

# Relocation Assistance Section of the Right of Way Manual

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## I. Foreword

### A. General

1. This information has been assembled for acquainting Alabama Department of Transportation (ALDOT) employees and Local Public Agencies (LPA) with the policies, procedures, and purpose of the Relocation Assistance and Payments functions of the highway right of way acquisition program.
2. The purpose of this Relocation Assistance publication is to standardize procedures and assure uniform practices across the Regions. This section of the Right of Way (ROW) Manual should be carefully studied and followed by all personnel dealing with these functions. The Manual includes five sections: Relocation Assistance, Administrative, Appraisal, Negotiation and Acquisition, and Property Management.

## II. Relocation Assistance and Payments Program

### A. Authority and Purpose

1. The Relocation Assistance and Payments Program is authorized by Act No. 159 and was approved July 10, 1969, in the Regular Session of the Alabama State Legislature, 1969. The amended rules and regulations were adopted by the Director of the Alabama Department of Transportation on August 1, 1971, to become effective retroactively on January 2, 1971. The program is also authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amendments thereto, Part 24 of Title 49, Code of Federal Regulations and amendments thereto, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Act No. 89-522 of the Alabama Legislature, May 4, 1989, and the Code of Alabama Title 18, Chapter 4.
2. The purpose of the Relocation Assistance and Payments Program is to ensure prompt, fair, consistent, and equitable relocation, the re-establishment of persons, businesses, farmers, and non-profit organizations displaced as a result of highway projects, and that a few individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.
3. Relocation assistance advisory services will be provided to all individuals, families, businesses, or farm operations displaced because of highway construction. It will be done fairly and consistently without regard to race, color, religion, sex, or national origin in order minimize hardships to the persons involved and to avoid unnecessary delays to the highway program's acquisition of the proper right of way clearance.
4. Relocation payments will be provided fairly, consistently, and equitably without regard to race, color, religion, sex, or national origin. They are intended to defray the reasonable and necessary costs incurred by those required to move due to highway construction to the greatest extent possible. Replacement housing payments are intended to assist displaced residential persons in relocating to housing that is decent, safe, sanitary, and within their financial means.

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**III. In Accordance with 49 CFR Part 24****A. General Information****1. Effective Date**

The provisions for the changes of this Section of the ROW Manual shall be effective January 1, 2019.

**2. Applicability**

The provisions of this section of the ROW Manual are applicable to any person who is displaced by any state or federally assisted highway project or program.

**3. State-Wide Assurances**

Authorization will not be given to proceed with any state or federally-assisted highway project that will cause the relocation of any person unless it can be assured that:

- a. Relocation payments and services were or will be provided as set forth in the Uniform Act, 49 CFR Part 24;
- b. The public was or will be adequately informed of the relocation payments and service that will be available;
- c. To the greatest extent possible, no person lawfully occupying real property shall be required to move from his or her dwelling, or to move his or her business or farm operation, without at least 90-day written notice of the date by which such a move is required; and
- d. The State will take appropriate measures to carry out these regulations in a manner that minimizes fraud, waste, and mismanagement;
- e. Persons with disabilities (e.g., hearing or vision impairment, etc.) will be afforded an equal opportunity to participate in the benefits of our programs and services as required by Section 35.149 and Section 35.160, Title II of the Americans with Disabilities Act of 1990.

**4. Waiver of Regulations**

The FHWA (or the State where there are no federal funds involved in any portion of a project), may waive any provision in this section of the ROW Manual that is not required by law when it determines that the waiver does not reduce any assistance or protection available to an owner or displaced person. Any request for a waiver shall be justified on a case-by-case basis and submitted to the Central Office for further handling.

**5. Property Acquired as Required Contribution**

All rights of way acquired by any State agency, county, town or any other local governmental agency and to be furnished as a required contribution incidental to a State or federally-assisted highway project shall not be accepted unless all payments have been made and all the assistance and assurances have been provided as required in this section of the ROW Manual.

**6. Required Legal Residency Certifications**

- a. Each person seeking relocation payments or relocation advisory assistance must, as a condition of eligibility, complete and sign the Certification of Legal Residency or Business Status in the United States, Form [ROW-RA-29](#) or Form [ROW-RA-30](#). The

relocation agent should obtain this signed Certification prior to any relocation advisory services being provided or the computation of any relocation payments.

The displaced person must 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.
  - 3) The certification may be made by the head of the household on behalf of other family members.
  - 4) 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.
  - 5) 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 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 Highway Administration and, within those parameters, that of the Department.
  - 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 shall be computed for the unincorporated business, farm, or nonprofit organization based on the ratio of ownership between eligible and ineligible owners.
  - d. The Department shall consider the certification provided pursuant to the above to be valid, unless it is determined 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 of the certifications provided shall be conducted in a nondiscriminatory fashion. The same standard of review will apply to all such certifications, except that such standard may be revised periodically.
  - f. If, based on a review of an alien applicant's documentation or other credible evidence, there is reason to believe the 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 not lawfully be present in the United States, the following information shall be obtained before making a final determination.
    - 1) If there is 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, verification of the alien's status shall be obtained from the local Bureau of Citizenship and Immigration Service (BCIS). A list of local BCIS offices is available at <https://www.uscis.gov/about-us/find-uscis-office/field-offices>. Any request for BCIS verification shall include the alien's full name, date of birth, alien number, and a copy of the alien's documentation.

- 2) If there is reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, evidence of United States citizenship or nationality shall be requested from such person and, if considered necessary, the accuracy of such evidence shall be verified 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 not be lawfully in the United States, unless such person can demonstrate to the Department's satisfaction that the denial of relocation benefits 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 this section, "exceptional and extremely unusual hardship to such person's spouse, parent, or child" 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.
7. Refusal of Assistance

A displaced person can refuse relocation assistance advisory services and still be eligible for the payments described in this section of the ROW Manual. There is no requirement that this person accept the services if they want to relocate on their own. However, it would be necessary that the new location meet the decent, safe, and sanitary requirements and that the displaced person make application within the specified time limits to qualify for payments.
8. No Duplication in Payment

Relocation payments shall not be paid in any case where they have been already paid by another governmental agency, or, in condemnation cases as part of the final court award, and in any case where the Department determines payments have the same purpose and effect as such relocation payment.
9. Benefits Tax Free

No relocation payment received as described herein shall be considered as income for the purpose of the State Income Tax Law or the Internal Revenue Code of 1954, which has been re-designated 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 for Social Security benefits under the Social Security Act (42 U. S. Code et seq.) or any other Federal law, except for any Federal law providing low-income housing assistance.
10. Losses Due to Negligence

Losses due to negligence of the displaced person or his or her agent or employees are not reimbursable.
11. Withholding of Relocation Payments

Relocation payments may not be withheld from a displaced person to satisfy an obligation to any other creditor. The Department may deduct from relocation payments any rent that the displaced person owes to the Department, provided that no deduction shall be made if it would prevent the displaced person from obtaining comparable replacement housing as required under these regulations.

#### 12. Delivery of Payment Checks

No relocation payment shall be delivered in person to a displaced person by the person who computed such payment. This also applies to any agency performing relocation work for the State.

#### B. Definitions

As used in this section of the ROW Manual, the following words and terms shall have the following meanings unless the context clearly indicates another meaning or different intent:

Agency - the Federal agency, State, or State agency that acquires the real property or displaces a person.

Alien not lawfully present in the United States- an alien who is 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 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.

Appraisal - 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.

Business - any lawful activity, excepting a farm operation, conducted primarily:

1. For the purchase, sale, lease, and/or rental of personal and/or real property; or
2. For the for the manufacture, processing and/or marketing of products, commodities, and/or any other personal property; or
2. For the sale of services to the public; or
3. By a non-profit organization that has established its non-profit status under applicable Federal or State law; or
4. For the purpose of moving and related expenses, the erection and maintenance of an outdoor advertising display(s), whether it is located on the premise on which any of the above activities are conducted.

Citizen – for purposes of relocation assistance, includes both citizens of the United States and noncitizen nationals.

Comparable Replacement Dwelling – a dwelling that is

1. Decent, safe, and sanitary as defined in paragraph C of this section of the ROW Manual under *DS&S Housing*;
2. Functionally equivalent to the displacement dwelling so that it performs the same function and provides the same utility (For more information reference 49 CFR Part 24, Appendix A – Additional Information, 24.2(a) (6) (ii));
3. Fair housing, open to all persons regardless of race, color, religion, sex, or national origin, and consistent with the requirements of Title VIII of the Civil Rights Act of 1968;
4. In an area not generally less desirable than the acquired dwelling regarding public utilities and public and commercial facilities;
5. Reasonably accessible to the displaced person's place of employment;
6. In an equal or better neighborhood and not subject to unreasonably adverse environmental factors;
7. Currently available on the market to the displaced person; however, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance after displacement;
8. 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 garages, outbuildings, swimming pools, greenhouses or any other major exterior appurtenances;
9. 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 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described later in this section of the ROW Manual, all increased mortgage interest costs as described later, and all incidental expenses as described, plus any additional amount required to be 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 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 in the Replacement Housing sub-section of this section of the ROW Manual (Rental Assistance).
  - 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 VI. C. 3. Such rental assistance must be paid under Replacement Housing of Last Resort.
10. 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.
11. Adequate in size to accommodate the occupants.

Contributes Materially - during the two taxable years prior to the taxable year in which displacement occurs or during such other period as the State determines to be more equitable, a business or farm operation that:

1. Had average annual gross receipts of at least \$5000; or
2. Had average annual net earnings of at least \$1000; or
3. Contributed at least 33 1/3% of the owner's or operator's average annual gross income from all sources; and
4. If the application of the above criteria creates an inequity or hardship in any given case, the State may approve the use of other criteria as determined appropriate.

Displaced person - any person who moves his or her personal property from the real property, except as provided in the definition of "persons not displaced":

1. As a direct result of a written notice of intent to acquire or the initiation of negotiations for, or the acquisition of, such real property in whole or in part of a project.
2. As a direct result of rehabilitation or demolition for a project.
3. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation, or demolition of, other real property on which the person conducts a business or farm operation in whole or in part for a project.

(This includes occupants of real property prior to its acquisition, who do not meet the length of occupancy requirements of the Uniform Act).

However, eligibility as a displacee applies only for purposes of obtaining relocation assistance advisory services, as defined under Relocation Services in this section of the ROW Manual and moving expenses (actual or fixed moving expense for residential moves and actual moving expense for non-residential moves, all defined under Moving Payments in this section of the ROW Manual. No reestablishment expense).

Displacee (Relocatee) - any person who meets the definition of a displaced person.

Dwelling - 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.

Dwelling Site – a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (For more information reference 49 CFR Part 24, Appendix A – Additional Information, 24.2(a) (11).

Farm Operation - any activity conducted solely or primarily to produce 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.

Federal Financial Assistance - any Federal grant, loan, or contribution, except a Federal guarantee, Federal insurance, and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

Household Income –the 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 net income from a business. It does not include income received or earned by dependent children or full-time students less than 18 years of age. Household income is not considered income by Federal law for food stamps and the Women Infants and Children (WIC) program. For a detailed list of income exclusions see the FHWA's, Office of Real Estate Services Web site: <http://www.fhwa.dot.gov/realestate/>.

Initiation of Negotiations for the Tract - the delivery of the initial written offer of just compensation to the owner of the real property, or his or her representative, for the property to be acquired. Where a person moves after the Department issues a notice of intent to acquire real property, but before delivery of the initial written purchase offer, the "initiation of negotiations" is the date the person moves. For more information reference [49 CFR Part 24, Subpart A \(15\) \(iv\)](#).

Lead Agency - the Department of Transportation acting through the Federal Highway Administration.

Mobile Home –manufactured homes, and recreational vehicles used as residences.

Mortgage - classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under Alabama law together with the credit instruments, if any, secured thereby.

Non-Profit Organization - an organization that is incorporated under State law as a non-profit organization and exempt from paying Federal income taxes under SECTION 501 of the Internal Revenue Code (26 U.S.C. 501).

Notice of Intent to Acquire or Notice of Eligibility for Relocation Assistance - written notice furnished 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, that establishes eligibility for relocation benefits prior to the initiation of negotiation and/or prior to the commitment of Federal financial assistance.

Owner of Displacement Dwelling - an individual(s) who:

1. Owns legally or equitably the fee title, a land contract, a life estate, a 99-year lease, a lease with at least 50 years to run from the date of acquisition, or other proprietary interest in the property; or
2. Owns an interest in a cooperative housing project that includes the right to occupy a dwelling; or
3. Is the contract purchaser of any of the foregoing estates or interests; or
4. Owns any other interest, including a partial interest, which in the judgement of the Department warrants consideration as ownership.

Person – any individual, family, partnership, corporation, or association.

Persons Not Displaced – the following is a non-exclusive listing of persons who do not qualify as a displaced person under these regulations:

1. A person who moves before the initiation of negotiations;

2. A person who initially occupies the property after the date of its acquisition for the project;
3. A person who is not required to be relocated permanently as a direct result of a project. Such determination shall be made by the State in accordance with any guidelines established by the FHWA or the Federal agency funding the project;
4. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced from a project. Such written notification shall not be issued unless the person has not moved, and the State 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;
5. An owner-occupant who voluntarily conveys his or her property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the State will not acquire the property. In such cases, any resulting displacement of a tenant is subject to these regulations.
6. A person who retains the right of use and occupancy of the real property for life following its acquisition by the State;
7. A person who has occupied the property to obtain assistance under the Uniform Act;
8. A person who the Agency determines is not displaced as a direct result of a partial acquisition;
9. 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.
10. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits in accordance with definitions in Part B of this section.

Program or Project - 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.

Rental Replacement Housing Payment - the amount in addition to present rent that is necessary to enable a displaced person to lease or rent a comparable replacement dwelling.

Salvage Value - the probable sale price of an item if it is offered for sale to knowledgeable buyers with the requirement that it be removed from the property at the 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.

Small Business - a business having not more than 500 employees working at the site of economic activity being acquired or displaced by a program or project. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of Reestablishment Expenses.

State - the State of Alabama or any political subdivision thereof.

State Agency - any department, agency, or instrumentality of a state, a political subdivision of a state, or two or more states, or of two or more political subdivisions of a state or states with the authority to acquire property by eminent domain under State law.

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

Uneconomic Remnant - 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 acquiring Agency has determined has little or no value or utility to the owner.

Uniform Act - the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amendments thereto.

Unlawful Occupancy - a person who occupies a property without property right, title, or payment of rent or a person legally evicted, with no legal rights to occupy a property under State Law. The State, at its discretion, may consider such person to be in lawful occupancy.

Utility Costs - expenses for electricity, gas, other heating and cooking fuels, water, and sewer.

C. Standards for Decent, Safe and Sanitary Housing

1. A decent, safe and sanitary dwelling is one that meets the local housing and occupancy codes and similar ordinances or regulations, provided that all the minimum requirements below are met.
2. In those cases where such codes, ordinances, or regulations do not exist, or have items that are less restrictive, the following minimum requirements shall apply:
  - a. Has a continuing and adequate supply of potable, safe water (not required for rental of a sleeping room);
  - b. Has a kitchen, or an area set aside for kitchen use in a housekeeping dwelling, that contains a sink in good working condition, is connected to potable hot and cold water, and has an adequate sewage drainage system. The kitchen area or area set aside for kitchen use shall have utility service connections and adequate space for the installation of a stove and refrigerator, or a stove and a refrigerator in good operating condition when required by the local codes, ordinances, or custom (not required for rental of a sleeping room);
  - c. Contains a heating system capable of sustaining a healthful temperature (of approximately 70° F) for a displaced person;
  - d. Has a separate bathroom, well-lit and ventilated, that affords privacy to a person within it and contains a lavatory basin and a bathtub or shower stall properly connected to an adequate supply of hot and cold running water and a flush water closet, all in good working order and properly connected to a sewage drainage system. In the case of the rental of sleeping rooms, the bathroom, if separate from the sleeping room, must include a door that can be locked to provide privacy;
  - e. Has an adequate and safe electrical wiring system for lighting and other electrical devices. When the utility is not reasonably accessible and is not required by local codes, exceptions may be allowed upon approval by the Central Office;
  - f. Is structurally sound, weathertight, and in good repair;
  - g. Contains unobstructed egress to safe, open space at ground level;
  - h. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The State shall follow local housing

occupancy codes to determine the number of persons occupying each habitable room used for sleeping purposes and the requirements for separate bedrooms for children of opposite gender. In the absence of local housing occupancy codes, the following guidelines will govern the number of bedrooms required to accommodate displaced:

Generally, two people are expected to share each bedroom, except that:

- 1) It will not be necessary for adults of different generations or opposite sex, other than husband and wife, to occupy the same bedroom;
  - 2) Two children of opposite sex, if either one or both are six or older, will not be required to share a bedroom;
  - 3) An unborn child will not be counted as a person in determining the number of bedrooms. An infant, up to the age to two years, may share a bedroom with its parent(s);
  - 4) A single head of household parent shall not be required to share a bedroom with his/her child over the age of two years.
- i. For a displaced person with a disability, is free of barriers that would preclude reasonable ingress, egress, or use of the dwelling by a displaced person who is handicapped; (For more information reference Appendix A to Part 24, Section 24.2 (a) (8) (vii))
3. Standards of decent, safe and sanitary requirements may be waived for good cause by the Federal Highway Administration, or the State when there are no federal funds involved in any portion of a project.

#### D. Eligibility for Participation of Federal-Aid Funds

##### 1. Reimbursement Requirements

On any project where the use of Federal-aid Funds is anticipated in any phase of the project, including preliminary engineering, right of way, utilities, or construction, the services and payments described herein must be provided and all of the following conditions must be met if the State is to receive Federal aid in any phase of the project:

##### a. Program Approval and Authorization

There has been approval of a Federal-aid program or project, and an authorization to proceed has been issued. Costs incurred at the conceptual stage may be charged to either preliminary engineering or right of way.

##### b. Persons Relocated

A person has been or will be relocated by the project or from the right of way approved for such project. (See definition of "Displaced person" and "Persons not displaced").

##### c. Lawful Costs

Relocation costs are incurred in accordance with laws.

##### d. Costs Recorded as Liability

Relocation costs are recognized and recorded as a liability of the State in accounts of the Department.

##### e. Project Agreement Executed

The project agreement has been executed for the project involved.

##### 2. Property Interest Acquired

The type of interest acquired does not affect the eligibility for Federal participation in the relocation costs provided the interest acquired is enough to cause displacement. In like

manner, the terms under which a tenant is occupying the property do not affect the eligibility for Federal participation provided the tenant is displaced by the project and the occupancy is lawful.

3. Federal Share

- a. The costs of providing relocation payments and services required under 49 CFR 24 are eligible for Federal participation in the same manner and to the same extent as other project costs.
- b. Federal funds may not participate in any costs of a project, including preliminary engineering, right of way, relocation, and construction costs, unless prior to their displacement from a dwelling, comparable replacement dwellings were available or provided for the displaced individuals and their families in sufficient time for them to negotiate and enter into a purchase agreement or lease for the replacement property and the persons were assured of receiving relocation assistance and acquisition compensation to which they were entitled in sufficient time to complete the purchase or lease of the replacement property.

4. Indirect Costs

Indirect costs may be claimed under the provisions of OMB Circular A-87. Indirect costs may be included on Federal-aid billings after the indirect cost rate has been approved by FHWA.

5. Property Not Incorporated into Right of Way

If a relocation on a project in which Federal-aid funds are involved in right of way is made necessary by an acquisition for the project, even though the property acquired is not incorporated within the final right of way, Federal funds may participate in relocation payments. This includes any relocation required by transportation enhancement projects as set forth in [23CFR 710.511](#).

E. Organization Requirements

1. Relocation Officers

- a. The Relocation Officer in the Central Office has a primary responsibility for the administration of the State's relocation assistance program.
- b. Each Region/Area will appoint a Region/Area Relocation Officer to be responsible for the administration of the Region's relocation assistance program.

2. Responsibility Assigned on Project Basis

Each right of way project where relocation 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 it is reasonable.

