing operations as performed for other businesses including providing information on suitable replacement properties. It is the agency's responsibility to determine if the expenses to be reimbursed under reestablishment are reasonable and necessary.

80. §24.305(e). If the net income of a displaced business is very low in one or both years prior to displacement, can the payment be based upon a different period?

Yes. Average annual net earnings may be based upon a different time period when the agency determines it to be more equitable.

81. §24.305(e). If a business experienced a loss in one of the two years, should the amount of the loss be offset against the net income from the other year, or should the income be considered as zero for the year in which the loss was incurred?

If a loss of net income occurs in one year and a gain in the other year, the income of the year in which the loss was incurred should be computed as zero when determining the average net income for the 2-year period.

82. §24.305(e). If a business has been in operation for only a short period of time (e.g., six months) prior to displacement, what method is used for determining the amount of the fixed payment?

The fixed payment would be based on the net earnings of the business at the displacement site for the actual period of operation projected to an annual rate. The existing net earnings income data should be extrapolated and used to project what the net earnings could be if the business was in business for a full two years. If the business is seasonal, this fact should be taken into account in the computations. Paragraph (a)(6) of this section requires that the business contribute materially to the income of the displaced person during the 2 taxable years prior to displacement. This does not meanthat the business needed to be in existence for a minimum of 2 years prior to displacement, only that the business contributes materially to the income of the displaced person during that 2-year period.

83. §24.305. Is it permissible to combine different types of moves on the same parcel?

It is permissible except for §24.305, fixed payment of moving expense - nonresidential. If a fixed payment for moving expense - nonresidential payment is selected, then all other types of moves are ineligible. Otherwise, there is no restriction on combining the various types of moves. For example, when moving from a dwelling, the displacee may elect to use a commercial mover to move the heavy items (such as pianos, appliances and dressers) and request a self-move based on receipted bills or use the fixed residential moving costs schedule found at §24.302, to move the remaining items. If the displacee elects to use a combination of the fixed residential moving costs schedule and a commercial mover for personal property within the dwelling, an agency adjustment to the actual room count used for the fixed schedule may be required to offset the items moved by the commercial mover. When these two moving cost methods are combined, the fixed residential moving cost schedule typically includes the cost for utility service transfer fees.

The same is true for a nonresidential move (business, farm or nonprofit organization). For example, a business owner may want to use company employees to move items of personal property in the office area and a commercial mover to move the heavy equipment requiring special disconnection and reconnection expertise. For the office area, the company could submit for payment the lower of two bids or estimates from a commercial mover or actual cost based on receipted bills.

Subpart E - Replacement Housing Payments - General (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

84. §24.2(a)(6). Can a replacement housing payment computation be based upon a comparable property that may have a minor decent, safe, and sanitary (DSS) deficiency?

If the availability of comparable replacement properties is limited, the agency may base a replacement housing payment on an available property having minor DSS deficiencies, provided the deficiencies can be easily corrected for a nominal amount.

Use of non-DSS properties with minor deficiencies should be limited to unusual situations. The payment computation must reflect the cost to correct the deficiencies supported by contractor bids or estimates. If such housing is used to meet the "make available" requirement, the housing must be available and DSS at the time of the move.

In cases where a displacee moves to a non-DSS replacement dwelling when comparable DSS housing is available, the displacee must bring the replacement up to DSS standards within 12 months in order to receive a replacement housing payment.

85. 49 CFR 24.2(a)(8)(iv). If it is "culturally" a part of the lifestyle for six children to share a bedroom, would it be acceptable to base the computation of the replacement housing payment on a dwelling that would require the six children to share a bedroom?

No. The comparable must reflect appropriate local housing codes or, in the absence of local codes, the policy of the displacing agency.

86. §24.2(a)(6)(viii)(C). How does the change in part of the definition of comparable replacement dwelling change the treatment of "less than 90-day occupants" or "subsequent occupants"?

Displaced persons failing to meet the length of occupancy requirements continue to be eligible for relocation benefits under last resort housing. What has changed is how the benefit is calculated. Benefits for low-income tenants will still be calculated using the 30% of income rule contained in §24.402(b)(2). For others who are not low income, the calculation will be rent-to-rent. The reason for the change is to ensure consistent treatment of displacees. Across an agency's programs, the net effect of the change in the 30% rule is expected to be a reduction in financial liability. However, with respect to some individual displacees who do not meet the length of occupancy requirements, the calculation of benefits may result in a higher payment than in the past. Agencies may wish to consider using loss-of-rent agreements to limit and manage financial liability when they believe that there is substantial risk that a subsequent occupant situation will occur.

Under the last resort housing provision §24.404(c) and the downpayment assistance provision §24.402(c)(1), the less than 90-day occupant or subsequent occupant rental assistance can be converted to a downpayment to purchase at the discretion of the agency on a case-by-case basis. 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 90-day occupancy requirement. The agency shall apply this discretion in a uniform and consistent manner. If you require further clarification on the less than 90-day occupants or subsequent occupants, please contact your funding agency.

87. §24.2(a)(8)(vii). How should the replacement housing payment be computed and paid when accommodations need to be provided for a displaced person with disabilities?

The regulation permits sufficient flexibility for each agency to develop procedures for accommodating the needs of a displaced person with disabilities. The replacement housing payment computation may: (1) be based on a dwelling designed for physically disabled persons, (2) include the estimated costs of any needed modifications, or (3) contain provisions for the adjustment to reflect the actual cost of modifications to the replacement housing payment computation.

Arrangements for modifications to the replacement dwelling purchased by the displaced person may be made by either the individual or by the agency, and the agency shall provide reimbursement for the actual reasonable costs paid for such modifications. The agency could also elect to obtain bids or to contract directly for needed modifications.

Rental replacement housing should be provided in the same manner, with the consent of the landlord, or the rental assistance payment could be increased to appropriately compensate the landlord for any necessary modifications or accommodations necessary for the replacement property to be considered DSS. If a financial hardship would be created for the displaced person, the agency could provide an advance replacement housing payment for the needed modifications.

88. §24.401(c). If the replacement property purchased by the displaced person is a part of a property that contains another dwelling unit and/or space used for non-residential purposes or is located on a tract which is significantly larger than typical for residential purposes, must there be an adjustment to the purchase price of the replacement property to reflect the cost of the replacement dwelling for the replacement housing payment computation?

When the residential replacement property contains another dwelling unit and/or space used for non-residential (commercial/industrial) purposes, an adjustment to the price of the property shall be made to reflect the cost of the replacement dwelling and a typical dwelling site.

When the replacement residential property does not contain another dwelling unit or space used for non-residential purposes, but is significantly larger than a typical residential site, an adjustment to the price of the property may be appropriate.

In determining the need for an adjustment, the agency shall apply its policy uniformly to persons in like circumstances. The agency should be aware that the land in excess of a typical site might have a different unit value than land valued for residential use on a typical site.

89. §24.2(a)(20). Is a displaced person who holds a life estate in the displacement property an owner or a tenant?

A displaced person who holds a life estate is considered to be an owner. A person who holds a life estate has the right to occupy the property for life. A life estate may have been created and retained by a person who conveyed the remainder interest to another person; or the life estate may have been granted by another person. It makes no difference how the life estate was created. However, the replacement housing payment may depend upon the distribution of the acquisition payment in accordance with state law. Each agency should develop procedures in accordance with applicable law. The replacement housing payment computation should be sufficient to enable the displaced person to relocate as an owner with an interest at least equivalent to the interest held prior to the acquisition of the property by the agency. The payment computation will be based on the total amount of the acquisition payment for a dwelling comparable to the acquired dwelling. As an alternative, the agency may acquire a dwelling and provide a life estate to the displaced person. All such agreements should clearly establish the responsibilities and rights of each party.

90. §24.401(c). How much money must an owner-occupant with a partial interest in the acquired property spend in order to receive the maximum computed supplemental payment?

The owner-occupant with a partial interest must spend his/her share of the acquisition payment plus the computed supplemental payment in order to receive the maximum payment.

91. §24.401(c)(2). When an owner-occupant retains the displacement dwelling and moves it to the remainder or to a previously owned tract of land is the historical cost or the current fair market value of the replacement site used as the "acquisition cost" for the RHP computation?

The acquisition cost will be based on the current fair market value of the replacement site for residential use as determined by the agency. If an agency uses the buildable lot procedure in accordance with §24.403(a)(3), the value of the buildable remainder will have been added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

92. §24.401(d)(3). If the interest rate charged for a new mortgage exceeds the prevailing interest rate because the displaced person is a poor credit risk or for other similar reasons, may the actual rate be utilized when determining the amount of the mortgage interest differential payment?

The interest rate for a new mortgage should generally not exceed the current range of prevailing mortgage interest rates of lending institutions in the area of the replacement dwelling. If the displaced person's unique circumstances require payment of a higher interest rate and the agency determines that the additional cost could prevent the displaced person from obtaining comparable housing, the higher rate may be used as the basis for determination of the mortgage interest differential. The file should contain justification for the rate used. The agency must exercise reasonable, consistent latitude in these decisions and the computation of the payments.

93. §24.401. Are reverse mortgages eligible for increased interest payments, and is the cost to create such a loan on a replacement property eligible for payment of incidental costs?

A reverse mortgage, such as a Federal Housing Administration (FHA) home equity conversion mortgage (HECM) is a first mortgage lien. A property owner who has an HECM is entitled to be placed in similar circumstances. Therefore, payments to enable an in-kind replacement, including costs to create another HECM, are eligible expenses.

The agency may be required to supplement the equity position on the replacement home to the degree necessary for a comparable reverse mortgage to be written to provide the same monthly payment that the displacee was receiving at the displacement dwelling. Or the agency may be required to supplement the equity position to provide a similar "net available cash" position. Agency procedures should be developed to address how a reverse mortgage will be handled should one be encountered. To date very few reverse mortgages have been written

94. §24.401(d) and in appendix A. How is the mortgage interest differential payment (MIDP) computed in instances where the displaced homeowner has a combination of several types mortgages on their acquired residence?

The current method for payment of increased costs for replacement home mortgages is to provide a lump-sum payment at the origination of the new mortgage that will enable displaced home owners to borrow a reduced amount so their monthly mortgage payment on the replacement home will remain the same as that at the acquired residence.

New loans with differing characteristics are currently available from mortgage companies. The relocation agent should work with the displacee to determine what is the best mortgage replacement available at the replacement dwelling. This may mean advising the displacee to consider a fixed rate mortgage at the replacement dwelling, especially in times of rising interest rates.

The FHWA is developing guidance on MIDP for variable rate mortgages. An important component of the calculation will depend on the mortgagee's selection of the replacement mortgage.

94.1. §24.401(d) and in appendix A. How is an increased mortgage interest cost payment or mortgage interest differential payment (MIDP) eligibility computed on adjustable rate mortgages (ARM)?

To calculate the MIDP on an ARM in accordance with **§24.401(d)**, the agency must know:

1. The terms of the displaced persons ARM including:
    i. The ARM's current interest rate
    ii. The ARM's index
    iii. The ARM's cap rate (initial interest rate + lifetime or overall rate cap)
    iv. The remaining term of the ARM
2. The current prevailing interest rate for a fixed rate mortgage

When the ARM's current interest rate is less than the prevailing interest rate for a fixed rate mortgage, the agency may consider using a replacement ARM for the MIDP determination.

If an ARM is available with the same index and adjustment terms, the agency must determine whether to use the available ARM or a fixed rate loan for the MIDP eligibility calculation. The agency should:

1. Determine the lesser of:

a. The difference between the current ARM cap rate and the available ARM cap rate.

b. The difference between the current adjustable interest rate and the prevailing fixed interest rate.

2. Select the lesser of a or b.
   If a:
   Use the rates current ARM cap rate and the available ARM cap rate as described in 1(a) above as the "interest rates (percent)" components to calculate the MIDP in accordance with the sample calculation provided in Appendix A, §24.401(d).
   If b:
   Use the rates current adjustable interest rate and the prevailing fixed interest rate as described in 1(b) above as the "interest rates (percent)" components to calculate the MIDP in accordance with the sample calculation provided in Appendix A, §24.401(d).

If an ARM is not available with the same index and adjustment terms, the agency must use a fixed rate loan for eligibility determination. The agency should:

Use the rates current adjustable interest rate and the prevailing fixed interest rate as described in 1(b) above as the "interest rates (percent)" components to calculate the MIDP in accordance with the sample calculation provided in Appendix A, §24.401(d).

The use of this method is consistent with the requirement to provide the displaced person with an MIDP as described in the regulation at 49 CFR **24.401** (d) and will not alter an existing requirement.

94.2. §24.401(d) and in appendix A. How is an increased mortgage interest cost payment or mortgage interest differential payment (MIDP) eligibility computed on an interest only mortgage?

The interest only mortgage MIDP maximum payment eligibility and actual payment calculation uses the same basic considerations as the adjustable rate mortgage MIDP, except that the MIDP is only calculated based upon the **remaining interest only period of the loan.**

95. §24.401(d).Is 49 CFR 24.401(d) and Appendix A, Section 24.401(d) consistent as it relates to the amount and term of the replacement mortgage required to receive the full amount of the increased mortgage interest payment?

Yes. The increased mortgage interest payment (also known as the mortgage interest differential, MIDP or MID) is based upon the unpaid mortgage balance on the displacement dwelling. The intent of Appendix A is to recognize the increased mortgage interest cost and provide a payment that will reduce the replacement mortgage balance in accordance with 49 CFR 24.401(d).

49 CFR 24.401(d)(5) provides that the agency shall inform the displaced person of the approximate amount of the MIDP payment and the conditions that must be met in order to receive the full amount of the payment. Each agency must develop appropriate measures to ensure proper documentation of increased mortgage interest expense.

If the replacement mortgage is less than the calculated buydown amount, the payment is pro-rated and reduced accordingly. The formula to determine the reduced buydown payment is: The (actual mortgage divided by the calculated mortgage amount) multiplied by the calculated buydown amount. An example of this calculation may be found in 49 CFR 24 Appendix A, Section 24.401(d).

96. §24.401(d)(1). Is the increased mortgage interest payment pro-rated or otherwise reduced if the replacement mortgage amount is between the computed buydown amount and the displacement mortgage amount?

No. In accordance with 49 CFR 24.401(d)(1) and Appendix A, Section 24.401(d), an increased mortgage interest payment may only be reduced by pro-ration if the new mortgage amount is less than the calculated buydown amount. However 49 CFR 24.401(d)(5) provides that the agency shall inform the displaced person of the approximate amount of the MIDP payment and the conditions that must be met in order to receive the full amount of the payment. Each agency must develop appropriate measures to ensure proper documentation of increased mortgage interest expense.

97. §24.401(e). Can the agency limit the reimbursement for all incidental expenses to those that would have been incurred incident to the purchase of a comparable replacement dwelling?

No. However, the incidental expenses of owner-occupants are limited to the expenses that would have been necessary for purchase of a comparable replacement dwelling for owner's or mortgagee's evidence of title, state revenue or documentary stamps, and sales or transfer taxes. Participation in incidental expenses should be limited to those that are actual, reasonable, and necessary and required by the mortgagee or necessary for the protection of the owner.

In accordance with §24.402(c)(2), tenants are eligible to receive reimbursement for incidental expenses related to the purchase of a replacement dwelling to the extent that the total payment, downpayment plus closing costs, does not exceed the amount of the computed rental assistance payment.

98. §24.401(e). Which of the incidental expenses for purchase of a replacement dwelling can be limited to what would be required to obtain a new mortgage in the same amount as the remaining balance of the mortgage on the acquired dwelling?

Incidental costs that can be limited are those additional costs incurred for a new mortgage that is greater than the remaining balance on the acquired dwelling. Examples include mortgage guarantee insurance premiums, loan origination or loan assumption fees, and purchaser's points. When there was no mortgage on the acquired dwelling, there is no requirement to reimburse mortgage costs on the replacement dwelling.

99. §24.401(e). Can a lump-sum payment for mortgage guarantee insurance be included as an incidental expense?

Yes. Required lump-sum payments for mortgage guarantee insurance may be included as part of the mortgage interest differential payment (MIDP), if they are necessary for the displacee to obtain financing. For those paid to an owner-occupant, any payment made should be based upon the computed replacement mortgage for MIDP purposes or the new mortgage, whichever amount is less. Payments to tenants may be made if the computed rental assistance payment is sufficient to cover this expense.

100. §24.401(f). If an owner occupant of at least 90 days elects to rent a replacement dwelling, do you consider the owner's income in the calculation of the replacement housing payment?

No. The income of an owner who elects to rent a replacement dwelling is not considered in the calculation of a rent supplement for a 90-day owner. The income test is not appropriate to use for an owner who goes from an owner to a tenant status. 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. There is no income test for owners, and it was not the intent of this subpart to impose such as test.

