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GLOSSARY

COMPARABLE REPLACEMENT DWELLING

When a person is relocated whether voluntarily or involuntarily, they are moved to a "comparable replacement dwelling." Based on 49 CFR 24.2(d), a comparable replacement dwelling is:

- (1) Decent, safe and sanitary
- (2) Functionally equivalent to the displacement dwelling
- (3) Free from adverse environmental conditions
- (4) In a location no less desirable
- (5) On a site typical of the area

This establishes the minimum standard of "equal to or better" for any relocation.

DISPLACED PERSON

Any lower income family or individual that moves from real property, or moves his or her personal property (a trailer) from real property, permanently and involuntarily as a direct result of the conversion of an occupied or vacant occupiable low/moderate income dwelling unit or the demolition of any dwelling unit in connection with an assisted activity (a person funded with CDBG dollars.)

Note: The CDBG program as operated will not "displace" persons.

SECTION 104(d) - of the Housing and Community Development Act of 1974

This requires that all occupied and vacant occupiable low/moderate income dwelling units that are demolished or converted to a use other than low/moderate income housing must be replaced.

This is also known as the "one for one" requirement - if you demolish one (dwelling) you have to replace it with one (dwelling).

Under the CDBG program, you must adhere to this requirement.

UNIFORM RELOCATION ACT (URA)

All of the policies and procedures concerning the acquisition and relocation are covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended which covers all HUD assisted programs. The URA requirements can be found at 49 CFR Part 24 (see 54 FR 8912).

VOLUNTARY RELOCATION

The URA makes a clear distinction between a "displaced person" who is forced to move permanently and a "non-displaced" person, one who is not forced to move. The difference between the two is important in determining the nature of the benefits to the person. In this chapter when we talk about voluntary relocation, we are concerned with a person who is in the technical and legal sense a "non-displaced" person.

A voluntary relocation occurs when "the person is an owner-occupant of the property who moves as a result of an arm's length acquisition (not condemnation) or as the result of voluntary rehabilitation or demolition of the real property". There are three additional requirements:

- (1) "The City/County determines and informs the owner in writing that it will not use its power of eminent domain to acquire the property if the negotiations fail to result in an amicable agreement."
- (2) "No specific site or property needs to be acquired..." in order for the project to proceed.
- (3) "The City/County informs the owner of its estimate of the fair market value of the property."

NOTE: The CDBG program meets all three of these conditions. That is why it is voluntary relocation and the persons are not "displaced."

RELOCATION

The Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the URA) applies to all Federal or federally-assisted activities that involve the acquisition of real property or the displacement of persons, including displacement caused by rehabilitation and demolition activities. The URA is intended to ensure implementation of such activities by Federal agencies or other public or non-profit agencies is as uniform and consistent as possible.

Under the URA, all persons (families, individuals, businesses and farms) displaced (forced to move permanently) as a direct result of rehabilitation, demolition or acquisition for a HUD-assisted project are entitled to relocation payments and other assistance. Relocation concerns must be addressed early in a project's process, primarily at the time the project is proposed. After the execution of the agreement is received, the appropriate notices regarding relocation should be disseminated to eligible residents.

When a homeowner or tenant is forced to move from their dwelling against their will, the relocation becomes involuntary and they have become a "displaced person." However, CDBG Policies and Procedures for housing rehabilitation projects using Federal funds in designated target areas does not allow for Involuntary Relocation. When a homeowner does not want to relocate or rehabilitate their dwelling, the city or county can not force the homeowner to do so or condemn the dwelling.

VOLUNTARY RELOCATION

When a project is undertaken that will facilitate the acquisition, rehabilitation or demolition of dilapidated dwellings, the affected homeowner(s) must be offered relocation benefits. In some cases, rehabilitation of a dilapidated dwelling is not cost efficient and the homeowner agrees to sell or donate their dwelling to the city or county who then demolishes the dwelling. The homeowner is then voluntarily relocated into a new building on the same site, a more suitable (decent, safe and sanitary) site or to an existing dwelling on another site. This voluntary relocation provides the homeowner with the benefits of receiving a new and/or better dwelling. The homeowner is also entitled to benefits related to the move, including moving and related expenses. The grantee benefits from the removal of an "eyesore" and improves the housing stock in the community.