3. Qualifications of the Relocation Agent

- a. Be twenty-one years of age or over and a graduate of an accredited four-year college or university, with a major in real estate, finance, accounting, business, building science, construction management, engineering, or a related field.
- b. Be able to communicate effectively.
- c. Have a working knowledge of highway construction plans and right of way maps, the ability to interpret and explain the relationship between the completed roadway

and the property that will remain after a portion has been purchased for right of way, and successfully completed the IRWA course, Principles of Land Acquisition.

- d. Have a basic knowledge of the Uniform Act acquisition regulations and successfully completed the IRWA course, The Uniform Act Summary.
- e. Have a basic knowledge of the Alabama Eminent Domain Laws and procedures and successfully completed the IRWA course, Principles of Real Estate Law.
- f. Have a basic understanding of appraisal methods and techniques and be able to discuss the elements of value with the property owner. In addition to successful completion of the Appraisal Institute courses, there must be a successful completion of Appraisal Principles and Appraisal Procedures or college level equivalent(s).

#### F. Relocation Contract Procedures

The State may enter into contracts with any individual, firm, association, or corporation to provide relocation services and/or payments to displaced persons. The procedures for contracting relocation services must conform to the Department's current consultant selection procedures.

#### G. Preliminary Project Relocation Analysis

1. A project will be in this stage until the final location is approved. The cost incurred in connection with securing the information required below is chargeable to either preliminary engineering or right of way. A Preliminary Project Relocation Analysis shall be developed by the Region/Area Relocation Officer for each alternate location and be submitted to the Right of Way Bureau prior to the corridor public hearing unless there is a draft environmental impact statement that contains the required information. A separate Preliminary Project Relocation Analysis Form [ROW-RA-1](#), described below, will be completed by the Region/Area Relocation Officer for each of the alternate routes. If a Preliminary Project Relocation Analysis is required, it will include the following information, which is the same as that suggested by FHWA Technical Advisory T-6640.8A. This information may be obtained by visual inspection of the area and from readily available secondary sources or community sources. (It is important to note that, at this stage, tenants on the project are not to be disturbed in any way.)
  - a. 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 in the EIS (Environmental Impact Study) to protect the privacy of those affected.
  - b. 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 and rental rates, (2) sizes (number of bedrooms), and (3) occupancy status (owner/tenant).
  - c. A discussion of any affected neighborhoods, public facilities, non-profit organizations, and families having special composition (e.g. ethnic, minority, elderly, handicapped, or other factors) that may require special relocation considerations and a discussion of the measures proposed to resolve these relocation concerns.
  - d. 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 may not be available.

- e. An estimate of the numbers, descriptions, types of occupancy (owner/tenant), and sizes (number of employees) of businesses, farms, and non-profit organizations to be displaced. Additionally, the discussion should identify:
    - 1) sites available in the area to which the affected businesses may relocate,
    - 2) the likelihood of such relocation, and
    - 3) the potential impacts on individual businesses and farms caused by the displacement or proximity of the proposed highway if not displaced.
  - f. 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. The contacts are encouraged for projects with large numbers of relocatees or complex relocation requirements. Specific financial and incentive programs or opportunities (beyond those provided by the Uniform Relocation Act) to residential and business relocatees, to minimize impacts, may be identified, if available through other agencies or organizations.
  - g. A statement that:
    - 1) 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
    - 2) relocation resources are available to all residential and business relocatees without discrimination.
2. The basis upon which the above findings were made shall be submitted prior to the corridor public hearing in letter form by the Region to the ROW Bureau with the original and one copy of the forms attached, with one copy being retained for the Region Office files. The original Form [ROW-RA-1](#) will be retained in the ROW Bureau Project File and copies will be forwarded to the Location Section of the Design Bureau and the Office Engineer.

#### H. Relocation Program at Right of Way Stage

1. After the final location of a project has been approved and *prior to the time of the Design Public Hearing*, the Region will submit a relocation plan as described in paragraphs 2, 3 and 4 below to the ROW Bureau for approval. Under no circumstances shall any negotiations concerning the relocation of any persons on a project commence prior to the approval of the relocation plan.
2. The Region/Area Relocation Officer shall develop an inventory of characteristics and needs of the individuals and families to be displaced based on a complete occupancy survey by completing Forms [ROW-RA-3](#) for each relocatee. The ROW-RA-3 forms will then be summarized on Form [ROW-RA-2](#), Section I.
3. The Region/Area Relocation Officer shall also develop a reliable estimate of currently available comparable replacement housing, utilizing Forms ROW-RA-2, Section II. ROW-RA-2, Section III, shall include all business inventory data, and Section IV shall address the Region/Area's present workload and ability to meet the needed relocation services as well as the personnel who will do so. This shall be accompanied by a written analysis as described in 4 below, which shall set forth the type of buildings, number of rooms, adequacy of such housing as related to the needs of the persons or families to be relocated based on decent, safe, and sanitary standards contained in this section of

the ROW Manual, type of neighborhood, proximity of public transportation and commercial shopping areas, and distance to any pertinent social institutions, such as church, community facilities, etc. The use of maps, plats, charts, etc. should be considered at this stage. This analysis will be developed by the Region/Area to the extent necessary to assure that the relocation plan can be expeditiously and fully implemented.

4. The Region/Area Relocation Officer shall prepare an analysis and correlation of the above information and submit same in letter form along with the original and one copy of forms ROW-RA-2, ROW-RA-3, and [ROW-RA-3A](#) to the ROW Bureau. One copy of each should be retained for the Region/Area Office files.

This analysis and correlation should be prepared to develop a relocation plan, that will:

- a. Outline the various relocation problems;
  - b. If the replacement housing inventory is not an adequate supply to meet the demand caused by the project, provide an additional 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 expanded analysis of the problems involved and the method of operation to resolve such problems and relocate the relocates in order to provide maximum assistance if the replacement housing inventory is not an adequate supply to meet the demand caused by the project; and;
  - d. Estimate the amount of lead-time required, demonstrate its adequacy to carry out a timely, orderly, and humane relocation program, and include these on ROW-RA-2, IV, A.
- I. Relocation Program at Construction Stage
    1. The right of way shall not be cleared of any residential unit, except through owner retention, or in cases of immediate removal which would be in the public interest (such as dilapidated or extremely low value residences), without prior authorization from the ROW Bureau and the Federal Highway Administration, where applicable.
    2. To obtain construction authorization, the Region/Area must prepare a Relocation Assistance Certificate, Form [ROW-RA-28](#), and submit the original and one copy to the ROW Bureau. This form should be completed when all the tracts on a project have been acquired, when all the condemnation petitions have been filed covering all the unacquired tracts, or when requested by the ROW Bureau and must include, for all displacees remaining on the right of way:
      - a. The tract number;
      - b. The name of the displacee;
      - c. The address of the house the displacee intends to move to or the address of the available replacement housing that has been offered to the displacee;
      - d. The date the displacee is expected to be relocated or, in the case of a business, the date it expects to terminate its business; and
      - e. The date the 30-day or 90-day notice expires.

3. The Region/Area shall verify the fact that replacement housing is in place and has been made available to displaced persons prior to authorizing advertisement for physical construction bids. The verification will be accomplished by spot check field reviews to the depth necessary to provide sufficient evidence that the required replacement housing is in place and has been made available.
4. A comparable replacement dwelling will be considered to have been "made available" to a person if:
  - a. The person is informed of its location;
  - b. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
  - c. The person is assured of receiving the relocation assistance and acquisition compensation, subject to reasonable safeguards, to which the person is entitled in sufficient time to complete the purchase or lease of the property.
5. The Federal Highway Administration or the State shall not authorize advertisement for physical construction bids unless all the applicable provisions of 49 CFR 24 have been complied with.

#### J. Relocation Records

##### 1. General

The Region/Area shall prepare and submit to the ROW Bureau Relocation records utilizing the following:

##### a. Negotiator's Report (Form [ROW-RA-10](#))

- 1) The Negotiator's Report (Form [ROW-RA-10](#)) shall be prepared in triplicate for each owner, with one copy each going to the negotiator and Region/Area Office files and the original going to the ROW Bureau. It should not be prepared in the presence of the owner or occupant. The Negotiator's report should include the maximum amount of any replacement housing offer made, whether the replacement housing offer was accepted or rejected, and comments on the discussion of the relocation assistance program.
- 2) The replacement housing offer to an owner-occupant shall be made simultaneously with the acquisition offer for the real estate.
- 3) The replacement housing offer to a tenant shall be made as soon as feasible, but not to exceed fifteen (15) days, after the initiation of negotiations for the tract, but, in no case, shall it be made prior to initiation of a negotiation for the tract.
- 4) The original of this form shall be submitted to the ROW Bureau with the executed agreement and the invoice for payment on the negotiated tracts and with the invoice for payment to the Probate Court on condemned tracts.

##### b. Relocation Assistance Contact Report

Form [ROW-RA-11](#) shall be prepared in duplicate for each relocatee with one (1) copy for the Region/Area Office files and the original for the ROW Bureau. It should not be prepared in the presence of the relocatee. The substance of each contact with the relocatee including personal contacts, telephone calls, written inquiries, mailing of checks, etc.; shall be included on the form.

The relocation agent shall include in their contact record the specific relocation benefits that the relocatee is eligible for and that these benefits were discussed with the relocatee. If each benefit the relocatee is eligible for is not listed as being

discussed in the relocation contact record, then it will be assumed that the discussion did not take place.

This form shall always be kept current in CPMS and the Region/Area files. The original is to be signed by the relocation agent and forwarded to the ROW Bureau once all the activity regarding the relocation is complete.

## 2. Project and Tract

The ROW Bureau shall maintain the following information from the reports and forms submitted by the Region/Area Office and post the needed information to the Project Relocation Inventory Records (Form ROW-RA-P) and Tract Relocation Inventory Records (Form ROW-RA-T).

- a. State and Federal project and tract identification;
- b. Names and addresses of displaced persons and their new addresses and telephone numbers (if available after reasonable effort to obtain where relocatee moved without assistance);
- c. Personal contacts made with each relocated person including the following information for each relocated person:
  - 1) Date of notification of availability of relocation payments and services;
  - 2) Name of the official offering or providing the relocation assistance;
  - 3) Whether the offer of assistance in locating or obtaining the replacement housing was declined or accepted and the name of the individual accepting or declining the offer;
  - 4) Dates and substance of subsequent follow-up contacts;
  - 5) Date on which actual relocation occurred and whether relocation was accomplished with the assistance of the State agency, referral to other agencies or without assistance. If the latter, an approximate date for actual relocation is acceptable; and
  - 6) Type of occupancy before and after relocation.
- d. For displacements from dwelling:
  - 1) Number in the family;
  - 2) Type of property (single detached, multi-family, etc.);
  - 3) Value or monthly rent;
  - 4) Number of rooms occupied
- e. For relocated businesses:
  - 1) Type of business;
  - 2) Whether continued or terminated; and
  - 3) If relocated, distance moved (estimate acceptable).
- f. For relocated farms:
  - 1) Whether continued or terminated; and
  - 2) If relocated, distance moved (estimate acceptable)

## 3. Moving Expense Records

- a. The Region/Area shall prepare and submit to the ROW Bureau on the appropriate forms the following information regarding moving expense payments:
  - 1) The date the removal of the 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 costs incurred supported by receipted bills or other evidence of expense;
  - 5) Amount of reimbursement claimed, amount allowed, and an explanation of any the differences;
  - 6) When an in-lieu payment is made to a business, supporting 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 more than three other entities which are not being acquired by the State or the United States;
  - 7) When an in-lieu payment is made to a business, farm operation, or non-profit organization, data showing how the payment was computed; and
  - 8) When residential moving expense payments are made in accordance with the fixed schedule, the data called for in (3) and (4) above need not be maintained. Instead, records showing the basis on which payment was made shall be maintained.
- b. Copies of the forms on which this information is submitted shall be maintained by the Region/Area.
4. Replacement Housing Payment & Rental Replacement Housing Payment
- a. The Region/Area shall prepare and submit to the ROW Bureau on the appropriate forms the following information regarding replacement housing payments:
- 1) The date on which each application for payment was received;
  - 2) The date on which each payment was made, or the application was 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 when replacement housing is purchased;
  - 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 the replacement housing payment shall place in the file a signed and dated statement setting forth:
    - a) The amount of the replacement housing payment;
    - b) His or her understanding that the determined amount is to be used in connection with a highway project; and
    - c) That he or she has no direct or indirect, present or contemplated, personal interest in this transaction and will not derive any benefit from the replacement housing payment.
  - 7) A statement by the Region/Area Relocation Officer that, in his or her opinion, the relocated person has been relocated into decent, safe, and sanitary replacement housing.
- b. Copies of the form on which this information is submitted shall be maintained by the Region/Area.
5. Records Available for Inspection
- a. On projects with Federal-Aid funds in any phase of the project, the relocation records must be available at reasonable hours for inspection by representatives of the

Federal Government who have an interest or responsibility in the matters relative thereto in both the ROW Bureau and the Region/Area.

- b. The relocation records on all highway projects must be available for inspection in the Region/Areas by representatives of the ROW Bureau. Such inspections shall be made periodically by representatives from the ROW Bureau.
- c. Relocation records shall be retained at least 3 years after either (1) the date the State receives Federal reimbursement of the final payment made to each person displaced from a property, or (2) the date a credit toward the Federal share of a project is approved base on early acquisition activities.

6. Confidentiality of Records

Records maintained by the State in accordance with the regulations set forth in this section of the ROW Manual are confidential regarding their use as public information, unless an applicable law provides otherwise.

K. Reports

1. Report on Federal Aid Projects

The ROW Bureau is responsible for submitting a "Uniform Relocation Assistance and Real Property Acquisition Statistical Report" as required or requested by the Federal Highway Administration.

2. Reporting to Management

The ROW Bureau shall also maintain the following information to keep management advised as to the status of relocation of relocatees:

- a. The total number of persons to be relocated on the project initially (reported by individuals, families, businesses, farms and non-profit organizations); and
- b. The total number of displaced persons remaining to be relocated (reported by individuals, families, businesses, farms and non-profit organizations).

## IV. Relocation Services

A. Relocation Assistance Advisory Services

1. General

The Relocation Assistance Advisory Services program is designed to provide uniform and consistent services and payments regardless of race, color, religion, sex, or national origin (except illegal aliens as explained in other parts of this section of the ROW Manual) to persons required to relocate because of highway projects. It is intended as a minimum to assist persons in relocating to decent, safe, and sanitary housing that meets their needs. It is important that Region/Area personnel do more than the minimum as needed in any given situation. These services shall be provided by personal contact. If such personal contact cannot be made, the Region/Area shall provide documentation for the ROW Bureau file to show that reasonable efforts were made to achieve the personal contact.

2. Recipients

Relocation assistance advisory services shall be offered as soon as feasible to:

- a. Any "displaced person" as defined in III. B., Relocation Assistance, General, Definitions, Paragraph B.;

- b. All persons occupying the property immediately adjacent to the real property acquired when it is determined by the Region/Area Relocation Officer that such person or persons are caused substantial economic injury because of the acquisition;
    - c. All persons who, because of the acquisition of real property used for a business or farm operation, move from other real property used for a dwelling or move their personal property from such other real property.
    - d. Any person who occupies property acquired by an Agency shall be eligible for advisory services when such occupancy began after the acquisition of the property and when 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, as determined by the Agency.
3. Availability of comparable replacement dwelling before displacement  
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. Where possible, three or more comparable replacement dwellings shall be made available. "Made available" to a person means:
  - a. The person is informed of its location;
  - b. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
  - c. The person is assured of receiving the relocation assistance and acquisition compensation, subject to reasonable safeguards, to which the person is entitled in sufficient time to complete the purchase or lease of the property.
4. Circumstances Permitting Waiver  
The FHWA or the State, where there are no federal or state funds involved in any portion of a project, may grant a waiver of the policy in paragraph (3) above in any case where it is demonstrated that a person must move because of a major disaster, a presidentially declared national emergency, or any other emergency that required immediate vacation of the real property to eliminate the danger to the health or safety of the occupants or the public.
5. Minimum Advisory Service Requirements
  - a. The relocation assistance advisory service program in each Region/Area shall include, as a minimum, such measures, facilities, or services as may be necessary or appropriate to:
    - 1) Discuss and explain the services available, the relocation payments, and the eligibility requirements set forth here and assist in completing any applications or other forms required.
    - 2) 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 the displaced business owners and operators should include the following items:

- a) The business's replacement site requirements, current lease terms, other contractual obligations, and the financial capacity of the business to accomplish the move.
  - b) A Determination of the need for an outside specialist who will be required to assist in planning the move, in the actual move, and in the reinstallation of machinery and/or other personal property.
  - c) For businesses, an identification and resolution of personal property/realty issues. Every effort must be made to identify and resolve personal property/realty 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.
- 3) 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.
  - 4) 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 location.
  - 5) Minimize hardships to persons 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.
  - 6) Supply information concerning Federal and State housing programs, disaster loan programs, other programs administered by the Small Business Administration, and other Federal or State programs offering assistance to persons to be displaced.
  - 7) 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 payment and the basis for the determination to make the displaced person aware of the amount of the replacement housing payment to which he or she may be entitled.
  - 8) Inspect housing prior to it being made available, where feasible, to assure that it meets the 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.
  - 9) Provide, whenever possible, reasonable opportunities to minority persons 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 does not require the State to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.
  - 10) Offer, to all displaced persons, especially the elderly and disabled, transportation to inspect the housing to which they are referred (this is required).
  - 11) Advise displaced persons that no payments received under the Uniform Act shall be considered as income for the purpose of the State Income Tax Law or the Federal Tax Law or for the purpose of determining the eligibility or the extent of

- eligibility of any person for any public assistance under the Social Security Act or any other Federal law.
- 12) Provide other advisory services to displaced persons to minimize hardships to such persons in adjusting to a new location.
  - 13) Take necessary steps in any instances where a person being displaced has a disability (e.g. hearing or vision impairment, etc.) and he/she does not have a representative, to afford the displacee an equal opportunity to participate in and enjoy the benefits of programs and services as required by Section 35.149 and Section 35.160, Title II of the Americans with Disabilities Act of 1990.
  - 14) Advise any displaced person that may be eligible for government housing assistance at the replacement dwelling of any requirements of such government housing assistance program that would limit the size of the replacement dwelling as well as of the long-term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.
- b. The amount of the advisory services and extent shall be administered on a reasonable basis commensurate with the relocatee's needs.
4. Coordination of Relocation Activities  
The Region/Area Relocation Officer shall contact other Federal, State, and local governmental agencies to determine the extent of present and proposed actions that will affect the Region/Area's relocation program and the availability of housing resources. Where other agencies are involved, the Region/Area Relocation Officer shall take positive action to assure the maximum coordination of relocation services and ensure that, to the extent feasible, the persons displaced receive consistent treatment and that the duplication of functions is minimized.
  5. Contact with and Exchange of Information with Other Agencies
    - a. Region/Area relocation personnel shall maintain personal contact with and shall exchange information with other agencies providing services useful to persons who will be relocated.
    - b. Such agencies may include but not be limited to social welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Department of Housing and Urban Development, the Veterans Administration, and the Small Business Administration.
    - c. 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.
    - d. Contact shall be maintained with the Department of Housing and Urban Development and Veterans Administration relative to the properties owned by them that may be available for sale.
    - e. Relocation assistance programs will be coordinated with the local agencies responsible for administering the above and other Federal programs.
  6. Administration of Jointly-Funded Projects  
Whenever a Federal-aid highway project and another Federally-funded project, such as an urban renewal project funded by HUD, are functionally or geographically related and these projects will result in the acquisition of property or the displacement of people, the FHWA Region Office shall be requested to contact the other Federal agency involved

so that an agreement may be reached to designate one of the agencies as the cognizant Federal agency as set forth in [49 CFR 24.6](#).