101. §24.402(c). What are the limitations on the payment of incidental expenses for a tenant who elects to purchase a replacement dwelling?

All incidental expenses actually incurred by a tenant for the purchase of a replacement dwelling and which are customarily paid by the buyer, can be included in the computation of down payment assistance to the extent the total payment does not exceed the amount of the computed rental assistance.

102. §24.402(c)(2). Are loan origination fees incurred by a tenant in the purchase of a replacement dwelling eligible for reimbursement as incidental expenses?

Yes. §24.401(e)(3) and §24.401(e)(9) provide for payment of loan origination fees and other similar costs the agency determines to be incidental to the purchase. The total payment for a tenant may not exceed the amount computed under §24.402(c).

103. §24.2(a)(6) and appendix A, §24.2(a)(6)(ix). Can a person receiving government housing assistance before displacement, be offered a replacement dwelling that reflects similar government housing assistance and conditions?

Yes. In the case of a person receiving government housing assistance a comparable replacement dwelling may include a dwelling that reflects similar government housing assistance. 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 unit with a housing 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. In such cases any requirements of the government housing assistance program, related to the size of the replacement dwelling would apply. Further, nothing prevents any fully informed displaced person not previously receiving government housing assistance from accepting such assistance. Additional details are provided in appendix A, §24.2(a)(6)(ix). If a person is no longer eligible for government housing assistance, a comparable replacement dwelling from the private market should be made available.

104. §24.402(c). Is a displaced person whose rental assistance payment is determined to be zero, eligible for a downpayment assistance payment for the purchase of a replacement home?

Yes. Any eligible displaced person whose rental assistance payment is determined to be zero may qualify for downpayment assistance of up to $5,250 at the agency's discretion. One of the objectives of the Uniform Act is to provide assistance to displaced tenants in order to become homeowners. The regulation provides that any rental assistance payment that is calculated to be less than $5,250, and is to be used for downpayment assistance, may be increased to any amount not to exceed $5,250 as a downpayment, at the agency's discretion. If the agency elects to provide the maximum payment of $5,250 as a downpayment, the agency must apply this policy in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. The full amount of the downpayment assistance must be applied towards the purchase price of the replacement dwelling and related incidental expenses. The agency must also provide relocation advisory services in compliance with §24.205(c)(iv) to minimize hardships to such persons in adjusting to relocation.

104.1. §24.402(c). When a 90 to 179-day homeowner elects to use his/her rental RHP for a downpayment, does the agency have to do a separate calculation to determine what their homeowner RHP would have been and limit their rental RHP/downpayment assistance accordingly?

No. This requirement only applies when the agency exercises its discretion to increase a rental assistance payment of less than $5,250, calculated in accordance with §24.402(b), to the maximum of $5,250 for use as a downpayment assistance payment.

105. §24.402(b)(2)(ii). What is excluded from household income when calculating the replacement housing payment for low-income tenants?

Household income does not include income received or earned by dependent children or full-time students under 18 years old, §24.2(a)(14). However, full-time students over 18 may be assumed to be a dependent, unless the person demonstrates otherwise.It also does not include benefits that are not considered income by Federal law, such as food stamps, or the Women Infants and Children (WIC) program. For a more detailed list of income exclusions, see Federally Mandated Exclusions from Income under Real Estate Topics of Special Interest on https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/exclusions.cfm.

106. §24.402(c). Can an occupant using HUD Section 8 housing, whose Uniform Act rental supplement is computed to be zero (based on returning to HUD Section 8 housing) elect to purchase in the private sector and qualify for a down payment up to $5,250?

Yes, provided the agency decided to use the option provided in this section to increase any downpayment assistance up to $5,250 to support a tenant purchasing a replacement property. Appendix A contains the conditions the agency should consider to assure its policy regarding providing this additional benefit is applied uniformly.

107. §24.403(a)(6). In addition to advanced relocation payments, can the agency deduct rent due from the displacee if it does not create a situation that would prevent the displacee from relocating?

No. Relocation payments are separate from other obligations, and, even if the displacee had been a tenant of the agency, the use of relocation funds to satisfy those obligations is not permitted.

108. §24.403(a)(2). Can an alternative procedure which would enable the displaced person to replace a major exterior attribute be utilized for determining the replacement housing payment in cases where the comparable replacement dwelling site lacks a major exterior attribute of the displacement dwelling?

No. §24.403(a)(2) requires that the value of major attributes be subtracted from the acquisition price of the displacement dwelling for purposes of computing the replacement housing payment if the comparable replacement dwelling site lacks such major exterior attribute. The agency should always attempt to locate a comparable dwelling with the attribute before selecting a dwelling without the attribute.

108.1. §24.403(a)(3). What is a "buildable residential lot" as referenced in this paragraph? Is it literally a remainder that one can build on or is it any remainder lot that has economic value?

The "buildable residential lot", more widely known as a "buildable lot," in §24.403(a)(3) is intended to describe remainders with an economic value to the owner. The economic value to the owner may be as an actual buildable lot for sale to an adjoining property owner or for some other purpose for which the agencyattributes an economic value to the owner. While the regulatory language currently uses the term "buildable residential lot", the intent is to consider the remainder property as either an uneconomic remnant or as a property that has some economic value.

109. §24.403(a)(5). What is the intent of the paragraph regarding multiple occupants of one displacement dwelling?

In general, all of the occupants of a single dwelling unit should be considered one family for purposes of payment calculations. However, two or more occupants of a dwelling may maintain separate households within that dwelling. If they do, they have separate entitlement to relocation payments. The agency is responsible for determining the number of households in a dwelling based on the use of the dwelling, the relationship of the occupants, and any other information that may be obtained. The payment computation for each household should be based on the part of the dwelling that the household occupies and the space that is shared with others. An attempt should be made to locate similar comparable DSS living facilities. The record should be sufficiently documented to support the decision reached.

110. §24.403(c). Will the purchase and occupancy of a motor home or a boat meet the requirement for purchase of a replacement dwelling?

A motor home or a boat capable of providing living accommodations may be considered a replacement dwelling if (a) the motor home or boat is purchased and occupied as the primary place of residence; (b) the motor home or boat 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 agency's inspection, and (c) 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 would not permit the consideration of these vehicles as DSS dwellings.

A motor home or a boat designed to provide living accommodations may also meet the requirement of a rental replacement dwelling if it is occupied as the primary place of residence and qualifies under (b) and (c) above.

111. Appendix A, §24.404(b). How do you relocate a partial owner-occupant who cannot afford to finance a replacement dwelling? Can a direct loan under the provision of §24.404(c) be provided?

If an agency determines that the relocation of a partial owner-occupant should be as an owner, the agency may provide a direct loan, lien or other financial assistance under §24.404(c) if other financing is not available to the person, in addition to the computed replacement housing payment. A partial owner-occupant who cannot afford to purchase comparable replacement housing may be relocated as a tenant and provided a rental assistance payment in accordance with §24.402.

112. §24.404(c)(iv). Can a direct loan as provided for in this section be used as a substitute for a replacement housing payment?

No. A direct loan would be provided in addition to any replacement housing payment computed for the displaced person. A direct loan may be provided under housing of last resort if financing is not otherwise available to the displaced person. It cannot be used as a substitute for a replacement housing payment.

113. §24.404(c). Are there other ways to assist displaced persons to purchase and occupy replacement housing other than the ones listed in §24.404(c)?

Yes. The agency has many options for assisting people to become owners of replacement dwellings. A first mortgage or a lien can be placed on a property that would become due and payable if the displaced person ceased to occupy the property or conveyed or sold the property to someone else. A life estate, based on the displaced person's life, could be offered in a property owned or purchased by an agency. The displaced person would have the right to occupy the property until death when the full ownership of the property would revert to the agency for other uses or sale. The agency could also "buy down" the interest or the mortgage of a property with a financing agency to make the payments affordable for the displaced person. Or the agency could initiate mortgage financing for a displaced person and then sell the mortgage to a person or institution who would become the new mortgagee. Several agencies have also assisted displaced persons in establishing credit at credit unions that then financed the mortgages for them.

It is recommended that agencies use the provFsions of housing of last resort to maximize housing opportunities in a cost efficient manner.

Subpart F - Mobile Homes (eCFR)

There have been changes to this subpart. A side-by-side comparison of these changes is available.

114. §24.502. If a displaced owner-occupant of a mobile home is a partial owner of the mobile home site, what payments would he or she be entitled to receive?

The displaced person would be treated as an owner in accordance with the guidance in appendix A, §24.404(b). If the mobile home is acquired or cannot be relocated, the owner would be eligible for a replacement housing payment to purchase a mobile home. He/she would also receive a replacement housing payment based upon the difference between the asking price of a comparable mobile home site and the acquisition price of the site (as improved for a mobile home) from which he/she is displaced. If there is no mobile home site available for purchase within his/her financial means as a partial owner, then he/she could receive a rental assistance payment sufficient to rent a comparable mobile home site.

115. §24.502. Is a mobile home owner-occupant who leases or rents his/her site at the displacement location eligible for a down payment for a replacement site?

The owner of a mobile home, who rents the site from which he/she is displaced, may either rent a replacement site and receive a rental assistance payment in accordance with §24.402(b) or purchase a replacement site and receive down payment assistance in accordance with §24.402(c).

115.1. §24.502. When are utilities to be included in the calculation of replacement housing payment eligibility for a displaced mobile home occupant?

Replacement housing payments are typically provided to assist in replacing a dwelling as defined in §24.2(a)(10). The displaced person's occupancy status, as an owner of, or tenant in, the mobile home rather than the site, determines the appropriate calculation of the maximum replacement housing payment.

90 day owner-occupant of Mobile home
If the displaced person owns the mobile home, utilities are not included in the replacement housing payment. In this case, the replacement housing payment is calculated according to §24.401, which does not include utilities.

When the owner of a mobile home is displaced from a leased or rented mobile home site, utilities are included in calculating the rental assistance payment because of the reference in 24.502 (c) to 24.402 (b).

Mobile home tenant
If the displaced person rents a mobile home but owns the lot, utilities will be included in their rental replacement housing payment eligibility determination for the dwelling in accordance with §24.402.

115.2. §24.502(c). What must a 90-day mobile home owner-occupant, who rents the lot, spend to receive the full combined replacement housing payment?

Displaced mobile home occupants in many cases have RHP eligibilities for both their dwelling and the site the dwelling is on. A displaced mobile home occupant may own the mobile home and rent the site or may rent the mobile home and own the site. Also, a displaced mobile home occupant may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in Subpart E.

A displaced person may claim the rental assistance payment computed in accordance with §24.402 (b) on the land (site) if it is applied towards the purchase of a replacement site or added to the eligible purchase price of a decent, safe and sanitary conventional dwelling or mobile home. However, the amount of the rental assistance payment shall not exceed the cost of the dwelling.

For example:

Displacement mobile home:

Cost of comparable housing	$16,000	
Acquisition of Displacement mobile home	$10,000	
RHP eligibility for replacement dwelling	**$6,000**	($16,000-10,000)

Site rental:

Comparable site	$325	per month
Displacement site	$200	per month
Difference	$125	($325-$200)
Site rental assistance eligibility	**$5,250**	($125 X 42 months)

Actual Replacement Dwelling:

Replacement Dwelling (Mobile Home)	$19,500	
Replacement Site Rental	**$200**	per month

Actual Reimbursement:

Replacement Dwelling (Mobile Home)	$19,500	
- Acquisition of Displacement mobile home	$10,000	
Balance owed for purchase	$9,500	
- RHP eligibility for replacement dwelling	$6,000	
- Lot Rental Assistance Payment	**$3,500**	(from $5,250 site rental assistance)
Balance owed for purchase of replacement	$0	

The amount of the rental assistance payment computed in accordance with §24.502(c) cannot exceed the cost of the dwelling so the lot rent payment is limited to the actual $3,500 needed to acquire the decent, safe and sanitary mobile home. The total reimbursement in this example would be the $9,500 actually spent for the purchase of the decent, safe and sanitary replacement dwelling ($6,000 price differential + $3,500 of the $5,250 rental assistance payment eligibility). See §24.502(c), §24.402(c) and Appendix A, §24.402(c).

115.3. §24.502(c) and §24.503. For mobile home occupants combining the separate replacement housing payment eligibilities for the dwelling and the land (site), is there a limit to the lot rental assistance payment when it is added to the eligible purchase price of a conventional dwelling or mobile home?

Yes. The amount of the rental supplement shall not exceed the cost of the dwelling. The rental supplement on the land (site), to be added to the housing supplement, is limited to the appropriate statutory limits of Subpart E (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.

115.4. §24.502(c) and §24.503. Is income considered when determining the lot rental assistance payment eligibility for mobile home occupants?

Yes, the rental assistance payment is calculated in accordance with §24.402(b).

116. §24.502(d). Does the revised regulation change the treatment of mobile home owner-occupants who elect not to move their mobile homes when they are determined to be personal property?

The revised regulation reorganized and rewrote the provisions that apply to owner-occupants who elect not to move their mobile homes when determined to be personal property. The regulation establishes that an owner-occupant who elects not to relocate his/her mobile home is not entitled to a replacement housing payment for the purchase of a replacement dwelling. However, the owner-occupant, as a displaced person, is entitled to moving costs to relocate the mobile home and their personal property to a replacement site. The regulation allows such an owner to claim moving expenses under §24.301. If the mobile home is not moved by the owner, it may be sold on site, traded in on a replacement mobile home, or an agency could choose to purchase and dispose of it at its salvage value. The net benefit to the displaced person is expected to be similar to those available in the past.

South Carolina Code of Laws
Unannotated

Title 57 - Highways, Bridges and Ferries

CHAPTER 25

Outdoor Advertising

ARTICLE 1

General Provisions

SECTION 57-25-10. Unlawful to display, place, or affix posters within right-of-way.

It is unlawful for a person to display, place, or affix a sign, as defined in Section 57-25-120(3), within a right-of-way and visible from the main-traveled way of the highway. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33-551; 1973 (58) 247; 1990 Act No. 519, Section 1.

SECTION 57-25-15. Highway signs.

The prohibition of Section 57-25-10 does not extend to a welcome sign or other sign providing directions to a public facility or event erected by the governing body of a county, municipality or organized church if the sign presents no traffic hazard. If the sign is placed on a highway right-of-way, it must meet the approval of the department for size, location, and supports.

HISTORY: 1994 Act No. 431, Section 1.

SECTION 57-25-20. Obscene or indecent billboards prohibited.

(A) No billboard shall be erected or displayed containing obscene or indecent words, photographs, or depictions.

(B) Obscene words, photographs, or depictions must be defined and interpreted as provided in Section 16-15-305(B), (C), (D), and (E).

(C) A billboard is indecent when:

(1) taken as a whole, it describes, in a patently offensive way, as determined by contemporary community standards, sexual acts, excretory functions, or parts of the human body; and

(2) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

HISTORY: 1990 Act No. 519, Section 3.

SECTION 57-25-30. Erection of bus shelters; location; permit requirement; fee.

(A) Bus shelters, including those on which commercial advertisements are placed, may be erected and maintained within the rights-of-way of public roads by the State. A bus shelter located within the right-of-way of a state road shall comply with all applicable requirements of the Department of Transportation, Title 23 of the United States

Code, and Title 23 of the Code of Federal Regulations. A bus shelter located within the right-of-way of a road other than a state road shall comply with all applicable requirements of the municipality or county within whose jurisdiction it is located.

(B) A person erecting a bus shelter shall obtain a permit for each shelter location from the Department of Transportation. The permit shall cost twenty-five dollars. Permit fees must be placed in the department's trust fund and used for public transportation purposes.

HISTORY: 1995 Act No. 145, Part II, Section 93.

SECTION 57-25-40. Commercial advertisement benches; application by regional transit authority or public transit operator to install.

Notwithstanding any other provision of law to the contrary, upon proper application the Department of Transportation may issue appropriate permits to a regional transit authority or public transit operator to install and maintain benches upon which commercial advertisements are placed provided that each bench will be located at one of the applicant's bus stops, the proposed location for the bench is within the right-of-way of a public road, and the applicant otherwise meets all relevant federal statutory and regulatory requirements. The department may charge a permit fee of twenty-five dollars for each permit application. All permits issued pursuant to this section expire on July 1, 2010.

HISTORY: 2008 Act No. 347, Section 40, eff June 16, 2008.

ARTICLE 3

Highway Advertising Control Act

SECTION 57-25-110. Short title.

This article may be cited as the "Highway Advertising Control Act".

HISTORY: 1962 Code Section 33-591.11; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-120. Definitions.