Homeowners who are voluntarily relocated must be referred to at least one "comparable" replacement unit. The comparable replacement unit must be similar in (1) size (contain the same amount of space as the original unit), and function (performing the same purpose as the original unit), (2) reasonably accessible to the person's employment, (3) located in an equal or better area than the location of the original unit, (4) decent, safe and sanitary, (5) currently available and (6) within the financial means of the homeowner.

PROCESSING RELOCATION CLAIMS

The grantee is responsible for assisting relocatees in applying for benefits under the URA. Each homeowner affected must receive the appropriate notices/forms relating to voluntary relocation (Appendix 1). These may include:

- General Information Notice (GIN)
- Claim for Replacement Housing Payment
- Acknowledgement of Services and Payments for Voluntary Relocation

All Notices must be served at the appropriate time so that adverse actions will not be realized. The files must also indicate the manner in which the Notices are delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery.

In the event that a claim is denied or a relocatee intends to waive his/her relocation benefits, ECD should be contacted immediately.

Request for Payment for Relocation Claims

In those cases where a new house is being built or a new manufactured home being purchased, the funds should be requested from the "Relocation" line item in the budget not from the "Housing Rehabilitation" line item.

RECORDKEEPING

Recordkeeping is an integral part of your responsibilities. Refer to the relocation file checklist to ensure all voluntary relocation activities are complete. Separate files must be maintained on each household for 3 years following completion of the project or relocation payment, whichever is later.

AREAS OF SPECIAL CONCERN

Affirmative Action

Efforts must be made and documented that low income and minority homeowners who are displaced have been shown replacement housing in areas not concentrated by low income and minority populations.

Housing Discrimination

Relocatees must be assisted in making complaints of housing discrimination (see Exhibits).

Self Relocatees

It is the decision of the relocatee if he/she should desire to move into a housing unit that is not "decent, safe and sanitary" or that does not meet code specifications. They are entitled to receive moving costs, but not a replacement housing payment. Contact ECD for assistance.

Relocation of Farms and Businesses

Contact ECD.

Additionally, pay particular attention to citizen concerns regarding housing and relocation. They may be frightened and suspicious of efforts to refurbish the housing stock. The counseling and assistance required in helping homeowners is significant, and the area in which many programs experience the greatest difficulty.

RELOCATION POLICY

When the homeowner agrees to be relocated because he/she will benefit and there is no threat of condemnation, relocation policy is locally determined. Because voluntary relocation occurs in the housing rehabilitation program, a sample "relocation" policy is included under the housing policies and procedures.

Voluntary relocation forms can be found on pages 7 through 15.

INVOLUNTARY RELOCATION

When a homeowner or tenant is forced to move from their dwelling against their will, the relocation becomes involuntary and they have become a "displaced person." Displaced persons are entitled to all of the benefits under the Uniform Relocation Act and/or Section 104(d).

IMPORTANT NOTE: The CDBG Policies and Procedures for Housing Rehabilitation projects using Federal funds in designated target areas does not allow for Involuntary Relocation. In the history of the CDBG program, there has never been involuntary relocation. Any city or county considering the involuntary relocation of a homeowner or tenant for any reason must contact ECD before contacting the homeowner or tenant.

Involuntary relocation benefits are covered in detail by the Uniform Relocation Act and Section 104(d). A description of the benefits and applicable forms can be found on pages 17 through 81.

Involuntary Relocation

**If you are doing involuntary relocation,
you must contact Program
Management prior to beginning the
process. We will provide the
necessary forms.**

Voluntary Relocation Forms

GENERAL INFORMATION NOTICE -- 180-DAY HOMEOWNER

(Agency Letterhead)

(date)

Subject: Voluntary Relocation Benefits

Dear _____:

The City of Anytown has received Federal Community Development Block Grant (CDBG) funds to be used in your area to rehabilitate or replace dwellings that do not meet the building code and are in need of repair.

This program is entirely voluntary and you do not have to participate in it if you do not wish. During the life of the CDBG program the City will not condemn your house, force you to fix your house, or force you to move to another dwelling. If you do not want to participate, the City will use the funds to help others in the area.