#### B. Local Relocation Office

1. A local relocation office shall be established that is reasonably convenient to public transportation or within walking distance of each project when it is determined by the Region/Area that the volume of work or the needs of the displaced persons are such as to justify the establishment of such an office. The Region/Area must submit its recommendation on whether to establish a local relocation office on an individual project basis to the ROW Bureau as a part of the study required by Section III, Paragraph H., Relocation Assistance, General, Right of Way Stage (page-18 of this manual section). This recommendation will be submitted to the ROW Bureau for approval or disapproval. Local relocation offices shall be open during hours that are convenient to the persons to be relocated, including evening hours when necessary. Consideration should be given to the utilization of personnel in the local relocation office who are familiar with the problems of the area.

#### 2. Information to be maintained on a Project Basis

The following shall be maintained and/or provided for the displacees of each project:

- a. Current and continuing lists of replacement dwellings available to persons without regard for race, color, religion, sex, or national origin drawn from various sources and suitable in price, size, and condition for displaced persons to the extent they are available;
- b. Current and continuing lists of comparable commercial properties and locations for displaced businesses;
- c. Current data for such costs as security deposits, closing costs, typical down payments, interest rates, and terms;
- d. Maps showing the location of schools, parks, playgrounds, shopping, and public transportation routes in the area where applicable;
- e. Schedules and costs of public transportation where applicable;
- f. Copies of the Relocation Assistance Brochure explaining the State's relocation program, local ordinances pertaining to housing, building codes, open housing, consumer education literature on housing, shelter costs, and family budgeting;
- g. Subscriptions for apartment directory services, neighborhood metropolitan newspapers, etc. In addition, multiple listing services shall be maintained where they are available; and
- h. Other important information of value to displacees in the area.

#### C. Public Information

##### 1. General Requirements

To ensure the public has adequate knowledge of the relocation program, the Region shall present information and provide the opportunity for discussion of relocation services and payments at public hearings, make available to all interested persons copies of the Relocation Assistance Brochure, and give full and adequate public notice of the relocation assistance program.

##### 2. Brochure

Distribution of the Relocation Assistance Brochure shall be made without cost at public hearings and to other appropriate individuals and organizations.

### 3. Public Hearings

The requirements for holding public hearings are contained in the Department's Public Involvement Procedures. The Region/Area Right of Way personnel will make available all the necessary information on acquisition and relocation assistance including the following:

- a. The availability of relocation assistance and services;
- b. The Relocation Assistance Brochure, briefly highlighting the items it contains, including eligibility requirements and payment procedures;
- c. The estimated number of individuals, families, businesses, farms, and non-profit organizations that are to be relocated by each of the alternatives, if applicable, under consideration at the hearing. (This information may be taken from the Region/Area Office file copies of the Form [ROW-RA-1](#) previously prepared for the project).
- d. The studies that have been or will be made including the Preliminary Project Relocation Analysis, Form ROW-RA-1, the Project Relocation Analysis, Form [ROW-RA-2](#), and the Relocation Inventory, Forms [ROW-RA-3](#) and [ROW-RA-3A](#), which will be made on the final location of the project, and the methods that will be followed to assure that the housing needs of the relocatees will be met.

### D. Written Notices

The following written notices must be furnished to each displaced person, business, farm, or non-profit organization by the negotiator or Region/Area Relocation Officer to ensure that the displacee is fully informed of the benefits and services available.

#### 1. Relocation Information Letter and Brochure

As soon as feasible, the Region/Area will mail all persons scheduled to be displaced on a project the "Relocation Information Letter" along with the relocation brochure. This form letter" can be found in the downloads of the Right of Way website, Form [ROW-RA-34](#). It is recommended that this letter and brochure be mailed to displacees at the time the appraiser(s) are assigned to the project. This letter along with the brochure includes the following information:

- a. Informs the displaced 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).
- b. Informs the displaced person that he or she will be given reasonable relocation advisory services, including referrals to the replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.
- c. Informs the displaced person that he or she will not be required to move without at least 90 days' advance written notice 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.
- d. Describes the displaced person's right to appeal the Department's determination as to a person's eligibility for application for relocation assistance.
- e. Informs the 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. (See Section III.A.6. for certification of legal residency/business status procedures.)

2. Notice of Eligibility for Relocation Assistance

- a. Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire, the initiation of negotiation, or the actual acquisition, whichever occurs first. When this occurs, the department shall promptly notify all the occupants in writing of their eligibility for applicable relocation assistance.
- b. Each displacee must be given the appropriate Notice of Eligibility for Relocation Assistance. There are various versions of the ROW-RA-9 ([location of forms](#)), that are used for this purpose. They are for residential owner-occupants and tenants and businesses, copies of which are included in the Downloads (Relocation Assistance). For residential displacees, the notice specifies the maximum amount to which the displacee is entitled for payment on the purchase, down payment, or rental for a replacement dwelling, the location of the available comparable properties, and the price or rent used as the basis for establishing the amount of the payment. To provide contact information, the name and telephone number of the Relocation Agent must be on the notice.
- c. This notice also serves as the 90-day notice to vacate. It states that the displacee will not be required to move from a dwelling or to move his or her business, farm, or non-profit organization before 90 days from the date of the notice, or the date comparable replacement housing is made available, whichever is later. Such a notice must inform the displacee that he or she will be given a 30-day notice specifying the date by which the property must be vacated.
- d. In unusual circumstances that requires urgent need, an occupant may be required to vacate the displacement property in less than 90 days advance written notice if its determined that the 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.
- e. Both the Relocation Assistance Brochure and the Notice of Eligibility for Relocation Assistance (Forms ROW-RA-9) must be given to owner-occupants at the initiation of the negotiations for the acquisition of the property. In the case of tenant-occupants, the brochure and eligibility notice must be given as soon as feasible but not to exceed 15 days after the initiation of negotiations for the tract.

3. 30-Day Notice

- a. At such time as the State has the right of legal possession of the property, when the tract is closed, if negotiated, or when the money is paid into court, if condemned, the Region shall furnish each displaced person a 30-day written, second notice specifying the date by which the property must be vacated. This notice must advise the relocatee that in no case will he or she be required to vacate the property prior to the expiration of the original 90-day notice of the intended vacation date or the date comparable replacement housing was made available, whichever is later. Form ROW-RA-21 will be used for this purpose. The Right of Way agent must not issue this 30-day notice unless comparable replacement housing has been made available.
- b. The brochure, Form ROW-RA-9, and the 30-Day Notice must be personally served or sent by certified or registered first-class mail with a return receipt requested and documented in the Region/Area files. Each notice must be written in plain,

understandable language. Persons who are unable to read and understand the notice must be provided with the appropriate translation and counseling. Each notice must indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

- c. If the displaced person has vacated the property prior to the issuance of the 30-day notice to vacate, the relocation agent will need to prepare a memo to file explaining that the 30-day written notice to vacate was not necessary to be served or sent due to the property already being vacant.
4. Notice of Intent to Acquire
    - a. The Notice of Intent to Acquire is a written communication provided to the property owner and person being 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. This sets forth the department's intent to acquire the property and establishes the eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment for Federal financial assistance.
    - b. When replacement rental properties are scarce, and/or a project is scheduled for an early letting, it may be beneficial to both the State and the displacee for the State to issue a "Notice of Intent to Acquire" to the property owner prior to the approval of the acquisition offer so that relocation assistance contacts may begin with the tenants.
    - c. Should the tenants relocate before the property is acquired, the State may lease the property from the owner from the time the property is vacated until it is acquired by the State. This will compensate the owner for any loss of rent and will prevent subsequent occupants.
    - d. The amount of rent to be paid shall be determined by the ROW Bureau with the consultation and recommendation of Region/Area personnel. Such rental payments are to be charged to acquisition.
    - e. A short rental period is usually anticipated. To prevent overpayment and minimize administrative costs, an attempt should be made to make the rental payment in a lump sum as soon as possible after the acquisition has been completed. However, should the owner desire, payments may be made on a monthly basis. Any overpayments must be reclaimed by the State.
    - f. A sample lease for use with this procedure is found in the Downloads (Property Management), Lease Form [PM-5B](#). The lease may be revised as needed to fit the particular circumstances; however, all leases for this purpose should be routed through the ROW Bureau for review by the Legal Bureau prior to having them executed.
    - g. This procedure may also be used to prevent subsequent occupancy in other cases where the offer has been made and the tenant relocates prior to the completion of the acquisition.
  5. 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;

- 2) The person is evicted after the initiation of negotiation for serious or repeated violation of material terms of the lease or occupancy agreement;
                - 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.
6. No Waiver of Relocation Assistance  
The State shall not propose or request that a displaced person waive their rights or entitlements to relocation assistance and benefits.
7. Notice of Denial of Claim  
If the State disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, the State shall promptly notify the claimant in writing of its determination, the basis for the determination and procedures for appealing that determination.
- E. Relocation Appeal Procedures
1. Notification of Denial of Claim and Right to Appeal
    - a. An applicant for a relocation payment shall be notified promptly in writing concerning his or her eligibility for the payment claimed, the amount, if any, he or she is entitled to receive and the time and manner in which such payment will be made.
    - b. If the State 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.
  2. Actions which may be appealed  
A "displaced" person may file a written appeal with the State in any case in which the person believes that the State has failed to properly determine the person's eligibility for or the amount of incidental expenses on transfer of real property (49 CFR 24.106 Subpart "B"), litigation expenses of an owner of real property (49 CFR 24.107 Subpart "B") or a relocation payment required under the regulations in this section of the ROW Manual.
  3. Time Limit for Filing Appeal  
The time limit for filing an appeal is 60 days from the date the person received written notification of the State's determination on the person's eligibility or amount of payment or claim.
  4. Furnishing of Appeal Form and Appeal Procedures  
The State will consider a written appeal regardless of form. However, appeal Form [ROW-RA-25](#) and the two-page Appeal procedures (Form [ROW-RA-25A](#)) will be made available to any person desiring to file an appeal from a determination made as to the persons eligibility or the amount of any type payment listed in 2. above. The appeal shall

set forth the facts and reasons why the person believes he or she is eligible, if ruled ineligible, or why the person believes he or she should receive a payment or a greater payment. Any pertinent documents and information should be attached to the appeal and mailed or delivered to the Region Engineer in the appellant's area. The Region Engineer should promptly forward the relocation appeal along with any supporting information to the State Right of Way Bureau Chief.

5. Field Check to be made

When appropriate on residential displacements, a field check will then be made of the property being acquired and the comparable replacement properties used in computing the additive payment and a photograph of each of such comparable properties shall be made to assist in a better review and comparison, and aid in reaching a decision on the appeal. In case an appellant is agreeable to the payment offer for replacement housing but has occupied a replacement dwelling, which does not meet the standards for decent, safe and sanitary housing, then photographs will also be made of such dwelling. Field checks will also be made for businesses, non-profit organizations, and farms when appropriate and photographs taken to assist in the review.

6. Appeal File

A brief of the tract file regarding the appellant shall be prepared in the ROW Bureau and include a resume of the facts, photographs, if any, and the appeal by the appellant. The appellant may inspect and copy all materials pertinent to his or her appeal except those classified as confidential by the State and consistent with applicable laws.

7. Lower Echelon Review

Prior to presenting an appeal to the Relocation Appeals Board, the Right of Way Bureau Chief shall make a personal review of the case to determine if any further study, action or re-evaluation should be made in an attempt to resolve the appeal. The action taken, or decision reached by the Right of Way Bureau Chief, in resolving or attempting to resolve an appeal at this lower echelon must be documented in the tract file. This lower echelon review and attempt to resolve an appeal is intended to minimize the number of appeals presented to the Relocation Appeals Board and to expedite payment to an eligible occupant. When such an appeal is not resolved at this stage, it shall be presented to the Relocation Appeals Board.

8. Relocation Appeals Board

The Relocation Appeals Board shall consist of a minimum of three persons approved and appointed by the Transportation Director. No person involved in the processing or determining of relocation assistance benefits shall be a member of said Board. The Director shall appoint one of the members to serve as Chairperson of the Board. The Chairperson shall preside over the meetings and hearings of the Board. In the absence of the chairperson, a member of the Board shall act in his or her stead. A majority of the Board in attendance at a meeting or hearing shall constitute a quorum for the transaction of business.

9. Written Notice of Hearing

The State Right of Way Bureau Chief shall notify an appellant in writing by certified mail, return receipt requested, approximately two weeks in advance of the date his or her

case is set for hearing. Copies of the written notice shall also be furnished members of the Appeals Board and the appropriate Region Engineer. The written notice of the hearing shall advise of the place, date and time the case is set; the procedure in which the case will be handled; and an invitation to the appellant, his or her legal counsel and/or his or her representative to appear before the Appeals Board if they so desire. Upon written request from the appellant, his or her legal counsel and/or representative, giving sufficient reason, the Board may delay the hearing of a case. In case there are several appeals in one area of the state or when the Board deems it advisable, the hearing of the Board may be held in that area of the state to minimize the expenses of attendance by the appellants. Legal counsel and/or representatives will be solely at the appellant's own expense.

#### 10. Hearing Attendance and Procedures

- a. Those to attend an Appeals Board hearing should be the appellant, his or her legal counsel, and/or his or her representative if they so desire; the representative of the Transportation Department who made the personal field check of the case; the appropriate Region/Area Relocation Officer or his or her representative, if necessary, the State Relocation Officer; a representative of the Federal Highway Administration if they so desire; a secretary to take notes of the hearing; and any other person or persons deemed appropriate. The secretary of the Board should make a tape recording of each case heard. After the Chairperson of the Board calls the meeting to order, he or she should present the procedures of the hearing. All persons to offer testimony in a case should be sworn in as witnesses. The appellant should first present testimony in the case and then the Transportation Department, with each being given the opportunity for rebuttal.
- b. After hearing the case, the Chairperson should advise the appellant that the Board will make its recommendation of the disposition of the case to the Transportation Director and that his or her decision should be made promptly. The Chairperson is to advise the appellant of his or her right to seek judicial review if the full relief requested is not granted by the Transportation Director.

#### 11. Recommendation by Board

After an appeal case has been heard, the Chairperson of the Appeals Board shall promptly make a report in writing, to the Transportation Director setting forth the Board's findings from the facts presented and their recommendation for disposition of the case.

#### 12. Decision by Transportation Director

Upon a prompt decision by the Transportation Director, he or she will notify the Chairperson of the Appeals Board in writing of the action to be taken to dispose of the case. Copies of these memoranda shall be considered confidential matters between the Appeals Board and the Transportation Director until the determination has been received by the Chairperson of the Appeals Board.

#### 13. Notice of Action to Appellant

The Chairperson of the Appeals Board shall promptly notify the appellant in writing via certified mail, return receipt requested, of the Transportation Director's decision. The notice should include a full explanation concerning any amount claimed which has been disallowed. In cases where additional compensation has been determined to be due the

appellant as a result of the appeal, the letter to the appellant shall include a statement advising that he or she must meet all eligibility requirements and regulations, if he or she has not already done so, in order to qualify for the additional compensation determined. A copy of such letter shall be sent the Right of Way Bureau Chief, and the appropriate Region Engineer.

14. Filing of Invoice by Appellant

Upon the Region Engineer receiving a copy of the letter setting forth the additional compensation due an appellant, he or she will obtain from the appellant an executed invoice form in the amount of compensation due provided the appellant has met all eligibility requirements for the payment. Said invoice along with any required documentation of eligibility is to be submitted to the Central Office for further handling and processing.

15. Appeal Case Records

All documents pertaining to and in support of an appeal case, including the written summary of the case, will be furnished the Right of Way Bureau Chief to be maintained for the period of time required by law. Upon written request from an appellant, a copy of the summary of the case will be furnished him or her.

F. Civil Rights

1. Affirmative action shall be taken by Region/Area relocation to ensure that replacement housing resources used are, in fact, open housing to all races and sexes without discrimination.
2. Region/Area relocation personnel, on the first visit made with a displaced person to provide relocation assistance advisory services, must provide the displaced person with the Relocation Assistance Brochure. At this time, the applicable portions of the brochure should be explained to the displaced person. If it is found during this explanation that the individual is illiterate, then a more detailed explanation is required. When the displaced person is a member of a minority, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Title VII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) should be emphasized and fully explained.
3. Relocation personnel must be familiar with the HUD pamphlet "Fair Housing USA" which has been distributed to them. They should inform displaced persons that Title VIII makes discrimination based on race, color, religion, sex or national origin illegal in connection with the sale or rental of most housing and any vacant land offered for residential construction or use. When an alleged violation occurs, relocation personnel should aid the displacee in either resolving the problem or filing a complaint to HUD, to the U.S. District Court, or State or local court as outlined in the HUD pamphlet. The same procedure applies for alleged discrimination in connection with obtaining a mortgage.
4. Displacees shall be informed by relocation personnel of their fair housing rights and options in selecting replacement housing in areas of their choice and the available assistance in ensuring that their fair housing rights will be protected in accordance with Title VIII of the Civil Rights Act of 1968 and the HUD Amendment Act of 1974.

5. To the extent possible, displacees shall be assisted in ensuring against discriminatory practices in the purchase and rental of residential units on the basis of race, color, religion, sex or national origin.
6. Displacees with limited English proficiency shall be provided translation to ensure clear interpretation of Relocation offers and explanations of the Relocation process.

## V. Moving Payments

### A. General Information

1. Basically, the Moving and Related Expense payments offered by the Alabama Department of Transportation are designed to render financial aid for the relocation and reestablishment of persons, businesses, farms and non-profit organizations displaced as a result of highway projects without regard to race, color, religion, sex or national origin. At the option of the relocatee, these payments may be based on actual reasonable expenses incurred or on a fixed schedule basis.
2. Effect of Type of Property Interest Acquired and Terms of Occupancy
  - a. The type of interest acquired in the right of way does not affect the eligibility of moving costs for reimbursement, provided the interest acquired is sufficient to cause displacement.
  - b. Provided the occupancy is lawful, the terms under which a tenant is occupying property do not affect eligibility if the tenant is displaced by the project.
3. Owner-Occupant of Multi-Family Dwelling  
In addition to a payment for the moving of personal property, himself or herself and his or her family from a dwelling unit, the owner-occupant of a multi-family dwelling unit is also eligible to receive actual moving payments as a business for the other units of the multi-family dwelling.
4. Joint Residential and Business or Farm Use  
Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or non-profit organization, such individuals or families are separate displaced persons for the purpose of determining entitlement to moving and related expense payments.
5. Non-Occupant Owners (Personal Property Only)  
A non-occupant owner of the furnishings of a furnished dwelling, room or mobile home which is acquired as real property by the Department is entitled to receive a payment for actual reasonable expenses in moving the furnishings. Non-occupant owners are not eligible for payments under the schedule in Moving Payments, Individuals & Families, Paragraph D.3 of this section.
6. Partial Taking
  - a. In cases of partial takes, the cost of moving personal property from the area taken to the remainder area may be reimbursed if removal of the property is necessary and is not otherwise compensated.

- b. In cases of partial takes, moving costs may not be reimbursed unless the move is necessary as a result of the taking of a portion of the property for the highway project.

#### 7. Tenant Moves Prior to Acquisition

When a tenant moves after the initiation of negotiations but prior to the final acquisition of the property by the State, it may become necessary for the State to lease the vacated property from the owner to prevent subsequent occupants. There may also be times when a property is vacant at the time negotiations commence and it would be in the best interest of the state to lease the property in order to prevent subsequent occupants. (See Relocation Services, Written Notices, Section IV, D.5.) Approval for such leases will be given by the ROW Bureau on a tract by tract basis.

### B. Basic Eligibility Conditions

#### 1. General

Any "displaced person", as defined in SECTION III, B., who moves from a dwelling (including mobile home) or who moves from a business, farm, or nonprofit organization is eligible to receive payment for moving expenses in accordance with the criteria in this section for:

- a. Moving of personal property located within the acquired right of way;
- b. With the exception of the fixed payment in lieu of the actual reasonable cost, the appropriate moving payments under Paragraphs D., E., F., G. and H. when the acquisition of real property used for a business or farm operation causes a person to vacate his or her dwelling or other real property not acquired or to move his or her personal property from other real property not acquired;
- c. The appropriate moving payments under Paragraph D. for his or her dwelling unit and under Paragraph E. for the other units in an owner-occupied multi-family dwelling; and
- d. One move - except where it is shown to be in the public interest, the ROW Bureau and FHWA may give prior approval to more than one move.