As used in this article:

(1) "Interstate system" means that portion of the national system of interstate and defense highways located within this State officially designated now or in the future by the Department of Transportation and approved by the appropriate office of the United States Government pursuant to the provisions of Title 23, United States Code, "Highways".

(2) "Federal-aid primary system" means that portion of connected main highways which officially are designated as the federal-aid primary highway system now or in the future by the Department of Transportation and approved by the appropriate office of the United States Government pursuant to the provisions of Title 23, United States Code, "Highways".

(3) "Sign" or "outdoor advertising sign" means an outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, or any part of the advertising or its informative contents.

(4) An "unzoned commercial or industrial area" does not include land established as a scenic area pursuant to Section 57-25-140(D)(4) or land zoned by a subdivision of government. An unzoned commercial, business, or industrial area means the land occupied by the regularly used building, parking lot, and storage and processing area of a commercial, business, or industrial activity and land within six hundred feet of it on both sides of the highway. The unzoned land does not include:

(a) land on the opposite side of an interstate or freeway primary federal-aid highway;

(b) land predominantly used for residential purposes;

(c) land zoned by state or local law, regulation, or ordinance except land which is zoned in a manner which allows essentially unrestricted development or where regulation of size, spacing, and lighting of signs is unrestricted or less restrictive than the restrictions imposed by Section 57-25-140;

(d) land on the opposite side of a nonfreeway primary highway which is designated scenic by the commission.

(5) "Commercial or industrial activities" means those established activities generally recognized as commercial or industrial by zoning authorities within the State, except that none of the following are considered commercial or industrial activities:

(a) outdoor advertising structures;

(b) agriculture, forestry, ranching, grazing, farming, wayside produce stands, quarries, and borrow pits;

(c) activities conducted in a building principally used as a residence;

(d) hospitals, nursing homes, or long-term care facilities;

(e) transient or temporary activities;

(f) activities not visible from the main-traveled way;

(g) activities more than six hundred sixty feet from the nearest edge of the right-of-way of interstate and freeway primary federal-aid highways or more than three hundred feet from the nearest edge of the right-of-way of nonfreeway primary federal-aid highways;

(h) railroad tracks and minor sidings;

(i) sham, prohibited, or illegal activities;

(j) junkyards;

(k) schools, churches, or cemeteries;

(l) recreational facilities.

(6) "Freeway primary federal-aid highway" means a divided arterial highway for through traffic with full control of access built to the same standards as to access as an interstate highway, which is officially designated now or in the future as a part of the federal-aid primary system.

(7) "Adult business" means a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16-15-375, or semi-nudity, in the performance of their duties.

(8) "Semi-nudity" means a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity includes the entire lower portion of the female breast, but does not include any portion of the cleavage of the human female breast exhibited by wearing clothing provided the areola is not exposed in whole or in part.

(9) "Sexually-oriented business" means a business offering its patrons goods of which a substantial portion are sexually-oriented materials. A business in which more than ten percent of the display space is used for sexually-oriented materials is presumed to be a sexually-oriented business.

(10) "Sexually-oriented materials" means textual, pictorial, or three-dimensional material that depicts nudity, sexual conduct, sexual enticement, or sadomasochistic abuse in a way that is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors. Sexually-oriented materials include obscene materials as defined in Section 16-15-305(B).

HISTORY: 1962 Code Section 33-591.1; 1971 (57) 2061; 1975 (59) 596; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2006 Act No. 235, Section 3.B, eff February 22, 2006.

Editor's Note

2006 Act No. 235, Section 6, provides as follows:

"This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off-premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off-premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation."

SECTION 57-25-130. Declaration of purpose.

The General Assembly finds that outdoor advertising is a legitimate form of commercial use of the private property adjacent to the public highways. The General Assembly

also finds that outdoor advertising is an integral part of the business and marketing function and is an established segment of the national economy which serves to promote and protect investments in commerce and industry and is, therefore, a business which must be allowed to exist and operate where other business and commercial activities are conducted and that a reasonable use of property for outdoor advertising to the traveling public is desirable. In order, however, to prevent unreasonable distraction of operators of motor vehicles, prevent confusion with regard to traffic lights, signs, or signals, prevent interference with the effectiveness of traffic regulations, promote the prosperity, economic well-being, and general welfare of the State, mitigate the adverse secondary effects of sexually-oriented businesses and limit harm to minors, promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within this State, and preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly declares it to be the policy of this State that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the rights-of-way of the interstate and federal-aid primary systems within this State must be regulated in accordance with the terms of this article which provide for standards consistent with customary use in this State and finds that all outdoor advertising devices which do not conform to the requirements of this article are illegal. It is the intention of the General Assembly in this article to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to interstate and federal-aid primary systems declared by Congress in Title 23, United States Code, "Highways".

HISTORY: 1962 Code Section 33-591; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2006 Act No. 235, Section 3.C, eff February 22, 2006.

Editor's Note

2006 Act No. 235, Section 6, provides as follows:

"This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off-premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off-premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation."

SECTION 57-25-140. Signs permitted along interstate or federal-aid primary highways; customary use exception; removal of vegetation from right-of-ways.

(A) An outdoor advertising sign must not be erected or maintained after June 30, 1975, which is visible from the main-traveled way of the interstate or federal-aid primary highways in this State and erected with the purpose of its message being read from the traveled way, except the following:

(1) official signs and notices erected and maintained by the State or local governmental authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility and historical markers authorized by law and erected by the State, local governmental authorities, or nonprofit historical societies;

(2) public utility warning and informational signs, notices, and markers which customarily are erected and maintained by publicly or privately owned utilities as essential to their operations;

(3) signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs, charitable organizations or associations, or religious services;

(4) directional signs containing directional information about public places owned and operated by federal, state, or local governments, public or privately owned natural phenomena, historical, cultural, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, considered to be in the public interest;

(5) signs advertising the sale or lease of property upon which they are located;

(6) on-premises signs advertising activities conducted on the property upon which they are located, including any signs advertising a business located on property under single ownership on which are located two or more businesses, regardless of leasing arrangements;

(7) signs located in areas which are zoned industrial or commercial under authority of state law;

(8) signs located in unzoned commercial or industrial areas.

(9) signs of thirty-two square feet or less advertising agricultural products of a seasonal nature, signs of a political nature, signs erected by or on the behalf of eleemosynary, civic, nonprofit, church, or charitable organizations, or signs advertising special community events which are erected temporarily for ninety days or less.

(B) Signs are not permitted in any of the above categories which imitate or resemble an official traffic sign, signal, or device, are erected or maintained upon trees, are printed or drawn upon rocks or other natural features, or are in disrepair.

(C) The size of a sign permitted under items (7) and (8) of subsection (A) must not be more than six hundred seventy-two square feet in area, sixty feet in length, or forty-eight feet in height. All dimensions include border and trim but exclude decorative bases and supports. Cutouts and extensions are in addition to this amount but may not increase the height of a sign to more than forty-eight feet and may not increase the size of a sign facing by more than one hundred fifty square feet. No more than two sign panels facing in the same direction may be erected on the same sign structure if the total area of both sign panels does not exceed the maximum. The maximum size limitation applies to each sign facing.

(D) No sign permitted under this section may obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device nor obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. No sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities:

(1) public parks of ten acres or more;

(2) public forests;

(3) public playgrounds of one-half acre or more;

(4) scenic areas designated by the commission or other state agency having and exercising that authority.

(E) No sign structure permitted under items (7) and (8) of subsection (A) on the interstate system or on a federal-aid primary route, constructed to controlled access standards, may be erected within five hundred feet of another sign structure on the same side of the highway. No sign may be located on the interstate system or controlled access federal-aid primary route adjacent to or within five hundred feet of an interchange or a rest area measured along the interstate or controlled access primary highways from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. The distance from an interchange or a rest area set forth in this subsection does not apply to sites adjacent to highways that are within the boundaries of an incorporated municipality. No sign structure permitted under items (7) and (8) of subsection (A) on a noncontrolled access federal-aid primary route outside of an incorporated municipality may be erected within three hundred feet of another sign structure on the same side of the highway. No sign structure located adjacent to a noncontrolled access federal-aid primary route may be erected within a distance of one hundred feet of another sign structure inside an incorporated municipality on the same side of the highway. This subsection does not apply to advertising displays which are separated by a building or other obstruction so that only one display located within the minimum spacing distance is visible from any point on the highway at any one time.

(F) No sign permitted under items (7) and (8) of subsection (A) may contain, include, or be illuminated by a flashing, intermittent, or moving light, except those giving public service information such as time, date, temperature, weather, or other similar information. No sign permitted under this section may be erected or maintained which is not shielded effectively so as to prevent beams or rays of light from being directed at a portion of the main-traveled way of an interstate or federal-aid primary route and which is of an intensity or brilliance so as to cause glare or to impair the vision of the driver of a motor vehicle or which otherwise may interfere with a driver's operation of a motor vehicle. No sign may be illuminated so that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

(G) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas do not apply to signs lawfully in place on this article's effective date. Signs lawfully in place on November 3, 1971, or erected within six months after that date under a lease dated and recorded before that date are exempted from the standards requirement.

(H) Whenever a bona fide county or local zoning authority has made a determination of customary use, which includes a regulation of size, lighting, and spacing of outdoor advertising signs, in zoned industrial or commercial areas, the determination prevails over the size, lighting, and spacing otherwise provided for the signs in subsections (C) and (E) if all of the following exist:

(1) The standards imposed on size, lighting, and spacing are at least as restrictive as the standards set forth in subsections (C), (D), (E), and (F).

(2) The zoning plan provides for effective enforcement by the zoning authority of the imposed restrictions.

(3) The zoning plan and amendments are submitted to and approved by the Department of Transportation before they prevail over the standards set forth in this section.

Zoning which controls contiguous tracts which comprise less than twenty percent of the land within a political subdivision or land which is zoned primarily to permit outdoor advertising signs is not considered zoning for the purposes of this section.

(I)(1) No person may cut, trim, or otherwise cause to be removed vegetation from within the limits of highway rights-of-way unless permitted to do so by the department. Permits to remove vegetation may be granted only for sign locations which have been permitted at least two years and then only at the sole discretion of the department.

(2) If vegetation is removed from within a highway right-of-way without a permit by the sign owner or his agent and the removal has the effect of enhancing the visibility of the outdoor advertising sign, the sign is illegal and must be removed at the responsible party's expense. Upon a violation of this subsection the responsible party is not eligible for a sign permit:

(a) for one year: first violation;

(b) for five years: second violation;

(c) permanently: third and subsequent violations.

(3) The department must be reimbursed for cleaning or replanting at the site of the illegal cutting by the responsible party. Until the expenses are reimbursed, the responsible party must not be issued a sign permit.

(J) Signs permitted under items (1), (2), (3), and (4) of subsection (A) must comply with the regulations promulgated by the commission in accordance with uniform national standards.

HISTORY: 1962 Code Section 33-591.2; 1971 (57) 2061; 1975 (59) 596; 1990 Act No. 519, Section 1; 1992 Act No. 473, Section 4; 1993 Act No. 181, Section 1530.

SECTION 57-25-145. Outdoor advertising signs for adult or sexually-oriented business; location restriction; continuation as nonconforming use; penalties.

(A) Notwithstanding the provisions of Section 57-25-140 or another provision of law, an off-premises, outdoor advertising sign for an adult or sexually-oriented business may not be located within one mile of a public highway.

(B) Outdoor advertising signs in existence at the time of the effective date of this section, which do not conform to the requirements of this section, may continue as a nonconforming use, but must conform within three years of the effective date of this section.

(C) An owner of an adult or sexually-oriented business who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year. Each week a violation of this section continues constitutes a separate offense.

HISTORY: 2006 Act No. 235, Section 3.A, eff February 22, 2006.

Editor's Note

2006 Act No. 235, Section 6, provides as follows:

"This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off-premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off-premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation."

SECTION 57-25-150. Permits for erection and maintenance of signs; fees.

(A) The commission shall issue permits for the erection and maintenance of outdoor advertising signs coming within the exceptions contained in items (1), (2), and (3) of subsection (A) of Section 57-25-140, consistent with the safety and welfare of the traveling public necessary to carry out the policy of the State declared in this article and consistent with the national standards promulgated by the Secretary of Transportation or other appropriate federal official pursuant to Title 23, United States Code.

The commission also shall promulgate regulations governing the issuance of the permits and standards for size, spacing, and lighting of the signs and their messages.

(B) The Department of Transportation shall issue permits for all signs on location on November 3, 1971, except those signs erected pursuant to items (1), (2), (3), (5), and (6) of subsection (A) of Section 57-25-140. It also shall issue permits for the erection and maintenance of additional outdoor advertising signs coming within the exceptions contained within items (4), (7), and (8) of subsection (A) of Section 57-25-140. Sign owners must be assessed the following fees:

(1) the appropriate annual fee plus an initial nonrefundable permit application fee of one hundred dollars, except that the nonrefundable permit application fee shall be waived for South Carolina farmers advertising agricultural products produced on land that they farm which are for sale to the public and if the signs do not exceed thirty-two square feet;

(2) an annual fee of twenty dollars if the advertising area does not exceed three hundred fifty square feet; and

(3) an annual fee of thirty dollars if the advertising area exceeds three hundred fifty square feet.

The permit fees must be allocated first for administrative costs incurred by the department in maintaining the outdoor advertising program.

The permit number must be displayed prominently on the sign.

(C) Permits are for the calendar year, must be assigned a permanent number, and must be renewed annually upon payment of the fee for the new year without the filing of a new application. Fees must not be prorated for a portion of the year. Only one permit is required for a double-faced, back-to-back, or V-type sign. Advertising copy may be changed without the payment of an additional fee. No permit is required before January 1, 1973. Failure to pay a renewal fee within ninety days of the date of the first bill for the fee cancels the permit and makes the sign illegal.

(D) The commission shall promulgate regulations governing the issuance of permits which must include mandatory maintenance to ensure that all signs are always in a good state of repair. Signs not in a good state of repair are illegal.

(E) The cost of permits or their renewals required under the provisions of this article are in addition to ad valorem taxes.

(F) No permit application may be approved without written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the application.

(G) Permits for the following signs are void:

(1) a conforming sign that is removed voluntarily for more than thirty days; and

(2) a nonconforming sign that is removed voluntarily by the owner.

(H) Permits shall be maintained for nonconforming signs structurally damaged by vandalism, and:

(1) those signs may only be restored in kind;

(2) restoration may begin not earlier than ten business days after the department has received notice of the vandalism from the sign owner, but must begin no later than one hundred eighty days after the department has received the report of vandalism pursuant to subsection (H)(3); and

(3) restoration shall not begin until a report of the vandalism incident has been made by the appropriate law enforcement authority and the report has been received by the department.

(I)(1) National Historic Landmark Section 501(C)(3) properties located along South Carolina highways and properties listed on the National Register of Historic Places by the Department of the Interior which are located along South Carolina highways are allowed to erect small directional signs no more frequently than one a mile within six miles of such properties.

(2) The signs shall state the name of the historic property and mileage and comprise no more than twenty letters measuring no more than fifteen inches by thirty-six inches and painted using a single color or a neutral background.

(3) The South Carolina Department of Transportation shall issue a permit sticker for each sign for an annual fee of fifteen dollars a sign. The department is also authorized to issue regulations as are necessary to implement the permit process and the conditions and restrictions for the proper placement, height, and design as necessary to the efficient administration of this subsection. The department has no responsibility for erecting these permitted signs.

HISTORY: 1962 Code Section 33-591.3; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1992 Act No. 473,1993 Act No. 164, Part II, Section 106A; 1993 Act No. 181, Section 1530; 1994 Act No. 431, Section 2; 2017 Act No. 27 (S.200), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 27, Section 1, rewrote (G) and (H) and added (I), revising provisions that void permits for conforming and nonconforming signs removed in certain circumstances, providing that permits must be maintained for nonconforming signs structurally damaged by vandalism, and providing procedures for restoring such signs.

SECTION 57-25-155. Issuance of permits for existing signs; department not authorized to require removal of conforming signs.

Notwithstanding any other provision of law, the Department of Transportation must issue permits for existing signs and outdoor advertising signs on highways in the interstate system or federal-aid primary system in this State that are nonconforming only because a permit was not obtained prior to erection of the sign. The department may not require removal of conforming signs and outdoor advertising signs as a prerequisite to issuing a permit for such signs that would otherwise qualify for a permit.

HISTORY: 1992 Act No. 473, Section 3; 1993 Act No. 181, Section 1530.

SECTION 57-25-160. Erection and maintenance of illegal advertising device.

A person who erects or maintains an advertising device in violation of Section 57-25-140 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days for each violation.