The City of Anytown has determined that because of your income you are eligible to participate in the program. The City has also determined that because of the dilapidated conditions of your house, it is not cost effective to rehabilitate it, you may be eligible for voluntary relocation benefits. If the City believes that it would be more cost effective, and in your and the City's interest, the City may offer to provide you with another house to take the place of your dilapidated house.

The City believes it can best assist you by providing the following relocation benefits.

- a. If you agree to donate your dilapidated dwelling to the City/County, they will demolish it at no cost to you and build (or purchase a manufactured home) as a new comparable replacement dwelling on the *same site*.

Or

The city should select the appropriate paragraph (a. b. or c.) that describes what is going to happen to the homeowner, and leave out the other paragraphs.

- b. If you agree to donate your present dilapidated dwelling to the City/County, they will demolish it at no cost to you and build (or purchase) a new comparable replacement dwelling on *another site*.

Or

- c. Your present dilapidated dwelling is located in a floodplain and subject to periodic flooding. It is impracticable to raise the dwelling high enough to prevent it from flooding. If you will donate the dwelling and the land to the City/County, they will demolish the present structure, then build (or purchase) you a comparable replacement dwelling *outside of the flood plain area*.

All settlement costs, recording fees, legal fees and other costs relating to the transfer of property will be paid for you.

The purpose of this offer by the City is so you will receive a new dwelling at no cost to you. The City does not intend that you should receive extra "cash" as a result of this program.

If you should sell this dwelling within five years, you will be expected to repay the City/County as described in the Policies and Procedures.

This is a voluntary process. The City will not force you to move. However, this offer is only good as long as the City has the funds to carry out the program.

Sincerely,

City Official

Received by _____

Date _____

Witness _____

INSTRUCTIONS FOR FILLING OUT THE CLAIM FOR VOLUNTARY REPLACEMENT HOUSING PAYMENT - 180 DAY HOMEOWNER

The following material will assist in the preparation of Form F-2 which is used to request Relocation Funds.

1. Name of Person(s) receiving Relocation benefits.
2. Answer the question.
3. This is the existing (dilapidated) unit that the homeowner lives in.
4. This will be the new replacement unit.
5. (1) The City should determine the price of a Comparable Replacement dwelling. This is defined as "decent, safe and sanitary" and "functionally equivalent" and "equal to or better than" the existing dwelling. The price may be established by informal surveys of the area.
5. (2) This is the price of the dwelling the homeowners are moving to. If the City is demolishing the old dwelling and building a new dwelling on the same site, then the price is established by the low bid for constructing the new dwelling.
5. (3) Lessor of line (1) or (2). Use which ever number is smaller. (Don't subtract one line from the other.)
5. (4) The homeowner may donate the dilapidated dwelling to the City who then demolishes the house and builds the new replacement structure. This saves the project the time and expense of having an appraisal done. If, however the City as a policy buys the dilapidated dwelling, then the City must have an appraisal done and pay the appraised price. The money will come from the Acquisition line in the project budget. When the City "buys" the dilapidated dwelling the homeowner will apply this money and the relocation funds toward the costs of the new replacement dwelling 5.(2).
5. (5) Do the subtraction.
5. (6) Turn the form over and look at the top of the page. Items 12(1) thru 12(15) list a number of costs that can be paid for as a relocation benefit; 12(15) is for "other".
Corrections: If for some reason some of these fees change, or have to be adjusted, they can be, by resubmitting this form with the corrected information.
5. (7) Leave blank. If you anticipate a mortgage buydown, call ECD.
5. (8) Do the addition. This will give you the Relocation benefits due the homeowner. (They will be paid out of the Relocation line item when a new house has been built. The Rehabilitation line item funds are used only for houses that are rehabbed. A new house is not a rehab.)
5. (9) Use this only if this is the second time you are requesting relocation funds on the same case. For example, if you need to request additional incidental expenses.

5. (10) This is the total Relocation Benefit requested. In general this amount added to the Acquisition Amount (5(4)) will equal the cost of the new dwelling (5(2)).
6. Homeowners must sign.
7. Can be left blank because this is a voluntary relocation.
8. Same as 7.
9. Usually the date of final construction.
10. Signature by Consultant or Administrator.
- 11, Signed by local elected official (Mayor or County Executive).
- 12, (1) thru (15). All of these are eligible expenses and can be paid from Relocation.
12. (16) The total of expenses should be entered in line 5(6).
13. Mortgage Buydown Payment – Not applicable to CDBG projects.