#### 2. Claim for Payment

- a. A displacee must file a written claim on a Form [ROW-RA-24](#) (described in b. below) in order to receive payment. Written reminders must be sent at 6 months and at 3 months prior to the expiration of the allowed time when claims have not been filed. The claim must be filed within 18 months after the later of the following dates:
  - 1) For a tenant, the date he or she moves from the displacement dwelling, or
  - 2) For an owner-occupant, the later of:
    - a) On negotiated tracts, the date the owner 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. The Form ROW-RA-24, Relocation Payments Invoice, shall be prepared by the Region/Area Relocation Officer or his or her designated assistant after the amount the displacee is entitled to receive has been determined. All applicable blanks including statistical data, date moved (except in hardship cases), distribution and the required signatures must be correctly filled in. The signature of the claimant must coincide with the typed name of the "Payee".

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- 1) If the type move is "Actual" and
    - a) The move was accomplished by a commercial mover, the receipted bills or other evidence supporting the expenses incurred must be forwarded to the ROW Bureau with the Form ROW-RA-24.
    - b) The "Self-Move" method was used; the amount of the invoice must have prior approval from the ROW Bureau.
  - 2) There are six copies of the Form ROW-RA-24. One copy shall be given to the displacee, one copy will be retained in the Region/Area Office files and the original and three copies shall be submitted to the ROW Bureau.
  - 3) The State Relocation Officer or his or her designated assistant in the ROW Bureau will review the Form ROW-RA-24, record the applicable information as appropriate and submit the original and two copies to the Bureau of Finance and Audit.
  - 4) After the warrant for payment of the moving cost has been issued, the date the warrant is mailed to the Region will be recorded in the ROW Bureau records.
3. For displacees who are not required to move but who meet the definition of a displaced person because of damages to an occupied building that is not acquired, the eligibility period shall be the same as described in B.2.a. above. (This is to preclude displacees who elect not to move from claiming eligibility for an indefinite period of time).
4. Time of Payment  
Payment should be made only after the move has been accomplished. When invoices are processed before the relocatee actually moves, the warrants will be held at the Region until the move is completed. Invoices for payment prior to a move should not be submitted to the ROW Bureau prior to 3 weeks before the anticipated move.
5. Hardship Cases  
In hardship cases, moving expenses may be paid in advance. Such cases will be submitted by letter to the ROW Bureau from the Region setting out the facts and the Region's recommendations. If adequately justified, the ROW Bureau will approve advance payment of moving costs in hardship cases.
6. Direct Payment to Mover  
By written pre-arrangement between the Region/Area, the relocatee and the mover, and upon approval by the ROW Bureau, the relocatee may present an unpaid moving bill to the Region/Area for direct payment.
- C. General Criteria for Actual Moving Expenses
1. Eligible Moving Expenses  
When the displacee elects to move on an actual cost basis, the following expenses are eligible for payment:
    - a. Moving to Replacement Site  
The expenses of moving personal property are limited to a 50-mile radius, either interstate or intrastate. Any additional distance charges must be paid by the person being moved. When it is determined by the ROW Bureau that relocation cannot be accomplished within the 50-mile area, an exception may be allowed to the nearest

adequate and available site. This decision will be based upon adequate justification and the written recommendations of the Region.

- b. Moving to Remaining Lands  
Moving personal property of the displacee onto remaining or other lands owned by the displacee or his or her landlord.
- c. Advertising for Bids  
In the case of complicated or unusual moves, the Region/Area may advertise for bids when advertising seems to be the only method of securing bids. The ROW Bureau may employ the services of a consultant to review such bids prior to approval of the moving cost.
- d. Cost of Moving Bids
  - 1) The Department may contract for bids or estimates of moving expenses with qualified movers when necessary.
  - 2) A business being relocated may submit a bid to move themselves.
  - 3) More than two bids may be needed in unusual circumstances or when there is a wide divergence in the two bids.
- e. Storage  
Storage of a displacee's personal property, except on the acquired property or property owned or previously leased by the displacee, for a reasonable period, not to exceed 12 months, when the ROW Bureau, based on the written recommendation of the Region, determines that it is necessary. In very unusual circumstances, the ROW Bureau may approve storage exceeding 12 months.
- f. Insurance  
Insurance premiums covering the reasonable replacement value of personal property against loss and damage while in storage or transit.
- g. Losses in Moving  
The reasonable replacement value of personal property lost, stolen or damaged (not caused by the fault or negligence of the displaced person, his or her agent or employee) in the process of moving where insurance coverage for such loss, theft or damage is not available.
- h. Residential Moves  
Packing, crating, unpacking and uncrating of the personal property. Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property by a commercial mover.
- i. Non-Residential Moves
  - 1) Packing, crating, unpacking and uncrating of the personal property. Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property and substitute personal property. This includes connection to utilities available from the right of way to improvements at the replacement site and 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.
  - 2) Any license, permit fees or certification required of the displaced person at the replacement location. When applicable, the payment should be based on the remaining useful life of the existing license, permit or certification.

- 3) Impact fees or one-time assessments for anticipated heavy utility usage as determined by the department.
- 4) 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). The hourly rate should compare to the rates of other similar professional providers in the area.
- 5) 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.
- 6) Re-lettering signs and replacing stationery on hand at the time of displacement that is made obsolete as a result of the move.
- 7) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation including the reasonable cost incurred in attempting to sell an item that is not to be relocated. (Description of payment on V.E.3.)
- 8) Purchase of substitute personal property incurred when an item which is used as a 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. (Description of payment on V.E.3.e.)
- 9) Searching expenses for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses incurred in searching for a replacement location, not to exceed \$2,500, as the Department determines to be reasonable, including: transportation; meals and lodging away from home; time spent searching based on reasonable salary or earnings; 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 site, time spent in obtaining permits, time attending zoning hearings and time spent negotiating the purchase of a replacement site based on reasonable salary or earnings.
- 10) 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 State, 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 State.
- 11) Relocation offer for Businesses, Farms and Non-Profit Organizations  
Shortly after the eligibility notice has been delivered, the relocation offer based on an approved bid or estimate should be presented by letter to the displaced business, farm or non-profit organization. Attached to the letter will be a copy of the approved bid along with the signed personal property inventory. This will allow a displaced business, farm or non-profit organization to know the cost of the move and all the eligibilities associated with the move early in the process to allow ample time to plan the move. An example of the offer letter is on the form downloads on the Right of Way website under Form ROW-RA-35.
- 12) Moving Date and Inventory

The displaced business must provide the Department approximately seven (7) days advance written notice of the date they plan to start their move or to dispose of their personal property. To aid in this, the Department will provide the business a self-addressed, stamped postcard to be returned to the Region office not less than seven (7) days prior to date of the planned move. When a business fails to notify the Region before the move, a cursory review of the inventory should be made at the replacement site. However, prior notification of the move by the displaced business is a requirement of the Uniform Act regulations, and it is incumbent on the Region to do everything possible to see that the displaced business is aware of this requirement and complies. The Department may waive the notice requirement upon proper documentation of the file. A certified inventory of the personal property to be moved, verified by Region/Area personnel, must also be in the Region/Area files prior to the move. (See E.2.a. of this Section.)

13) Inspection and Monitoring

The displaced person must permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move where it is reasonable to do so. Department personnel should also verify by personal inspection the moving of the previously inventoried items and advise the ROW Bureau accordingly. Payment should be adjusted for any item(s) that were on the original inventory and not moved and reinstalled where applicable.

14) Self-Moves

If a business, farm operation, or non-profit organization elects to take full responsibility for all or part of the move, the Department may approve a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Department from qualified movers or prepared by qualified staff persons, without the submission of any additional documentation of moving expenses actually incurred in the move. The affected business may submit a bid itself if they so wish and it is reasonable for them to do so. An acceptable moving expense estimate or bid not exceeding \$5000 may be made without obtaining a second bid or estimate.

15) Cost of Sale

The reasonable cost incurred in attempting to sell an item of personal property that is not to be relocated.

16) Other Expenses

Any other moving related expenses that are not listed as ineligible and the Department determines to be reasonable and necessary.

2. Ineligible Moving Expenses

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

- a. Additional operating expenses of a business, farm, or non-profit organization incurred because of operating in a new location, except as provided in Paragraph J. of this section (Reestablishment Expense);
- b. Cost of moving structures, improvements, or other real property in which the displaced person reserved ownership, but this part does not preclude the computation for residential owner retention in Section IV. B. 6.;
- c. Improvements or physical changes to the real property at the replacement site, except modifications to the personal property necessary to adapt it to the

replacement structure, the replacement site or the utilities at the replacement site, and the modifications necessary to adapt the utilities at the replacement site to the personal property, except as provided in Paragraph J. of this section;

- d. Interest on loans to cover moving expenses;
- e. Loss of goodwill;
- f. Loss of trained employees;
- g. Loss of business and/or profits;
- h. Personal injury;
- i. Any legal fee or other cost of preparing the application or claim for moving and related expenses, for a relocation payment, or for representing the claimant before the Department or Appeals Board;
- j. Payment for the search cost in connection with locating a replacement dwelling;
- k. Costs for the storage of personal property on real property already owned or leased by the displaced person; or
- l. Refundable security and utility deposits.

#### D. Moving Payments to Individuals and Families

##### 1. General

- a. A displaced individual or family eligible under Paragraph B.1. above is entitled to receive a payment for moving their personal property, themselves, and their family. The displacee has the option of payment based on actual reasonable moving expenses, payment for a move accomplished by commercial mover using a fixed moving expense schedule, or a combination of these methods. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement.
- b. 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 Department, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Department determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

##### 2. Actual Reasonable Moving Expenses

###### a. Commercial Moves

A relocated individual or family may be paid the actual, reasonable costs of a move accomplished by a commercial mover. Such expenses will be supported by receipted bills. Prior to the move, the Region/Area should submit executed Form [ROW-RA-12](#) requesting the "Actual Expense" method to the ROW Bureau. Approval will be so indicated in the appropriate place on the form, and a copy of same will be returned to the Region/Area.

###### b. Self-Move

A displaced individual or family may be paid the actual, reasonable cost for a move that they performed. Payment will be based on the receipted bills for labor and equipment. Hourly 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 to exceed the cost paid by a commercial mover. Payment for labor will be

based on documentation maintained throughout the move that gives the date, number of hours worked, and work performed. When a displacee chooses this method to relocate, they must provide the department seven (7) days advanced notice of the date they plan to start their move.

c. Costs of Transportation and Temporary Lodging

The transportation costs of individuals and families to the new location are also eligible when actual expenses are claimed for the residential move. Such costs may be on the mileage basis, limited to 50 miles, as allowed by the Internal Revenue Service for tax purposes or reasonable actual fees if commercial transport is used. This may include special services such as the cost of an ambulance to transport invalid relocatees. The actual reasonable costs of meals and lodging, when the State determines that such costs are required because of unforeseen circumstances or the practical necessities of the moving operation, are also eligible. Temporary lodging is to be used only for short periods of time and is not intended for the purpose of expediting a project.

3. Optional Fixed Moving Expense Allowance Schedule - Individuals and Families

- a. Any eligible individual or family who moves from a dwelling, seasonal residence, dormitory style room, or mobile home may elect to accept a fixed expense allowance in lieu of the actual moving costs described in D.2. above. Within the fixed moving expense described below is a dislocation allowance that is included to cover items that might have been allowed on an actual moving cost basis such as storage, lodging, connections, transportation of persons, etc.
- b. An individual or family who chooses this method must notify the Region/Area prior to the move to enable the Region/Area Relocation Officer or his or her representative to verify the number of rooms for which the relocatee can be paid. This must be done for each move under the Fixed Schedule and is accomplished on the Application for Moving and Related Expenses Form [ROW-RA-12](#).
- c. The Region/Area Office will prepare the Form ROW-RA-12, retain a copy for the Region/Area Office files, give a copy to the relocatee, and submit the original to the ROW Bureau, along with the invoice for payment once the move has been completed.
- d. Individuals and families who occupy dwellings, mobile homes, or rooms may elect to be reimbursed in accordance with the following:

Effective Date: August 24, 2015

1) UNFURNISHED: (Occupant Owns Furniture)

Number of Rooms of Furniture							
ONE	TWO	THREE	FOUR	FIVE	SIX	SEVEN	EIGHT
\$600	\$800	\$1000	\$1200	\$1400	\$1600	\$1800	\$2000
Each Additional Room - \$200							

- a) Person whose residential move is performed by the State - \$100.
- b) Packing and securing personal property in a mobile home that is moved - \$50 per room.

## 2) FURNISHED BY LANDLORD: (Occupant Does Not Own Furniture)

First Room - \$400	Each Additional Room - \$50
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- a) The moving expense payment will be computed on the number of furnished rooms in the dwelling unit plus basements, attics, garages, and "out buildings" if such spaces do, in fact, contain enough personal property as to constitute a room. If the number of eligible rooms differs from the number of rooms indicated on Form [ROW-RA-3](#), Relocation Inventory, a full explanation must be furnished in the "Remarks" section of Form ROW-RA-12.
  - b) Schedules of rates include all the necessary incidentals encountered for disconnecting and reconnecting automatic washers, dryers, air conditioners, telephones, cable TV's, general hand tools, garden tools, and other accumulated accessories.
  - c) If the cost to move an unusual item of personal property would clearly exceed the cost allowed under the schedule, such as a large satellite dish or metal storage shed, the displacee may be reimbursed the actual cost of such an item based on the receipted bills. The cost of moving large quantities of items, such as firewood, can be handled by increasing the room count. Self-moves based on moving cost findings or estimates are not allowed for residential moves.
  - d) The above schedules are applicable to both occupied or unoccupied living units, provided the unoccupied units are adequately furnished to warrant sufficient costs of moving personal property.
  - e) For the purposes of computing costs, a room is defined as a permanently enclosed area consisting of a minimum of approximately 80 square feet, excluding mobile homes. No amount above that set out in the schedule shall be paid for a room that exceeds approximately 80 square feet in area. However, in cases where there are several small rooms with less than this area, they may be converted to an equivalent number of rooms of this area to arrive at the basis of payment. No firm rule can state exactly what defines an enclosed area but, as a guide, it should be a natural and normal room enclosure of any house or suitable living structure, including a completely enclosed porch with furnishings constituting a room. Also, an "L-shaped" living room or living room with a furnished dining area could reasonably be construed as two rooms of furniture if the combined area is approximately 160 square feet or more. A kitchen with a divider bar and dinette would not ordinarily be considered two rooms.
  - f) Non-occupant owners of mobile homes or house trailers, which are personal property, are entitled to receive a payment for actual reasonable expenses of moving the mobile homes or house trailers, including the cost of detaching and reattaching the fixtures and appliances when necessary.
- 3) The expense to a person with minimal personal possessions who is in occupancy of a dormitory-style room shared by two or more other unrelated persons or a person whose residential move is performed by an agency at no cost to the person shall be limited to \$100.

## E. Moving Payments to Businesses

## 1. General

- a. The owner of a displaced business eligible under paragraph B.1. of this section is entitled to receive a payment for the actual reasonable moving and related expenses that include:
  - 1) Actual reasonable expenses in moving his or her business or other personal property as provided in Paragraph C. above and E.2. below;
  - 2) Actual direct losses of tangible personal property in moving or discontinuing his or her business as provided in Paragraph E.3. below;
  - 3) Actual reasonable expenses in searching for a replacement business as provided in Paragraph E.4. below; and
  - 4) Actual reasonable and necessary reestablishment expenses as provided in Paragraph J of this section.
- b. In lieu of the payment for the actual expenses and losses as specified in Paragraph E.1.a. above, a displaced business may be eligible for a fixed payment as provided in Paragraph E.5. below.
- c. A business is entitled to one fixed relocation payment or payment for actual reasonable moving and related expenses.

## 2. Actual Reasonable Moving Expenses

## a. Inventory

- 1) The owner of a displaced business shall prepare an inventory of the items to be moved and must sign and date all the pages of the inventory.
- 2) It is very important that the inventory of personal property to be moved be carefully checked by the Region/Area personnel against the appraisal report and the summary attached to the initial offer letter to ensure that no items of realty are included. The copy of the inventory should not be on the same page as the bid or estimate. The Region/Area personnel should verify the inventory and sign and date it on all pages. Those items not to be moved but sold without being replaced and those items to be sold and to be replaced should be segregated. This will facilitate the filing of a claim for the actual direct losses of the personal property under Paragraph E.3. below. Items requiring reinstallation at the replacement site must also be identified on the inventory so that the bid or estimate may reflect those particular costs.
- 3) During the appraisal stage, there may be certain items of property that are questionable as to whether they are realty or personal property. Every effort must be made to identify and resolve realty and personal property issues at the time the appraisal is being prepared. Accordingly, for each tract assigned involving structures to be acquired, the appraiser and the appropriate Region/Area relocation staff are required to have an onsite meeting to identify the items that are personal property for eligibility for relocation assistance.

## b. Commercial Moves

When the Region/Area can obtain two acceptable bids or estimates from qualified moving firms and/or qualified specialists or qualified staff persons based on an inventory list, the owner of a business may be paid an amount equal to the low bid or estimate for a move accomplished by a commercial mover. When the move is complete, such expenses will be supported by the receipted bills and Region/Area personnel will verify the items actually moved. Region/Area personnel must indicate that they compared the inventory with the items moved and that the amount to be

paid is acceptable. When reinstallation at the replacement site is involved, the reinstallation cost will not be paid until Region/Area personnel verify that it has been accomplished. These costs must be identified separately on the moving bid/estimate.

c. Self-Moves

- 1) When the Region/Area can obtain two acceptable bids or estimates from qualified moving firms and/or qualified specialists or qualified staff persons based on the inventory list, the owner of a displaced business may be paid an amount equal to the low bid or estimate without the supporting receipts of the expenses incurred. If the two original bids appear to be unreasonable or there is a considerable difference in the amounts of the two bids, Region/Area personnel should obtain an additional bid. A qualified employee or commercial moving company may make a moving expense estimate or bid not to exceed \$5,000 without obtaining a second bid or estimate.
- 2) A moving payment for a low cost or uncomplicated move may be based on a single bid or estimate, or the business may perform the move with the payment supported by receipted bills for labor and equipment. Hourly rates should not exceed the rates paid by a commercial mover to employees performing the same activity, and the equipment rental fees should be based on the actual rental cost of the equipment but are not to exceed the cost paid by a commercial mover.
- 3) When a reinstallation cost is included in the estimate, the reinstallation cost will not be paid until Region/Area personnel verify that the items have been reinstalled.
- 4) If a move will require a specialty mover involving a substantial cost, such as relocating large machinery, the Region/Area should obtain separate bids from appropriate companies specializing in the type of move required rather than rely on a general mover to obtain a third-party bid.
  - a) The following information is essential and should be requested of all bidders and estimators in writing. A bid or estimate should not be considered acceptable if it does not contain an itemization of the following:
    - (1) The amount and type of labor necessary including the required manpower and the rates per hour or days;
    - (2) A list of the equipment necessary including an estimate of the hours of operation and the rates per hour or days;
    - (3) A list of any materials necessary to affect the move and the costs thereof;
    - (4) Identification of the items to be reinstalled at the replacement site and the costs involved in reinstalling each item.
    - (5) An inventory of the items to be moved.
  - b) A suggested format for a bid or estimate is contained in Downloads (Form [ROW-RA-13](#)).
  - c) A suggested form to be followed in making an inventory is contained in Downloads (Form [ROW-RA-32](#)).
- 5) When items requiring specialty-movers do not represent a significant part of the overall move and the primary bidders obtain third-party bids, the bidders and the bids should be identified on the bid forms along with the applicable items. Ideally, primary bidders on a move should not use the same third-party bidder. If the same third-party bidder is used and it is not felt that the bid is reasonable, another

bid should be obtained. This should be done in all the cases where bids appear to be unreasonable whether they be third-party bids or not.