In addition, a person who violates the provisions of this chapter must be assessed by the department a civil penalty of one hundred dollars a day until the violation ends. A civil penalty must be paid to the department and allocated to the administrative costs of the outdoor advertising program. All monies in excess of the administrative costs must be used in the acquisition of nonconforming signs and may be carried over from year to year. No permit may be issued to a person who is in violation of the provisions of this chapter or who has not paid an assessed civil penalty.

HISTORY: 1962 Code Section 33-591.7; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-170. Information signs on highway right-of-way.

The commission may provide within the right-of-way for areas at appropriate distances from interchanges on the interstate system and controlled access roads on the federal-aid primary system on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained under standards and regulations authorized to be adopted and promulgated by the commission. The standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of names for FOOD, LODGING, and GAS information signs on the highway right-of-way.

HISTORY: 1962 Code Section 33-591.4; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-180. Advertising devices violating article declared illegal; removal; just compensation for existing devices; right of entry for purpose of removal.

(A) An outdoor advertising sign which violates the provisions of this article is illegal and the Department of Transportation shall give thirty days' notice by certified or registered mail to the owner of the advertising sign and to the owner of the property on which the sign is located for its removal. However, a sign lawfully in existence along the interstate system or the federal-aid primary system on November 3, 1971, or which was lawfully erected after that date, which is not in conformity with the provisions contained in this article, is not required to be removed until just compensation has been paid for it. Except as provided in Section 57-25-160, no sign otherwise required to be removed under this article for which just compensation is authorized to be paid by the department is required to be removed if the federal share of at least seventy-five percent of the just compensation to be paid upon its removal is not available for the payment. Nothing in this section prevents the removal of nonconforming signs for which no federal share is payable in those instances where no compensation has to be paid.

(B) Employees or agents of the department may go upon the property upon which an illegal sign is located after expiration of the thirty-day period for the purpose of its removal. The period of the notice must be computed from the date of mailing. No notice, however, is required to be given to the owner of an advertising sign for which a permit has not been obtained. The moving of an illegal sign from one location to another without a permit having been obtained for the illegal sign does not require the department to provide additional notice to the sign owner before removing the sign, even if the sign is moved from the property of one owner to the property of another.

(C) When the department removes an illegal sign, it must be reimbursed the removal expenses by the sign owner. The sign must be maintained in the possession of the department for no more than thirty days during which the sign may be claimed by the owner upon payment of the expenses. If the sign is not claimed during the thirty days, it is declared abandoned, becomes the property of the department, and may be disposed of through sale or in any other manner which the department considers appropriate. Even if the owner does not recover the sign, he remains liable to the department for the expenses incurred in removing and storing the sign. Until the expenses are reimbursed, the sign owner must not be issued a permit for an outdoor advertising sign from the department.

(D) Review of the department's determination that a sign is illegal is through an administrative hearing pursuant to the Administrative Procedures Act. Written request for the review must be received by the department within the thirty-day period.

HISTORY: 1962 Code Section 33-591.5; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-185. Department to promulgate regulations.

The Department of Transportation shall promulgate regulations consistent with Section 131(o), Title 23, United States Code, or such other provisions of Title 23 as may be appropriate, to allow signs, displays, and devices on federally-aided primary routes outside of nonurban areas which (1) provide directional information about goods and services in the interest of the traveling public and (2) are such that removal would work an economic hardship in such areas. Pursuant to Section 131(o), Title 23, United States Code, the department shall submit these regulations to the United States Secretary of Transportation for approval.

HISTORY: 1992 Act No. 473, Section 6; 1993 Act No. 181, Section 1530.

SECTION 57-25-190. Compensation for removal of signs; relocation of signs affected by highway projects.

(A) The Department of Transportation may acquire by purchase, gift, or condemnation and shall pay just compensation upon the removal of the following outdoor advertising signs:

(1) those lawfully in existence on November 3, 1971;

(2) those lawfully erected after November 2, 1971.

(B) Compensation may be paid only for the taking from the owner of:

(1) a sign of all right, title, leasehold, and interest in it;

(2) the real property on which the sign is located of the right to erect and maintain a sign on it.

(C) No sign may be removed until the owner of the property on which it is located has been compensated fully for a loss which may be suffered by him as a result of the removal of the sign through the termination of a lease or other financial arrangement with the owner of the sign. The compensation must include damage to the landowner's property occasioned by the removal of the sign. The Department of Transportation is limited to an expenditure of five million dollars for the state's part of just compensation.

(D) Tourist oriented directional signs must be the last to be removed under the terms of this article.

(E) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., whose property interests are acquired by a state highway project shall have the option to relocate the sign to a position within five hundred feet of the original sign site or alter the sign so that no portion of the sign overhangs the right of way pursuant to the following conditions:

(1) The relocation and alteration shall be pursuant to the federal uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).

(2) The relocated site shall be in accordance with federal and state laws.

(3) If the relocated site meets federal and state laws, the relocation shall be allowed under the existing permit and no new local zoning or state permit shall be required; provided, that the relocated site is within the same county as the original sign site.

(4) Permission from the property owner, if different, at the relocated site shall be required.

(F)(1) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., whose property interests in the sign are acquired by a local highway project shall have the option to relocate the sign to a position within five hundred feet of the original sign site or alter the sign so that no portion of the sign overhangs the right of way, pursuant to the following conditions:

(a) The relocated site shall be in accordance with federal and state laws.

(b) If the relocated site meets federal and state laws, the relocation shall be allowed under the existing permit and no new local zoning or state permit shall be required; provided, that the relocated site is within the same county as the original sign site.

(c) Permission from the property owner, if different, at the relocated site shall be required.

(2) Alteration or relocation costs, as determined by the South Carolina Department of Transportation Relocation Assistance Manual, for an outdoor advertising sign whose property interests in the sign are acquired by a local highway project pursuant to this section shall be paid by the political subdivision that is responsible for the local highway project, pursuant to the following conditions:

(a) If the owner of an outdoor advertising sign whose property interests in the sign are acquired by a local highway project cannot relocate or alter the sign as permitted in this section despite the owner's best efforts to do so, then the political subdivision requiring the outdoor advertising sign's removal shall compensate the owner.

(b) Compensation paid by the political subdivision requiring an outdoor advertising sign's removal shall be paid pursuant to Section 39-14-10, et seq. The political subdivision is limited to an expenditure of five million dollars for its part of just compensation pursuant to this section.

(G)(1) Notwithstanding a county or municipal zoning plan, ordinance, or resolution, the owner of an outdoor advertising sign conforming to Section 57-25-110, et seq., in which its visibility from the main-traveled way has been obscured by a state or local highway project shall have the option to:

(a) without relocating the sign, alter only the height and angle of the sign to a position to restore the visibility and readability of the sign to the same or a comparable visibility and readability that existed prior to the state or local highway project; or

(b) if such alteration is not practical, or is more expensive than relocating, then relocate the sign within five hundred feet of the original sign site, pursuant to the following conditions:

(i) The relocated site shall be in accordance with federal and state laws.

(ii) If the relocated site meets federal and state laws, the relocation will be allowed under the existing permit and no new local zoning or state permit will be required; provided, that the relocated site is within the same county as the original sign site.

(iii) Permission from the property owner, if different, at the relocated site shall be required.

(2) The sign owner shall be responsible for all costs associated with the alteration and relocation of the sign under this subsection.

HISTORY: 1962 Code Section 33-591.6; 1971 (57) 2061; 1987 Act No. 173 Section 41; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530; 2000 Act No. 302, Section 1; 2021 Act No. 34 (S.667), Section 1, eff May 6, 2021.

Effect of Amendment

2021 Act No. 34, Section 1, rewrote (E) and added (F) and (G).

SECTION 57-25-195. Department to confer with Federal Highway Administration; submission of plan to Administration; consultation with interested parties.

In order to comply with Section 131, Title 23, United States Code and regulations promulgated under that section and to prevent interruption of the state's federally-aided highway funding, the Department of Transportation shall confer with the Federal Highway Administration as to how best to structure a nonconforming sign removal program.

The department shall submit to the Federal Highway Administration in a timely fashion its process, program, and timetable for removal of nonconforming signs under Section 131, Title 23, United States Code and regulations promulgated under that section.

In developing and implementing this removal program the department shall consult with interested parties and affected entities including, but not limited to, other state and local agencies, sign owners, environmental groups, and the business community.

HISTORY: 1992 Act No. 473, Section 7; 1993 Act No. 181, Section 1530.

SECTION 57-25-200. Agreements with other authorities as to control of advertising in areas adjacent to interstate and primary highway systems.

(A) Within the requirements of this article the commission may enter into agreements with other governmental authorities relating to the control of outdoor advertising in areas adjacent to the interstate and primary highway systems, including the establishment of information centers and safety rest areas and take action in the name of the State to comply with the terms of the agreements.

(B) If an agreement is not achieved, the Attorney General of this State promptly shall initiate proceedings under the provisions of Section 131(1) of Title 23 of the United States Code with respect to hearings, stay of penalties, and judicial review in order to resolve the disagreement by judicial determination. He also shall initiate the proceedings if there is a determination to withhold funds from this State for its alleged failure to comply with any provision of Section 131 in order to obtain a judicial determination of whether this article provides effective control of outdoor advertising in conformity with the section and, if not, the extent of modifications necessary to bring it into compliance.

HISTORY: 1962 Code Section 33-591.9; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-210. Expenditures for removal dependent upon availability of federal funds and agreement with Secretary of Transportation.

The commission is not required to expend funds for the removal of outdoor advertising under this article until federal funds are made available to the State for the purpose of carrying out the provisions of this article and the commission has entered into an agreement with the Secretary of Transportation as authorized by Section 57-25-200 and as provided by the Highway Beautification Act of 1965.

HISTORY: 1962 Code Section 33-591.10; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

SECTION 57-25-220. Rule of construction.

Nothing in this article abrogates or affects the provisions of a lawful ordinance, regulation, or resolution which is more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33-591.8; 1971 (57) 2061; 1990 Act No. 519, Section 1; 1993 Act No. 181, Section 1530.

ARTICLE 5

Andrew Pickens Scenic Parkway

SECTION 57-25-410. Definitions.

As used in this article:

(a) "The highway" means that recently constructed portion, portion under construction or portion to be constructed, of State Highway No. 11, which has been designated as the Andrew Pickens Scenic Parkway.

(b) "Sign" or "outdoor advertising sign" means any outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the highway.

(c) "Unzoned commercial or industrial area" means the lands occupied by the regularly used buildings, parking lots, storage or processing areas of at least one distinct commercial or industrial activity, and those lands lying along the highway for a distance of seven hundred and fifty feet immediately adjacent to the outermost or end activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property line of the activities, and shall be measured parallel to the edge of the highway pavement. An unzoned area, as defined herein, shall not include land predominantly used for residential properties, and land zoned by the State or local law, regulations or ordinance.

(d) "Commercial or industrial activities" means those established activities generally recognized as commercial or industrial by zoning authorities within the area affected by this article, except that none of the following shall be considered commercial or industrial activities:

(1) Outdoor advertising structures.

(2) Agricultural, forestry, ranching, grazing, farming, wayside produce stands and related activities.

(3) Activities conducted in a building principally used as a residence.

(4) Railroad tracks and minor sidings.

HISTORY: 1962 Code Section 33-595; 1969 (56) 187.

SECTION 57-25-420. Information required on signs.

On or before January 1, 1970 all advertising signs, displays, or devices, or the structures on which they are displayed, shall have stated thereon the name and address of the owner thereof and the month, day and year when the sign was erected, and the name and address of the owner of the property upon which such sign, display or device is located.

HISTORY: 1962 Code Section 33-595.8; 1969 (56) 187.

SECTION 57-25-430. Permitted outdoor advertising signs.

(a) No outdoor advertising sign shall be erected or maintained within three hundred feet of the nearest edge of the right-of-way and visible from the main-traveled way of the highway, except the following:

(1) Official signs and notices erected and maintained by the State or local governmental authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility, and historical markers authorized by law and erected by State or local governmental authorities or nonprofit historical societies.

(2) Public utility warning and informational signs, notices and markers which are customarily erected and maintained by publicly or privately owned utilities as essential to their operations.

(3) Signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs or charitable organizations or associations, or religious services; provided, that such signs do not exceed eight square feet in area.

(4) Directional signs containing directional information about public places owned and operated by Federal, State or local governments, public or privately owned natural phenomena, historical, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the public interest.

(5) Signs, displays and devices advertising the sale or lease of property upon which they are located.

(6) On premises signs, displays and devices advertising activities conducted on the property upon which they are located.

(7) Signs, displays and devices located in areas which are zoned industrial or commercial under authority of State law.

(8) Signs, displays and devices located in unzoned commercial or industrial areas.

(b) Signs shall not be permitted in any of the above categories which imitate or resemble any official traffic sign, signal or device; signs which are erected or maintained upon trees or are printed or drawn upon rocks or other natural features; or signs which are in disrepair.

(c) No sign permitted under items (a)(7) and (a)(8) of this section shall exceed a maximum area of size of twelve hundred square feet, a maximum length of sixty feet, or a maximum height of thirty feet. Signs permitted under items (a)(1), (a)(2) and (a)(4) of this section may not exceed a maximum area of one hundred and fifty square feet. All such dimensions shall include border, trim, cutouts and extensions, but shall exclude decorative bases and supports. Double-faced, back-to-back, or V-type signs shall be considered as one sign. Two sign panels facing in the same direction may be erected on the same structure, provided that the total area of both panels does not exceed the aforesaid maximum.

(d) No sign permitted under this section may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, nor obstruct or interfere with the driver's view of approaching, merging or intersecting traffic; also, no such sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities.

(1) Public parks of ten acres or more.

(2) Public forests.

(3) Public playgrounds.

(4) Scenic areas designated by the Department of Transportation or other state agency having and exercising such authority.

(e) No sign structure permitted under items (a)(7) and (a)(8) of this section shall be erected within five hundred feet of another such sign structure on the same side of the highway. This subsection shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distance set forth herein is visible from one point on the highway at any one time.

(f) No sign permitted under this section shall contain, include, or be illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information, such as time, date, temperature, weather, or other similar information. Also, no such sign permitted under this section shall be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which may otherwise interfere with any driver's operation of a motor vehicle. No such sign may be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(g) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall not apply to such signs lawfully in place on May 6, 1969, nor to such signs erected within six months thereafter under a lease dated prior to May 6, 1969 and recorded on the records of the respective clerk of court or register of mesne conveyance of the county.

HISTORY: 1962 Code Section 33-595.1; 1969 (56) 187; 1993 Act No. 181, Section 1531.

SECTION 57-25-440. Permits for erection and maintenance of signs.

The Department of Transportation is hereby authorized to issue permits for the erection and maintenance of outdoor advertising signs coming within the exceptions contained in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 57-25-430, consistent with the safety and welfare of the traveling public, and as may be necessary to

carry out the policy declared in this article.

HISTORY: 1962 Code Section 33-595.2; 1969 (56) 187; 1993 Act No. 181, Section 1532.

SECTION 57-25-450. Erection and maintenance of illegal advertising device.

Whoever erects or maintains an advertising device in violation of Section 57-25-430 shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33-595.6; 1969 (56) 187.

SECTION 57-25-460. Advertising devices violating article declared public nuisances; removal; right of entry for purpose of removal.

(1) Any advertising device which violates the provisions of this article is hereby declared to be a public nuisance and the department shall give sixty days notice, by certified or registered mail, to the owner of the advertising device and to the owner of the property on which such device is located to remove the device. Provided, however, that any sign, display or device lawfully in existence along the highway on September 1, 1965 which is not in conformity with the provisions contained herein shall not be required to be removed until July 1, 1971, except that the Department of Transportation may jointly agree with the owner of any sign or the property owner for the earlier removal of such sign. Any other sign, display or device lawfully erected subsequent to September 1, 1965 and prior to May 6, 1969, which does not conform with the requirements of this article may not be required to be removed until the end of the fifth year after the erection thereof, or after it becomes nonconforming, except that the Department of Transportation may jointly agree with the owner of any sign, or the property owner, for the earlier removal of such sign.

(2) Employees or agents of the Department are hereby authorized to go upon the property upon which a prohibited or nonconforming device is located, after expiration of the sixty day period, for the purpose of removing the advertising device. The period of such notice shall be computed from the date of mailing. No notice, however, shall be required to be given to the owner of an advertising sign, display, or device whose name is not stated thereon or on the structure on which it is displayed as required in Section 57-25-420.

HISTORY: 1962 Code Section 33-595.4; 1969 (56) 187; 1993 Act No. 181, Section 1533.

SECTION 57-25-470. Compensation for removal of signs.