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

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

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

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

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

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

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

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

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

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

RESIDENTIAL HOUSEHOLDS

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

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

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

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

Instructions: Enter expenses incidental to the purchase of your new home. Do not include prepaid costs such as real estate taxes. Attach a copy of the closing statement and other receipts.

* Not to exceed the costs for a comparable replacement dwelling.

	(a) Claimant	(b) For Agency Use Only
(1) Legal, closing and related costs, including title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees	\$	\$
(2) Lender, FHA or VA Application and Appraisal Fees	\$	\$
(3) Loan Origination or Assumption Fees (Not Prepaid Interest).	\$	\$
(4) Professional Home Inspection, Certification of Structural Soundness, and Termite Inspection	\$	\$
(5) Credit Report	\$	\$
(6) Owner's and mortgagee's evidence of title, e.g. title insurance *	\$	\$
(7) Escrow Agent's Fee	\$	\$
(8) State Revenue or Documentary Stamps, Sales or Transfer Taxes *	\$	\$
(9) Other Costs (specify)	\$	\$
(10) Total Incidental Expenses (Add lines 7(1) through 7(9). Enter this amount on line 6(6)).	\$	\$

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

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

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

Part B - Computation of Payment (Use mortgage amortization table with 6 decimal places.)

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

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

x

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

To Be Completed by Agency

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

Remarks

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

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

**ACKNOWLEDGEMENT OF SERVICES AND PAYMENTS
FOR VOLUNTARY RELOCATION**

This is to certify that the relocation assistance, services and payments rendered by the Agency at the time of my voluntary relocation were done to my satisfaction.

I further certify that I have received the following benefits:

Moving Expense

_____ Reimbursement of paid receipt from a mover or direct payment to a mover of \$ _____

_____ I waive my right to moving payment.

Acquisition Payment (for dilapidated dwellings)

_____ Payment of \$ _____ based on appraisal.

_____ I waive my right to appraisal and acquisition payment.

Replacement Housing Payment (for new structure or replacement house)

_____ Replacement Housing Payment in the sum of \$ _____.

I further certify that I have inspected the dwelling that I have been relocated to and it is acceptable to me.

Date

Homeowner

Relocation File Checklist - Voluntary

(A separate file must be maintained for each household.)

Fully completed case file must include:

General Information Notice

Claim for Replacement Housing Payment for 180-Day Homeowner

Acknowledgement of Services and Payment for Voluntary Relocation

MOVING COSTS

RESIDENTIAL MOVES

Actual Expenses (Exhibit F-11)

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

- a. Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
- b. Packing, crating, unpacking, and uncrating of the personal property.
- c. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
- d. Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
- e. Insurance for the replacement value of the property in connection with the move and necessary storage.
- f. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- g. Other moving-related expenses as the Agency determines to be reasonable and necessary, except the following ineligible expenses:
 - (1) Interest on a loan to cover moving expenses; or
 - (2) Personal injury; or
 - (3) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
 - (4) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
 - (5) Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

Fixed Payment (Exhibit F-10, F-11)

Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense allowance as an alternative to a payment for actual moving and related expenses as described under actual expenses. This allowance shall be determined according to the applicable schedule of allowances published by the Federal Highway Administration. The allowance reflects the number of rooms in the displacement dwelling (which may include outbuildings) and whether the displaced person owns and must move the furniture. If a room contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase the payment accordingly (e.g., count it as two rooms). The moving expense and dislocation allowance for a person who is displaced from a dwelling (permanent residence) with congregate sleeping space ordinarily utilized by three or more unrelated persons is \$50.

BUSINESSES/FARM/NONPROFIT MOVES

Actual Expenses (Exhibit F-12)

- a. *Eligible costs.* Any business, nonprofit organization or farm operation that qualifies as a displaced person is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:
- (1) Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.
 - (2) Packing, crating, uncrating and unpacking of the personal property.
 - (3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, and installing substitute personal property (see Paragraph 12). This includes connection to utilities available nearby. It also includes modifications to the personal property that are 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. (Expenses for providing utilities from the right-of-way to the building or improvement are covered under reestablishment expenses.)
 - (4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.
 - (5) Insurance for the replacement value of the personal property in connection with the move and necessary storage. (Whenever insurance is not obtained because the agency determines that it is not available on reasonable terms, the Agency shall pay for the replacement value of property lost, stolen, or damaged in the move or storage through no fault of the displaced person.)