6) Actual Cost Self-Move

If bids or estimates cannot be obtained or if circumstances (such as large fluctuations in inventory) prevent reasonable bidding in the opinion of the State, the displaced owner may be paid actual reasonable moving costs supported by receipted bills or other evidence of the expenses incurred. The allowable expenses of a self-move under this provision may include:

- a) Amounts paid for a rental of truck and/or equipment, not to exceed the equipment rental fees paid by commercial movers.
- b) A reasonable amount to cover gas and oil, if vehicles or equipment owned by a business being moved are used, and to cover the cost of insurance and depreciation directly allocable to the hours and/or days the equipment is used for the move;
- c) Wages paid for the labor of persons who physically participate in the move with the labor costs to be computed based on the actual hours worked at the hourly rate paid and not to exceed the hourly rate paid by commercial movers or contractors in the locality for each profession or craft involved;
- d) The amount of their wages for working foremen or group leaders regularly employed by the business covering the time spent in actual supervision of the move.

3. Actual Direct Losses of Tangible Personal Property

- a. Businesses may be eligible for the actual direct losses of tangible personal property when they are entitled to relocate such property in whole or in part but elect not to do so. Such payments may only be made after a bona fide effort has been made by the owner to sell the item(s) involved unless it is determined by the State that such effort is not necessary. A bona fide effort to sell means by public exposure such as: newspaper advertisement, public auction, radio announcements, written public notices, posted signs, or any other sincere effort and with the owner documenting the method(s) used must be documented by the owner and the documentation furnished to the State. The sales prices, if any, and the actual reasonable cost of advertising and conducting the sale must be supported by a copy of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records, and other documents supporting the bona fide nature of the sale.
- b. A bona fide sale as used in this section of the ROW Manual means an authentic, sincere sale made in good faith without the intent of fraud or deceit. A sale to a business associate or partner, wife, husband, or relative would not normally be considered a bona fide sale unless it was given appropriate publicity and such a sale was by competitive bidding and open to the public.
- c. The Region/Area Relocation Officer or his or her assistant is to obtain, prior to the move, an inventory of the personal property to be moved and also that which is to be sold and/or not moved by the relocatee. Such inventory may be prepared by the relocatee, and a personal inspection and verification of such items may then be made by the Region/Area Relocation Officer or his or her assistant; or, in case the relocatee does not furnish such an inventory, the Region/Area Relocation Officer or his or her assistant must prepare one.

- d. If an item of personal property that is used in connection with the business is not moved but promptly replaced with a substitute item that performs a comparable function at the new location, the reimbursement shall be the lesser of:
- 1) The cost of the substitute item including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item, or
  - 2) The estimated cost of moving and reinstalling the replaced item based on the approved low bid or estimate, but not to exceed 50 miles and with no allowance for storage.
- Plus, the reasonable cost incurred in attempting to sell the item(s).
- e. If the item is not to be replaced in the re-established or discontinued business, the payment will be the lesser of:
- 1) The fair market value of the item for continued use at its location prior to the displacement less the proceeds from its sale. When the payment for the 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
  - 2) The estimated cost of moving and reinstalling the item based on the approved low bid or estimate, 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. For more information reference [49 CFR Part 24, Appendix Subpart D Section 24.301](#) (g) (14) (i) and (ii).
- Plus, the reasonable cost incurred in attempting to sell the item(s)
- f. If a bona fide sale is not affected under Paragraph E. 3. a. or b. 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 the displacement or more than the estimated cost of moving the item 50 miles but with no allowance for storage, whichever is less, plus the costs of the attempted sale irrespective of the cost to the Department of removing the item.
- g. Either the fair market value or the replacement cost of an item of personal property, whichever is applicable, is to be determined by: employing the services of a person who specializes in the manufacture, sale, lease, erection, installation, or maintenance of the item to the extent that he or she is considered an expert on its value or employing the services of a fee appraiser. The fair market value for the continued use or replacement cost of the item(s) must be documented in writing with a complete description and name of each item including, where applicable, information such as: manufacturer's name, age of item/year built, model/serial number, nameplate data as to size, H.P., B.T.U. ratings, voltage class, etc., include the new installed cost (cost of the item and cost of installation), include the depreciation (physical, functional, and economic) providing the reasoning and method(s) by which it was derived, include the present value in place of the item, and include all sources used as support and justification of the valuation such as cost manuals and indexes, manufacturers' quotations, used equipment suppliers, tradesmen, etc. This document is to be signed by the person making the value determination and it is to be submitted along with the other required documentation with application Form [ROW-RA-12-1](#) to the ROW Bureau for approval.
- h. When personal property is abandoned with no effort being made by the owner to dispose of such property by sale, the owner will not be entitled to moving expenses or losses for the items involved unless the Region/Area has previously determined that an effort to sell the personal property is not necessary.

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- i. Upon request and in accordance with applicable law, the displaced person shall transfer to the State the ownership of any personal property that has not been moved, sold, or traded in.
  - j. The cost of removal of personal property shall not be considered as an offsetting charge against other payments to the displaced person.
4. Actual Reasonable Expenses in Searching for a Replacement Business or Farm Operation
- a. The owner of a displaced business or farm operation may be reimbursed for the actual reasonable expenses in searching for a replacement business, not to exceed \$2,500. Such expenses may include transportation expenses, meals, lodging away from home, and the reasonable salary or earnings of time actually spent in the search, including the fees of real estate agents or real estate brokers to locate the site exclusive of any fees or commissions related to the purchase of such a site, time spent in obtaining permits, time attending zoning hearings, and time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings. The documentation required includes:
    - 1) Receipted bills for all expenses claimed.
    - 2) Time spent in search must be documented and the hourly wage rate must be reasonable. A certified statement of the dates and hours spent searching, including the places visited and persons contacted, must accompany the claim. The mileage rate will be the rate allowed by the Internal Revenue Service for tax purposes. The displacee should be given a searching expense form along with the brochure when the relocation assistance offer is first made.
5. In Lieu of Actual Moving Expenses
- a. Any person who moves or discontinues his or her business (other than an outdoor advertising display business or non-profit organization) may elect to accept a fixed relocation payment in lieu of actual reasonable moving and related expenses and in lieu of actual reasonable reestablishment expenses if he or she meets the qualifications described herein. The fixed relocation payment is an amount equal to the average annual net earnings of the business as described in 5. g. and h. below, and in no case is it less than \$1000 or more than \$40,000.
  - b. A business that chooses this method must complete an Application for Moving and Related Expenses, Form ROW-RA-12-1, and, except when the average annual net earnings do not exceed \$1000, attach Federal and/or State Income Tax Returns filed by the business, its owner, his or her spouse, and dependents for the tax years involved to support the net earnings. In the case of a corporate owner of a business, the net earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. The submission of these income tax reports must be voluntary. In lieu of income tax returns, the business may submit a financial statement covering the two-year period described in 5. g. and h. below, prepared and certified by a qualified public accountant or an affidavit stating the net earnings of the owner. An owner's statement alone will not be sufficient if the amount claimed exceeds the minimum payment of \$1000. A "Compilation" prepared by a CPA or others is also insufficient.
  - c. The Region/Area Office will prepare the Form ROW-RA-12-, submit the original to the ROW Bureau, retain a copy for the Region/Area files, and give a copy to the owner of the displaced business. The ROW Bureau will review the application and,

if acceptable, will advise the Region/Area Office of the approved amount by returning to them a copy of the FORM ROW-RA-12-1, which has been approved by the Chief Relocation Officer and Right of Way Bureau Chief. The Region/Area Office will then notify the business of the approved amount and that it may proceed with the move if it has not already done so.

d. Business Qualifications for Payment

In the case of a business, no payment can be made for the optional fixed relocation payment unless the business attests to the below facts. The business:

- 1) Owns or rents personal property that must be moved in connection with the displacement and for which an expense would be incurred in such a move, and the business vacates or relocates from its displacement site;
- 2) 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 determines that it will not suffer a substantial loss of its existing patronage.
- 3) Is not part of a commercial enterprise having more than three other entities that are not being acquired by the State or by the United States, that are under the same ownership, and that are engaged in the same or similar business activities;
- 4) Is not operated at a displacement dwelling solely for the purpose of renting such a dwelling to others;
- 5) Is not operated at the displacement site solely for the purpose of renting the site to others;
- 6) Contributed materially to the income of the displaced person during the two taxable years prior to the displacement (see definition of "contributes materially" in SECTION III, Paragraph B. of this section of the ROW Manual).

e. Form [ROW-RA-13-A](#) should be executed by the business to attest to the above facts.

f. Determining the Number of Businesses

In determining whether two or more displaced legal entities constitute a single business that 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 the business and financial affairs are mingled or comingled;
- 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.

g. Payment Determination

- 1) 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 moves from the real property acquired for the project and includes any compensation paid by the business to the owner, his or her spouse, or dependents during the two-year period.
- 2) If the two taxable years immediately preceding the displacement are not representative, the State may use a two-year period beginning with two years prior to negotiations for the project that would be more representative. It must be determined that the proposed construction has been the cause of the outflow of residents, thereby resulting in a decline in the net income for the business prior

to utilizing this alternate procedure. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable.

h. In Business Less Than Two Years

If the business or farm was not in operation for the full two taxable years prior to the displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to the displacement, projected to an annual rate. Average 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 the owner's dependents. A taxable year is any 12-month period used by a business or farm operation in filing income tax returns.

F. Moving Payments to Farm Operations

1. General

The owner of a displaced farm operation eligible under Paragraph B.1. is entitled to receive payments for actual reasonable moving expenses, actual direct losses of tangible personal property, and actual reasonable expenses in searching for a replacement farm in accordance with Paragraphs E.2., 3. and 4. preceding.

2. In Lieu of Actual Moving Expenses

a. In lieu of the payments described in Paragraphs E. 2., 3., 4. and Paragraph J of this section, any owner of a displaced farm operation is eligible to receive a payment equal to the average annual net earnings of the farm operation except that such payments shall not be less than \$1000 and not more than \$40,000 and providing that the following requirements are met.

b. For the owner of a displaced farm operation to be eligible for this payment, the State must determine that:

1) The entire farm operation has been acquired or

2) In the case of a partial taking, the operator will be considered to have been displaced from the farm operation if:

a) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land, or

b) The partial acquisition caused a substantial change in the nature of the farm operation.

c. Payment Determination

Same as Paragraph E.5.g. above.

d. In Operation Less Than Two Years

Same as Paragraph E.5.h. above.

e. Owner Must Provide Information

For the owner of a farm to be entitled to this payment, he or she must provide information to support the farm's net earnings as set forth in Paragraph E.5.b.

G. Moving Payments to Non-Profit Organizations

1. A displaced non-profit organization is eligible to receive payments for actual reasonable moving expenses, actual direct losses of tangible personal property, actual reasonable expenses in searching for a replacement site, and actual reasonable reestablishment expenses in accordance with Paragraphs E.2., 3., 4 and Paragraph J.

2. In lieu of the payments described in 1. above, a non-profit organization that has established its non-profit status under applicable Federal or State law may receive a fixed payment equal to the average of two years' (two prior 12-month periods') annual gross revenues less administrative expenses, if the non-profit organization cannot be relocated without substantial loss of its membership or clientele. A non-profit organization is assumed to meet this test unless the Agency demonstrates otherwise. Payment will not be less than \$1000 or more than \$40,000. Any payment more than \$1000 must be supported with financial statements for the two 12-month periods prior to the acquisition.
3. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enable the non-profit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items as well as fund raising expenses. Operating expenses for carrying out the purposes of the non-profit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies. A "Compilation" prepared by a CPA or others is not acceptable.

#### H. Moving Payments for Advertising Signs

##### 1. General

- a. The owner of a displaced advertising sign is eligible to receive a payment for actual reasonable moving and related expenses, which include:
  - 1) Actual reasonable expenses in moving the advertising sign as provided in Paragraph H.2. below;
  - 2) Actual direct losses of tangible personal property as provided in Paragraph H.3. below; and
  - 3) Actual reasonable expenses in searching for a replacement sign site as provided in Paragraph H.4. below.
- b. An advertising sign that is otherwise eligible for moving payments will not be eligible when it is moved to a site in violation of State, Federal, or local regulations.
- c. The provisions of this paragraph do not apply separately to an advertising sign owned by and located on the business or farm being displaced. Such signs, including those eligible under Paragraph B.1. above, are to be considered items of the business or farm and included under the provisions of Paragraph E. above.

##### 2. Actual Reasonable Moving Expenses

The owner of a displaced sign may be reimbursed for actual reasonable moving expenses in accordance with the provisions of Paragraphs E.2.a., b., and c. above.

##### 3. Actual Direct Loss of Tangible Personal Property

The owner of a sign may be reimbursed for an actual direct loss when he or she is entitled to relocate the sign but does not do so. The amount of such loss will be the lesser of:

- a. The depreciated reproduction cost of the sign as determined by the State less the proceeds from its sale (To be eligible for payment, the claimant must make a good

- faith effort to sell the sign, unless it is determined by the State that such effort is not necessary), or
- b. The estimated cost of moving the sign but with no allowance for storage.
4. Actual Reasonable Expenses in Searching for a Replacement Sign Site
    - a. The owner of a displaced advertising sign may be reimbursed for actual reasonable expenses in searching for a replacement sign site, not to exceed \$2,500. Such expenses may include transportation expenses, meals, lodging away from home, and the reasonable value of time spent in the search including the fees of real estate agents or brokers.
    - b. Receipted bills for all expenses claimed.
    - c. Time spent in search must be documented, and the hourly wage rate must be reasonable. A certified statement of the dates and hours spent searching including the places that were visited and the persons who were contacted must accompany the claim. The mileage rate will be the rate allowed by the Internal Revenue Service for tax purposes.
- I. Guidelines for (Relocating) Outdoor Advertising Signs (*Rev. 3-01*)
    1. Payment may be included to purchase nonconforming signs on projects involving *National Highway System* Routes. Please see the Valuation Section of the Outdoor Advertising Sign Manual for valuation of same. All other signs are to be considered personal property and moved under Relocation Assistance except those signs, which are illegal, encroaching, abandoned, or erected without the landowner's permission. Relocation of signs should be accomplished in accordance with the following procedures.
      - a. At the time the Right of Way Cost Estimate and Relocation Study is prepared on a projects, [OAS-1](#) Forms will be prepared on all free-standing outdoor advertising signs within the proposed right of way. Since this form is the basis on which the sign will be classified, care should be taken that all the necessary spaces are filled in. Care should also be taken in preparing the Sign Inventory to ensure that all signs are included in the Relocation study.
        - 1) If the project is not on the National Highway System, the Region/Area will send the original OAS-1s (with photographs and maps or sketches showing the precise location of the signs), along with the Relocation Study and Cost Estimate, to the ROW Bureau for classification and retain one copy for the Region/Area files. The Region/Area letter transmitting this information to the ROW Bureau will contain a statement relative to signs (i.e. *OAS-1 Forms are attached; or, there are no outdoor advertising signs on this project*). The ROW Bureau will classify these signs and prepare a letter to the Region Office with the results. Upon the receipt of the ROW Bureau letter, relocation estimates should be obtained from a reputable sign mover or prepared at the Region/Area Office and submitted for approval to the ROW Bureau on all signs that are classified as eligible for relocation. (Two estimates are required if the cost of relocation exceeds \$5,000.00.) Directions for the handling of ineligible signs will also be included in the ROW Bureau letter.
        - 2) If the project is on the National Highway System, the Region/Area will send one copy of the OAS-1s, along with the Relocation Study and Cost Estimate, to the ROW Bureau. At the same time, the original OAS-1s and two copies (with photographs and maps or sketches showing the precise location of the signs)

will be sent to the Maintenance Bureau for classification. The Region letter transmitting the Relocation Study and accompanying information to the ROW Bureau will contain a statement relative to signs (i.e. *copies of OAS-1 Forms are attached, and copies have been transmitted to the Maintenance Bureau for classification; or, there are no outdoor advertising signs on this project*).

The Maintenance Bureau will classify the signs, transmit the original OAS-1s to the ROW Bureau, retain one copy for their files, and return one copy to the Region/Area. When the Region/Area receives copies of the completed OAS-1s from the Maintenance Bureau, relocation estimates should be obtained from a reputable sign mover or prepared at the Region/Area Office and submitted to the ROW Bureau for approval for all signs that are classified as eligible for relocation. (Two estimates are required if the cost of relocation exceeds \$5,000.00.)

A letter shall be sent to all of the owners of signs that are classified as illegal, abandoned, or encroaching advising that the sign(s) should be removed prior to the beginning of construction and the letter shall state if they are not removed prior to the beginning of construction, the sign(s) will be removed by the State's contractor with no further obligation.

- b. There may be occasions when the circumstances relating to a particular sign make it difficult to classify based only on the information submitted to the Maintenance Bureau. On such occasions, it is suggested that Region/Area Maintenance personnel be enlisted to make recommendations relative to the classification of that particular sign prior to sending the OAS-1 to Montgomery. These recommendations, as well as any other pertinent information, should be included in the comment section of the OAS-1.
- c. There will be cases where a sign will be so affixed to the real estate, including, but not limited to brick church signs, brick or rock sub-division signs, etc. that the sign will be considered part of the real estate, and its value will be included in the State's offer for the right of way. The Region letter, which transmits the Relocation Study and Cost Estimate, will advise the ROW Bureau of any such signs and include an estimate of the cost to purchase the same. If there is any question as to whether such a sign should be considered realty, the appropriate Central Office personnel should be contacted. The appraiser assigned to a tract on which such a sign is located is to be instructed by Region/Area personnel at the time the appraisal assignment is made on whether to include the value the sign in his or her appraisal.
- d. For sign relocation purposes, Form ROW-RA-3A and OAS-1 will be used when the business and sign(s) are to be relocated. When only a sign is to be relocated, a Form OAS-1 will also be necessary so that the proper information may be entered in the Comprehensive Project Management System (CPMS). It is not necessary to prepare OAS-1 Forms on signs affixed to buildings, etc., as such signs are considered personal property of the business and should be included in the inventory of the personal property to be relocated. Any on-premise, freestanding signs (for which OAS-1 Forms are necessary), that are the property of a business to be relocated, should also be included in the inventory of personal property, whether in the taking or not.
- e. In formulating the guidelines, it is not possible to anticipate every circumstance that may arise, and it is recognized there may be exceptions to the above. Any exception

will be dealt with on a case-by-case basis and shall receive prior approval from the ROW Bureau.

- f. The approved offer letter from the ROW Bureau for the real estate, will also include a reminder of the disposition of any known signs on the tract as a precautionary measure. This does not relieve the Region/Area of the responsibility of verifying all signs on a project are handled in accordance with the preceding guidelines. In addition to the above, the following points concerning the disposition of signs are included as a part of the Guidelines:
- 1) When there is more than one sign on a tract, each sign on that tract should be numbered separately.
  - 2) If a Region/Area has more than one person working with signs, then one person should be designated as the Region/Area and Central Office contact person.
  - 3) Any unusual circumstances concerning a sign should be included in the "Comments" portion of the OAS-1 to facilitate classification. This includes, but is not limited to, possible encroachments, circumstances that would indicate the sign has been abandoned, the location of the business advertised, signs that are erected without the landowner's knowledge, etc. When a sign is not permitted, the Maintenance Bureau bases its classification solely on the information furnished on the OAS-1. Similarly, the ROW Bureau's disposition of signs, which are not on the National Highway System, will be based solely on the information on the OAS-1 and the Region/Area's recommendations.
  - 4) After a sign has been declared legal and a moving cost estimate has been received in the ROW Bureau, a decision may be made in the ROW Bureau to purchase the sign if the cost of moving the sign exceeds its determined value.
  - 5) 90-day Notices apply to signs and should be given at the time the acquisition offer is made on any given tract.