(a) The Department of Highways and Public Transportation may acquire by purchase, gift, or condemnation, and shall pay just compensation upon the removal of the following outdoor advertising signs, displays, and devices:

(1) those lawfully in existence on October 22, 1965;

(2) those lawfully erected on or after May 6, 1969.

(b) Compensation may be paid only for the following:

(1) the taking from the owner of a sign, display, or device of all right, title, leasehold, and interest in the sign, display, or device; and

(2) the taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays, and devices.

HISTORY: 1962 Code Section 33-595.5; 1969 (56) 187; 1987 Act No. 173 Section 42.

SECTION 57-25-480. Information signs within right-of-way.

The Department of Transportation may provide within the right-of-way for areas at appropriate distances on which signs, displays and devices giving specific information in the interest of the traveling public may be erected and maintained under standards and regulations hereby authorized to be adopted by the department. Such standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of brand names for FOOD, LODGING and GAS information signs on the highway right-of-way.

HISTORY: 1962 Code Section 33-595.3; 1969 (56) 187; 1993 Act No. 181, Section 1534.

SECTION 57-25-490. Agencies shall cooperate with Department of Transportation.

In order to carry out the provisions of this article and to make the highway a scenic highway, the State Forestry Commission, the Department of Parks, Recreation and Tourism, and all other state agencies or governmental entities shall cooperate with the Department of Transportation.

HISTORY: 1962 Code Section 33-595.9; 1969 (56) 187; 1993 Act No. 181, Section 1535.

SECTION 57-25-500. Rule of construction.

Nothing in this article shall be construed to abrogate or affect the provisions of any lawful ordinance, regulations or resolution, which are more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33-595.7; 1969 (56) 187.

ARTICLE 7

John C. Calhoun Memorial Highway

SECTION 57-25-610. Definitions.

As used in this article:

(a) "The Highway" means the John C. Calhoun Memorial Highway.

(b) "Sign" or "outdoor advertising sign" means any outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the highway.

(c) "Unzoned commercial or industrial area" means the lands occupied by the regularly used buildings, parking lots, storage or processing areas of at least one distinct commercial or industrial activity, and those lands lying along the highway for a distance of seven hundred and fifty feet immediately adjacent to the outermost or end activity. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property line of the activities, and shall be measured parallel to the edge of the highway pavement. An unzoned area, as defined herein, shall not include land predominantly used for residential properties, and land zoned by the State or local law, regulations or ordinance.

(d) "Commercial or industrial activities" means those established activities generally recognized as commercial or industrial by zoning authorities within the area affected by this article, except that none of the following shall be considered commercial or industrial activities:

(1) Outdoor advertising structures.

(2) Agricultural, forestry, ranching, grazing, farming, wayside produce stands and related activities.

(3) Activities conducted in a building principally used as a residence.

(4) Railroad tracks and minor sidings.

HISTORY: 1962 Code Section 33-595.22; 1969 (56) 362.

SECTION 57-25-620. Portion of United States Highway No. 123 designated as John C. Calhoun Memorial Highway.

That portion of United States Highway No. 123 between the corporate limits of the city of Easley and the town of Clemson is hereby designated as the John C. Calhoun Memorial Highway.

HISTORY: 1962 Code Section 33-595.21; 1969 (56) 362.

SECTION 57-25-630. Information required on signs.

On or before January 1, 1970 all advertising signs, displays, or devices, or the structures on which they are displayed, shall have stated thereon the name and address of the owner thereof and the month, day and year when the sign was erected, and the name and address of the owner of the property upon which such sign, display or device is located.

HISTORY: 1962 Code Section 33-595.30; 1969 (56) 362.

SECTION 57-25-640. Permitted outdoor advertising signs.

(a) No outdoor advertising sign shall be erected or maintained within three hundred feet of the nearest edge of the right-of-way and visible from the main-traveled way of the highway, except the following:

(1) Official signs and notices erected and maintained by the State or local government authorities pursuant to laws or ordinances for the purpose of carrying out an official duty or responsibility, and historical markers authorized by law and erected by State or local governmental authorities or nonprofit historical societies.

(2) Public utility warning and informational signs, notices and markers which are customarily erected and maintained by publicly or privately owned utilities as essential to their operations.

(3) Signs and notices of service clubs and religious organizations relating to meetings of nonprofit service clubs or charitable organizations or associations, or religious services; provided, that such signs do not exceed eight square feet in area.

(4) Directional signs containing directional information about public places owned and operated by Federal, State or local governments, public or privately owned natural phenomena, historical, cultural, educational and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the public interest.

(5) Signs, displays and devices advertising the sale or lease of property upon which they are located.

(6) On premises signs, displays and devices advertising activities conducted on the property upon which they are located.

(7) Signs, displays and devices located in areas which are zoned industrial or commercial under authority of State law.

(8) Signs, displays and devices located in unzoned commercial or industrial areas.

(b) Signs shall not be permitted in any of the above categories which imitate or resemble any official traffic sign, signal or device; signs which are erected or maintained upon trees or are printed or drawn upon rocks or other natural features; or signs which are in disrepair.

(c) No sign permitted under items (a) (7) and (a) (8) of this section shall exceed a maximum area of size of twelve hundred square feet, a maximum length of sixty feet, or a maximum height of thirty feet. Signs permitted under items (a) (1), (a) (2) and (a) (4) of this section may not exceed a maximum area of one hundred and fifty square feet. All such dimensions shall include border, trim, cutouts and extensions, but shall exclude decorative bases and supports. Double-faced, back-to-back, or V-type signs shall be considered as one sign. Two sign panels facing in the same direction may be erected on the same structure, provided that the total area of both panels does not exceed the aforesaid maximum.

(d) No sign permitted under this section may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, nor obstruct or interfere with the driver's view of approaching, merging or intersecting traffic; also, no such sign except on premises and FOR SALE or LEASE signs may be located within three hundred feet of any of the following which are adjacent to the highway in areas outside of incorporated municipalities or within one hundred feet on sections inside municipalities.

(1) Public parks of ten acres or more.

(2) Public forests.

(3) Public playgrounds.

(4) Scenic areas designated by the Department of Transportation or other state agency having and exercising such authority.

(e) No sign structure permitted under items (a) (7) and (a) (8) of this section shall be erected within five hundred feet of another such sign structure on the same side of the highway. This subsection shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distance set forth herein is visible from one point on the highway at any one time.

(f) No sign permitted under this section shall contain, include, or be illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information, such as time, date, temperature, weather, or other similar information. Also, no such sign permitted under this section shall be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which may otherwise interfere with any driver's operation of a motor vehicle. No such sign may be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(g) The standards contained in this section pertaining to size, shape, description, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall not apply to such signs lawfully in place on June 11 1969, nor to such signs erected within six months thereafter under a lease dated prior to June 11 1969 and recorded on the records of the respective clerk of court or register of mesne conveyance of the county.

HISTORY: 1962 Code Section 33-595.23; 1969 (56) 362; 1993 Act No. 181, Section 1536.

SECTION 57-25-650. Permits for erection and maintenance of signs.

The Department of Transportation is hereby authorized to issue permits for the erection and maintenance of outdoor advertising signs coming within the exception contained in subsections (a) (1), (a) (2), (a) (3) and (a) (4) of Section 57-25-640, consistent with the safety and welfare of the traveling public, and as may be necessary to carry out the policy declared in this article.

HISTORY: 1962 Code Section 33-595.24; 1969 (56) 362; 1993 Act No. 181, Section 1537.

SECTION 57-25-660. Erection and maintenance of illegal advertising device.

Whoever erects or maintains an advertising device in violation of Section 57-25-640 shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 33-595.28; 1969 (56) 362.

SECTION 57-25-670. Advertising devices violating article declared public nuisances; removal; right of entry for purpose of removal.

(1) Any advertising device which violates the provisions of this article is hereby declared to be a public nuisance and the department shall give sixty days' notice, by certified or registered mail, to the owner of the advertising device and to the owner of the property on which such device is located to remove the device. Provided, however, that any sign, display, or device lawfully in existence along the highway on September 1, 1965, which is not in conformity with the provisions contained herein, shall not be required to be removed until July 1, 1971, except that the Department of Transportation may jointly agree with the owner of any sign or the property owner for the earlier removal of such sign. Any other sign, display, or device lawfully erected subsequent to September 1, 1965, and prior to June 11, 1969, which does not conform with the requirements of this article may not be required to be removed until the end of the fifth year after the erection thereof, or after it becomes nonconforming, except that the Department of Transportation may jointly agree with the owner of any sign, or the property owner, for the earlier removal of such sign.

(2) Employees or agents of the Department are hereby authorized to go upon the property upon which a prohibited or nonconforming device is located, after expiration of the sixty-day period, for the purpose of removing the advertising device. The period of such notice shall be computed from the date of mailing. No notice, however, shall be required to be given to the owner of an advertising sign, display, or device whose name is not stated thereon or on the structure on which it is displayed as required in Section 57-25-630.

HISTORY: 1962 Code Section 33-595.26; 1969 (56) 362; 1993 Act No. 181, Section 1538.

SECTION 57-25-680. Compensation for removal of signs.

(a) The Department of Highways and Public Transportation may acquire by purchase, gift, or condemnation, and shall pay just compensation upon the removal of the following outdoor advertising signs, displays, and devices:

(1) those lawfully in existence on October 22, 1965;

(2) those lawfully erected on or after June 11, 1969.

(b) Compensation may be paid only for the following:

(1) the taking from the owner of the sign, display, or device of all right, title, leasehold, and interest in the sign, display, or device; and

(2) the taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays, and devices.

HISTORY: 1962 Code Section 33-595.27; 1969 (56) 362; 1987 Act No. 173 Section 43.

SECTION 57-25-690. Information signs within right-of-way.

The Department of Transportation may provide within the right-of-way for areas at appropriate distances on which signs, displays and devices giving specific information in

the interest of the traveling public may be erected and maintained under standards and regulations hereby authorized to be adopted by the Department of Transportation. Such standards and regulations may provide for cooperative agreements between the Department of Transportation and private interests for the use and display of brand names for FOOD, LODGING and GAS information signs on the highway right-of-way.

HISTORY: 1962 Code Section 33-595.25; 1969 (56) 362; 1993 Act No. 181, Section 1539.

SECTION 57-25-700. Markers; agencies shall cooperate with Department of Transportation.

In order to carry out the provisions of this article and to make the highway a scenic highway, the Department of Transportation shall provide for appropriate markers designating the highway as the John C. Calhoun Memorial Highway, and the State Forestry Commission, the Department of Parks, Recreation and Tourism and all other state agencies or governmental entities shall cooperate with the Department of Transportation.

HISTORY: 1962 Code Section 33-595.31; 1969 (56) 362; 1993 Act No. 181, Section 1540.

SECTION 57-25-710. Rule of construction.

Nothing in this article shall be construed to abrogate or affect the provisions of any lawful ordinance, regulations or resolution, which are more restrictive than the provisions of this article.

HISTORY: 1962 Code Section 33-595.29; 1969 (56) 362.

ARTICLE 8

Agritourism and Tourism-Oriented Signage Program

SECTION 57-25-800. Definitions.

As used in this article:

(1) "Agritourism-oriented facility" means a type of location where an agritourism activity, as defined in Section 46-53-10(1), is carried out by an agritourism professional, as defined in Section 46-53-10(2), or another type of agricultural facility recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(2) "Tourism-oriented facility" means a type of facility recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(3) "Conventional highway" means a highway with at-grade intersections and without control of access.

(4) "Rural" means an area outside the limits of an incorporated municipality having a population of five thousand or more according to the most recent decennial census of the United States Bureau of Census.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

SECTION 57-25-810. Creation of program to provide directional signs leading to tourism and agritourism facilities; regulations.

In an effort to promote and assist South Carolina facilities that have an interest in educating, sharing, and selling their programs and products to the general public, the Department of Transportation is directed to create and supervise a coordinated, self-funded, statewide program related to providing directional signs along certain of the state's rural conventional highways and noninterstate scenic byways leading to agritourism and tourism-oriented facilities. The statewide program shall be operated according to standards and regulations consistent with the Manual on Uniform Traffic Control Devices authorized to be adopted and promulgated by the Department of Transportation. The standards and regulations may provide for the use of official logos developed by the Department of Parks, Recreation and Tourism and the Department of Agriculture in compliance with the federal Manual on Uniform Traffic Control Devices. The standards and regulations also may provide for cooperative agreements between the department and private interests for the administration of the program and for the use and display of names for tourism and agritourism information signs on the highway right of way.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

Editor's Note

2012 Act No. 224, Section 2, provides as follows:

"The Department of Agriculture and the Department of Parks, Recreation and Tourism must develop logos to be utilized for the signage authorized by this act. The logos developed may be used by those departments for other promotional purposes associated with tourism and agritourism."

SECTION 57-25-820. Department of Transportation responsibility for signs; coordination with other departments; criteria for selection of qualified agritourism facilities; approval of applications for signs.

(A) The Department of Transportation shall be responsible for the erection and maintenance of the official signs giving specific information to the traveling public providing directions to agritourism and tourism-oriented facilities. All signs must conform to department rules and regulations regarding the size and placement of the signs and be in compliance with all federal and state regulations.

(B) The Department of Transportation shall coordinate with the Department of Agriculture and the Department of Parks, Recreation and Tourism, as applicable, to allow those departments to promote agritourism and tourism- oriented facilities participating in this directional signage program.

(C) The criteria for selection of qualified agritourism facilities shall be recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A). The criteria for selection of qualified tourism facilities shall be recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(D) The approval of applications for signs for agritourism and tourism-oriented facilities must be determined by an oversight committee. The oversight committee shall consist of the following members and shall meet at the call of the chairman semiannually to consider applications for signage:

(1) Secretary of the Department of Transportation, or his designee, serving as chairman;

(2) Director of the Department of Parks, Recreation and Tourism, or his designee;

(3) Commissioner of the Department of Agriculture, or his designee;

(4) President of the South Carolina Association of Tourism Regions (SCATR), or his designee, and a member of SCATR appointed by its president;

(5) President of the South Carolina Travel and Tourism Coalition, or his designee, and a member of the SCTTC appointed by its president; and

(6) President of the Outdoor Advertising Association of South Carolina, or his designee, and a member of the Outdoor Advertising Association appointed by its president.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

SECTION 57-25-830. Submission of application; costs, installation, and maintenance of signs.

(A) Qualified facilities which elect to participate in the directional signage program must submit an application to the Department of Transportation on a form to be supplied by the department. Eligibility and approval to participate in the signage program must be determined by written criteria to be set forth by the Department of Transportation in regulation.

(B) Participating facilities are responsible for the cost of the signs and their installation and maintenance.

HISTORY: 2012 Act No. 224, Section 1, eff June 18, 2012.

AGY: Department of Transportation
FII: 3
FIV: 31
PRD: 20060224
EFD: 20070323
EXD: 20070306
REG: 3059
PRI: 2
PRV: 30
COM: Education and Public Works Committee 21 HEPW
Transportation Committee 15 ST
RES: 1448
STA: Final
AUT: 57-25-610 et seq.
SUB: Highway Advertising Control Act

HST: 3059

BY	DATE	ACTION DESCRIPTION	COM	VOL/ISSUE	EXP DATE	R. NUM
]-	20060224	Proposed Reg Published in SR		30/2		
-	20060412	Received by Lt. Gov & Speaker			20070319	
S	20060412	Referred to Committee	ST 15			
H	20060412	Referred to Committee	HEPW 21			
S	20060524	Resolution Intro to Approv	ST 15			S1448
-	20060614	Revised Review Period Exp Dat			20070306	
-	20070306	Approved by: Expiration Date		31/3		

TXT:

Document No. 3059
DEPARTMENT OF TRANSPORTATION
Chapter 63
Statutory Authority: South Carolina Code Section 57-25-110 *et seq.*

63-341 – 354 Highway Advertising Control Act

Synopsis:

The South Carolina Department of Transportation is promulgating amended regulations concerning the Highway Advertising Control Act, 63-341 to 63-354, to conform with current Federal regulations concerning changeable message signs and to amend other regulations dealing with definitions and permitting procedures for outdoor advertising signs.

Proposed amendments were published in the State Register on February 24, 2006. No hearing concerning the regulations was requested pursuant to S. C. Code Section 1-23-110(A)(3). No correspondence was received by SCDOT in response to the publication of the notice of drafting or proposed regulations. An assessment report was not requested pursuant to 1-23-115.

Instructions: The text of the amended regulations 63-341 to 63-354 should replace the existing regulations bearing those same numbers. Illustration #1 is the same as the existing illustration #1. Renumber illustration #6 as #2. Delete all other illustrations.

Text:

63-341. Preface.