- (6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.
- (7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- (8) Professional services necessary for:
 - (a) Planning the move of the personal property,
 - (b) Moving the personal property, and
 - (c) Installing the relocated personal property at the replacement location.
- (9) Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.
- (10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business, nonprofit organization or farm operation. the payment shall be the lesser of:
 - (a) The market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary.) Payment for the loss of goods held for sale shall not exceed the cost of the goods to the business, nonprofit organization or farm; or
 - (b) The estimated cost of moving the item, but with no allowance for storage. (If the business, nonprofit organization or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)
- (11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.
- (12) Purchase of substitute personal property. If an item of personal property which is used as part of a business, nonprofit organization or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:
 - (a) 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

(b) The estimated cost of moving and reinstalling the replaced item, but with no allowance for storage.

(13) Searching for a replacement location. A displaced business, nonprofit organization or farm operation is entitled to reimbursement for actual expenses, not to exceed \$1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

- (a) Transportation.
- (b) Meals and lodging away from home.
- (c) Time spent searching, based on reasonable salary or earnings.
- (d) Fees paid to a real estate agent or broker to locate a replacement site. However, fees or commissions related to the purchase of the site are not eligible.

The Agency may exceed the \$1,000 ceiling for good cause. Prior HUD approval is not required. The Agency's files must be documented appropriately.

(14) Reestablishment expenses, if the business, nonprofit organization or farm qualifies as a "small business."

(15) Other moving-related expenses not listed as ineligible under moving and reestablishment expenses.

b. *Notification and Inspection.*

(1) The Agency shall inform the person to be displaced, in writing, of the requirements outlined below as soon as feasible.

(2) The person to be displaced must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

c. *Self-Moves.* The Agency and person to be displaced may find a "self-move" to be mutually advantageous.

d. *Transfer of Ownership.* Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold or traded in.

e. *Advertising Signs.* The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

- (1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or
- (2) The estimated cost of moving the sign, but with no allowance for storage.

Fixed Payment (Alternate Allowance) To Business or Farm (Exhibit F-13)

a. *Business.*

- (1) Eligibility Conditions. A displaced business is eligible to choose a fixed payment under this Paragraph, as an alternative to the payment for actual expenses if the Agency determines that:
 - (a) The business either (i) discontinues operations, or (ii) it relocates, but is likely to incur a substantial loss of its existing patronage (measured in terms of clientele or net earnings at the discretion of the Agency). A business must meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage; and
 - (b) The business is not part of a commercial enterprise having more than three other entities which are not being displaced by the Agency, and which are under the same ownership and engaged in the same or similar business activities; and
 - (c) The business contributed materially to the income of the displaced person; and
 - (d) The business operation at the displacement property (either dwelling or site) is not solely for the rental of that real property to another.
- (2) Amount of Payment. The payment shall be equal to the average annual net earnings of the business as determined in accordance with the paragraph above. However, the payment shall not exceed \$20,000 nor be less than \$1,000.
- (3) Determining the Number of Businesses. In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:
 - (a) The same premises and equipment are shared;
 - (b) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
 - (c) The entities are held out to the public, and to those customarily dealing with them, as one business; and
 - (d) The same person or closely related persons own, control or manage the affairs of the entities.

b. *Farm Operation.*

- (1) Eligibility. Any displaced farm operation is eligible to choose a fixed payment, as an alternative to the payment for actual expenses. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:
 - (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.
- (2) Amount of Payment. The payment shall be an amount, not to exceed \$20,000, nor less than \$1,000, that is equal to the average annual net earnings of the farm operation as determined under Paragraph a-1d.

c. *Contribute Materially*. The term "contribute materially" means that during the 2 taxable years prior to the taxable year in which the displacement occurred, or during such other period as the Agency determines to be more equitable, the business or farm operation:

- (1) Had average annual gross receipts of at least \$5,000; or
- (2) Had average annual net earnings of at least \$1,000; or
- (3) Contributed as least 33-1/3 percent of the owner's or operator's average annual gross income from all sources.