J. Reestablishment Expenses - Nonresidential Moves

1. In addition to actual reasonable moving and related expenses, a small business (as defined in SECTION III, Paragraph B. of this section of the ROW Manual), farm, or non-profit organization is entitled to receive a payment, not to exceed \$25,000, for reasonable and necessary expenses incurred in relocating and reestablishing such small business, farm, or non-profit organization at a replacement site.
2. The owner of commercial or residential property who is in the "business" of leasing property to others is eligible for reestablishment expenses in accordance with applicable provisions of the regulations.
3. The owner of commercial or residential property who simply leases the property to others but is not in the "business" of leasing property is not eligible for business reestablishment expenses.
4. A real estate company who handles the leasing of property belonging to others is not eligible for reestablishment expenses.
5. Eligible Expenses  
Reestablishment expenses must be reasonable and necessary as determined by the State. 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 the 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 the replacement location.
  - f. Estimated increased costs of operation during the first two 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.
  - h. Other items that the agency considers essential to the reestablishment of the business.
6. 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 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. Interest on the money borrowed to make the move or purchase the replacement property.
  - d. Payment to a part-time business in the home or a part-time farm operation that does not contribute materially to the household income.
  - e. The cost of new construction on a vacant replacement property is a capital expenditure and generally ineligible for reimbursement. When a business cannot relocate without construction of a new building, the Department may request a waiver from FHWA. An example 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 \$25,000 statutory limit on the payment.
7. Payment Determination
- The Region/Area Relocation Officer, along with the relocatee, must inspect the replacement site prior to any improvements or modifications being made to determine what repairs, etc., are necessary and reasonable. It is the responsibility of the Region/Area Relocation Officer to advise the relocatee of those items that will be eligible as well as those items that are ineligible. The items will be determined by the State, not the relocatee. In some cases, it may be necessary to have the eligibility determined by the ROW Bureau.
8. Payment to Tenants

When a tenant wishes to use reestablishment expense to improve the property he or she is renting, the tenant must provide documentation that shows that he or she will occupy the property.

9. Documentation and Claim for Payment
  - a. Receipts and/or other supporting documents will be necessary for all claims under Paragraph J. (Reestablishment Expense). It will be the responsibility of the relocatee to furnish the Agency with the required receipts and documentation to support any claims. Upon completion of the reestablishment of the business, Form [ROW-RA-12-A](#), Claim for Reestablishment Expense, will be submitted to the ROW Bureau for approval along with the supporting receipts, documents, etc. Upon approval, one copy so indicating, will be returned to the Region/Area Office.
  - b. The Region/Area Relocation Officer will take pictures of the replacement site both before and after the improvements and/or modifications are made. The pictures will be used along with the other documentation for support when making claims for payment.
  - c. Invoice Form [ROW-RA-24](#) may be submitted to the Central Office along with the Claim for payment. However, the invoice will not be processed unless and until the Claim is approved.
  - d. The business must be reestablished within one year and claims for the reestablishment expense must be filed within eighteen (18) months after the later of the following dates:
    - 1) For a tenant, the date he or she moves from the displacement property, or
    - 2) For an owner-occupant, the later of:
      - a) On negotiated tracts, the date the owner receives payment for the displacement property, 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 property.
  - e. Written reminders must be sent at 6 months and again at 3 months prior to the expiration of the 18-month period when claims have not been filed.

## VI. Replacement Housing

### A. General Information

#### 1. Allowable Payments

##### a. Replacement Housing Payments

- 1) A displaced owner-occupant may be eligible to receive additional payments, the combined total of which may not exceed \$31,000, for the additional cost necessary to purchase replacement housing; it is an amount to compensate him or her for the loss of favorable financing on the existing mortgage in the financing of the replacement housing, as well as, the amount necessary to reimburse him or her for the incidental expenses incurred to the purchase the replacement housing.
- 2) Or, a displaced owner-occupant may be eligible to receive a payment not to exceed \$7,200 to rent replacement housing. However, a 90-day owner-occupant is not eligible for a down payment.

- 3) A displaced tenant may be eligible to receive a payment not to exceed \$7,200 to rent a replacement dwelling or room or to make a down payment, including incidental purchase expenses, on the purchase of a replacement dwelling.
  - 4) For a displaced 90-day owner-occupant who elects to rent, under no circumstances would the rental assistance payment exceed the amount that could have been received had the owner-occupant purchased and occupied the comparable replacement dwelling used to compute the price differential payment.
  - 5) A displaced person must have sufficient time to negotiate and enter into a purchase agreement or lease for the replacement property and must be assured of receiving relocation assistance and any acquisition compensation to which he or she is entitled in sufficient time to complete the purchase or lease of the replacement property.
  - 6) Federal and State funds will not participate in more than one replacement housing payment for each dwelling unit except in the case of multi-family occupancy of a single-family dwelling unit as shown in Paragraph j. below.
  - 7) Any proceeds received by the displacee for the payment of damages to his or her residence because of a major disaster from any source such as flood insurance or the cancellation of a portion of a Small Business Administration (SBA) loan is to be deducted from the replacement housing payment for which the displacee is eligible.
- b. Occupancy Provisions
- 1) In addition to the tenure of occupancy provisions found in b. 1) B) below, a displaced person is eligible for the appropriate payments when he or she purchases or rents and occupies a decent, safe, and sanitary dwelling within a one-year period beginning on the following dates:
    - a) In the case of a tenant, the date he or she moves from the acquired dwelling.
    - b) In the case of an owner, the later of:
      - (1) The date on which the owner received from the Department payment for the acquired dwelling on negotiated tracts or, in the case of condemnation, the date on which the State deposits the required amount in court for the benefit of the owner.
      - (2) The date the owner-occupant moves from the displacement dwelling or
      - (3) The date on which a comparable replacement dwelling has been made available.
  - 2) If the displaced person initially occupies the replacement dwelling after the date by which occupancy is required but the delay beyond such date is caused by reasons beyond the person's control as determined by the Department, the occupancy requirement shall be considered to be satisfied.
  - 3) A displaced tenant or owner "occupies" a replacement dwelling within the meaning of this section only if the dwelling is his or her permanent place of residence and he or she has satisfied the eligibility requirements set forth in Paragraphs B. through H. below.
  - 4) Any person who has obtained legal ownership of a replacement dwelling or land upon which his or her replacement dwelling is constructed, either before or after displacement, and occupies the replacement dwelling after being displaced but within the time limit specified in Paragraph A.1.b.1) above is eligible for a replacement housing payment if the replacement dwelling meets the requirements of Paragraph C of SECTION III. The cost of the land and dwelling

- at the time of purchase by the displaced person will constitute the "actual cost" in the replacement housing payment determination.
- 5) No person shall be denied eligibility for a replacement housing payment solely because he or she is unable to meet the occupancy requirements of this section due to a disaster, emergency, or imminent threat to the public health or welfare as determined by the President or the agency funding the project.
- c. State Inspection for Decent, Safe and Sanitary Housing
- 1) Before a displaced person rents or purchases a replacement dwelling, the Region/Area Relocation Officer or his or her designated agent should inspect the home the displaced person intends to rent or purchase and occupy to see if it meets the requirements for decent, safe, and sanitary standards to assure eligibility for the replacement housing payment.
    - a) Upon request by a displacee, the Region/Area Relocation Officer is to inspect any dwelling the displacee may wish to rent or purchase to determine if it qualifies as a decent, safe, and sanitary dwelling. The Region/Area Relocation Officer must advise the displacee as to whether it qualifies or the reasons why it does not qualify.
    - b) Before making payment to the relocatee, the Department must have inspected the replacement dwelling and determined that it meets the standards for decent, safe, and sanitary housing. The Department may utilize the services of any public agency ordinarily engaged in housing inspections to make the inspection. Such determination by the Department that a dwelling meets the standards for decent, safe, and sanitary housing is made solely for determining the eligibility of the relocated individuals and families for payments under this section and is not a representation for any other purpose.
    - c) The Department's approval of a dwelling is not to provide any assurance or guarantee that there are no deficiencies in the dwelling or in its fixtures and equipment, which may be discovered at a later date. The Department will assume no responsibility or blame if structural, mechanical, legal, or other unforeseen problems are discovered after the inspection has been conducted.
    - d) For determining the number of habitable rooms used for sleeping purposes, the Region/Area Relocation Officer or a designated agent shall follow local housing occupancy codes to certify the replacement dwelling as decent, safe, and sanitary. In the absence of local housing occupancy codes, the Region/Area Relocation Officer or designated Agent will follow the guidelines explained in III (C) 2. h.
  - 2) If it is not possible under the circumstances for the Alabama Department of Transportation to make the necessary inspection, the Department will secure the needed inspection through a competent third party.
- d. Statement of Eligibility to Lending Agency
- Where a displacee otherwise qualifies for the replacement housing payments except that he or she 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 in SECTION III for decent, safe, and sanitary dwellings, shall upon the displacee's request state to any interested party, financial institution, or lending agency that the displacee will be eligible for the payment of a specific sum

provided that he or she purchases and occupies the inspected dwelling within the time limits specified in paragraph A.1.b. above.

- e. Application for Replacement Housing or Rental Replacement Housing Payments
  - 1) General Requirements

Application for replacement housing or rental replacement housing payments shall be in writing on Form [ROW-RA-16](#) provided by the Region Engineer. The application shall be filed within 18 months of the later of the following dates:

    - a) For a tenant, the date he or she moves from the displacement dwelling, or
    - b) For an owner-occupant, the later of:
      - (1) On negotiated tracts, the date the owner receives 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
      - (2) The date he or she moves from the displacement dwelling.
    - c) Written reminders must be sent at 6 months and at 3 months prior to the expiration of the 18-month time period when claims have not been filed.
  - 2) To Whom Payments Made

The payments described in this section will be made directly to the relocated individual or family. In cases where an applicant otherwise qualifies for a replacement housing or rental replacement housing payment and upon his or her specific request in the application, the Department shall make such payments into escrow prior to the displacee moving.
  - 3) Hardship Cases

In cases of extreme hardship or other similar extenuating circumstances, payments may be made to displaced persons prior to their relocation, subject to safeguards, and exceptions to the decent, safe, and sanitary characteristics of replacement housing may be permitted cases while the displaced individual or family still qualifies for a payment. However, it is necessary that such exceptions to the DSS requirement be approved in advance by the ROW Bureau and FHWA. The Region/Area must furnish all the facts to the ROW Bureau in writing, along with their recommendations.
- f. Advance Replacement Housing Payments in Condemnation Cases
  - 1) No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he or she is rightfully due. An advance replacement housing payment can be computed and paid to a property owner if the determination of the Department'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. Payment of such amount may be made upon the owner-occupant's agreement that:
    - a) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined by the Department necessary to acquire a comparable, decent, safe, and sanitary dwelling.
    - b) If the amount awarded in the condemnation proceeding as the fair market value of the property acquired plus the amount of the provisional replacement

housing payment exceeds the lesser of the price paid for or the Department's determined cost of a comparable dwelling, the owner will refund to the Department from his or her condemnation judgement an amount equal to the amount of the excess. However, the owner shall not be required to refund more than the amount of the replacement housing payment advanced.

- 2) If the property owner does not agree to such an adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed based on the final determination using the award as the acquisition price.
  - 3) If the property owner does agree, Agreement Form [ROW-RA-18](#) will be executed. The owner shall receive a copy, a copy is retained for the Region tract file, and the original is submitted to the ROW Bureau along with Forms [ROW-RA-15](#) and [16](#) with a copy of the conveyance or closing statement for the replacement dwelling attached.
  - 4) No payment should be made to an owner-occupant for replacement housing unless the tract has been closed, a hardship case has been declared, or the owner has executed agreement Form ROW-RA-18.
  - 5) It shall be the responsibility of the Region/Area Relocation Officer or negotiator to advise an owner-occupant of the availability of an advance payment for replacement housing when the tract is being or is to be acquired through condemnation.
- g. Re-computing Replacement Housing Payment  
A replacement housing payment to an owner-occupant must be recomputed when the tract is acquired through condemnation or administrative settlement whether or not the owner-occupant executes agreement Form ROW-RA-18. The amount of the final court award or the amount of final settlement is to be used in re-computing the replacement housing payment in lieu of the original approved offer for the acquisition of the property.
- h. Comparability Not Required
- 1) Comparability is the standard used to determine the amount of payment, if any, a displaced person will be entitled to claim. However, the amount of payment to an eligible owner-occupant who purchases replacement housing is the amount, if any, that when it is added to the amount which the Department acquired his or her dwelling, it equals the actual cost that the owner is required to pay for a decent, safe, and sanitary dwelling or the amount determined by the Department as necessary to purchase a comparable dwelling, whichever is less.
  - 2) The house a displaced person intends to rent or purchase does not have to be comparable to his or her old house. However, it must be decent, safe, and sanitary.
  - 3) If the replacement property is a part of a property that contains another dwelling unit and/or space for non-residential purposes, or if it is located on a tract that is significantly larger than typical for residential purposes, an adjustment must be made in the purchase price of the replacement property to reflect the actual cost of the replacement dwelling.
- i. Conversion of Payment  
If a displaced person elects to accept a rental replacement housing payment and then, at sometime within the prescribed one-year period, purchases a replacement dwelling, the displaced person will be entitled to receive the difference, if any, between what the displaced person received as a rental replacement housing

payment and what the displaced person is entitled to receive as an owner who purchases. However, the "actual cost" limitation on owner-occupants of 90 days or more is applicable.

j. Multiple Occupancy of Same Dwelling Unit

- 1) If two or more eligible occupants of the same displacement dwelling relocate to separate replacement dwellings, each occupant is entitled to a prorated share of the replacement housing payment or rental replacement housing payment that would have been received if all the occupants had relocated together in the same replacement dwelling.
- 2) If the Department determines that two or more eligible occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments. If one of the occupants is the owner, the replacement housing payment will be based upon housing that is comparable to that which is privately occupied by the owner plus any community rooms shared with other occupants.
- 3) An owner-occupant with a partial interest must spend his or her share of the acquisition payment plus the computed supplemental payment in order to receive the maximum payment. A partial owner-occupant who cannot afford to purchase a comparable replacement dwelling and cannot obtain financing may be relocated as a tenant and provided a rental assistance payment in accordance with paragraph C of this Section.

k. Mixed-Use and Multi-Family Properties

- 1) Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm, or non-profit organization, such individuals or families are separate displaced persons for the purposes of determining entitlement to relocation payments.
- 2) If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment that is attributable to the displacement dwelling shall be considered its acquisition cost when computing the replacement housing payment.
- 3) Payment Determination-The value of the owner's unit is to be used as the base for the 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 a living unit on the most comparable available property.

l. Payment After Death

A replacement housing payment is personal to the displaced person. 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 displacee's actual period of occupancy of the replacement housing shall be paid.
- 2) The full payment shall be disbursed in any case in which a member of the displaced family dies and the other family member(s) continue to occupy the replacement dwelling in accordance with these regulations.
- 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.

## 2. Location of Comparable Housing

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

## B. Replacement Housing Payments For 90-Day Owner Who Purchases

### 1. General

- a. A displaced owner-occupant of a dwelling may receive additional payments, the combined total of which may not exceed \$31,000 for the additional cost necessary to purchase replacement housing, to compensate the owner for the loss of favorable financing on his or her existing mortgage(s) to finance the replacement housing, and to reimburse the owner for incidental expenses incident to the purchase of replacement housing when such costs are incurred as specified herein.
- b. The owner-occupant is eligible for such payments when:
  - 1) He or she is in occupancy at the initiation of negotiations for the acquisition of the real property, in whole or in part;
  - 2) He or she is in occupancy at the time he or she is given a written notice by the Department that it is their intent to acquire the property;
  - 3) Such ownership and occupancy has been for at least 90 consecutive days immediately prior to the earlier of:
    - A) The initiation of negotiations or
    - B) The date of vacation if he or she has been given a notice of intent to acquire;
  - 4) The property was acquired from him or her by the Department;
  - 5) He or she purchased and occupied a decent, safe, and sanitary dwelling within the one-year period specified in Paragraph A.1.b. 1) above;
  - 6) A displaced person "purchases" a dwelling when he or she:
    - a) Acquires/purchases an existing dwelling; when a displacee purchases a life estate in a retirement home, the actual cost will be the entrance fee plus any other monetary commitments to the home, except that periodic service charges may not be considered. The replacement housing payment is limited to the reasonable cost of purchasing a comparable replacement dwelling less the acquisition cost of the acquired dwelling;
    - b) Relocates to and/or rehabilitates a dwelling that he or she owns or buys. When the replacement dwelling selected by the displacee has decent, safe, and sanitary deficiencies, the cost to correct such deficiencies is eligible to the extent that the actual purchase price of the replacement dwelling and the cost of correcting the deficiencies do not exceed the maximum replacement housing payment based on comparable replacement properties;
    - c) Constructs or contracts for the construction of a new decent, safe, and sanitary dwelling on a site that he or she owns or buys.
    - d) Acquires/purchases a recreational vehicle; a recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met:
      - (1) The recreational vehicle is purchased and occupied as the "primary" place of residence.
      - (2) It is located on a purchased or leased site and connected to or has available all the necessary utilities for functioning as a housing unit on the date of the Department's inspection.

- (3) 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 considerations of these vehicles as decent, safe, and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.
- e) Acquires a mobile home. See Section VII
2. Replacement Housing Payment
- a. Amount of Payment
- 1) The replacement housing payment is the amount, if any, that when it is added to the amount the Department paid for the acquired dwelling, it equals the actual cost that the owner is required to pay for a decent, safe, and sanitary dwelling or the amount determined by the Department as necessary to purchase a comparable dwelling, whichever is less. For example, where the acquisition payment is \$10,000, the replacement housing offer is \$2,000, and the owner purchases replacement housing for \$11,000, the replacement housing payment would be \$1,000 (plus any amounts due for incidental purchase expenses and increased mortgage interest cost) instead of the original conditional approved offer of \$2,000. This also requires that the original or photo static copy of the conveyance or closing statement for the replacement housing be attached to and submitted with the owner's application, Form [ROW-RA-16](#), for replacement housing payment in order to document the cost of the replacement housing purchased by the owner.
  - 2) If the replacement property is a part of a property that contains another dwelling unit and/or space for non-residential purposes, or it is located on a tract that is significantly larger than typical for residential purposes, an adjustment must be made in the purchase price of the replacement property to reflect the actual cost of the replacement dwelling.
  - 3) It is the Region/Area's responsibility to make available a comparable replacement dwelling unit and relocate the displaced person to his or her original ownership status if this is his or her desire. If the alternate tenancy status is desired by the displacee, the Region/Area will be expected to make a reasonable effort to accomplish the request. If the optional housing is available, the rental replacement housing payment, if any, will be based on the specified option and computed in accordance with Paragraph b. below.
- b. Determination of Amount of Payment
- 1) The Region/Area Relocation Officer is to determine the amount of the replacement housing payment on Form [ROW-RA-7](#), have it approved by the Region Engineer, and submit the original of the executed form to the ROW Bureau for review and approval. A copy of Form ROW-RA-7 is to be retained in the Region/Area tract file. The payment shall be computed on the basis of a dwelling most nearly representative of, and equal to, or better than the displacement dwelling. Computation of the payment must be made by qualified Region/Area personnel other than the appraiser or review appraiser on the tract involved in the following manner:
    - a) Three Comparable Method  
The Region/Area Relocation Officer or his or her designated agent is to determine the probable selling price or rental rate of a comparable dwelling by analyzing at least three comparable dwellings and listing the required

information regarding each in Form ROW-RA-7. 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. The selected comparable properties must be the most nearly comparable to and equal to or better than the displacement dwelling, available on the private market, and meet all the requirements of a comparable replacement dwelling. Less than three comparable properties may be used only after an extensive search has been made of the market and additional comparable dwellings are not found. If it is considered feasible, the Region/Area personnel may advertise locally that they need particular types dwellings to rent. The tract file must be documented regarding the scarcity of available housing and an explanation of the search must be provided to the ROW Bureau in the cover letter submitting the Form ROW-RA-7. In addition, a statement must be included on the form giving sufficient reason why less than three comparable properties were used.

b) Major Exterior Attributes

If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., significantly smaller site, no garage, no major outbuilding, no swimming pool, etc.), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for computation purposes.

c) Alternate Methods

(1) When there are no comparable properties available, Region/Area personnel must explore available options for providing replacement housing. Such options may include the renovation of an existing dwelling to bring it to DS&S standards, the addition of a bedroom to an existing dwelling to accommodate the displacee, the projected reconstruction of the acquired dwelling, etc. Also, the search for existing comparable properties may be extended outside what would be considered the normal limits.