The regulations promulgated herein have been formulated pursuant to S. C. Code Section 57-25-110, et seq., entitled the Highway Advertising Control Act, which is intended to regulate outdoor advertising along Interstate and federal-aid primary highways.

63-342. Definition of Terms.

A. "Abandoned Sign," means a sign which is not being maintained as required by the regulations, or which is overgrown by trees or other vegetation not on the highway right-of-way, or which has had obsolete advertising messages or no advertising messages for a period of six months, or for which a permit has not been obtained or is not current, or for which the fee has not been paid more than thirty (30) days after demand by the Department. An obsolete advertising message does not include public service signing.

B. "Act," means Highway Advertising Control Act or its successors.

C. "Back-to-Back Sign," means any sign constructed on a single set of supports with two sign facings in opposite directions each of which may have up to two sign faces visible.

D. "Control Area," means that area within 660 feet of the nearest edge of the right-of-way of Interstate or Federal-aid primary highways and visible from the main-traveled way of the Interstate or Federal-aid primary highways. The distance is measured from the outer edge of the right-of way on a line which is perpendicular to the edge of the pavement at the points in question.

E. "Cutouts and Extensions," means any addition to a sign in excess of the permitted sign face area which aids in the display of a particular message. These cutouts and extensions should be apparent from the sign face and cannot increase the permitted sign face area by more than 150 square feet.

F. "Department," means South Carolina Department of Transportation.

G. "Destroyed Sign," means a sign no longer in existence due to factors other than vandalism or other criminal tortuous act. A sign damaged by greater than 50 percent of its replacement costs as determined from nationally recognized catalogues of vendors of construction and outdoor advertising materials based on single item purchases, not bulk purchase orders. Salvage parts cannot be used to determine replacement value unless approved by the Department.

H. "Double faced Sign," means any sign with only one set of supports, one sign facing and no more than two sign faces visible.

I. "Erect," means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. It does not mean changing or repainting an existing sign face.

J. "Highway," means all roads, streets and other ways open, or intended to be opened and for which the alignment has been approved by the Department, to the use of the public for travel by motor vehicles.

K. "Illegal Sign," means any sign which was erected or maintained in violation of any of the provisions of the Act or these regulations, including an abandoned sign.

L. "Interchange," means an intersection or junction of highways, either open or intended to be opened and for which the location has been approved by the Department, whether at grade or involving one or more grade separations, together with that additional area used or needed for connecting roadways from one highway to another.

M. "Lease," means any writing by which possession or use of land or interest therein is given by the owner to another person for a specified period of time.

N. “Legible,” means capable of being read or understood without visual aid by a person of normal visual acuity while traveling in an ordinary passenger car on the main-traveled way at the speed limit.

O. “Main-Traveled Way,” means the traveled way of a highway on which through traffic is carried.

P. “Nonconforming Sign,” means one which was lawfully erected but which does not comply with the provisions of the Act or these regulations passed at a later date or which fails to comply with the Act or these regulations because of changed conditions at the site, such as the inclusion of a new highway in those roads governed by the Act, construction of a new interchange, etc.

Q. “On-Premise Sign,” means any sign which is designed, intended or used to advertise or inform of the principal activity taking place, or the product being sold on the property where the sign is located.

R. “Removed,” when used in reference to a sign or sign structure, means the dismantling and complete removal from the view of the motoring public of all parts and materials of a sign or sign structure to include but not limited to, faces and beams, poles, braces, stringers, guys, and struts, which are used or intended to be used to support or display a sign.

S. “Residence,” means a building or mobile home used as a permanent dwelling place whose occupancy is primarily unrelated to any commercial activity conducted on or adjacent to the premises.

T. “Rest Area,” means an area or site established and maintained within or adjacent to the right-of-way for the convenience of the traveling public.

U. “Sham activity,” means any activity which

(1) is a commercial or industrial activity but which was created primarily or exclusively to qualify an area as an unzoned commercial or industrial area, or

(2) does not conduct any meaningful business at the activity site, or

(3) is an activity that fails to meet the standards set forth under the definition of transient or temporary at the time of investigation.

V. “Sign” or "outdoor advertising sign,” means any sign structure or combination of sign structure and message in the form of outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, advertising structure, advertisement, logo, symbol or other form which is designed, intended or used to advertise or inform, any part of the message or informative contents of which is visible from the main-traveled way. The term does not include official traffic control signs, official markers, nor specific information panels erected, caused to be erected, or approved by the Department.

W. “Sign Direction,” means the direction from which the message or informative contents are most visible to oncoming traffic on the main-traveled way.

X. “Sign Face,” means the part of the sign including stringers which contains the message or informative contents and includes borders or decorative trim. It does not include lighting fixtures, aprons and catwalks unless part of the message or informative contents of the sign is displayed thereon.

Y. “Sign Facing,” means all sign faces erected on the same sign structure facing the same (or approximately the same) sign direction.

Z. “Sign Structure,” means all the interrelated parts and material, such as beams, poles and braces, which are used or designed to be used or are intended to be used to support or display a sign.

AA. “Single Faced Sign,” means any sign with only one sign face.

BB. “State System,” means that portion of the highways located within this state as designated, or as may hereafter be so designated, by the Department.

CC. “Transient or temporary activities,” shall mean activities that fail to maintain:

(1) one year of continuous business operation at the proposed sign location prior to receipt of the application by the Department for those activities that have been established for more than one year at that location, or continuous business operation from the date the activity was established to the date the application is received by the Department for those activities that have been established for less than one year, and

(2) continuous business operation of the activity for one year after receipt of the application, unless determined by the Department to qualify. Continuous business operation, as used in this Chapter, shall be determined by the Department based on adequate documentation to prove meaningful business; and

(3) capable of showing significant commercial activity on the premises; and

(4) at least one employee attendant at the activity site, performing meaningful work and available to the public for at least thirty-six hours per week on at least four days per week for at least forty-eight weeks per year; and

(5) electricity, published telephone number, telephone answered at the activity, excluding cell phones and call forwarding, running water, indoor restroom, permanent flooring other than dirt, gravel, sand, etc; adequate heating; and

(6) the activity, or a major portion of it, conducted from a permanent building constructed principally of brick, concrete block, stone, concrete, metal, or wood or some combination of these materials or from a mobile home or trailer which the applicant can prove is considered part of the real estate and taxed accordingly.

DD. "Traveled Way," means the portion of a roadway over which vehicles move. It does not include such facilities as frontage roads, turning roadways, parking areas, ramps or shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way.

EE. "Triangular Sign," means a combination of single faced or double faced signs which are placed facing three sign directions of travel in a triangular formation with the closest edges of two sign facings located not more that 5 feet apart.

FF. "Unzoned commercial or industrial areas," means:

(1) those areas in a political subdivision which are not zoned on which there is located one or more permanent structures devoted to a commercial or industrial activity, a portion of which activity is located within the control area, and that area within 600 feet from the furthermost edge of the area within the control area regularly used for such activity and a corresponding zone directly across a primary highway which is not a freeway primary Federal-aid highway and which has not been declared to be a scenic highway; (See Illustration 1)

(2) they do not include recreational facilities such as campgrounds, golf courses (not including driving ranges or par-three courses), tennis courts, baseball or football fields or stadiums, or racetracks, except for any portions of those facilities occupied by offices, clubhouses, etc. which meet the minimum standards to keep the activity from being considered a transient or temporary activity;

(3) they do not include areas occupied by prohibited or illegal activities;

(4) they do not include areas occupied by sham activities;

(5) they do not include areas occupied by apartment houses, condominiums, nursing homes or other long term care facilities;

(6) they do not include junkyards as defined in S. C. Code Section 57-27-20(c) or parking or storage lots;

(7) they do not include areas occupied by schools or other buildings primarily used for educational purposes, whether public or private non-profit;

(8) they do not include quarries, borrow pits, or nurserylands, except for any portions of those facilities which are occupied by a permanent office located at the site which meets the minimum standards to keep the activity from being considered a transient or temporary activity;

(9) they do not include cemeteries or churches, synagogues, mosques, or other places primarily used for worship.

GG. "V-type Sign," means a combination of single faced or double faced signs which are placed facing two sign directions of travel in a V formation with the angle formed by the intersection of each being no more than 90 degrees and with their closest edges located not more than 5 feet apart.

HH. "Visible," means capable of being seen (whether or not legible) and readily recognized as a sign or commercial or industrial activity by a person of normal visual acuity. The presence of a sign, whether attached to the building or free-standing shall not be considered in determining whether or not a commercial or industrial activity is visible.

II. "Zoned," means subject to a complete system of land use, including the regulation of size, lighting, and spacing of signs, for tracts which comprise at least 20 percent of the land within a political subdivision established and actively enforced by duly constituted zoning authorities. The mere labeling of

land as zoned commercial or industrial does not mean the area is zoned for purposes of the Act. Rather there must be the establishment and enforcement of a complete set of regulations to govern land use within the portion of the political subdivision which is zoned. Unrestricted land shall be treated as unzoned. Land subject to court ordered zoning or development restrictions shall not be considered zoned.

JJ. "Zoned industrial or commercial areas," means those areas inside the control area within a political subdivision which are zoned for commercial or industrial use. They shall not include any areas in which limited commercial or industrial activities are permitted as an incident to other primary land uses, nor shall they include areas which the Department determines were so designated for the principal purpose of creating locations for outdoor advertising signs adjacent to or near Interstate or federal-aid primary highways. They shall not include areas which are unrestricted. No small parcels or narrow strips of land designated for a use classification different from and less restrictive than that of the surrounding area and which is made without consideration of the neighborhood land use character shall be considered a zoned industrial or commercial area. Narrow strips shall mean any configuration of land which cannot be put to ordinary commercial or industrial use.

KK. "Off-premise changeable message signs," means an outdoor advertising sign, display, or device which changes the message or copy of the sign by methods which include but are not limited to electronic movement, or rotation of panels or slats. Changeable message signs are considered outdoor advertising signs, and as such must comply with all requirements applicable to outdoor advertising signs. Changeable message signs shall not include animated, continuous or scrolling messages.

63-343. General Standards for Outdoor Advertising Signs.

A. Criteria for determining if a sign is intended to be read from the main-traveled way:

(1) The sign is visible and any advertising or message is legible.

(2) Consideration shall be given to the nature of sign, what it is directing the readers' attention toward, and where the product or service can be obtained in relation to the highway.

(3) Viewing time of any advertising or message is a primary factor to consider. If the viewing time during which any portion of the advertising or message is legible is five seconds or longer, by an individual traveling in a passenger car at the speed limit, the sign shall be deemed to be intended to be read from the main-traveled way.

B. Where a sign is legible from two or more highways, one or more of which is a highway subject to the provisions of the Act, the more stringent of applicable control requirements will apply.

C. If any commercial or industrial activity which has been used in determining the existence and size of an unzoned commercial or industrial area ceases to operate or reduces its operations to the extent that it would be classified as transient or temporary, the unzoned commercial or industrial area shall be redetermined based on the remaining activities. Any sign located within the former unzoned commercial or industrial area, but which is located outside of the unzoned commercial or industrial area based on the redetermined dimensions, becomes a nonconforming sign.

D. When the Department declares a sign to be illegal, the Department must only give notice once in writing. If the illegal sign is relocated to any site which is illegal under the Act, including an otherwise legal site for which a permit has not been received, or is removed and later erected again at the same site, no additional notice is required before the Department is authorized to remove the sign. If the owner of the sign cannot be identified by information on the sign, notice may be given by prominently posting notice on the sign for a period of thirty days after which time notice shall be complete.

63-344. General Restrictions on Outdoor Advertising Signs Subject to the Act.

A. No sign nor any portion of a sign may imitate or resemble any official traffic control device including, but not limited to, Interstate or other route symbols, stop signs, stop lights, or yield signs.

B. No sign may advertise or inform of any activity that is illegal under Federal or state laws or regulations in effect at the location of the activity.

C. No sign may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

D. No sign may be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

E. No permit identification tag may be attached to a sign which is not permanently affixed to the site described in the application. Any tag attached to a sign which is not permanently affixed to the site described in the application is void and may be confiscated by Department personnel.

F. If any portion of a sign is located on highway right-of-way, the sign is illegal and must be completely removed from the right-of-way.

G. Any sign permitted because of an activity subsequently determined to be a sham activity shall be illegal and must be removed at the sign owner's or landowner's expense. Until the sign supported by the sham activity is completely removed from its site, the Department may not approve any application for any sign permit made by the sign owner. Also, the Department may not approve any other application for a sign permit on any site owned or controlled by the landowner of the property on which the sham activity is located.

63-345. Size Limitations of Outdoor Advertising Signs.

A. Measurements.

(1) The dimensions of a sign shall include border, trim, cutouts and extensions, but shall not include aprons, decorative bases and supports, unless those items are used to convey any message, other than the name of the sign owner or permittee, in which case the apron, decorative base or support so used shall be included in its entirety.

(2) Square footage shall be measured by the combination of the areas of the smallest circles, triangles, or rectangles required to cover the sign faces.

B. Signs erected under S. C. Code Section 57-25-140(a)(7) and (a)(8).

(1) Signs shall not exceed a maximum of 672 square feet. Cutouts and extensions can be used in addition to this amount but may not increase the size by more than one hundred fifty (150) square feet.

(2) No sign facing shall exceed a length of sixty (60) feet.

(3) No sign facing shall exceed a height of forty eight (48) feet.

(4) Double faced, back-to-back or V-type signs shall be considered as one sign.

(5) In this connection, the larger of facings shall be applicable in computing square foot total for permit purposes.

63-346. Spacing Limitations for Outdoor Advertising Signs.

A. Measurements:

(1) Involving the distance between signs, shall be taken along the edge of the traveled way between lines perpendicular to the edge of the traveled way which intersect the center of the sign supports nearest the traveled way.

(2) Involving unzoned commercial or industrial areas shall be taken within the control area from the outermost edge of the regularly used buildings and areas regularly used and required for parking, storage, and processing, or from the property lines of the tract or tracts owned or leased by the activity on which the activity is being conducted, whichever is the narrower. Only those portions of the activity which are within the control area and which are visible from the main traveled way shall be considered. (See Illustration 1).

(3) Involving interchanges, weigh stations, and rest areas adjacent to the main traveled way of interstates and freeway primary federal-aid highways shall be made from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. Where there is insufficient space to end an entrance ramp before beginning an exit ramp, the ramp shall be

regarded as continuous and no signs will be permitted between the interchanges in areas which are not within the boundaries of an incorporated municipality.

(4) Illustrations for measuring spacing are contained in Illustrations 1and 2 of these regulations.

B. Signs erected under S. C. Code Section 57-25-140(a)(7) and (a)(8).

(1) Adjacent to Interstate or freeway primary federal-aid highways:

a) No signs may be erected less than five hundred (500) feet apart measured from the center of the sign supports nearest the main traveled way along a line parallel with the main traveled way.

b) No sign in a rural, unincorporated area may be erected within five hundred (500) feet of an interchange or rest area.

(2) Adjacent to federal-aid primary highways which do not have controlled access:

a) No signs may be erected less than three hundred (300) feet apart on the same side of the highway in rural, unincorporated areas.

b) No signs may be erected less than one hundred (100) feet apart on the same side of the highway within incorporated municipalities unless the signs are separated by a building or other obstruction (other than another sign) which prevents more than one sign facing from being visible at any one time.

(3) Signs erected under S. C. Code Section 57-25-140(a)(1),(2),(3),(5) and (6) shall not be considered for spacing purposes.

63-347. Lighting of Outdoor Advertising Signs.

A. Signs which are lighted must be constructed and maintained in order to effectively shield or prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate or federal-aid primary highway.

B. Signs with lighting of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle are prohibited.

C. No sign may have attached to it or be illuminated by flashing or pulsing lights or lights which change color. This prohibition does not apply to reader signs which have brief messages advertising goods or services offered on the premises where the sign is located and also provide time and temperature readings, provided that such reader signs shall not be unduly distracting and shall not use lights that change color.

63-348. Local Zoning Approval.

A. Land subject to zoning plans which have been reviewed and approved by the Department shall be considered zoned. Zoning plans must include effective methods of enforcement.

B. Any changes to an approved zoning plan must be submitted to the Department for review and approval before being effective for purposes of the Act.

C. The Department will provide in writing the reasons why the zoning plan is not approved.

63-349. Permits.

A. All signs lawfully erected under S. C. Code Section 57-25-140(a)(4), (a)(7) and (a)(8) and all nonconforming signs require permits and identification tags. This includes all signs that were legally in place on the effective date of the Act as well as those legally constructed after the effective date of the Act including those signs in place at the time the controlled highway was made a part of the Interstate or federal-aid primary system.