If the Agency determines that the application of these criteria would cause an inequity or hardship, it shall waive this criteria.

d. *Determination of Average Annual Net Earnings of Business or Farm.*

- (1) General. The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents.

- (2) Adjustments to Reported Income. To the extent that reported income/profit on tax returns has been reduced by the inclusion of expenses not actually incurred in the base period, the reported income/profit shall be adjusted by adding back such expense (e.g., a loss carried over from a previous year or carried back from a later year, or declared depreciation in excess of actual or straight-line depreciation). To the extent that reported income/profit was inflated by receipts not earned during the base period (e.g., refund of State or local income taxes or income included under the tax benefit rule because a deduction taken in a previous year was disallowed), the reported income/profit may be adjusted by subtracting such amount.
- (3) Documentation. The person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Agency determines is satisfactory.

Fixed Payment (Alternate Allowance) For Nonprofit Organization

a. Nonprofit Organization.

- (1) Eligibility. A displaced nonprofit organization is eligible to choose a fixed payment, as an alternative to a payment for actual reasonable moving and related expenses, if it discontinues operations, or it relocates, but is likely to suffer a substantial loss of existing patronage (measured by membership or clientele). A nonprofit organization must meet this test unless the Agency demonstrates otherwise.

b. Determination of Payment.

- (1) Amount of Payment. The payment shall be equal to the amount determined by subtracting average annual administrative expenses from average annual gross revenue; however, the payment shall not exceed \$20,000, nor be less than \$1,000. The determination of average annual expenses and revenues shall be based on the two most recent fiscal years. If not in operation for two full fiscal years, the payment shall be based on a representative period of operation as determined by the Agency.
- (2) Gross Revenues include membership fees, class fees, cash donations, titles, receipts from sales or other forms of fund collection that enable the nonprofit organization to operate.
- (3) Administrative Expenses include rent, utilities, salaries of support staff, advertising and fund-raising expenses. Operating expenses incurred in carrying out the purpose of the nonprofit organization (e.g., salaries of staff providing services) are not considered administrative expenses.

Reestablishment Expenses

In addition to the payments described above, a small business, farm or nonprofit organization may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

- (a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency.
- (b) *Ineligible expenses.* The following expenses are ineligible:
 - (1) Loss of goodwill; or
 - (2) Loss of profits; or
 - (3) Loss of trained employees; or
 - (4) Personal injury; or
 - (5) Interest on a loan to cover any costs of moving or reestablishment expenses; or
 - (6) Any legal fees or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or
 - (7) The cost of moving any structure or other real property improvements in which the displaced person reserved ownership. (This does not, however, preclude the computation under replacement housing payment for 180-day homeowner); or
 - (8) Costs for storage of personal property on real property already owned or leased by the displaced person before the initiation of negotiations.

REPLACEMENT HOUSING COSTS

180 DAY HOMEOWNER-OCCUPANT-REPLACEMENT HOUSING PAYMENT (EXHIBIT F-14)

- (a) *Eligibility.* A displaced person is eligible for the comparable replacement housing payment for a 180-day homeowner-occupant if the person:
- (1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and
 - (2) Purchases and occupies a decent, safe, and sanitary comparable replacement dwelling within one year after the later:
 - (a) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the court award of just compensation is deposited with the court, or
 - (b) A comparable replacement dwelling has been made available to the person.

However, the Agency shall extend this period for good cause.

- (b) *Amount of payment.* The comparable replacement housing payment for an eligible 180 day homeowner-occupant may not exceed \$22,500, unless "Last Resort Housing" is involved. In that case, there is no ceiling on the amount paid because the person must not be moved into an inferior dwelling. The payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:
- (1) The amount by which the cost of a comparable replacement dwelling exceeds the acquisition cost of the displacement dwelling,
 - (2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, and
 - (3) The reasonable expenses incidental to the purchase of the comparable replacement dwelling.
- (c) *Purchase Price differential*

- (1) Basic computation. The purchase price differential to be paid is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:
 - (a) The reasonable cost of a comparable replacement dwelling; or
 - (b) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.
- (d) *Mortgage interest differential payment.*