(2) In determining the cost of making changes to existing dwellings or reconstructing the acquired dwelling, three bona fide bids must be obtained in each case. Each bid must contain a statement that the builder has inspected the acquired dwelling and that he or she is willing to construct the dwelling for the amount of the bid for a specified time, preferably for up to at least 120 days.

(3) Anytime an alternate method of determining a replacement housing payment is used, sufficient information and proper file documentation to support the selected method must be provided the ROW Bureau by the Region/Area.

d) Partial Take

(1) 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 and the tract on which it is located.

(2) 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 that represents a tract typical in size for residential use in the area.

- (3) If an uneconomic remnant remains after a partial taking and the owner accepts the Department's offer to purchase the remainder, the fair market value of the remainder shall be added to the acquisition cost for computation purposes. The value of the remnant cannot be used in the replacement housing computation if the owner does not elect to sell the uneconomic remnant to the Department.
  - e) 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 use higher and better 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 that represents a tract typical for residential use in the area.
  - f) 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 dwelling for computation purposes.
  - c. Confirmation of Comparable Availability  
Displacees must be offered housing that is comparable and available for purchase within the offered amount. Before the replacement housing offer is made, the selected comparable must be reconfirmed as to the availability and price and, if it is still available, the tract file must be documented to this effect. If it is no longer available, the replacement housing computation must be recomputed.
  - d. Forms Used in Computing Payment  
In addition to Form [ROW-RA-7](#) listed above, a Form [ROW-RA-6](#) must be completed for each available comparable used in computing the payment. After Form ROW-RA-7 has been prepared by the Region/Area, the originals of Forms ROW-RA-6 and 7 shall be submitted to the ROW Bureau along with photographs of the comparable properties and a map showing the locations of the comparable properties and the acquired dwelling.
  - e. Approval of Conditional Payment  
Upon receipt of the recommended amount of the replacement housing payment from the Region/Area, the State Relocation Officer or his or her designated assistant will review the computations and amount of recommended payment and show approval of the amount by affixing his or her signature on Form ROW-RA-7. The Region/Area will then be notified of the conditional approved amount.
3. Increased Mortgage Interest Payments
    - a. General

- 1) Increased mortgage interest payments are provided to compensate a displaced person for the increased mortgage interest costs he or she is required to pay for financing a replacement dwelling.
  - 2) The increased mortgage interest payment shall be allowed only when the dwelling acquired by the Department was encumbered by a bona fide mortgage that was a valid item on such dwelling for not less than 180 days prior to the established eligibility date and when the mortgage on the replacement dwelling purchased by the displaced person bears a higher rate of interest than the mortgage interest rate on the dwelling purchased by the Department. All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment. The payment for the increased mortgage interest cost shall be the amount that will reduce the mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) in the displacement dwelling.
  - 3) 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 to reduce the new mortgage as intended.
- b. Payment Computation
- 1) The increased mortgage interest payment shall be contingent upon a mortgage being placed on the replacement dwelling and the following shall apply to the computation of the payment:
    - a) The payment shall be based on the unpaid mortgage balance(s) for the displacement dwelling; however, in the event a smaller mortgage is obtained than the mortgage balance(s) computed in the buy down determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be the balance that existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.
    - b) 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.
  - 2) The Region/Area Relocation Officer or his or her designated assistant will compute the amount of increased interest payment due a displaced person on Form [ROW-RA-17](#).
  - 3) 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 similar real estate transactions in the area;
    - c) The agency determines them 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 the mortgage balance under this section.
- c. Interest Rate of Replacement Dwelling Mortgage
- 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.

d. To Whom Payment Made

The payment described in this paragraph may be made directly to the displaced individual or family, or upon written instruction from the displaced individual or family, it may be made directly to the mortgagee of the replacement dwelling. In cases where an applicant is otherwise qualified for an interest payment, and upon his or her specific request, the Department may make an advance payment into escrow prior to the displacee moving.

e. Partial Acquisition

1) 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 because it is necessary to refinance.

2) Where a dwelling is located on a tract larger than normal for residential use in the area, the interest payment shall 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 whether or not it is required that the entire mortgage balance be paid.

f. 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.

g. 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 than residential use and if the mortgage is based on residential value, the interest payment shall be computed as provided in the appropriate paragraphs above. If the mortgage is based on the 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.

h. Approval of Payment

Upon receipt of the recommended amount of increased interest payment on Form [ROW-RA-17](#) from the Region/Area, the State Relocation Officer or his or her designated assistance will review the computations and documentation. The Region/Area will then be notified of the approved amount by a copy of the approved form.

4. Incidental Purchase Expenses

a. Amount of Payment

The incidental expenses to be paid 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 the title search, preparing conveyance instruments, the notary fees, preparing surveys and plats, and the recording fees.

2) Lender, FHA, or VA application and appraisal fee;

3) Certification of structural soundness and termite inspection when required;

4) Professional home inspection, certification of structural soundness, and termite inspection;

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- 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 taxes, or transfer taxes (not to exceed the costs for a comparable replacement dwelling);
  - 9) Loan origination or assumption fees that do not represent prepaid interest; and
  - 10) Such other costs as the State determines to be incidental to the purchase.
- b. Paid Receipts Required  
A displaced person must attach paid receipts to his or her application Form [ROW-RA-16](#) for the actual costs incurred incident to the purchase of a decent, safe, and sanitary replacement dwelling if these costs are not shown on the closing statement or sales contract. The amount of the reimbursement claimed must be recommended for approval by the Region/Area Relocation Officer and the Region Engineer.
  - c. Approval of Reimbursement  
Upon receipt of application Form ROW-RA-16 from the Region, the State Relocation Officer or his or her designated assistant will review the same along with the required documentation furnished. The Region/Area will then be notified of the approved amount by a copy of the approved form.
5. Combined Payments Not to Exceed \$31,000  
If an owner-occupant is otherwise qualified for a payment under this paragraph but has previously received a payment under Paragraph C. below, the amount of such payment received under Paragraph C. shall be deducted from the amount to which he or she is entitled under this paragraph. In no event may the combined payments exceed \$31,000.
6. Owner Retention
    - a. The owner should be allowed the option of retaining his or her dwelling at retention value when the property is acquired through negotiations. If the property is acquired through condemnation, it should be understood that our offer no longer stands and that we have no obligation to permit the owner to retain the improvement at retention value. In case an owner is agreeable to accepting our approved acquisition offer but it is necessary to condemn to clear title, the owner shall be permitted to retain the improvements if the agreed amount is stipulated in the court decree and he or she is willing to pay the retention value.
    - b. If the owner retains the dwelling, moves it from the acquired site and reoccupies it on a replacement site, the purchase price of the replacement dwelling should be the sum of:
      - 1) The costs to move and restore the dwelling to a condition comparable to that prior to the move;
      - 2) The cost, if necessary, to bring the dwelling up to decent, safe, and sanitary conditions in accordance with SECTION III, Paragraph C.;
      - 3) The current fair market value for residential use of the replacement site unless the displacee rented the acquired site and has reasonable opportunity to rent a suitable replacement site; and
      - 4) The retention value of the dwelling if such value is reflected in the acquisition cost used when computing the replacement housing payment.
    - c. The payment so computed under this paragraph may not exceed the amount that the owner would have obtained under Paragraph B.2. above or if no comparable

properties are available on which to make such a determination, the cost of a comparable new dwelling.

### C. Rental Assistance Payments

#### 1. General

An eligible displaced owner or tenant who rents a replacement dwelling is entitled to a payment not to exceed \$7,200 for rental assistance when:

- a. He or she is in occupancy at the initiation of negotiations for the acquisition of the real property, in whole or in part;
- b. He or she is in occupancy at the time he or she is given a written notice by the Department that it is their intent to acquire the property;
- c. He or she has been in occupancy for at least 90 consecutive days immediately prior to the earlier of:
  - 1) The initiation of negotiations, or
  - 2) His or her date of vacation if he or she has been given a notice of intent to acquire; and
- d. He or she rents and occupies a decent, safe, and sanitary dwelling within one year (unless the Department extends this period for good cause) after:
  - 1) For a tenant, the date he or she moves from the displaced dwelling, or
  - 2) For an owner-occupant, the later of:
    - a) On negotiated tracts, the date the owner receives 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.
- e. He or she have been occupants for less than 90-days, please see Section VIII, Paragraph B. 8.

#### 2. Computation of Payment

The payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

- a. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- b. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

#### 3. Base Monthly Rent

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

- a. The average monthly cost for rent and utilities at the displacement dwelling (verification must be obtained by the relocation agent) for a reasonable period prior to displacement, as determined by the Department. (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. The relocation agent should determine if the fair market rent as indicated in the appraisal is reasonable. If it is not, the agent should determine the fair market rent using comparable rentals.); or
- b. Thirty (30) percent 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 Public Housing and Section 8

Programs. (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>.) The base monthly rental shall be established solely on the criteria in paragraph C. 2. 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

- c. 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.
4. Forms Used in Computing Payment  
The Region/Area Relocation Officer is to compute the amount of the rental assistance payment on Form [ROW-RA-7](#). A Form [ROW-RA-6](#) must be completed for each comparable used in computing the payment. The originals of Forms ROW-RA-6 and 7 are submitted to the ROW Bureau, along with photographs of the comparable properties and a map showing the locations of the comparable properties and the acquired dwelling.
  5. Approval of Conditional Payment  
Approval of the rental replacement housing payment will be in accordance with Paragraph B.2.e. above.
  6. Disbursement of Rental Assistance Payments  
The amount of the rental payment, determined as shown above, shall be in accordance with Paragraph A.1.e. 2) above, and shall be made in a lump sum payment, except in special cases. Exceptions will be handled on a case-by-case basis and require approval of the ROW Bureau.
  7. HUD Section 8 Tenants
    - a. Section 8 tenants must be provided with replacement housing. Region/Area relocation personnel shall work with the local housing authority to locate available comparable Section 8 housing. Individuals and families displaced by a highway project shall be given top priority by the housing authority.
    - b. Three Section 8 comparable properties shall be found if possible. The payment is to be computed on the basis of what the relocatee's out-of-pocket costs would be, if any, for the chosen comparable dwelling. If no comparable government subsidized dwellings are available, Region/Area personnel must notify the ROW Bureau as soon as possible and provide a recommendation for handling the particular tenant.
    - c. For a person receiving government housing assistance before displacement, a comparable replacement dwelling is a dwelling that reflects similar government housing assistance. In such cases, any requirements of the government housing assistance program relating to the size of the replacement shall apply.
    - d. When comparable Section 8 housing is available for a Section 8 tenant, the State is not obligated to make the tenant any other replacement housing offer, even if the tenant wishes to come out of government subsidized housing.

**D. Down Payment Assistance****1. General**

Except for an owner occupant of 90 days or more, any displaced person that is eligible for a rental assistance payment may elect to apply that computed payment to a down payment for a dwelling, provided the displacee purchases and occupies a decent, safe, and sanitary replacement dwelling within one year of moving (unless the Department extends this period for good cause).

**2. Computation of Down Payment**

- a. An eligible displaced tenant who purchases a replacement dwelling may be entitled to a down payment assistance payment in the amount the person would receive if the person rented a comparable replacement dwelling. A down payment assistance payment that is less than \$7,200 may be increased to an amount not to exceed \$7,200 if the required down payment is larger than the computed amount. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive if he or she met the 90-day occupancy requirement.
- b. A displaced tenant may apply the full amount of the rental replacement housing payment as a down payment toward the purchase price of the replacement dwelling and related incidental expenses. A claim for a down payment assistance payment, including incidental costs, may not exceed the amount of the computed rental replacement housing payment except as stated in the above paragraph.
- c. A displaced person eligible for a down payment assistance payment may use the payment toward property previously purchased. The payment is based on the current market value for the residential use of the replacement dwelling and/or site and is supported with the required documentation toward the purchase of the replacement dwelling and/or site. Documentation may include any down payment toward the purchase of the replacement property or cost associated with improvements toward the dwelling and/or site.

**3. Application of Payment**

The full amount of the replacement housing payment for down payment assistance may only be applied to the purchase price of the replacement dwelling and related incidental expenses. Incidental expenses are as provided in Paragraph B.4. above.

**VII. RHP Mobile Homes****A. General Information****1. Applicability**

Except as provided in this section, the provisions of SECTIONS V and VI of this section of the ROW Manual are also applicable to eligible persons displaced from mobile homes and/or mobile home sites.

**2. Mobile Home as Replacement Dwelling**

A mobile home may be considered a replacement dwelling if it substantially meets applicable requirements for decent, safe, and sanitary dwellings.

**3. 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.

4. Partial Acquisition of Mobile Home Park

Where the State determines that a sufficient portion of a mobile home park is taken to justify the operator of such park to move the 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, would be eligible to receive the same payments as though their dwellings were within the actual right of way acquired.

5. Personal Property vs. Realty

During the appraisal stage, every effort must be made to identify and resolve personal property and realty issues for the mobile home displaced. Accordingly, for each tract assigned involving a mobile home, the appraiser and the appropriate Region/Area relocation staff are required to have an onsite meeting to identify whether the mobile home is personal property or realty.

6. General Rules for Replacement Housing or Rental Replacement Housing Payment Computations

- 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.
- 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. are made, the replacement housing payment is computed in two parts:
  - 1) The replacement housing or rental replacement housing payment is computed for the mobile home in accordance with the same procedures for any other comparable dwelling unit.
  - 2) The replacement housing or rental replacement housing 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 or her ownership or tenancy of the land.
- d. The sum of the two parts computed in (1) and (2) above cannot exceed the maximum limitation of the \$7,200 or \$31,000.
- e. If the written relocation offer is made prior to a mobile home site being available, the offer letter is to indicate that the State will continue to search for an available replacement site and no final notice to vacate will be issued until a site is found. If it becomes necessary, housing of last resort will be implemented.

7. Forms Used in Computing Payment

The Region/Area Relocation Officer is to compute the replacement housing payment on Form [ROW-RA-7](#). The other form to be completed and submitted to the ROW Bureau is Form [ROW-RA-6](#).

8. Change of Ownership or Tenancy

If the displaced person desires to utilize his or her option for a change of ownership or tenancy, the same procedures utilized for other dwelling units will be utilized and substituted for the appropriate part in 6.c.1) or 6.c.2) above.

## B. Moving Expenses

### 1. General

- a. Owners and occupants displaced from mobile homes are subject to the eligibility requirements set forth in SECTIONS III and V of this section of the ROW Manual.
- b. Non-returnable mobile home park entrance fees are reimbursable as actual moving costs to the extent that they do not exceed the fees at a comparable mobile home park or the Department determines that the payment of the fee is necessary to effect relocation. Other actual reasonable costs include: moving the mobile home to a replacement site, the reasonable cost of disassembling, moving, and reassembling attached appurtenances such as porches, decks, skirting, and awnings that were not acquired, anchoring of the unit, and utility hook-up charges.

### 2. Owners of Mobile Homes

- a. The owner of a mobile home may be reimbursed for the actual reasonable costs of moving the mobile home and/or other personal property in accordance with SECTION V, page-34 in this Relocation Assistance Section of the Appraisal Manual. Payment will be made based on receipted bills or other evidence of the expenses incurred. In addition, a payment of \$50.00 per room may be made for packing and securing personal property for the move.
- b. The cost of moving a mobile home on an actual cost basis may include the cost of detaching and reattaching fixtures, appliances, and appurtenances that were not acquired.
- c. If a mobile home requires repairs or modifications to enable it to be moved to a replacement site (i.e., to meet comparable mobile home park entrance requirements) or to be made decent, safe, and sanitary and if it is determined that it is practical to do so, payment shall be limited to the eligible reasonable costs to move the mobile home and make the necessary repairs or modifications.
- d. Region/Area personnel must obtain estimates for the needed repairs and opinions from professional mobile home movers to help determine whether moving older or "worn out" mobile homes classified as personal property is economically feasible prior to making the initial relocation assistance offer.
- e. If the owner occupies the mobile home and the mobile home is not moved, he or she may elect to be reimbursed in accordance with the fixed schedule of payments in SECTION V.

### 3. Tenants of Mobile Homes

Tenants who move out of a mobile home may elect to be reimbursed for moving their personal property on an actual reasonable cost basis as specified in SECTION V or in accordance with the fixed schedule of payments.

## C. Replacement Housing Payments For 90-Day Owners

### 1. General

- a. A displaced owner of a mobile home who has occupied the mobile home for at least 90 days on the site from which he or she is being displaced and who is otherwise

eligible under SECTION VI is eligible for payments, the total of which may not exceed \$31,000 for:

- 1) The additional costs necessary to purchase replacement housing as specified in Paragraphs 2., 3., and 4. below and in accordance with SECTION VI;
  - 2) The loss of favorable financing on his or her existing mortgage in the financing of such replacement housing under the provisions of SECTION VI; and
  - 3) Incidental expenses incident to the purchase of such replacement housing in accordance with the provisions of SECTION VI.
- b. A displaced owner-occupant of a mobile home eligible for a replacement housing payment as shown in C.1.a. above who elects to rent is eligible for a rent payment, not to exceed the amount computed as an owner, in accordance with Paragraphs 2.b., 3.b. and 4.b. below. Such a payment will be computed and disbursed in accordance with the provisions of SECTION VI.
- c. If the Department 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 cost and any replacement housing payment for the purchase or rental of a comparable site.
2. Acquisition of Mobile Home and Site
- a. Replacement Housing Payment
- The replacement housing payment will be the amount, if any, that when added to the amount for which the State acquired the mobile home and site, it equals the lesser of:
- 1) The amount the owner is required to pay for a decent, safe, and sanitary replacement mobile home and site, or
  - 2) The amount determined by the State as necessary to purchase a comparable mobile home and site in accordance with the provisions of SECTION VI.
- b. Rental Replacement Housing Payment
- If the owner elects to rent, the rental assistance payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement mobile home and site from the lesser of:
- 1) The monthly rent and estimated average monthly cost of utilities for a comparable replacement mobile home and site, or
  - 2) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement mobile home and site or other dwelling actually occupied by the displaced person.
3. Acquisition of Site Only
- a. Upon acquisition of the site, but not the home situated upon the site and when the mobile home is required to be moved, the replacement housing payment will be determined as follows:
- Replacement Housing Payment:
- The replacement housing payment will be the amount, if any, that when it is added to the amount for which the State acquired the mobile home site, it equals the lesser of:
- 1) The amount the owner is required to pay for a comparable site, or
  - 2) The amount determined by the State as necessary to purchase a comparable mobile home site.