B. No sign subject to the Act for which a permit is required may be erected without first obtaining from the Department a permit authorizing the same.

C. Applications for permits shall be made to the Director of Outdoor Advertising, SCDOT, P.O. Box 191, Columbia, SC 29202.

D. All applications must be submitted on forms provided by the Department. Applications must be typed including the name of the person who signs the application. Applications must provide all applicable information requested. If an application is not typed, or is illegible, incomplete, inaccurate, or not accompanied by the appropriate fee, it must be corrected by applicant prior to processing.

E. No permit may be approved unless the applicant has first obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application. All applications must be accompanied by a copy of the written lease or other written agreement between the applicant and the landowner or other person in lawful possession or control of the site designated as the location of the sign in the permit application, if the applicant and the landowner of the site are different. All such documents shall be considered trade secrets and therefore not subject to disclosure under the Freedom of Information Act.

F. Where local government regulation exists, no permit shall be issued unless the applicant submits along with the application either:

(1) A copy of the permit issued for the site by the local government, or

(2) A statement from the appropriate local government official indicating that:

(a) The sign complies with all local government requirements;

(b) The local government will issue a permit to that applicant upon issuance of the state permit by the Department, and

(c) A certificate of occupancy, occupancy letter, or documentation indicating that the final inspection and building permit requirements for the qualifying activity have been obtained and completed by the local government, where applicable.

G. All applications shall be accompanied by adequate documents capable of showing significant commercial activity and meaningful business operation at the premise pursuant to Regulation 63-342(CC). If adequate documentation is not provided the application may be reviewed up to one (1) year in accordance with provision (L) herein. After one year from the receipt of the application, the application shall be approved or denied by the Department.

H. The proposed location for a new sign shall be clearly identified on the ground by a stake with no less than two feet of the stake clearly visible above the ground line. Staking of the site is considered part of the application. The stake shall not be moved or removed until the application is disapproved, or, if it is approved, until the sign has been erected.

I. Construction of a sign must not, under any circumstances, begin until the permit, having been approved by the Department, has been received by the applicant. Any portion of the sign structure erected prior to the applicant's receipt of the approved permit is illegal and must be completely dismantled before any application from the sign owner for that site or any other site can be considered.

J. Permits will be considered on a first-come, first-served basis. If applications are submitted for the same or conflicting sites, each will be dealt with in turn. Any other applications for the same or conflicting sites, received between the time a disapproved application is returned to the applicant and the time it is resubmitted, must be considered before the resubmitted application may be considered.

K. The submission of an application for a sign permit shall grant to the Department the authority for its employees or agents to enter onto the land where the sign is or is intended to be displayed in order to conduct whatever investigations may be appropriate both at the time of application and at any time thereafter unless such application be withdrawn by the applicant.

L. Upon receipt of the permit application, the District Sign Coordinator will inspect the sign site in order to ascertain if the location legally qualifies. The Department reserves the right to consider any application for a sign permit for up to thirty days from the date the application is submitted. Any application not approved within that time may be deemed by the applicant to have been rejected unless the Department notifies the applicant in writing of the reasons that it requires further time to investigate the application. The review period shall be no longer than one year from the date of receipt of the sign application by the Department.

M. In the event the permit is cancelled, revoked, or disapproved, the applicant may appeal pursuant to the Administrative Law Court procedures. All appeals will be conducted in accordance with the

Administrative Procedures Act. The applicant shall bear the burden of showing that the Department should issue the permit. A decision regarding any other applications for the same or conflicting sites submitted subsequent to the initial submission of the disapproved application will be held in abeyance pending the court's resolution of the appeal. If the Department's disapproval is sustained, the other applications will be considered in turn.

N. No new application may be submitted by the same applicant or its assignee or successor for a site which has been disapproved unless there has been a significant change in the site such as a change in the zoning at the site, a change in the geometry or designation of a highway, the removal of an existing, conflicting sign etc. This prohibition extends to any sites which depend for approval on the same facts which led to the disapproval of the first application.

O. Construction of the sign structure and sign face shall be completed within 180 days from the date of the permit's issuance. The Department has the discretion to cancel permits and forfeit fees if construction is not completed. An applicant whose permit is voided for not completing construction may not reapply for the same or a conflicting site for a period of ninety days, unless the applicant can show that the delay was caused by events beyond his control. Examples of events which are not considered beyond the applicant's control include, but are not limited to, delays in ordering necessary materials, delays in obtaining financing, and disputes with local governmental bodies.

P. Each permitted sign structure must have the owner's name prominently displayed on it so that the name is readable from the highway.

Q. Upon issuance of the permit, the identification tag must be placed by the Department or the permittee, as the Department requires, on the support or lower corner of the sign nearest the main-traveled way so as to be readable from the edge of the highway. The tag will be issued for and may be attached only to the sign described in the permit application. Under no circumstances may the tag be moved from one sign to another nor may the sign to which it is attached be relocated to another location. If the tag issued for a sign is not attached as required, the sign is illegal.

R. Owners of signs which become subject to the Act because of the construction of a new highway or the change in designation of a highway must apply to the Department for a permit within thirty days after being notified by the Department that the sign has become subject to the Act. If the owner of the sign cannot be identified by information on the sign, notice may be given by prominently posting notice on the sign for a period of thirty days after which time notice shall be complete. Failure to apply for a permit within thirty days after notice results in the sign being illegal.

S. If a permitted sign is voluntarily removed or dismantled for a period of more than 30 days, the permit will be voided. If a permitted sign is removed, dismantled, or destroyed by an act of God or by vandalism for a period of more than ninety days, the permit will be voided.

T. Replacement tags for those which are lost or vandalized must be obtained from the Department by submitting a new application, an affidavit as to the loss of the tag, and a fee equal to the annual renewal fee.

U. Permits may be transferred from one sign owner to another pursuant to Department procedures.

V. The failure of any check submitted to the Department for a permit fee to be honored upon presentation shall make the permit void. The applicant may be required to submit a new application and may thereafter be required to submit cash or a certified check with any application or renewal.

W. The Department may revoke any permit issued and order the sign removed if it subsequently determines that the information submitted or subsequently discovered by the Department regarding the application, sign, or business location, was false or materially misleading and any fees submitted with the application shall be forfeited.

X. The Department may issue a permit for a sign which could otherwise be permitted even though it is located within the proposed right-of-way for a highway for which the alignment has been approved but which has not yet begun construction or even though it is located within the proposed right-of-way for an interchange for which the location has been approved but which has not yet begun construction provided that in either such case the sign owner and the landowner must agree to remove the sign without cost to

the Department and without compensation within thirty (30) days after written notice from the Department to the sign owner and landowner at the addresses provided in the application.

Y. Notice of matters affecting permits, including a sign's being declared illegal, must only be given to the address(es) provided on the sign application. If there is a change in address, the sign owner is responsible for notifying the Department. If notice is forwarded to the landowner or sign owner and is returned undelivered, it shall nevertheless be considered to have been effected if sent to the most current address(es) provided by the sign owner.

Z. No sign shall be erected within 600 feet of areas where vegetation has been illegally removed, as determined by the discretion of the Department, or removed without prior written approval of the Department.

63-350. Maintenance Standards for All Signs Controlled by the Act.

A. All signs subject to the Act must be structurally safe and maintained in a good state of repair which includes but is not limited to the following:

(1) The sign face must be maintained free of peeling, chipping, rusting, wearing and fading so as to be fully legible at all times.

(2) All parts of the sign, including the cutouts, extensions, border, trim, and sign structure must be maintained in a safe manner, free from rusting, rotting, breaking and other deterioration.

(3) The sign face must not have any vegetation growing upon it or touching or clinging to it.

B. Any sign which does not conform to the maintenance standards in 63-350(A) or which is abandoned is illegal. A notice will be given by certified mail to the sign owner and landowner to repair any sign which does not conform to these standards within thirty days of the date of mailing. A one-time extension of sixty days may be granted if the sign owner can show just cause for the delay because of unusual weather conditions or other reasons beyond the sign owner's control. If the repairs are not completed within the specified time, the sign must be removed at the sign owner or landowner's expense.

C. Nonconforming signs must be maintained subject to the following restrictions:

(1) No maintenance may occur which will lengthen the life of the device.

(2) There must be existing property rights in the sign.

(3) The right to continue a nonconforming sign is confined to the permitted sign owner or his transferee.

(4) In the event a nonconforming device is partially destroyed by wind or other natural forces including tornadoes, hurricanes, or other catastrophic occurrences, the Department must determine whether to allow the sign to be rebuilt. If the Department determines that the damage to the sign was greater than 50 percent of its replacement costs as determined by nationally recognized catalogues of vendors of construction and outdoor advertising materials as of the time of the damage, the sign must be dismantled at no cost to the Department and may not be erected again. A current issue of the catalogue or advertisement indicating materials to be replaced must be submitted with the request to rebuild. Salvage parts cannot be used to determine replacement value unless approved by the Department.

(5) A nonconforming sign which is destroyed by an Act of God or catastrophic act cannot be rebuilt, and the debris from the destroyed sign shall be removed by the sign owner, or by the Department at the sign owner's expense and the permit cancelled.

(6) A nonconforming sign when relocated or moved shall no longer be considered a nonconforming sign and thereafter shall be subject to all the provisions of law and of these regulations relating to outdoor advertising.

(7) The sign must remain substantially the same as it was on the effective date of the State law or regulations which rendered the sign nonconforming. Reasonable repair and maintenance of a nonconforming sign is not a change which would terminate nonconforming use. Extension, enlargement, rebuilding, changing the materials of the sign structure, changing the size of the sign structure materials, adding catwalks, adding guys or struts for stabilization of the sign or structure, adding lights to an

unilluminated sign, changing the height of the sign above ground or re-erection of the sign will make the sign illegal. Maintenance will be limited to:

(a) Replacement of nuts and bolts;

(b) Additional nailing, riveting or welding;

(c) Cleaning and painting;

(d) Manipulation to level or plumb the device, but not to the extent of adding guys or struts for stabilization of the sign or structure;

(e) A change of the advertising message, including changing faces, as long as similar materials are used and the sign face is not enlarged. If the sign face or faces are reduced, they may not thereafter ever be increased.

(8) The Department must be notified of any maintenance to a nonconforming sign prior to the work being performed.

(9) Any nonconforming sign suffering damage in excess of normal wear cannot be repaired without:

(a) Notifying the Department in writing of the extent of the damage, the reason the damage is in excess of normal wear, and providing clear, color, on-site photographs of the damaged sign and all salvageable parts thereof, and a description of the repair work to be undertaken including the estimated cost of repair on the approved form; and

(b) Receiving written notice from the Department authorizing the repair work as described above. If said work authorization is granted, it shall be mailed to the applicant within thirty days of receipt of the information described in (a) above. Any such sign which is repaired without Department authorization becomes illegal.

D. No individual, company, corporation, public or private entity may cut, trim, remove or otherwise cause to be removed planted or natural vegetation from within the limits of highway rights-of-way unless specifically provided for by a properly executed agreement between the Department, individual, company, corporation, public or private entity. No such agreement may be granted for sign locations which have been permitted for less than two years. All such agreements shall be entered into at the sole discretion of the Department.

E. Signs may not be serviced from or across the right-of-way of Interstate or freeway primary federal-aid highways or across controlled access lines of federal-aid primary routes. Any sign which is so serviced becomes illegal and must be removed.

63-351. Directional and Other Official Signs.

A. Definitions for this Section:

(1) “Scenic Area,” means any area of particular scenic beauty or historical significance as determined by the Federal, state or local officials having jurisdiction thereof and includes land which has been acquired for the restoration, preservation, and enhancement of scenic beauty.

(2) “Parkland,” means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge, or historical site.

(3) “Federal or State Law,” means a federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state or federal agency or a political subdivision pursuant to a federal or state constitution or statute.

(4) “Directional and Other Official Signs and Notices,” means only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(5) “Official Signs and Notices,” means signs and notices erected by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or non-profit historical societies may be considered official signs.

(6)“Public Utility Signs,” means warning signs, information signs, notices, or markers which are customarily erected and maintained by publicly or privately owned utilities, as essential to their operations.

(7) “Service Club and Religious Notices,” means signs and notices relating to meetings of non-profit service clubs or charitable associations, or religious services, which do not exceed eight square feet in area.

(8) “Directional Signs,” means signs deemed by the Department to be in the interest of the traveling public and containing directional information about public places owned or operated by federal, state or local government or their agencies; publicly or privately owned natural phenomena; historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation.

B. The following signs are prohibited:

(1) Signs advertising activities that are illegal under federal or state laws in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

(3) Signs which are erected upon trees or rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

C. Directional signs shall not exceed the following size limits:

(1) Maximum area – one hundred fifty square feet.

(2) Maximum height –twenty feet.

(3) Maximum length – twenty feet.

All dimensions include border and trim, but exclude supports.

D. Lighting requirements are the same as Regulation 63-347.

E. Spacing of directional signs:

(1) Each location of a directional sign must be approved by the Department.

(2) No directional sign may be located within two thousand feet of an interchange, or intersection at grade along the interstate highways or freeway primary federal-aid highways (measured along the

highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).

(3) No directional sign may be located within two thousand feet of a rest area, parkland, or scenic area.

(4) No two directional signs facing the same direction of travel may be spaced less than one mile apart;

(a) Not more than three directional signs legible to the same direction of travel may be erected along a single route approaching the activity;

(b) Signs located adjacent to an Interstate highway must be within seventy five air miles of the activity;

(c) Signs located adjacent to a federal-aid primary highway must be within fifty air miles of the activity.

F. Message content--Directional Signs.

The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

G. Persons or firms desiring to construct or qualify signs as directional must first comply with the following proceduRES:

(1) Submit, in writing, to the Director of Outdoor Advertising, SCDOT, P.O. Box 191, Columbia, SC 29202, a detailed outline of the sign. This shall include overall dimensions and message portion of the sign to include type of construction and lighting.

(2) Application for sign must be submitted on the form provided by the Department and must be accompanied by the appropriate fees.

(3) Specify reasons why the activity being advertised should be approved for directional signing. Submission must document why the activity is regionally or nationally known.

(4) The Department shall consider all requests and shall consult, as necessary, with other state agencies and local organizations possessing cultural or historical expertise in rendering a decision.

(5) If the Department's decision is in the affirmative, a permit and identification tag will be issued. If the permit is denied, the applicant will be notified in writing outlining the specific reasons for refusal. The applicant may appeal the decision of the Department by filing written notice with the Department within thirty days of the Department's mailing of notice to the applicant at the address provided on the application. All appeals will be conducted in accordance with the Administrative Procedures Act. The applicant shall bear the burden of showing that the Department should issue the permit.

(6) All signs authorized by the Department under this section shall be subject to maintenance standards outlined in Regulation Section 63-350.

(7) No sign shall be authorized for a highway if the attraction for which the sign is sought is already identified on official signs and notices visible from that highway.

63-352. On-Premise Signs.

A. Signs erected pursuant to S. C. Code Section 57-25-140(a)(5) and (6) are not required to be permitted, however, there are certain criteria that must be applied to these signs in order to determine if, in fact, they are on-premise signs.

B. "For Sale" and "For Lease" signs may be considered on-premise if they meet the following requirements:

(1) They must be located only on property which is for sale or lease.

(2) They may contain only information pertinent to sale or lease of the property such as "For Sale," acreage, name of person or firm having such property for sale, and phone number.

(3) They may not have information relating to any activity or product not directly connected with the sale or lease of the property on which they are located.

C. Signs advertising activities, products or services offered or performed on the property upon which they are located shall be considered on-premise provided they meet the following requirements:

(1) Signs must be physically located on the same premise as activity advertised.

(2) The intent of the sign must be the identification of the activity, product or service offered at the location.

(3) In the event a sign site is located on a narrow strip of land contiguous to the advertised activity or on land connected to the advertised activity by a narrow strip of land, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which cannot be put to any reasonable use related to the activity other than for signing purposes.

(4) Two or more activities which share a common property line may share a single on-premise sign so long as the sign is located on the common property line and meets all other requirements of on-premise signs.

(5) The sale of the land between the main building and the advertising device or the diversion of the land to uses other than commercial or industrial by lease, rental agreement, easement, or license, etc., will be prima facie evidence that the sign is no longer on-premise and shall be subject to appropriate provision of the law. The diversion of land to other uses includes, but is not limited to, cultivation to raise crops or forest even though land may be of a single ownership, or land which is separated from the activity by a public highway, or other obstruction as may be determined by the Department.

(6) Land under cultivation to raise crops or forest may not be considered a part of a given activity even though the land may be in a single ownership, nor may land which is separated from the activity by a public highway, or other obstruction.