90 DAY HOMEOWNER-OCCUPANT OR TENANT (EXHIBIT F-16)

- (a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section.
- (b) *Rental assistance payment.*
 - (1) Amount of payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment equal to 42 times the amount obtained by subtracting the base monthly rent 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.
 - (2) Manner of disbursement. A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.
- (c) *Assistance for Downpayment*

- (1) Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a lump sum amount for a down payment, including incidental expenses, equal to 42 times the amount obtained by subtracting the base monthly rent from the monthly rent and estimated average monthly utility costs for a comparable replacement dwelling. (If the Agency fails to make a timely offer of a comparable replacement dwelling, the payment shall be based on the market rent of the actual replacement dwelling. Therefore, the Agency should make a timely offer of a comparable replacement dwelling that is available for rent, thus establishing the upper limit for the payment whether or not the person contracts to buy or rent a replacement dwelling.) As described in paragraph (b), the entire amount must be provided, even if it exceeds \$5,250. For example, if the payment available to rent a comparable replacement dwelling is \$8,400, the person would be entitled to \$8,400 if he or she purchases a decent, safe and sanitary replacement dwelling.
- (2) Agency Discretion to Increase Payment. If the amount determined under the paragraph above is less than \$5,250, the Agency may, at its discretion, increase the payment to an amount up to \$5,250. If the Agency elects to exercise this discretion to increase payments, it shall adopt a written policy available to the public that provides equal treatment to persons in like circumstances.
- (3) 180-day Homeowner Not Eligible. A displaced person who is eligible to receive a replacement housing payment for a 180-day homeowner-occupant is not eligible for a payment under paragraph C-1 above.
- (4) Limitation on 90-179-day Homeowner. Assistance for a down payment to a displaced 90-179-day homeowner shall not exceed the amount such person would receive under paragraph C-1 above, if the person met the 180-day occupancy requirement.
- (5) Application of Payment. The full amount of assistance for a down payment must be applied to the purchase price of the replacement dwelling and related incidental expenses.

REPLACEMENT HOUSING OF LAST RESORT

- (a) *Determination to provide replacement housing of last resort.* Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:
 - (1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

- (a) The availability of comparable replacement housing in the program or project area; and
 - (b) The resources available to provide comparable replacement housing; and
 - (c) The individual circumstances of the displaced person; or
- (2) By a determination that:
- (a) There is little, if any, comparable replacement housing available to displacement persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and
 - (b) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
 - (c) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs. (Will project delay justify waiting for less expensive comparable replacement housing to become available?)
- (b) *Basic rights of persons to be displaced.* Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.
- (c) *Methods of providing comparable replacement housing.* Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.
- (1) The methods of providing replacement housing of last resort include, but are not limited to:
- (a) A replacement housing payment in excess of the limits set forth in the law. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the Agency's discretion.
 - (b) Rehabilitation of and/or additions to an existing replacement dwelling.
 - (c) The construction of a new replacement dwelling.

- (d) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.
- (e) The relocation and, if necessary, rehabilitation of a dwelling.
- (f) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with a displaced person.
- (g) The removal of barriers to the handicapped.

MOBILE HOMES

Eligibility

This subpart describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified here, such a displaced person is entitled to a moving expense payment in accordance with the law to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

Moving and related expenses-mobile homes.

A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis. A non-occupant owner of a rented mobile home is eligible for reimbursement of actual and reasonable moving and related expenses, including the reasonable cost of moving the mobile home.

Replacement housing payment for 180-day mobile homeowner-occupants.

A displaced 180-day owner-occupant of a mobile home is entitled to a replacement housing payment if:

- (1) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;
- (2) The person purchases and occupies a decent, safe and sanitary replacement dwelling (the site may be rented) within the prescribed one year period. (This period shall be extended for good cause.); and
- (3) The Agency acquires the mobile home and/or mobile home site , or the mobile home is not acquired by the Agency, but the owner is displaced from the mobile home because the Agency determines that the mobile home;
 - (a) Is not and cannot economically be made decent, safe, and sanitary; or

- (b) Cannot be relocated without substantial damage or unreasonable costs; or
- (c) Cannot be relocated because there is no available comparable replacement site; or
- (d) Cannot be relocated because it does not meet mobile home park entrance requirements.

Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment if:

- (a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;
- (b) The person meets the eligibility requirements of a 90-day homeowner-occupant or tenant.