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- b. Rental Replacement Housing Payment  
If the owner elects to rent, the rental assistance payment shall be 42 times the amount obtained by subtracting the monthly rent for the displacement site from the lesser of:
- 1) The monthly rent of a comparable mobile home site, or
  - 2) The monthly rent the displacee actually pays for his or her replacement mobile home site.
- c. Mobile Home as Personal Property
- 1) When the mobile home which must be moved from the site is personal property and cannot be acquired under State law, the displaced owner-occupant is entitled to a replacement housing payment if it is determined that the mobile home:
    - a) Is not, or cannot economically be made, decent, safe, and sanitary;
    - b) Cannot be moved without substantial damage or unreasonable cost;
    - c) Cannot be moved because there is no available comparable replacement site, or
    - d) Cannot be moved because it is not practical to repair or modify it to meet mobile home park entrance requirements.
  - 2) The acquisition cost for computation purposes under this paragraph shall include the salvage value or trade-in value of the mobile home, whichever is higher. If the mobile home owner obtains a replacement housing payment under this paragraph, he or she will not be eligible for moving expenses for the mobile home.
  - 3) If the owner is determined to be displaced from a mobile home and eligible for a replacement housing payment based on C.3.c.1. above, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of:
    - a) The displaced mobile home owners' cost to purchase a replacement mobile home less the trade-in or sale proceeds of the displacement mobile home; or
    - b) The cost of the selected comparable mobile home less the department's estimate of the salvage or the trade-in value for the mobile home from which the person is displaced.
4. Acquisition of Mobile Home Only -- Owner-Occupant Rents Site
- a. Replacement Housing Payment  
The replacement housing payment will be the amount, if any, that when it is added to the amount for which the State acquired the mobile home, it equals the lesser of:
- 1) The actual amount the owner is required to pay for a replacement dwelling, or
  - 2) The amount, determined by the State as necessary, to purchase a comparable mobile home plus the difference:
    - a) In the amount determined by the State as necessary to rent a comparable mobile home site for 42 months or the rent the displacee actually pays for the replacement site, if lesser, and
    - b) 42 times the rent being paid on the site acquired.
  - 3) The rental assistance payment for a mobile home site may:
    - a) be used to lease a replacement site;
    - b) be applied to the purchase price of a replacement site;

- c) be applied with any replacement housing payment attributable to the mobile home;
    - d) be applied to the purchase of a replacement mobile home or conventional decent, safe, and sanitary dwelling.
  - b. Rental Replacement Housing Payment

If the owner elects to rent a replacement mobile home, the rental assistance payment shall be 42 times the amount obtained by subtracting the base monthly rent for the displacement mobile home as determined by the State, and the base monthly rent of the site, from the lesser of:

    - 1) The monthly rent and estimated average monthly cost of utilities, determined by the State as necessary, to rent a comparable mobile home and site, or
    - 2) The monthly rent and estimated average monthly cost of utilities the displacee pays for a decent, safe, and sanitary replacement dwelling.
- 5. Acquisition of Rented Site Only -- Mobile Home Not Acquired
  - a. Replacement Housing Payment

Upon acquisition of the site, but not the home situated upon that site, and when the mobile home is required to be moved, the owner-occupant of the mobile home is eligible for up to \$7,200:

    - 1) For the down payment on a comparable site. The amount for a down payment will be paid in accordance with SECTION VI, or
    - 2) As rental assistance for a comparable replacement site. This rental assistance payment shall be 42 times the amount obtained (rewrite) by subtracting the base monthly rent for the displacement site from the lesser of:
      - a) The monthly rent and estimated average monthly cost of utilities, as determined by the State, of a comparable mobile home site, or
      - b) The monthly rent and estimated average monthly cost of utilities the displacee actually pays for the replacement mobile home site.
  - b. Mobile Home as Personal Property

See Paragraph C.3.c. above of this section for circumstances under which a replacement housing payment for the mobile home may be qualified.
- D. Rental Replacement Housing Payments to Tenants of Mobile Homes for 90 Days or more
  - 1. General

A displaced tenant of a mobile home who has occupied the mobile home for at least 90 days on the site from which he or she has been displaced and who is otherwise eligible under the provisions of SECTION VI is eligible for a replacement housing or rental assistance payment, not to exceed \$7,200.
  - 2. Options
    - a. He or she may receive a down payment and reimbursement for expenses incident to such purchases in accordance with the provisions of Paragraph D.2.a. above, or
    - b. If the tenant elects to rent, he or she may receive a rental assistance payment that will be determined in accordance with Paragraph D.2.b. above except that the base monthly rent being paid for the mobile home and site is used in the computation. The payment will be computed and disbursed in accordance with SECTION VI.

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**VIII. Last Resort Housing****A. General Requirements****1. Rights of the Displaced Person**

The provisions of this section do not deprive any displaced person of his or her rights to receive relocation assistance, moving costs, or replacement housing payments for which he or she may be otherwise eligible or of his or her freedom of choice in the selection of replacement housing. The State may not require a displaced person, without written consent, to accept a dwelling provided by the State under these procedures in lieu of his or her acquisition payment, if any, for the real property from which the person is displaced or the replacement housing or rental assistance payment for which he or she may be eligible. However, the State's obligation of providing comparable replacement housing will have been discharged when comparable replacement housing has been made available to the displaced person in compliance with the Uniform Act. If the displacee does not accept the comparable replacement housing provided by the State 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 incurred by the displacee for decent, safe, and sanitary housing, whichever is the lesser.

**2. Consequential Displacement**

Any person displaced because of the acquisition of real property for a last resort housing project under the State's power of eminent domain (including amicable agreements under the threat of such power) is entitled to all the benefits for which he or she is eligible under the relocation assistance provisions, except:

- a. This provision is not applicable when an owner-occupant voluntarily acts to sell his or her property to the State for last resort housing, and
- b. When The owner-occupant so certifies in a statement maintained in the State's files.

**3. Civil Rights**

The selection of prime contractors and subcontractors shall be made by the State on a non-discriminatory basis and in accordance with the requirements in Title VI of the Civil Rights Act of 1964 and Executive Orders 11246 and 11625.

**B. Applicability****1. General**

The provisions of this section apply to displaced persons occupying residential dwellings. If the displacee is handicapped, the barriers to handicap use must be removed in the replacement dwelling.

**2. Utilization of Last Resort**

- a. 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:
    - a) The availability of comparable replacement housing in the program or project area,
    - b) The resources available to provide comparable replacement housing; and

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- c) 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 an entire program or project area so that last resort housing assistance is necessary for the area as a whole,
    - 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 the elements that contribute to the total program or project costs. (Will project delay justify waiting for less expensive comparable replacement housing to become available?)
  3. 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 price differential payment. When the sum of these items is estimated to exceed the \$31,000 maximum, the last resort housing provisions are applicable.
  4. Rental Assistance in Excess of \$7,200 for a 90-Day Owner or Tenant  
A 90-day owner or tenant, in accordance with SECTION VI, is eligible for rental assistance. When this payment is expected to exceed the \$7,200 maximum, the last resort housing provisions are applicable.
  5. When Replacement Housing is Available at Cost Exceeding \$31,000 or \$7,200  
If comparable replacement housing is available on Federal-aid projects but the costs exceed the \$31,000 or \$7,200 limitations, Federal funds will participate in such costs. Close surveillance should be maintained where this procedure is used to assure that displacees receive the full entitlement under the principal of comparability.
  6. Down Payments  
A displaced person eligible for a down payment under SECTION VI is also eligible under this section. The maximum amount allowed for the down payment shall be the amount computed for rental assistance.
  7. Non-Availability of Comparable Housing
    - a. When comparable replacement housing is not available and cannot otherwise be made available, the State may provide such housing by methods that include but are not limited to the following:
      - 1) The rehabilitation of, and/or additions to, existing dwellings to meet decent, safe, and sanitary requirements provided the cost of acquisition and/or rehabilitation does not exceed the estimated cost of constructing a new comparable dwelling meeting the decent, safe, and sanitary requirements of the displacees that can be constructed on a timely basis,
      - 2) The relocation and, if necessary, the refurbishing or rehabilitation of dwellings purchased by the Department for right of way purposes
      - 3) The construction of new dwellings;
      - 4) A replacement housing payment more than the limits set forth in SECTION IV of this Relocation Assistance Section of the Appraisal Manual, and
      - 5) The removal of barriers for persons with disabilities.

- b. In circumstances where comparable properties are not available at the time a computation is to be done on a particular tract and no prior provisions have been made, Region/Area personnel will explore various alternatives and provide the ROW Bureau with at least three (3) viable options along with the estimated cost of each and their recommended solution. Less than three (3) options may be used only in rare instances.
8. Displacees of Less than 90 Days
- a. Persons in occupancy when the Department acquires the dwelling but who have occupied the property for less than 90 days prior to the initiation of negotiations or who began occupancy after the start of negotiations are not eligible for rental assistance or a replacement housing payment under SECTION VI. However, they must be provided comparable last resort housing when comparable replacement housing is not within their financial means. Comparable replacement housing is considered to be within the person's financial means if the State pays that portion of the monthly housing cost of a replacement dwelling that exceeds the person's base monthly rent for the displacement dwelling as described in VI.C.3. Such rental assistance must be paid under replacement housing of last resort.
- b. The State shall identify comparable replacement housing and compute a payment for the displacee(s) of less than 90 days. An offer will be made to the displacee(s) only when the monthly rent and estimated average cost of the utilities of comparable replacement housing exceeds the monthly rent and estimated average cost of the utilities of the displacement dwelling.

9. 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 status he or she had prior to displacement. With the concurrence of the displacee, the relocation agent may provide a dwelling that changes the ownership or tenancy status of the displacee if such a dwelling is available and can be provided more economically.

10. Cooperative Agreements

The Department may enter into cooperative agreements with any other Federal, State, or local agency or contract with any individual, firm, association, or corporation for services in connection with these activities. It is expected that the State will, to the greatest extent practicable, utilize the services of Federal, State, or local housing agencies or other agencies having experience in the administration or conducting similar housing assistance activities.

C. Federal Participation

1. Eligible Costs

- a. Federal-aid funds will participate in the actual reasonable costs incurred by the State in providing last resort housing when incurred in accordance with the provisions of this section. Such costs include but are not limited to:
- 1) The acquisition price of land and/or dwellings and costs incidental thereto;
  - 2) Moving of houses;
  - 3) Site development;

- 4) Architect and engineer fees;
  - 5) Landscaping;
  - 6) Rehabilitation of and/or additions to existing housing;
  - 7) Construction of new housing;
  - 8) Legal fees and expenses;
  - 9) Other expenditures necessary to produce dwelling units that are compatible with other dwellings in the neighborhood in which they are constructed and acceptable to the general real estate market; and
  - 10) Any direct costs of providing last resort housing incurred by the Department, a political subdivision, a local public agency, or a housing advisory committee.
- b. Even though federal regulations allow agencies to provide direct loans to displaced persons involved in housing of last resort, the Constitution of the State of Alabama prohibits the State from "lending money or its credit to any individual, association, or corporation." Therefore, the Department cannot make use of this provision in the regulations.

## 2. Federal Share

Federal reimbursement for the costs of last resort housing shall be determined in accordance with the appropriate Federal pro-rata share of funds involved.

## D. Preliminary Housing Study

### 1. Inventory of Replacement Housing

Whenever, during the planning, development, or execution of a Federal or federally-assisted project, it appears that a sufficient supply of comparable decent, safe, and sanitary replacement housing may not be available to satisfy the requirements of SECTION III and VI, or that such housing is not available on a non-discriminatory or fair housing basis, the State, using existing data and supplementing it where necessary to ascertain more precisely the need to provide housing under this section, shall:

- a. Prepare an inventory of the characteristics and relocation needs, desires, and intentions of the families and individuals for whom there is a possible need indicated for last resort housing.
- b. Prepare an inventory of available housing, which shall include:
  - 1) Currently available comparable replacement sale and rental housing, and
  - 2) Housing planned to be constructed or rehabilitated and which will be available as comparable replacement housing.
- c. The inventories under (1) and (2) above may include housing planned to be removed or demolished by the highway project or by governmental or private agencies.
- d. In preparing such inventories, the State shall consult with Federal, State, or local agencies that may be able to provide such housing or are knowledgeable with respect to housing programs. In order to avoid reliance by more than one displacing agency on the same replacement housing resource, the State shall coordinate with the other displacing agencies with respect to the utilization and allocation of these resources. The timing of the highway project must also be taken into consideration in preparing the inventories.

### 2. Analysis and Conclusion

The State shall correlate and analyze the information contained in the above inventories. If last resort housing is to be utilized, this analysis must reasonably show that the project cannot proceed to actual construction because comparable sale or rental housing is not

reasonably anticipated to be available and cannot be made available. The preliminary housing study should conclude with the number and characteristics of dwellings to be provided under last resort housing procedures.

3. Combined Study and Plan

The preliminary study may be combined with the last resort housing plan provided in Paragraph F. below.

E. Last Resort Housing Plan

1. Plan Requirements

If the analysis in the preliminary housing study indicates that the provision of last resort housing is necessary, the State shall develop or cause to be developed a plan designed to determine the method of producing comparable replacement housing. In the development of the plan, innovative approaches and methods for the provision of comparable replacement housing are encouraged. A detailed analysis of the needs of each displacee shall be considered when planning the type of housing necessary to meet these needs. The plan shall include:

- a. How, when, and where housing will be provided;
- b. The environmental suitability of the location of the proposed housing;
- c. The environmental impact of the proposed last resort housing;
- d. How it will be financed and the amount of project funds to be used for such housing:
  - 1) Contractual arrangement with State and local housing agencies;
  - 2) Contractual arrangement with HUD or the Farmers Home Administration;
  - 3) Contract with non-profit or for-profit organizations experienced in the development of housing;
  - 4) Interest subsidy payments; or
  - 5) Direct construction by the State;
- e. The prices within the financial means of the families and individuals to be displaced at which the housing will be rented or sold;
- f. The arrangements for rental housing management;
- g. The disposition of the proceed from rental, sale, or resale of such housing;
- h. How the construction will be monitored; and
- i. Any other comments pertinent to providing replacement housing.

2. Consultation

From the inspection of the last resort housing plan and continuing during the course of its development, the Department may consult with the residents to be displaced or their representatives.

3. Aggregate Housing under Jointly-Financed Programs

Where several agencies are administering programs resulting in residential displacement, opportunities shall be sought out for joint development and financing in order to aggregate their resources to provide replacement housing in sufficient quantity to satisfy the aggregate needs of such programs.

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**F. Implementation of Housing Plan****1. Use of Other Agencies**

Whenever practicable, the State may utilize the services of Federal, State, or local housing agencies or other agencies, groups, or individuals having experiences in the administration or conducting of similar housing programs.

**2. Inspection of Construction**

The State shall monitor, with its own forces or qualified fee personnel, the construction of replacement housing to assure that it is in accordance with the last resort housing plan. A final inspection shall be made and the signed certification of acceptability of the construction shall be in the State files.

**3. Utilization of Small and Minority Firms**

The use of small and minority firms located in or near the project area and the employment of residents of the project area are encouraged.

**G. Compliance with Other Statutes****1. The development and implementation of last resort housing projects shall be in compliance with the applicable provisions of the following, including the amendments and regulations issued pursuant thereto:**

- a. SECTION 1 of the Civil Rights Act of 1966 (42 U.S.C. 1982 et. seq.);
- b. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.);
- c. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et. seq.);
- d. The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347);
- e. Executive Order 11063 (Equal Opportunity in Housing) 3 CFR Comp. 1959-1963, page 652;
- f. Executive Order 11246 (Equal Employment Opportunity) 3 CFR Comp. 1964-1965, page 339, or Federal Laws, Regulations and Materials Relating to the Federal Highway Administration, page IV-41; and
- g. Executive Order 11625 (Minority Business Enterprise) 3 CFR Comp. 1971, page 213.
- h. The Americans with Disabilities Act of 1990.

**IX. Incidental Expenses****A. Reimbursable Expenses**

1. Owners of real property acquired for a highway project are entitled to receive reimbursement for reasonable and necessary expenses incurred in transferring such property to the State. Such expenses may include: (1) recording fees, mortgage releases, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and any similar expenses incidental to conveying such property (The State is not required to pay costs solely required to perfect the owner's title to the real property.); (2) penalty costs for the prepayment of any pre-existing mortgage entered into in good faith encumbering such real property if such a mortgage is on record or has been filed for record under the applicable State law; and (3) the pro rata portion of real property taxes paid that are allocable to a period subsequent to the date of vesting of the title in the State or the effective date of possession by the State, whichever is earlier.

2. An owner of real property acquired may file a written appeal in any case in which the person believes the State has failed to properly determine the person's eligibility for, or the amount of, a payment of incidental transfer expenses. The State shall consider a written appeal regardless of form, and the appeal shall be heard in accordance with procedures set forth in SECTION IV of this section of the ROW Manual.

#### B. Procedure for Refund of Ad Valorem Taxes

1. The Region/Area Relocation Officer is to determine when the property was acquired and insert the date acquired in Item 1 of Ad Valorem Tax Refund Form ROW-RA-22. He or she should check to see if the State has already paid the full year's tax and if so, he or she should not include the tract. There are cases where the owner executed the agreement to convey prior to October 1, but the tract was not closed until after October 1 so that the State paid the full amount of the new tax lien, which accrued on October 1.
2. The Region/Area Relocation Officer is to determine whether the property was acquired in Fee Simple; Condemned; Letter of Right of Entry; Letter Granting Possession; or only a Temporary Easement was obtained. Do not include a tract where only a temporary construction area, drainage, a detour road, a borrow area, a spoilage area, or any other type of temporary easement was obtained.
3. In a case where the approved offer is the same as that shown in an appraisal report, obtain the Total Before Value of the tract and the State's approved offer (Value of Part Taken) from it. Insert these amounts in Item 2 of the form. Do not use the amount of Court Award or amount of Settlement as the value of the part taken. In case a Valuation Finding or Appraisal was made without a Before Value was given, then use the total before acreage of the tract as the Before Value and the acreage acquired as the part taken. In a case where the approved offer is not the amount shown in one of our appraisal reports, the Total Before Value and the approved offer (Value of Part Taken) should be obtained by correspondence between the ROW Bureau and the Region/Area Office.
4. Compute the percentage of land purchased by the Department by dividing the acres purchased by the total acres. This percentage should be applied to that portion of the taxes applicable to the land. Taxes applicable to any improvements should be added if the improvements are acquired.
5. Obtain from the chart under Item 3, according to the State's obligation date (Item 1), the percent to use in prorating the tax. Insert the applicable percent in Item 3.
6. Obtain a copy of the paid tax receipt; from the owner' the State's attorney assigned to the project, or the Tax Collector, or the [ROW Form-E](#) (closing statement) executed by the State's attorney. If the receipt includes a payment for taxes on any property other than the involved tract, obtain from the Tax Assessor or Collector the separate amount of tax that was due for the tract involved. Payments for penalty and interest on taxes are not reimbursable. Therefore, do not include them in total amount of tax.
7. Under Item 4, multiply the Total Amount of Tax by the percentage (1) obtained in Item 2 (Percent of Total Value Purchased by State) to obtain the Amount to Prorate. Then

multiply the Amount to Prorate by percentage (2) in Item 3 (State's portion of year) to obtain the Amount of Refund Due.

8. The amount of refund due should be recommended for approval by the Region/Area Relocation Officer and Region Engineer and submitted to the ROW Bureau for approval with a copy of the tax receipt or documentation attached and also an explanation of the applicable amount of tax in those cases where the receipt covers additional property other than the tract acquired by the State.
  9. The Region/Area Relocation Officer should prepare Invoice Form [ROW-25](#) and obtain the signature of the owner on the same. The tax refund should be shown on the invoice as "Reimbursement of Prorated Ad Valorem Taxes", Function Code 240, Object Code 504, and be coded Non-Participating (1). The Region Engineer should sign his or her approval on the invoice and submit the same to the ROW Bureau for payment along with the Form [ROW-RA-22](#).
  10. A refund of the pro rata portion of ad valorem taxes paid will not be made if the amount of the refund is less than twenty-five dollars (\$25.00). Region/Areas will not submit any forms to the ROW Bureau where the determination is less than \$25.00.
- C. Applications for Reimbursement of Other Transfer Expenses
1. Application for reimbursement of incidental transfer expenses, other than pro rata ad valorem taxes, incurred by owners in conveying their real property to the State is to be made on Form [ROW-RA-12](#).
  2. Region/Area personnel are to assist the applicant in filling out his or her application completely. Receipts must be attached in support of the incidental transfer expenses claimed. If the application includes reimbursement for the penalty for the prepayment of a mortgage, the mortgage must have been recorded or filed for recording under the applicable State law. Thus, the date the mortgage was recorded or filed for recording must be given on an application form. Some mortgages do not contain a prepayment penalty clause; therefore, a copy of the mortgage and a statement setting forth the determination of the amount of the penalty must be attached to application Form ROW-RA-12.
  3. Approval by the ROW Bureau Office will be so indicated on the Form ROW-RA-12 and a copy will be returned to the Region/Area. Invoice Form [ROW-25](#) may be submitted to the ROW Bureau along with the application. However, the invoice will not be processed unless and until the application is approved. Proper coding of the invoice form will be the responsibility of the Region/Area. The Region Engineer should sign his or her approval on the invoice and submit the same to the ROW Bureau for payment.