D. Upon vacating a premise which is not thereafter occupied by another business within one year, the owner of the property must, without cost to the Department, dismantle and remove any free-standing on-premise sign. Any on-premise sign which is not so removed is illegal.

E. The Department shall have sole discretion to determine if the sign is a traffic or safety hazard, including the ability to determine if the sign's lighting or illumination creates a traffic or safety hazard. If the Department determines the sign to be a traffic or safety hazard, the sign shall be removed at the expense of the sign owner.

63-353. Design of Outdoor Advertising Signs.

A. Signs with 350 square feet of facing or more must be constructed with steel supports.

B. Signs with 672 square feet of facing must be constructed on a steel monopole.

C. No stacked (double deck) sign faces shall be allowed.

63-354. Off-premise Changeable Message Signs.

A. Changeable message signs shall not contain or display flashing, intermittent or moving lights.

B. Changeable message signs shall conform with size requirements as described in Regulation Section 63-345.

C. Changeable message signs shall be spaced 500 feet apart on the same side of the highway.

D. Only conforming sign structures may be modified to changeable message signs upon compliance with changeable message sign standards and approval of the Department. Nonconforming sign structures shall not be modified to changeable message signs.

E. Each message displayed shall remain fixed for at least six seconds.

F. When a message is changed, it shall be accomplished within an interval of two seconds or less.

G. Changeable message signs may only be constructed as a single face and V-shape structures. Changeable message signs shall not be side by side or stacked.

H. If a conforming sign is to be revised to a changeable message sign, an application shall be submitted noting the sign is to become a changeable message signs and requesting approval for this change.

I. Brilliancy and light intensity shall remain the same throughout the display period.

Fiscal Impact Statement. The Department of Transportation expects there to be no fiscal impact to the state or its political subdivisions in complying with these amended regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS 63-341- 354 Highway Advertising Control Act.

Purpose of amendment: The amendments are designed to bring state regulations into conformity with certain federal requirements and to clarify certain definitions, delete obsolete language and to revise certain application processes.

Legal Authority: The legal authority for regulation 63-341 to 354 is section 57-25-110, *et seq.*, SC Code of Laws.

Plan for Implementation: The amendments will have no effect on the practices of SCDOT.

DETERMINATION OF NEED AND REASONABLENESS OF PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments will benefit the public by deleting confusing and outdated information from the regulations and by improving the process for reviewing applications for outdoor advertising permits.

The proposed amendments will benefit the public by deleting confusing and outdated information from the regulations and by improving the process for reviewing applications for outdoor advertising permits.

DETERMINATION OF COSTS AND BENEFITS: There will be no costs imposed by these changes to the State.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH: None.

DETRIMENTAL EFFECTS ON ENVIRONMENTAL AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

received an application from Upland Pipeline, LLC ("Upland") for a Presidential Permit authorizing the construction, connection, operation, and maintenance of pipeline facilities for the export of crude oil. If the application is approved, the proposed facilities will transport crude oil from the Williston Basin region in North Dakota across the U.S.-Canadian border near Burke County, North Dakota, for onward transportation to refineries in Canada and the eastern United States.

Upland is a limited liability corporation organized under the laws of the State of Delaware. The ultimate parent corporation of Upland is TransCanada Corporation ("TransCanada"). TransCanada is a major energy infrastructure firm whose assets include approximately 35,500 miles of natural gas pipelines and a 2,600-mile petroleum pipeline. Upland plans to enter into a development, management, and operations agreement with TransCanada Oil Pipeline Operations, Inc., a subsidiary of TransCanada, to provide operating services for the project.

Under E.O. 13337, the Secretary of State is designated and empowered to receive all applications for Presidential Permits for the construction, connection, operation, or maintenance, at the borders of the United States, of facilities for the exportation or importation of liquid petroleum, petroleum products, or other non-gaseous fuels to or from a foreign country. The Department of State has the responsibility to determine whether issuance of a new Presidential Permit for construction, connection, operation, and maintenance of the proposed Upland pipeline border facilities would serve the U.S. national interest.

The Department will conduct an environmental review consistent with the National Environmental Policy Act of 1969. The Department will provide more information on the review process in a future **Federal Register** notice.

Upland's application is available at: *http://www.state.gov/e/enr/applicant/applicants/index.htm*

FOR FURTHER INFORMATION CONTACT: Acting Director, Energy Resources Bureau, Energy Diplomacy (ENR/EDP/EWA) United States Department of State, 2201 C St. NW., Suite 4843, Washington, DC 20520.

Dated: April 27, 2015.

Chris Davy,

Acting Director, Energy Resources Bureau, Energy Diplomacy (ENR/EDP/EWA), Bureau of Energy Resources, U.S. Department of State.

[FR Doc. 2015–18208 Filed 7–23–15; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

System Wide Information Management (SWIM) Interactive Developer Workshop; Meeting Announcement

AGENCY: Federal Aviation Administration (FAA), DOT.

System Wide Information Management (SWIM) Interactive Developer Workshop; Meeting Announcement

Tuesday, September 22, 2015 to Thursday, September 24, 2015—From 8:00 a.m. to 4:30 p.m., FAA Florida NextGen Test Bed, 557 Innovation Way, Daytona Beach, FL 32114.

Open Meeting—Interactive Workshop

The Federal Aviation Administration (FAA) invites all interested stakeholders with a background in software development to attend an interactive workshop on System Wide Information Management (SWIM) at the state of the art NextGen Test Bed in Daytona Beach, FL. Join fellow developers as the FAA introduces and demonstrates current and new data services being made available from the agency's enterprise information gateway. Socializing new ideas on how to work with data from SWIM and what applications can be developed will be highly encouraged by the organizers.

Participants to the workshop who have an existing graphical user interface that visualizes data are encouraged to bring their application to use during the workshop. Participants that do not have an interface may be provided one at no cost. All participants must bring their own hardware (laptop preferred) to use during the event.

The FAA will be providing a connection to the Research & Development Data Domain allowing participants to engage and interact real time with data from SWIM in a non-operational environment. The following data types will be introduced and available to work with during the event:

- Notices to Airmen (NOTAM)
- Common Sourced Weather
- Terminal Data Distribution Services
- Flight Data Publication Services
- Traffic Flow Management Publication Services

Participants will be highly encouraged to introduce ideas of how they would incorporate SWIM data into their operation or application both before and after working with the data types provided. For more information or to register, visit *www.faa.gov/nextgen/swim.*

Space is limited so register early to secure a spot! Registration will close when all spots have been filled!

About SWIM

System Wide Information Management (SWIM) is the FAA's data distribution backbone of NextGen, the Next Generation Air Transportation System. SWIM utilizes a "one to many" data distribution model, allowing easier access to more data, providing it to the right person, at the right time, in the format they want. SWIM utilizes industry standard service oriented architecture (SOA) technology to be interoperable with many types of applications capable of web service and java based messaging. The FAA is also leading the use of standard data exchange models such as Aeronautical Information Exchange (AIXM) and Flight Information Exchange (FIXM).

Paul Fontaine,

Director, NextGen Portfolio Management and Technology Development, Federal Aviation Administration.

[FR Doc. 2015–18213 Filed 7–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs; Fixed Payment for Moving Expenses; Residential Moves

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish changes in the Fixed Residential Moving Cost Schedule for the States and Territories of Alabama, California, Colorado, District of Columbia, Florida, Guam, Hawaii, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, Utah, Virginia, Wisconsin, and Wyoming as provided for by section 202(b) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The schedule amounts for the States and Territories not listed above

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remain unchanged. The Uniform Act applies to all programs or projects undertaken by Federal agencies or with Federal financial assistance that cause the displacement of any person.

DATES: The provisions of this notice are effective August 24, 2015, or on such earlier date as an agency elects to begin operating under this schedule.

FOR FURTHER INFORMATION CONTACT: Mary Jane Daluge, Office of Real Estate Services, (202) 366–2035, email address: *Maryjane.daluge@dot.gov* ; Robert Black, Office of the Chief Counsel, (202) 366–1359, email address: *Robert.Black@dot.gov;* Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may reach the Office of the Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Office's database: *http://www.fdsys.gov.*

Background

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601–4655 (Uniform Act), established a program, which includes the payment of moving and related expenses, to assist persons who move because of Federal or federally assisted projects. The FHWA is the lead agency for implementing the provisions of the Uniform Act, and has issued governmentwide implementing regulations at 49 CFR part 24.

The following 17 Federal departments and agencies have, by cross-reference, adopted the governmentwide regulations: Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Energy; Department of Homeland Security; Environmental Protection Agency; Federal Emergency Management Agency; General Services Administration; Department of Health and Human Services; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Department of Veterans Affairs; National Aeronautics and Space Administration; Tennessee Valley Authority.

Section 202(b) of the Uniform Act provides that as an alternative to being paid for actual residential moving and related expenses, a displaced individual or family may elect payment for moving expenses on the basis of a moving expense schedule established by the head of the lead agency. The governmentwide regulations at 49 CFR 24.302 provide that the FHWA will develop, approve, maintain, and update this schedule, as appropriate.

The purpose of this notice is to update the schedule published on May 23, 2012, at 77 FR 30586.

The schedule is being updated to reflect the increased costs associated with moving personal property and was developed from data provided by State highway agencies. This update increases the schedule amounts in the States and Territories of Alabama, California, Colorado, District of Columbia, Florida, Guam, Hawaii, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, Utah, Virginia, Wisconsin, and Wyoming. The schedule amounts for the States and Territories not listed above remain unchanged. The payments listed in the table below apply on a State-by-State basis. Two exceptions and limitations apply to all States and Territories. Payment is limited to $100.00 if either of the following conditions applies:

(a) A person has minimal possessions and occupies a dormitory style room, or

(b) A person's residential move is performed by an agency at no cost to the person.

The schedule continues to be based on the ''number of rooms of furniture''owned by a displaced individual or family. In the interest of fairness and accuracy, and to encourage the use of the schedule (and thereby simplify the computation and payment of moving expenses), an agency should increase the room count for the purpose of applying the schedule if the amount of possessions in a single room or space actually constitutes more than the normal contents of one room of furniture or other personal property. For example, a basement may count as two rooms if the equivalent of two rooms worth of possessions is located in the basement. In addition, an agency may elect to pay for items stored outside the dwelling unit by adding the appropriate number of rooms.

Authority: 42 U.S.C. 4622(b) and 4633(b); 49 CFR 1.85 and 24.302.

Issued on: July 17, 2015.

Gregory G. Nadeau,

Acting Administrator, Federal Highway Administration.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED FIXED RESIDENTIAL MOVING COST SCHEDULE (2015)

State	Occupant owns furniture									Occupant does not own furniture	
	Number of rooms of furniture										
	1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms	Addt'l room	1 room/ no furn.	Addt'l room no furn.
Alabama	600	800	1000	1200	1400	1600	1800	2000	200	400	50
Alaska	700	900	1125	1350	1550	1725	1900	2075	300	500	200
American Samoa	282	395	508	621	706	790	875	960	85	226	28
Arizona	700	800	900	1000	1100	1200	1300	1400	100	395	60
Arkansas	550	825	1100	1350	1600	1825	2050	2275	200	300	70
California	725	930	1165	1375	1665	1925	2215	2505	265	475	90
Colorado	675	895	1115	1270	1425	1580	1735	1890	155	385	55
Connecticut	620	810	1000	1180	1425	1670	1910	2150	150	225	60
Delaware	500	710	880	1110	1260	1410	1560	1710	160	400	60
DC	800	1000	1200	1500	1700	1900	2100	2300	200	500	100
Florida	750	900	1075	1250	1400	1550	1600	1850	300	500	150
Georgia	600	975	1300	1600	1875	2125	2325	2525	200	375	100
Guam	600	950	1300	1600	1900	2150	2400	2650	200	300	150
Hawaii	600	950	1300	1600	1900	2150	2400	2650	200	300	150
Idaho	600	800	1000	1200	1400	1600	1800	2000	200	350	100

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED FIXED RESIDENTIAL MOVING COST SCHEDULE (2015)—Continued

State	Occupant owns furniture									Occupant does not own furniture	
	Number of rooms of furniture										
	1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms	Addt'l room	1 room/ no furn.	Addt'l room no furn.
Illinois	850	1000	1150	1250	1400	1600	1750	2050	450	650	150
Indiana	500	700	900	1100	1300	1500	1700	1900	200	400	100
Iowa	550	700	800	900	1000	1100	1225	1350	125	500	50
Kansas	400	600	800	1000	1200	1400	1600	1800	200	250	50
Kentucky	500	700	900	1100	1300	1500	1700	1900	200	350	50
Louisiana	600	800	1000	1200	1300	1550	1700	1900	300	400	70
Maine	650	900	1150	1400	1650	1900	2150	2400	250	400	100
Maryland	700	900	1100	1300	1500	1700	1900	2100	200	500	100
Massachusetts	700	850	1000	1200	1350	1500	1650	1800	250	450	150
Michigan	700	950	1150	1300	1450	1600	1750	1900	300	500	200
Minnesota	575	725	925	1125	1325	1525	1725	1925	275	450	100
Mississippi	750	850	1000	1200	1400	1550	1700	1850	300	400	100
Missouri	800	900	1000	1100	1200	1300	1400	1500	200	400	100
Montana	500	700	900	1100	1300	1500	1700	1900	200	350	100
Nebraska	390	545	700	855	970	1075	1205	1325	120	310	40
Nevada	500	700	900	1100	1300	1500	1700	1900	200	350	60
New Hampshire	500	700	900	1100	1300	1500	1700	1900	200	200	150
New Jersey	650	750	850	1000	1150	1300	1400	1600	200	200	50
New Mexico	650	850	1050	1250	1450	1650	1850	2050	200	400	60
New York	600	800	1000	1200	1400	1600	1800	2000	200	350	100
North Carolina	550	750	1050	1200	1350	1600	1700	1900	150	350	50
North Dakota	495	715	900	1080	1265	1415	1510	1695	185	430	65
N. Mariana Is.	282	395	508	621	706	790	875	960	85	226	28
Ohio	600	800	1000	1150	1300	1450	1600	1750	150	400	100
Oklahoma	700	900	1100	1300	1500	1700	1850	2000	200	350	100
Oregon	600	800	1000	1200	1400	1600	1800	2000	200	350	100
Pennsylvania	500	750	1000	1200	1400	1600	1800	2000	200	400	70
Puerto Rico	350	550	700	850	1000	1100	1200	1300	100	300	50
Rhode Island	600	850	1000	1200	1400	1600	1800	2000	150	300	100
South Carolina	700	805	1095	1285	1575	1735	1890	2075	225	500	75
South Dakota	500	650	800	950	1050	1200	1400	1600	200	300	40
Tennessee	500	750	1000	1250	1500	1750	2000	2250	250	400	100
Texas	600	800	1000	1200	1400	1600	1750	1900	150	400	50
Utah	650	800	950	1100	1250	1400	1550	1700	150	500	100
Vermont	400	550	650	850	1000	1100	1200	1300	150	300	75
Virgin Islands	500	700	850	950	1150	1300	1450	1600	150	425	100
Virginia	700	900	1100	1300	1500	1700	1900	2100	300	400	75
Washington	600	800	1000	1200	1400	1600	1800	2000	200	300	50
West Virginia	750	900	1050	1200	1350	1500	1650	1800	150	350	50
Wisconsin	550	730	935	1140	1350	1560	1765	1975	260	440	105
Wyoming	540	800	870	1020	1170	1325	1500	1670	200	370	60

Exceptions: 1. The payment to a person with minimal possession who is in occupancy of a dormitory style room or whose residential move is performed by an agency at no cost to the person is limited to $100.00.

2. An occupant will be paid on an actual cost basis for moving his or her mobile home from the displacement site. In addition, a reasonable payment to the occupant for packing and securing property for the move may be paid at the agency's discretion.

[FR Doc. 2015–18159 Filed 7–23–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lexington and Richland Counties, South Carolina; Notice of Intent

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Lexington and Richland counties, South Carolina.

FOR FURTHER INFORMATION CONTACT: Emily O. Lawton, Division Administrator, Federal Highway Administration, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1270, Columbia, South Carolina 29201, Telephone: (803) 765–5411, Email: *emily.lawton@dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the South Carolina Department of Transportation (SCDOT), will prepare an environmental impact statement (EIS) on a proposal to improve the I–20/I–26/I–126 Corridor located in Lexington and Richland counties, South Carolina. To date, the project area has been defined as a mainline corridor including I–20 from the Saluda River to the Broad River, I–26 from US 378 to Broad River Road, and I–126 from Colonial Life Boulevard to I–26.

The I–20/I–26/I–126 corridor is a vital link in South Carolina, serving residents, commuters, travelers, and commerce. Due to nearby residential and commercial development, proximity to downtown Columbia,